UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS

SECOND SESSION

VOLUME 132—PART 21

OCTOBER 9, 1986 TO OCTOBER 14, 1986

(PAGES 29851 TO 31238)

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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

SENATE—*Thursday, October 9, 1986*

(Legislative day of Monday, October 6, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in heaven, what is said and done in this place affects numberless peoples. Millions view the actions which take place in this Chamber and the destiny of those millions rides on decisions made here. Make Your presence felt during these extra duty days. Infuse hearts with Your wisdom. Your patience, Your peace, Your love. Inspire great thoughts, sound debate, and relevant decisions. Save from trivia—from inconsequential hours—from waste of energy, time, and effort. Let these hours be filled with meaning and significance.

Grant, dear God, that everything about these final days of the 99th Congress will be to the glory of God, the satisfaction of people, and worthy of the most powerful deliberative body in the world. In the name of Him Who's the way, the truth, and the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders will have 10 minutes each, followed by a period until 10 a.m., for Senators to make statements concerning our retiring colleagues.

At 10 a.m., the Senate will resume the impeachment proceedings. Under a previous unanimous-consent agreement, the time between 10 a.m. and 3 p.m. will be equally divided.

No earlier than 2 o'clock and no later than 3 o'clock the Senate will proceed to vote on each of the following questions and I understand they may not be altered. Senators need not vote on each article but we do have the question to each article: "How vote you, Senator, guilty or not guilty," on articles 1, 2, 3, and 4.

Following the impeachment proceedings, the Senate will turn hopefully to the drug bill or reconciliation. I assume we will be in rather late this evening and I had hoped we might not have a session tomorrow, but I am advised that it may be necessary because there are a number of Senators who wish to be heard on the drug bill, particularly one provision in the drug bill, which could necessitate filing cloture today and a few other things that can extend the session even longer than we had thought.

SENATOR PAUL LAXALT OF NEVADA

Mr. DOLE. Mr. President, being labeled the "President's best friend" is pretty heady praise. But the man who wears that label—PAUL LAXALT—does so with modesty and an appreciation of just how important it is.

Since he arrived in the Senate in 1974, PAUL LAXALT has played a very

NOTICE

Another issue of the Congressional Record for the Ninety-ninth Congress, second session, will be printed 2 weeks after the last adjournment before the November elections. Members may submit manuscript for printing to the Official Reporters of Debate no later than 14 days after adjournment.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date Congress officially adjourned.

No provision herein shall be construed to supersede the two-page limitation rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debate, Room HT–60 or S–220 of the Capitol. These offices are open Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m.

Members of Congress desiring to purchase reprints of material submitted for Record printing during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. That office may be reached by telephoning 275–2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLES McC. MATHIAS, JR., *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

special and important role. It is a role that will be hard to fill when he retires in January.

Not only has Senator LAXALT been a conscientious representative for the people of Nevada, but he has successfully acted as a mediator within the Republican ranks, across the aisle, and between Capitol Hill and the White House.

Whether the subject was water user fees or the MX missile, anticrime legislation, or regulatory reform, Senator LAXALT has been a reasoned and effective voice. He has that special ability to be an ardent party loyalist without being stridently partisan.

Senator LAXALT credits his father's fierce independence as the wellspring of his own open nature. If it is the "winds of the Nevada mountains" that carry this air of candor and accessibility, I wish they would blow toward Washington. We could use a lot more of that kind of sensibility—Senator LAXALT's kind.

AMERICAN CAPTURED IN NICARAGUA

Mr. DOLE. Mr. President, the President leaves in just a few moments for Iceland.

On Saturday, the President of the United States, and the leader of the Soviet Union, are going to sit down together in Reykjavik, Iceland, for discussions we all hope will bring us progress on arms control, human rights and regional conflicts—issues absolutely fundamental to American interests, and to the hopes of the world for peace and security.

But if you watched last evening's and the morning news broadcasts, you might have come away with the impression that the "most earth-shaking thing going on" in the world was happening down in Managua, where an American civilian has been taken captive by the Sandinistas after his plane, allegedly carrying arms and supplies to the Contras, crashed inside Nicaragua.

If you stick to the facts, it is not much of a story. We have known for a long time that some private Americans were actively helping the Contras. They have made no secret of it; the news media reported it, again and again. Now one of these "soldiers of fortune," apparently, has been captured; three others have died, two of them Americans. All of that is tragic—but in any case, the facts just do not—or should not anyway—add up to banner headlines or lead stories.

And so this one American, being paraded from "pillar to post" by some Sandinista goons just so the press can get a good camera angle, becomes the symbol of all kinds of imagined evil: "Administration lies and disinformation; shattered credibility; a secret war in Nicaragua"—those are the charges floating around. That is the kind of silliness that passes for hot news around this town these days.

There is important news in Nicaragua which ought to be covered, and in headlines and lead stories on the nightly news. The Marxists in Nicaragua are shutting down the free press, exiling Catholic bishops, and driving their own people into the hills, while Daniel Ortega makes his periodic visits to New York, dragging his doting media entourage around to cocktail parties, and appointments with his eye doctor.

These, and events like the upcoming Reykjavik meetings, are the real news. And it is time they got the attention they deserve.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, if I have any remaining time, I will yield it to the distinguished Senator from Colorado, who I understand needs about 20 minutes, and I reserve the minority leader's time.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

The Senator from Colorado.

Mr. HART. Mr. President, I thank the majority leader.

□ 0910

THE PROMISE OF THE SENATE

Mr. HART. Mr. President, 12 years ago, this Senator was moved to seek public office by several ideals. A sense of obligation and responsibility to contribute to the public life of his Nation. A desire to help restore integrity to public service. A belief that we must think anew and act anew in the face of an overwhelming array of new challenges as the century closes. And, not least, a powerful need to contribute to the containment of the nuclear demon stalking the planet.

In large part, that impulse to public service has been satisfied. And this Senator hopes he will be judged well on that most demanding scale of integrity and stewardship of the public trust, as well as in his effort to redefine the goals and methods of a society in vast transition.

On the eve of departure from this Chamber hallowed by generations of patriots, I cannot help but feel the presence of the heroes and giants of my time: Mansfield, Hart of Michigan, Javits and Case, Muskie, Church, Ribicoff, and Mathias, Symington, Humphrey, and others—equally larger than life. Each human, and therefore imperfect. But each possessing a gravity, a size, a larger dimension—the touch of legend.

What made them different? What made them achieve a stature that eludes most of us? Many traits. But one common quality. A sense of the larger picture. A broader, more encompassing view. A backdrop of history, and a stage upon which the future is played out. Above partisanship and ideology, an instinct for the national interest—and a view of America in the community of nations.

They all were deeply committed to nuclear arms control. And I suspect, if all could be summoned back for a great debate, most—if not all—would list this central issue, this supreme challenge, as the great unfinished business of our time.

For, there is about this issue a moral imperative. There is also a time imperative.

In the 12 years I have served in the U.S. Senate, the arms race has accelerated according to its own inexorable calculus. The Soviet Union has added almost 5,000 warheads, by building large land-based missiles and adding multiple warheads to them—pursuing a technology we invented and a formula we protected.

Both sides have perfected the science of cruise missiles and we have led the deployment of them.

Sea-based nuclear missiles have become larger and their warheads more powerful and more accurate.

What are usually called improvements in technology have produced more destructive and more accurate warheads, with increasingly sophisticated delivery systems more difficult to count and to verify.

And while the nuclear giants contest, a new set of nuclear gladiators has materialized on the horizon. Israel is thought to possess as many as 20 nuclear weapons. India has detonated a nuclear device and is believed to have manufactured nuclear weapons. A decade ago South Africa began accumulating materials for at least 15 nuclear devices. It is believed Pakistan has succeeded in developing nuclear explosives in this decade. And during that same period Argentina, Brazil, Iraq, and Libya have taken steps to acquire a nuclear weapons capability.

And now we propose to let yet another—perhaps most ominous—genie out of its bottle. The President urges us to produce and deploy nuclear-powered space weapons, including those capable of neutralizing the capacity of other nations to deter aggression. And, simultaneously, we and the Soviets rush forward to perfect the ability to blind the satellite eyes necessary to verify compliance with arms control agreements.

There is today no comprehensive ban on nuclear weapons tests. And no serious effort is underway to negotiate one. We have repeatedly refused to join the Soviet Union in a moratorium pending an agreement to ban nuclear testing. The past six Presidents, among them, negotiated some 20 arms control agreements—11 by the last 2

Republican Presidents. In 6 years, the current President has not come close to completing negotiations on even a minor agreement.

Thus, on the eve of his departure, this Senator's frustration, and deep concern.

I came here to help make the future safer for my children and future generations. I fought hard for the SALT II Treaty, which this President fought against. That treaty was rejected by some as "not real arms reductions." But those same critics resisted restrictions on our own nuclear modernization programs—as if the Soviets would unilaterally stop their buildup with no concessions from us.

Some hope for salvation through technology—magic space shields. Some say "build more weapons" until we wear the Soviets out. Some say unilateral disarmament. Some say "give up. There is no solution." Too many people just don't want to be bothered.

Well, we cannot give up. And we cannot accept ignorance and avoidance as an answer. There are solutions. Some steps we can take by ourselves and others must be taken in agreement with other nations. We must limit and reduce the numbers of weapons while we eliminate the possibility of their use.

In his concluding remarks to the Senate, the Senator from Colorado would like to propose a comprehensive arms control program for the future. It is aimed not only at reducing the numbers of missiles and bombs, or at treaties designed to establish better relations. It is directed toward the prevention of any use of nuclear weapons.

We must clearly understand the urgency of the challenge before us. There are almost no limits on the arms race between the superpowers, and nearly every arms control treaty in existence is threatened by new weapons deployments.

Weapons are about to be deployed that could confound forever our ability to put in place practical, verifiable limits.

More than 15,000 nuclear warheads are poised on more than 3,000 long-range missiles—with minutes for flight and moments for decision.

First-strike missiles could soon leave the fate of humanity to bloodless computers or desperate leaders trying in seconds to undo the errors of decades.

And additional nations—perhaps even international outlaws or terrorists—may soon possess the ultimate weapon or the ultimate terrorist threat.

Three revolutions—now underway—are radically altering the nuclear environment we face, and it is imperative that we understand them:

The first revolution is in weapons technology and its ability to outstrip the diplomatic, political, and even technical barriers we erect to control nuclear weapons.

This revolution is producing highly accurate, multiwarhead missiles. Soon both nations might be tempted to strike first in some future desperate crisis, to use their missiles before they lose their missiles.

The revolution in technology is producing thousands of long-range cruise missiles that could be virtually impossible to count with present means. Numerical reductions of nuclear weapons may then be a thing of the past.

The technology revolution is producing a potentially new arms race in space with antisatellite weapons and star wars defenses. A new arms race—far more complex than the one we see today—will be in defensive weapons and in offensive weapons to conquer these defenses.

As we see this revolution unfolding, we cannot help but think of the words of Gen. Omar Bradley, who commanded America's ground forces at the D-day landing in Normandy. Almost 30 years ago, he issued this warning:

> . . . We have defiled our intellect by the creation of such scientific instruments of destruction that we are now in desperate danger of destroying ourselves . . . Missiles will bring anti-missiles; and anti-missiles will bring anti-anti-missiles. But inevitably this whole electronic house of cards will reach a point where it can be constructed no higher . . . when that time comes; there will be little we can do other than to settle down uneasily; smother our fears; and attempt to live in a thickening shadow of death.

The day that General Bradley spoke of is nearly upon us. Yet we have only begun to consider its threat.

There is a second revolution in the nuclear environment—the increasing likelihood that nuclear weapons actually will be used.

Nuclear warfighting capabilities—such as highly accurate ballistic missiles, cruise missiles, and the so-called neutron bomb—could tempt leaders in a crisis to use these weapons, on the impossible theory that the accuracy of these weapons limits their destructiveness to military targets.

Other technologies are blurring the distinction between nuclear war and conventional war—thus increasing the possibility that local battles could erupt to full-scale nuclear war. One example is found at sea where many warships carry nuclear and conventional weapons. Once a nuclear torpedo is used to kill an enemy submarine, there is every temptation to use a nuclear-armed cruise missile to sink an enemy flotilla. And this done, where can one draw the line of nuclear restraint?

Space defenses—such as lasers and particle beams—will put a heavy premium on striking quickly and an equally heavy burden on the other side to knock the defenses out of the sky first. Their presence will not provide the shield some would dream of, instead, they will create a new arena for nuclear war and new ways for such a war to start.

Antisatellite weapons will put at risk early warning, observation, and communications satellites vital to the nuclear deterrent of both the United States and the Soviet Union. These satellites are vital to treaty verification and nuclear stability. Few developments would be worse than the sudden failure or destruction of a vital satellite in time of crisis.

□ 0920

Finally, there is a third revolution. This revolution is the spread of nuclear weapons capability to more nations and perhaps to terrorist groups as well.

No longer are there two or three nations that possess the power of ultimate destruction. Now there are at least six. In a decade, there could be 10 or 20 or more. Consider how much more difficult it will be to prevent nuclear war when nuclear survival is not merely a matter of deterrence, command and control, and restrain in a crisis among a few nations, but must be found among 20 or 30.

And what of terrorist groups now active in many nations? For these groups, the building blocks to achieving nuclear status are not armies of scientists working on expensive, hard-to-assemble, complex technologies. They are a few individuals building a crude nuclear device with basic physics and a small amount of plutonium.

Today's nuclear power and research reactors have produced over 140 tons of plutonium worldwide—enough to make more than 20,000 bombs the size of the one that destroyed Nagasaki in 1945. So far, most of that plutonium is locked in spent nuclear reactor fuel. But the technology to unlock it exists, and several nations, including Libya, have been trying to obtain it.

Yet the nuclear powers persist in the naive belief that they can promote the spread of nuclear materials around the globe and not one day see the Fifth Horseman of nuclear terrorism ride down upon some American or European city. And the superpowers persist in the arrogant belief that they can increase their own nuclear forces far beyond any rational level and still expect other nations to forgo these weapons themselves.

We behave as if nuclear weapons are the measure by which sovereignty and respect are judged—this on a planet where finite resources must provide for an ever-expanding population, where once-distant enemies are today's neighbors, where the weapons one nation has today will be the weapons others have tomorrow.

These three revolutions in the nuclear environment compound the difficulties we face already. But we must see

them as a challenge to our determination and our will to leave a world safer for our children and our children's children.

Regrettably, there is no magic formula to end the arms race and prevent the use of nuclear weapons. But there are dramatic steps to take, steps toward peace and security, steps to prevent the use of nuclear weapons.

And these are steps which should be taken now—without delay. They strengthen the security of all sides even as difficult negotiations proceed.

First, to stop the nuclear arms race, both superpowers and other nuclear powers, should establish negotiations to achieve a comprehensive nuclear test ban, a ban on all tests for all time. It is of utmost urgency that these negotiations be included in the agenda for the next summit.

The United States should take the lead and initiate mutual moratoria on the deployment of nuclear armed, sea-launched cruise missiles, and on the testing of nuclear weapons explosives. If these initiatives are to succeed, the Soviet Union must quickly respond with the equivalent restraint. The United States is strong enough to take the first step, but it is also realistic enough to continue only if the Soviet Union responds to our lead.

These moratoria would give great impetus to United States-Soviet talks and improve chances for early progress. Relations between our countries are such that decisive action is necessary. It is time to create an atmosphere of confidence and hope.

And it is time to find out who is serious—and who is not serious—about stopping the arms race.

The second reason for these moratoria is to stop the arms race from continually running ahead of our efforts to negotiate an end to it. In 1972, the United States and the Soviet Union failed to limit multiple warhead missiles—and while we both talked on, warheads grew by the thousands. We have also talked for years about limiting cruise missiles, and now they are appearing in the thousands. If we continue with business as usual, there will be other new weapons to multiply by the thousands and outrun our ability to limit them.

To break this pattern, we need a new instrument in the hands of the negotiators—and that instrument is time.

Moratoria can work. They have before. In 1963, President Kennedy declared a moratorium on the testing of nuclear weapons in the atmosphere. The Soviet Union followed his lead—and a cycle of crisis and confrontation was broken. Within months, our two nations had signed the Limited Nuclear Test Ban Treaty.

But all these measures would merely give us room to breathe, and prevent new weapons from overrunning all our work to lessen the risk of war. There is much, much more to do.

Second, both the United States and U.S.S.R. should undertake nuclear arms reductions which aim to cut the superpowers nuclear arsenals by 50 percent or more. As a step toward this goal, we should seek an interim reduction of 20 to 25 percent—and there is every indication that our two nations can achieve such reductions. The United States and the Soviet Union should consider this a major goal of negotiations.

The principal substance of this goal must be to reduce and eventually eliminate highly accurate multiwarhead land-based missiles. Replacing them with fewer, single-warhead missiles would greatly reduce the danger of a nuclear first strike. And it would reestablish a survivable and therefore more stable nuclear deterrent including missile-carrying submarines—which is likely to provoke attack.

Third, is improved verification. Talks with the Soviet Union should strengthen verification measures in our arms control agreements—to include provision for onsite inspection where necessary.

Apart from the talks we can also, on our own, continually strengthen and improve our own national verification capabilities—the satellites and other systems with which we monitor the Soviet Union. These systems are essential to a stable nuclear world; they make arms control possible; and they can prevent nuclear war.

Fourth, we should undertake a series of measures designed to reduce the risk of nuclear war through accident or miscalculation.

This is not an abstract risk.

In 1980, Senator GOLDWATER and the Senator from Colorado conducted an investigation of the U.S. strategic warning system. We discovered during an 18-month period that this warning system registered 161 false alarms. One of these false alarms lasted 6 minutes, or half the time it would take a Soviet submarine-launched ballistic missile to reach its target in the United States. There is every reason to believe that the Soviets have equal or greater problems with their strategic warning system.

The United States and the Soviet Union should establish one or more joint crisis control centers in which senior civilian and military personnel from both countries could monitor nuclear weapons activities. For example, multiple Soviet missile launches have caused us concern when detected by our warning systems. And the Soviets have been concerned in the past about our strategic bomber operations. These centers could lay the groundwork for future restraints on strategic operations and testing to increase stability. They could prove essential should mistake or miscalculation lead to confrontation. And they could make the difference between war and peace should some local crisis, third-party nuclear threat, or nuclear terrorism threaten to drag us each—however unwilling—toward a wider war.

In addition to these control centers, United States and Soviet military representatives should meet regularly to improve understanding and reduce suspicion.

The United States and the Soviet Union have begun in Stockholm to establish codes of conduct and confidence-building measures in their relations. But such a code should be expanded to account for incidents in space, and might, for example, state in advance appropriate responses if there were accidental interference with each other's satellites. Now is the time to address these future problems, not later when they are upon us in a crisis.

Each nation, on its own, should substantially improve command and control of its nuclear force—to avoid nuclear accidents and to ensure a credible deterrent. And both nations together could work together on cooperative early warning measures, such as tamper-proof launch detectors in each nation's missile fields.

Our two nations should agree to a mutual pullback of nuclear weapons that are close to the East-West border in Europe. Today, nuclear weapons are located so that even a small advance by either side might push us both to the nuclear decision that nobody wants. Similarly, our nations, in concert if possible, should design weapons and forces that clearly separate, as much as we can, nuclear from nonnuclear capabilities.

Fifth, preventing the use of nuclear weapons also requires that the United States and the nations of NATO modernize and reform their conventional defense forces, so that nuclear weapons are the last line of defense, not our only means of response. One of the most likely paths to nuclear conflict would be nuclear escalation resulting from failure of the conventional deterrent.

But we could achieve every objective outlined here, and still the business of preventing nuclear war would be unfinished. For we would still face an additional grave danger—the spread of nuclear weapons, the horizontal nuclear arms race.

Sixth, we must persuade additional countries to sign the Nuclear Nonproliferation Treaty, through which more than 110 nations have already foresworn nuclear weapons. We must strengthen international nuclear safeguards and their enforcement against the clandestine diversion of nuclear materials for weapons purposes. We must—with other nuclear powers—set an example by restraining our own nuclear forces. And most of all, we must

be willing to stop the international trade in dangerous nuclear materials and technology—particularly those associated with plutonium.

This will require an international plutonium freeze. Such a freeze would halt the production of separated plutonium—the nuclear material that can most easily be made into nuclear explosives. It would prevent the export of technologies to produce plutonium. And it would reject the commercial use of separated plutonium as a nuclear power reactor fuel.

Such an agreement would be verified by inspections by the International Atomic Energy Agency, the agency responsible for administering the safeguards applied to civilian nuclear activities around the world.

This freeze would not restrain the legitimate use of nuclear power for energy purposes. But it would restrain plutonium, which there is no economic justification for using in the world's nuclear power reactors. World uranium reserves greatly exceed demand and will last well into the next century.

This plutonium freeze is vital. If separated plutonium becomes an accepted fuel for nuclear power reactors, we will soon see tons of this dangerous material moving each year in international commerce. And with each transaction, the risk of diversion or threat for weapons building will grow. Indeed, we will have begun to traffic in global annihilation. And that must stop.

Seventh, the final step in preventing nuclear war is, quite simply, greater cooperation.

This must begin with improved relations between the United States and the Soviet Union—not because we like each other's system of government, but because we must live together or we will perish together.

We should initiate immediately discussions between the two sides on economic and political issues which can proceed on a regular basis. We can cooperate to address many of the world's problems and to develop much of the world's potential. Preventing the spread of nuclear weapons is one example. Peaceful exploration of space is another. A joint United States-Soviet commitment to end world hunger—in this century—would be yet another.

The developed nations can work together to address the world's unmet human needs—its needs for good, its needs for health, its needs for justice, its need for hope. Left unattended, these unmet human needs are, as well, the seeds of conflict.

Today, the world spends hundreds of billions of dollars on weapons of war, while millions starve each year.

Tomorrow, it may spend hundreds of billions of dollars more for weapons in space, turning frontier into fortress, hope into fear.

Both are perversions of the human spirit. Both will leave humanity not safer or happier, but forever—in the words of President Eisenhower—"hanging on a cross of iron."

We share a vision and a hope that one day we can lift the nuclear shadow that hovers as a constant presence every day of our lives.

There is no magic technological solution. The solution is truly in ourselves.

We know what needs to be done. The real challenge is to our will.

Perhaps the giants of the Senate—recent and past—have an answer here for us. Not only that controlling the nuclear demon is paramount. But that, properly focused and renewed, the Senate itself can shape and strengthen our national will.

Perhaps the nuclear arms issue is the means by which the Senate can recapture its greatness. And perhaps a great Senate offers hope for peace and security for ourselves and all mankind.

The challenge before those whose honor it will be to serve in the greatest parliamentary body in history is to reduce ambition, partisanship, and ideology, and to raise up the national interest. And there is no greater national interest than the survival of our society and mankind.

Let a history yet to be written show that Senators rose above immediate political concerns—above themselves—to debate, and in the process educated the American people concerning, the mounting need for genuine arms reduction and ways to achieve it.

I sincerely believe the nuclear arms issue offers a challenge to our ingenuity, our imagination, indeed our patriotism. But it also offers a way in which the Senate can achieve its true purpose—can become what it has been during its most courageous hours, the forum which shapes our national purpose and direction.

If the Senate of tomorrow reaches that true destiny, future generations will say, with this departing Senator, God bless America, and God bless the U.S. Senate.

□ 0920

Mr. PROXMIRE. Mr. President, first I congratulate my good friend from Colorado, Senator GARY HART, for a superb speech and a very, very relevant and vital speech. There is no more important issue that confronts this country than the nuclear threat, and Senator HART has spoken out with characteristic eloquence and brilliance on this subject.

He has been a marvelous Senator. We are going to miss him very much. I am sure if anyone has a good shot at higher office, the distinguished Senator from Colorado certainly has, and he would make an outstanding President of the United States.

Mr. President, I am delighted that the Senator from Colorado has spoken at some length on this issue. I am going to speak very briefly on it.

TIME FOR CONGRESS TO SPEAK OUT ON ARMS CONTROL

Mr. PROXMIRE. Mr. President, the House and Senate conferees on the military authorization bill are now engaged in critical negotiations on the role of the Congress in arms control. This conference goes right to the heart of our No. 1 challenge.

Can there be any more important issue than the survival of this great country we love as the free society it is? Of course, not. Does a nuclear war threaten that survival? It does, indeed. Most of us have seen films of the destruction of Hiroshima and Nagasaki by relatively small, weak primitive atomic bombs. That was more than 40 years ago.

In the ensuing 40 years, both the Soviet Union and the United States have advanced the nuclear technology enormously. Both have perfected, deployed, and produced the hydrogen bomb. The hydrogen bomb dwarfs the atomic bomb in power and devastation. Both superpowers have developed intercontinental ballistic missiles that can carry their nuclear warheads thousands of miles from the heart of the Soviet Union or the United States to anywhere on Earth including, of course, to any city in the adversary superpower country. Both have perfected multi-independently targeted reentry vehicles [MIRVS] that can carry 10 or more warheads each. What does that mean? That means a single Soviet missile can strike 10 or more major, widely separated American cities, with an explosion that can leave each of the 10 metropolitan areas a dead, incinerated hulk. That is one missile. Both superpowers have perfected delivery systems from invisible submarines, swift high-flying bombers, and fast moving land-based mobile vehicles that are difficult or impossible to track. Both superpowers have deployed 10,000 strategic—that is intercontinental nuclear warheads throughout the world, ready to strike at the push of a button in Moscow or Washington. Next year, next month, tomorrow, or any time in the next hour the button could go down and with it the civilized world.

This is the first 40 years. The worst is yet to come, unless we stop this mad technological arms race by agreeing to a mutual system of verification of compliance with a ban on all nuclear weapons testing that exceeds a single kiloton.

Over the hill a few decades is an even worse nightmare: The antimatter bomb. This would step up the devastating nuclear potential a hundredfold. But it is worse. It would make explosives so powerful, so small, and so

cheap that a single terrorist could carry concealed on his person enough explosive power to totally demolish New York City or Washington or any other city on Earth.

Mr. President, all of this constitutes a great temptation for this technology-rich country. We have consistently "won" every arms race with the Soviet Union. Which country had the first atomic bomb? We did. Of course, a few years later the Russians had theirs. Who had the first hydrogen bomb? We did. A little later the Soviets had their own. Who had the first multi-independently targeted missile [the MIRV]? Once again—the United States. A few years later the Soviets had their own.

Mr. President, this same alternation of United States breakthrough and Soviet response has followed for warhead-carrying cruise missiles, fast-moving submarines loaded with nuclear warheads, bombers carrying every variety of nuclear weapon, and rapidly moving land-based mobile missiles.

We pioneer the breakthrough. A few years later the same devastating weapon and delivery system turns up in the Soviet Union. We win, that is, come in first consistently with one nuclear weapon after another. But who wins the arms race? No one.

Both nations have heavily burdened their economies. Both nations have pulled their scientists away from technologies that would enhance and prolong healthy human life. Both nations are losers. And both nations are increasingly more threatened.

And now we have the supreme diversion. For $1 trillion or more, this Nation is on its way to building a strategic missile defense or star wars system to stop incoming missiles. As the New York Times' Phil Boffey recently reported, even the adminstration's own SDI leadership now recognizes that SDI cannot work as the President has told the country it will work. The SDI directors know this system cannot protect our cities. There is an outside chance that SDI might help protect stationary missile sites. But, since three-quarters of U.S. missiles are deployed in submarines that move swiftly and invisibly underwater and bombers that cruise at the speed of sound through the vast envelope of the Earth, this mission of protecting stationary land-based missile sites makes SDI a trillion-dollar fiasco. But it is much worse. Star wars or SDI virtually guarantees a feverish offensive, defensive nuclear arms race. What will be the Soviet response to this antiballistic missile system? That is easy. They will build, develop, and deploy offensive missiles that will penetrate, overwhelm, spoof, confuse, and underfly whatever star wars system we deploy, and they will achieve this for about one-tenth the cost of our star wars deployment.

Mr. President, what this country needs is not an intensified arms race that no one can win and that impoverishes our Nation. What we need is a series of arms control agreements that will slow and stop this race to nuclear disaster. This is not a matter of trust. It is a matter of both sides recognizing where their interests lie. And where is that? It is in mutual, verifiable, constantly, and carefully monitored agreements to stop nuclear testing and to limit nuclear weapons on both sides to the most stable and least vulnerable deployment. This kind of arms control can enable us to take advantage of the priniciple of mutual deterrence that has kept the peace for the 40 years of the nuclear weapon age.

□ 0930

THE MYTH OF THE DAY: MEDICARE BENEFICIARIES HAVE ACCESS TO NURSING HOME CARE

Mr. PROXMIRE. Mr. President, the myth of the day is that Medicare beneficiaries have access to nursing home benefits when they need them.

While the elderly are guaranteed up to 100 days of skilled nursing home care by the Medicare Program, the simple, tragic fact is that for many elderly, these benefits are simply unavailable.

One of the major goals of the Medicare Program has been to improve the access of the elderly to health care services. In a number of areas, this has been a spectacular success but in the area of skilled nursing home care the goal of access has only been achieved in a few States.

FEW NURSING HOMES PARTICIPATE IN MEDICARE

The reason is all too simple. Few nursing homes in this country participate in the Medicare Program and that has undercut the value of the nursing home benefit to millions of our Nation's elderly.

Consider these facts. A whopping 66 percent of Medicare patient days in nursing homes across this country took place in only 10 States, according to a report released by the Department of Health and Human Services last year.

The remaining 40 States, the District of Columbia and Puerto Rico accounted for a mere 34 percent of the Medicare patient days in nursing homes.

Mr. President, that distribution of nursing home patient days would not be surprising nor disturbing if those 10 States accounted for 66 percent of our Nation's elderly. But neither demographics nor patterns of illness account for this high utilization of nursing homes by the elderly in these 10 States.

And what about the remaining 40 States? The Health Department report found 17 States with fewer than 20 nursing homes accepting Medicare patients. Five of those States had fewer than five nursing homes accepting Medicare patients.

Mr. President, how valuable is a benefit if it cannot be exercised? It is clear that the nursing home benefit is fast becoming a myth for many of the elderly in those States with few participating nursing home. And it could not occur at a worse time.

CONTINUITY OF CARE ISSUES ARE MORE CRUCIAL SINCE DRG'S

While this problem has existed for a number of years, the adoption of the DRG system has exacerbated it.

The incentives of the DRG system for prompt discharge have increased the need for both home health and skilled nuring facility care. And it has brought into bold reality the fact that this Medicare benefit is becoming all too mythical for our elderly just when they need it the most.

The lesson in all of this is clear. Unless we find ways to increase nursing home participation in the Medicare program, such as reducing the cost report paperwork burden, the nursing home benefit will become a myth for even more of our Nation's elderly.

H.R. 3614, A BILL TO RESTRICT THE USE OF FEDERAL VEHICLES

Mr. PROXMIRE. Mr. President, I am delighted to join as a cosponsor of the pending substitute to H.R. 3614, legislation to restrict the use of federally owned or leased vehicles from home-to-work transportation.

The substitute we are offering today has been the result of long and hard bargaining on both sides of the aisle and by Members of both Houses.

Even with this substitute, this bill is far from perfect. But on balance, this bill goes a long way toward clarifying a law which has been cavalierly ignored by Federal bureaucrats for far too long.

A BRIEF HISTORY

Mr. President, legislation has been on the books since 1946 prohibiting the use of federally owned or leased vehicles for home-to-work transportation of Federal employees.

While this legislation has often been referred to as "the limo law," its coverage is far broader than a mere prohibition on the use of expensive limousine-type automobiles. It even goes beyond cases in which a Federal driver or chauffeur is employed. This law flatly prohibits the use of any federally owned vehicle or leased vehicle for home-to-work transportation, even where the employee drives himself or herself.

The only exceptions to that law are spelled out in the existing statute, recently recodified in section 1344 of title 31 of the United States Code.

While the law has always been quite clear to Chairman BROOKS of the House Government Operations Committee and myself, apparently there is not a bureaucrat in town who finds the statute clear. They have been particularly adept at finding, or creating, loopholes large enough to accommodate a Federal car.

After all, home-to-work transportation is the ultimate status symbol for a Federal bureaucrat. It sends a clear message to his friends and neighbors that here comes "Mr. Big" or "Ms. Big."

My surveys of all Federal agencies over the last decade have repeatedly found 140 to 200 Federal bureaucrats using this perk, far in excess of the number entitled under Federal law. Just last year a report by the General Accounting Office for Chairman BROOKS of the House Government Operations Committee found similar results.

As a result, it has become clear that the best course of action is to re-write the 1946 statute and specify more clearly the individuals who are entitled to home-to-work transportation. In addition, because of a myriad of General Accounting Office opinions on related issues—some of which are contradictory as GAO's own views have evolved on this issue—this bill also addresses the rare circumstances under which exceptions can be considered.

THE PENDING SUBSTITUTE

Mr. President, Chairman BROOKS is to be congratulated for his committee's tremendous work in restructuring the home-to-work statute. If the negotiations over this substitute are any indication, the task which Chairman BROOKS and his committee faced was clearly formidable.

The pending substitute builds upon the tremendous work of the House Government Operations Committee. It makes a number of important changes in clarifying the applications of this revised statute. In light of the fact that this bill has been held at the desk and, therefore, there will be no committee report, it is crucial that these changes be emphasized now for the purpose of future legislative history.

COVERAGE OF THE JUDICIAL BRANCH AND LEGISLATIVE SUPPORT AGENCIES

The first key change is the substitution of the word "Federal" agency for "Executive" agency and the reference in (f)(2) of the substitute to section 18 of the act of August 2, 1946 (41 U.S.C. 5a).

The choice of terms and reference was done very carefully. After the House completed action on their bill, it was discovered that the choice of the term "Executive" agency in their bill had the inadvertent effect of exempting the entire judicial branch as well as all of the legislative branch support agencies, such as the General Accounting Office, the Government Printing Office, the Congressional Budget Office, the Congressional Research Service, and so on.

The change we are making in this substitute will restore the existing coverage of the judicial branch and the legislative support agencies. It is crucial that these principles be applied to all three branches of Government.

MONITORING COMPLIANCE

Mr. President, Federal agencies have repeatedly ignored rulings of the Comptroller General regarding the interpretation of the present statute, arguing that they were only bound by the ruling of their own agency's general counsel.

The substitute language we are proposing today vests rulemaking authority for the entire Federal Government in the General Services Administration [GSA] but provides that the GSA Administrator must consult with representatives of all three branches of Government before promulgating regulations: for the executive branch, the Office of Management and Budget; for the legislative branch, the General Accounting Office; and, for the Judiciary, the Director of the Administrative Office of the U.S. Courts.

The significance of this change should not be overlooked:

First, it reaffirms that all three branches of the Federal Government are subject to the restrictions of this title.

Second, it establishes consistency in the application of governmentwide rules on home-to-work transportation. Individual agencies will no longer be in a position to substitute their own judgment on the applicability of the law.

Third, it reflects our clear intent that these regulations will be promulgated through the Federal Register and receive the public scrutiny and comment they require.

APPROPRIATE RECORDKEEPING

The third change draws on the experience of the General Accounting Office. This change will require that every agency maintain logs or other records each time a Federal employee receives home-to-work transportation.

Mr. President, this requirement is essential if the GAO is to effectively monitor compliance with this statute. In their efforts to assess compliance with the existing statute, the GAO was repeatedly stymied by the fact that many agencies simply did not maintain adequate records.

This provision makes their responsibility crystal clear and all agency heads should take notice of it.

PROXMIRE CONCERNS

Mr. President, having discussed the positive aspects of this substitute, I would be remiss if I did not point out my areas of disagreement.

First, the substitute and the House bill simply permit too many Federal officials to make use of home-to-work transportation. While the bill represents a significant improvement over the current confused state of affairs, we should have pared away even more positions—both in the executive branch and we should have taken action on the legislative branch as well.

For example, we should not be extending this perk to the principal deputy of Cabinet Secretaries.

And I want to put the Senate on notice that I intend to offer legislation next year to reduce both the number of executive and legislative branch officials eligible for home-to-work transportation.

Second, this substitute goes in the wrong direction by adding the position of the Comptroller General or the Postmaster General to the list of exempt officials. This sends the wrong signal at the very time we are paring down the executive branch.

Third, there needs to be more specificity regarding the exemptions contained in section (a)(2)(B) for "intelligence, counterintelligence, criminal law duties, or protective services." These activities are essential and, in certain circumstances, warrant exemption from the restrictions of this title. But by exempting them from the review of the GSA in the rulemaking section of the substitute, we are increasing the potential for abuse. It is crucial that the conference committee will clearly spell out congressional expectations regarding the way in which compliance will be monitored.

CONCLUSION

Mr. President, despite my reservations regarding specific compromises reached in this substitute, I believe that this substitute deserves the Senate's support.

Clearly, this substitute is a compromise proposal. One that I hope we can improve in the future. But this proposal builds upon the best concepts embodied in the House bill and makes substantive progress toward eliminating the abuse that has pervaded home-to-work transportation for far too long.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIRING MEMBERS OF THE SENATE

Mr. SIMON. Mr. President, I understand that a number of statements are going to be entered into the RECORD in recognition of those in this body who are departing. I just wanted to put in a couple of sentences about each.

I have not served in this body long, though I have had the chance to know, at least slightly, all of the Members. Let me just go down the list and say what I appreciate about each.

Before I do that, let me add my appreciation—this is a good time to add my appreciation—also for the Senator from Wisconsin, who day after day after day has been plugging away at the things that are really important to this Nation. This body is an infinitely richer body because of BILL PROXMIRE. It is a privilege to serve with him.

Let me talk about the people who are retiring.

RUSSELL LONG. Kind of a walking history book, loaded with common sense. I have seen him on the floor, I have seen him in our Democratic caucuses get up, and sometimes you have to listen closely with that Louisiana twang and it goes a mile a minute, but if you listen closely you get wisdom from him. We have been fortunate, indeed, to have RUSSELL LONG's wisdom as part of this body.

BARRY GOLDWATER. He says what he thinks; sometimes steps on toes.

If I could just relate one small incident. Senator GOLDWATER came to me one day and said, "Do you know where Bowen, Illinois is?" I said, "I thought I knew where every small town in Illinois was, but I don't know where Bowen is."

He said, "My mother was born in Bowen." It is near Macomb, IL, about 539 people.

I got our highway department to make a sign: "Welcome to Bowen, Illinois, home of Josephine Williams, the mother of Senator BARRY GOLDWATER." I presented the sign to the mayor and had my picture taken and handed it to Senator GOLDWATER on the floor. He said, "I've got to go to Bowen."

So about 6 months or so ago we went to Bowen. They had a parade in the town, all five blocks of the town. He spoke in the town's square about what Bowen meant to his mother. About 300 or 400 people gathered there. It was like an old Norman Rockwell cover on the Saturday Evening Post. It was absolutely marvelous.

Then, not too long afterwards, Senator GOLDWATER said to me, after his wife died, "You know, our home in California, we are going to have to close that, and I have all those books there. I think I will send them to the library of Bowen."

I said to him, "I'm not sure they have a library at Bowen." But we checked and there was a library and he sent his books there.

It is just one of those little things. I am proud to have had that small association with BARRY GOLDWATER and to be with him here in the Senate.

PAUL LAXALT. I think of the Rehnquist hearings where, frankly, we were on a collision course, some of us wanted documents and some of us who wanted medical records, and PAUL LAXALT, in that quiet, solid way of his, put things together and both sides were pleased with the results.

There has been some criticism of the Rehnquist hearings. I happen to think they were superb hearings, really giving an insight into how our process works and everyone having a chance to get to be able to make a judgment. But one of the reasons they were successful was because of PAUL LAXALT and his ability to get along with everyone.

GARY HART. We just heard GARY HART speak here. He has been a thoughtful, reflective Member of this body. I am sure he is going to be entering the national dialog and, whether he wins or not, will contribute in a continuing way.

Senator "MAC" MATHIAS, CHARLES MATHIAS. Courage. I see the majority leader on the floor. Sometimes he has had more courage than the majority leader wants, from time to time, I am sure, in standing up to his colleagues on that side. But he stands up to everyone.

There is no question that "MAC" MATHIAS has made significant contributions to this Nation and his leaving the Senate is our loss.

And then, finally, one person that I am particularly going to miss, who I have known long before either one of us served in this Congress, and that is TOM EAGLETON from Missouri. TOM EAGLETON has a sense of where this Nation ought to go.

I may misread TOM EAGLETON's leaving the Senate, but I think part of it is his feeling is we are not dreaming any more. We are not putting together dreams about where this Nation ought to go and what we ought to do. I hope I am wrong about that.

But TOM EAGLETON is that thoughtful person who cares, who is concerned about the future. I am sure, as a faculty member at Washington University in St. Louis, he is going to instill in those students that same kind of caring and vision. I hope we continue to hear from TOM EAGLETON here in this body.

I have been fortunate, indeed, to serve with these Members of the Senate. I just want, in a small way, to pay tribute to them. I do not have an eloquent statement to enter in the RECORD, but I think all of us recognize that not only we but the American people have been served well.

Mr. DOLE. Mr. President, I thank my colleague from Illinois. I agree with every statement he made. I know our colleagues will appreciate his eloquence here this morning.

Mr. President, at 10 o'clock we will go into closed session to continue the impeachment proceedings.

THE PRESIDENT DESERVES THE FULL SUPPORT OF CONGRESS

Mr. DOLE. Mr. President, within the hour the President will leave for Iceland. I think it goes without saying that the President deserves the full support of Congress—100 percent support—not some kind of conditioned support that disappears once the meeting in Reykjavik is over.

It is sad to say, but the mischief on arms control concocted on the House side has been a disaster as far as timing is concerned. I think we have to be realistic.

The President is about to engage in the highest stakes poker game any of us can imagine. He will be sitting down across the table from Mr. Gorbachev in the next day. Mr. Gorbachev reads the papers and will have all kinds of information on what is happening in the United States and around the world, and I assume particularly in Congress.

□ 0940

And he will know that there are some, hopefully not a majority, who are trying to put roadblocks in the President's path to peace and progress on arms control.

There are some who never ran for the Presidency, who are insisting on the House side that they, in fact, take the President's place. That they determine arms control, that they determine what we do with unratified SALT agreements, that they determine what we do about ASAT and nuclear testing and chemical weapons.

I do not believe there is any doubt in the mind of anyone in this body that the President is sincere in his efforts to reach a meaningful arms control agreement before his second term expires. I cannot for the life of me understand why some keep going back to an agreement that was never ratified in this body, the SALT II agreement. I would hope that the Democratic leadership in the House would back off, complete action on the continuing resolution, postpone any mischief until the President has had an opportunity to try to deal with it face to face.

There is no doubt about it. There are very strong differences of opinion about how we should proceed to achieve a meaningful and verifiable arms control agreement.

There are some who are seriously concerned, some are Republicans and some are Democrats; some are in the

Congress, some are out of the Congress. But it does seem to me that in the next 48 to 72 hours we ought to let the President be the President. I do not believe that is too much to ask. We can play games. We will be around next year. If there is no agreement—and I do not expect any great agreements on the weekend—but if later there is a real summit in the United States and there is some agreement, I think most of us would believe that it happened because the Congress, the Democrats and Republicans, supported our President.

We are optimistic. We wish the President well as we did in the resolution passed in the Senate last evening, which we did, I might add, with a major effort by the distinguished Senator from Illinois, Senator SIMON.

We believe we are on the right track. We believe that the President will raise issues other than arms control. Arms control should be No. 1, but there are regional differences and there are human rights violations. And they should be brought to Mr. Gorbachev's attention. I believe in all of these things we find ourselves in support of the President.

Finally, Mr. President, let me indicate that I am advised that we may be able to act on the reconciliation ahead of the House. We may be able to do that today. It may not take long. I understand there are three not insignificant, but not major items, that need to be disposed of. There is a meeting right now of the Senate Finance Committee conferees on those three issues: One with reference to AFDC, one with reference to oil spills, and one of them I cannot remember. So they are down to three issues. The papers have been signed by all the conferees except the conferees from Finance and Ways and Means.

I hope we could act on reconciliation following proceedings on impeachment. I also hope we can have some agreement on the drug bill—I know there are some who feel very strongly about the death penalty provision in the drug bill as it comes from the House. We have a bipartisan staff group again looking at the other provisions. They took out some of the provisions in the House bill that we believe ought to be in the drug bill on a bipartisan basis, not Democratic or Republican.

If we could come together on one amendment when we have bipartisan support we could then focus on efforts of those who want to remove the death penalty, those who do not. I hope, somehow, we can get an agreement—if we cannot do anything else we would be forced to file cloture; which we might be permitted to vote on that tomorrow. Perhaps we could wind up our debate and dispose of that fairly early tomorrow. That may not happen. But at least it is a possibility.

Then I would anticipate, there would not be a session on Monday. I hope we would avoid a Saturday session if we can get an agreement to have a cloture vote tomorrow, if that becomes necessary. We would be here on Tuesday, and hopefully complete our work on Wednesday.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The Democratic leader.

Mr. BYRD. If the distinguished leader would yield. As I have listened to the distinguished majority leader, I believe I hear it being said that there is a possibility that the Senate would go out after today's business, and go over until next Tuesday; also that the reconciliation measure could be called up today in the Senate, and, hopefully, the drug bill would be ready for some action in the Senate, and that inasmuch as the House has not sent over the extension of the debt limit, and the continuing resolution will not be ready—as I understand from what the majority leader is saying—this weekend, the Senate then would go over until Tuesday, Monday being a religious holiday as well as Columbus Day, a national holiday.

I believe I am also hearing the distinguished Senator say that it is possible for the drug bill to cause the Senate to be in tomorrow, and possibly Saturday. If a cloture motion should be offered today and we do not get consent that it be voted on tomorrow, it would then mature on Saturday or if the Senate is not then in, it would mature on next Tuesday.

Am I hearing the majority leader correctly?

Mr. DOLE. That is correct.

I hope we might be able to work out something. I believe most Members would be willing to do that. I know the distinguished Senator from Michigan last evening—I appreciate his candor—indicated not to plan on a quick disposition of the drug bill. I believe there are some on this side who have the same view.

Mr. BYRD. With respect to the extension of the debt limit, why is it that the House does not send that bill over here to let the Senate begin work on it?

Mr. DOLE. I discussed that with the Speaker yesterday. He indicated that they were trying to make a determination whether to strip every amendment that the Senate had in it, I think 23 or 24 amendments on the debt extension, or whether to accept some or whether to go to conference.

I indicated that once it is here, if it is stripped, it is difficult to handle because it is open to amendment. And I assume some Members would have amendments. He also indicated that they were not trying to hold it back. They would be willing to send it whenever we felt we would like to have it.

Once we have disposed of reconciliation and the drug bill, I assume we may as well have the debt ceiling. It may take a day or two.

Mr. BYRD. It is not the majority leader's view, as it is mine, that the extension of the debt limit, if it is sent over again as a clean measure, will very likely run into the Gramm-Rudman amendment again, and that would cause some debate and votes? That being the case, the bill would be open to further amendment, and would be like a lightning rod for further amendments, in which event, therefore, not only would Senators be held here beyond next Wednesday but House Members would be as well?

Mr. DOLE. That is correct. I have not discussed this with any of the principals, either GRAMM, RUDMAN, or HOLLINGS.

□ 0950

I would hope we can have that. It would be one way to resolve the problem of the debt ceiling. We have had that battle in the Senate. We know the House is not going to do anything with it this year. Most of us will be here next year. Perhaps if they were willing to withhold their fire on that, other Members might be willing to withhold their fire on other amendments.

I can foresee having another 15 or 20 amendments added to the debt ceiling if we are going to start down that road. I had not mentioned that to either Senators GRAMM, RUDMAN or HOLLINGS. It may trigger some reaction. I would hope they would at least reflect on that and perhaps decide they can make that battle again next year.

Mr. BYRD. I share the distinguished majority leaders's hope. I have been trying to get in touch with Congressman WRIGHT this morning. I want to do so as soon as possible this morning. I want to discuss the debt limit legislation with him and try to get some feel from him as to when that matter will be resolved in the other body and when we might expect it over here.

I understood, last evening, the distinguished majority leader to mention that the debt ceiling might be sent over here by the House along with the adjournment resolution.

Mr. DOLE. If the minority leader will yield, the speaker, at least, has indicated that they are not purposely holding it. But I do know that the chairman of the Ways and Means Committee, Congressman ROSTENKOWSKI, has been tied up in the Superfund conference. They are still working on reconciliation. There is still a little resolution to be completed on the tax bill. I think it has just been a matter of no time to focus on another conference, in fairness to Members of the House.

Mr. BYRD. Yes. I am sure of that.

One final question, if I may ask the majority leader: How late does he foresee the possibility of rollcall votes today? I think if I were in his place I would throw up my hands and say, "How would I know?"

But he is in a position, however, to know what measures may come before the Senate today, the reconciliation measure being one, and with the Senate disposing of the Articles of Impeachment rather early in the afternoon. Can he give Senators some idea, though it may be rather slim, as it were, can he give us some idea as to what we might expect with regard to rollcalls into this evening?

Mr. DOLE. I would hope there would not be a late evening. It would seem to me that if the impeachment proceedings are completed, say, by 3 o'clock and we are in a position to deal with reconciliation, I would not think that would take over 2 hours, though it has a 10-hour time limit.

Then, by that time, if we could have some bipartisan agreement on the drug bill with maybe one or two exceptions, to narrow the issues to the death penalty and whatever else the staff may recommend to us. Hopefully, we could have some agreement either to have to vote at a certain time or agree that we can vote on cloture tomorrow rather than to stay in until 11 or 12 o'clock. I do not have the desire to stay late and I do not think the distinguished minority leader has either. We both have the same affliction, colds.

Mr. BYRD. The uncertainties being what they are, I think we all have to understand what the distinguished majority leader has said. We hope we will not be in late today but we could very well be. It will all depend upon whether or not we reach some kind of agreement on the drug bill which could, conceivably, keep us over into tomorrow.

Mr. DOLE. And beyond.

I certainly do not believe we should leave here this year without having passed that legislation.

Mr. BYRD. I agree with the distinguished majority leader.

Would the distinguished majority leader bear with me further on one observation: Would it be his feeling that if there is cloture to be voted on the drug bill, that that cloture vote should come Saturday or should await until Tuesday following the Monday recess?

Mr. DOLE. I would rather do it tomorrow, if that could happen. Then we could have that behind us and really be back here next week and be able to see the end of the session. I think if we come back with the drug bill on Tuesday, my experience over the years has been that you generally use up the whole week. I think we have to be very honest. We have Members on each side that want to be reelected. I have not seen a single person running who does not want to be reelected. They want to get out of here. We are getting down to 3 weeks before the election. I think we are both going to have difficulty with our colleagues on our respective sides about next Wednesday if we are here. If they are not gone by then, I may want to leave.

Mr. BYRD. Mr. President, I thank the majority leader. It is a very uncertain time to attempt to see clearly what the clock and calendar are going to do to us at this point. I think I have about exhausted his knowledge on this subject. He has certainly responded as well as he can to my questions.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR EAGLETON

Mr. LEVIN. Mr. President, I suspect that TOM EAGLETON, more than most Members, will appreciate the series of tributes which his colleagues will place in the RECORD.

I say that not because he is more of an egomaniac than the rest of us—he is not. He is no shrinking violet, but he is not any worse than the rest of us either.

Nor do I say that because I think he will have nothing to do but spend his days studying the words which were said about him. I suspect that TOM will have better things to do with his time.

No; I make that suggestion because I think that TOM EAGLETON has a better sense of what this place is about than most. He understands the rituals of this body and he has a sense of humor about them.

I have served with him in the Governmental Affairs Committee and I have seen him work. He knows the rules and he knows how to win. He also knows how to count and he knows when he is going to lose. When he can win, he pulls out the stops and he does everything that can be done. When he is going to lose, he does what has to be done—he makes his speeches, he contributes what he can to the legislative history he hopes will minimize our folly—but he does not waste his time; he begins to plan for the next battle and organize the next veto.

And through it all TOM EAGLETON has kept a sense of perspective. He can look at what we do here and know that some of it is useful, some of it crucial and some of it is just absurd. I suspect he may, some day, look at these tributes and put them in the category of the absurd. But that will be one of the few times that he will be wrong.

The act of paying tribute to a Senator like TOM EAGLETON allows us to focus on what is the best about this place and think about what a Senator ought to be. A Senator ought to be like TOM EAGLETON.

I am sorry he is leaving. I will miss him. And I will continue to admire him.

TRIBUTE TO SENATOR GOLDWATER

Mr. LEVIN. Mr. President, back in 1979, when I had been in the Senate for just a year, I was faced with the problem of a possible collapse of the Chrysler Corp. I think members can understand what that meant to me: here I was, a new Senator and a major employer in my State was in trouble and looking for help. And even though my senior colleague, Senator RIEGLE, was on the "right" committee and more than able to handle the problem without any help from me, I felt that I had to do something.

And I remember that at one point I wrote a fairly passionate and fairly lengthy "dear colleague" letter explaining why Chrysler ought to be helped. I had 100 of them run out and I signed them all and added little notes to them and mailed them out. Some of my colleagues responded but the response I remember best came from Senator GOLDWATER. "Dear CARL," he wrote, "I think you are all wrong on this issue so I'm not going to give you my vote—but I'm not going to give you any trouble either."

That is BARRY GOLDWATER—honest, direct, no nonsense. Just about the only thing about that note that was not BARRY GOLDWATER was the promise not to give someone any trouble. Because BARRY GOLDWATER has given lots of people—people on the left, people on the right, and people in the middle—plenty of trouble.

He does not do it because he likes to cause problems; he does it because he loves his country and he has very strong ideas about where this Nation ought to go.

Those ideas are rooted in BARRY GOLDWATER'S love of America and his commitment to the traditions and values contained in the basic documents which define American democracy.

I have served on the Armed Services Committee under Chairman GOLDWATER for 4 years now. I wish there were more Members like him: He does not legislate by press release and he does not vote by party affiliation. He looks at the issue, he looks at his values—and he looks after the defense of this country.

BARRY GOLDWATER is a hell of a man and he has been a hell of a Senator. I respect him in both capacities. We will lose a great deal when he leaves the Senate—but he will gain a good deal of time to spend with his family. He has earned that. I wish him well. But even more, I wish he keeps giving all of us the kind of trouble we have come to expect—and accept—from him.

TRIBUTE TO SENATOR HART

Mr. LEVIN. Mr. President, in 1972, GARY HART, as campaign manager for George McGovern, led a revolution. Some may look back and declare his insurgency a failure: after all, for many reasons, his candidate was beaten badly in the fall election. But such a judgment ignores the reality of a revolution. Revolutions do not involve a single battle nor are they decided in a short period of time. Instead, they evolve and emerge and modify themselves over time. And in that context, the revolution that GARY HART once led has now triumphed.

The revolution that GARY HART once led helped lead a new generation into the political process. And once they were involved, he led them in another way: he refused to accept the orthodox views of any generation as inflexible dogma. After his election to the U.S. Senate, he helped shape the evolutionary process which allowed the ideology of the 1960's to make peace with the reality of the 1980's.

As a Senator, GARY HART has confounded the conventional wisdom. When he began his service on the Armed Services Committee, few expected him to be more than a critic. But now he is an acknowledged expert on defense strategy and a vital voice in the ongoing effort to renew and revitalize America's strategic doctrine. Like the revolution he led in 1972, this effort has not had immediate success—but it has had success. The military reform caucus, which he helped found, has demonstrated that there are people willing to talk about defense issues without talking about politics. And it has also demonstrated that the people who talk about defense are also willing to talk about alternatives to existing doctrine.

When GARY HART sought the Presidency in 1984, he showed the American people that he could do more than handle an ax; he also demonstrated that he could handle ideas, the press, and the rigors of a nationwide campaign. Those are skills that, I suspect, he will call upon again in the years to come. For while GARY HART will not be in the Senate, he will not be out of the public eye. He will continue to contribute and continue to be a leading light for the generation he introduced to politics as well as lighting sparks in the generation that his once-youthful comrades have produced.

TRIBUTE TO SENATOR LAXALT

Mr. LEVIN. Mr. President, PAUL LAXALT and I have never served together on any committee and do not belong to the same political party. Consequently, our contact with each other has never been sustained and I cannot pretend that I know him well as a person.

But I do know him as a Senator. And I know him well enough as a Senator to admire the skill and dedication and passion he has brought to this body.

In addition to being a Senator, though, PAUL LAXALT has carried an additional obligation over the past 6 years. He has had to carry the mantle of "special friend of the President." In that capacity, he has been asked to carry messages from his colleagues to the White House, as well as from the White House to his colleagues and to foreign leaders.

His "elevation" to the status of "special friend" was an accident of history; it was a result of a relationship begun when both the President and Senator LAXALT were serving as Governors. But what was no accident was the skill with which PAUL LAXALT discharged the role of special friend.

He did not trade on his relationship with the President; he did not seek special advantage or favor. He was more than a special friend; he was a good friend—one who could be trusted to communicate ideas accurately, one who would be willing to accept the trying task of passing on the bad news as well as the good. And he was a friend who understood that his personal relationship could not be allowed to interfere with the professional relationship that the leadership has to have with the President. As a Democrat, I found it interesting—and ultimately educational—to watch Senator LAXALT turn a potentially tense and difficult situation into an easy and clear chain of command. He did not allow anyone to forget that there are lines of authority in the Senate, and even friendship cannot be allowed to alter those lines or cross those boundaries. It was a performance typical of the man—and worthy of the best traditions of the U.S. Senate.

TRIBUTE TO SENATOR LONG

Mr. LEVIN. Mr. President, a few weeks ago, the Senate was in one of those traditional messes that we find ourselves in from time to time. A parliamentary ruling held that Senator HOLLINGS had given two speeches and could not speak again without unanimous consent. The ruling created quite a stir and a good deal of debate. We had worked up the kind of emotion that comes to us easily whenever we think our rights are being threatened. And into this environment came the senior Senator from Louisiana, RUSSELL LONG. And Senator LONG proceeded to give us as an example of why he is so treasured in the Senate: he gave us a history lesson. He spoke about having seen the same sort of situation—40 years ago. He told us that his father—Senator Huey Long—once had almost run up against the two-speech rule himself. He told us that he had been in the Chamber when that happened. He gave life to a precedent and meaning to a ruling of the Chair.

But Senator LONG has always been more than a man of memories. He is a man who has created history. As member of the Senate Finance Committee, he worked the Tax Code as few before him had. He not only knew the code, he had helped create it. And after he was done, after he had perfected every nuance, every crack and cranny, he then worked just as hard to develop a tax policy which virtually eliminated the shelters and loopholes.

RUSSELL LONG is an amazing man. He is, in many ways, a transitional figure in the history of the U.S. Senate: his service here spans a period of radical change. He came to this body as a "Southern Senator" and he leaves as a national treasure; he came when the Senate might consider 180 bills a year and he leaves when we consider 180 amendments to a single bill; he came when a few Senators controlled the work of the body and he leaves when a few Senators can stop all the work in this body. He has seen all those changes, contributed to some, tried to stop others. He has made a contributon to this body, to the Nation and to the laws which will guide us for generations yet to come.

I fear we will not see his like in the Senate again. But I am encouraged to hope that we will continue to see more than his like—we will continue to see him as an active element in our public life.

TRIBUTE TO SENATOR MATHIAS

Mr. LEVIN. Mr. President, when political people talk about MAC MATHIAS they normally say that he represents something called the "liberal" or "Rockefeller wing" of the Republican party, Now, I am not a Republican so I do not get involved in their classification schemes—we have enough trouble in my party categorizing the liberals and populists and progessive and all the rest—but I know that MAC MATHIAS represents more than a wing of the Republican Party. He represents a grand tradition of decency and compassion and commitment and principle. And that tradition, I hope, transcends any wing and any party.

MAC MATHIAS fights for the rights of the individual and cares about the future of our society. In the process of making those fights, he drew on a tradition of the Senate. In this body, we believe that each Member has certain

rights and, as Senators, we accept a responsibility to protect the rights of our colleagues even when we disagree with the substance of their position. MAC simply applies the principle we accept here to the larger society we seek to both protect and perfect.

That, in itself, would be a sufficient contribution for any Member to make. But I believe that MAC MATHIAS has made another contribution which, while less specific, may be even more important. He represents the sort of Senator which we all, I hope, would like to be: A Member who seeks to achieve his end by reason and persuasion rather than tactics and tricks. I cannot recall a single time when MAC MATHIAS was less than fair to a colleague, less then willing to work together, less than committed to the notion that if we just worked a little harder and a little longer, we could reach an agreement.

Senator MATHIAS is a decent human being and an outstanding Senator. When he leaves us, we will be poorer; I just hope that the time he now has to spend with his family and friends will leave him richer.

RETIREMENT OF SENATOR GARY HART

Mr. THURMOND. Mr. President, I rise today to pay tribute to Senator GARY HART of Colorado, who is retiring at the end of this Congress.

In his 12 years of Senate service, Senator HART and I have often disagreed on matters of national policy. Despite our ideological differences, Senator HART has consistently been a well-prepared and articulate advocate. In the 1984 Democratic Presidential primary campaign, these talents assisted him in winning 27 primaries and caucuses.

Senator HART is an active committee member and serves on the Budget, Environment and Public Works, and Armed Services Committees. In our work on the Armed Services Committee, the differences in our political views are often highlighted. Accordingly, it is particularly gratifying to work closely with Senator HART on the same side of an issue. Recently, our joint support of the Department of Defense Reorganization Act of 1986 provided such an opportunity, and I commend Senator HART for his fine work on this important legislation.

Senator GARY HART is devoted to his principles. While in the Senate, he has energetically sought to implement those principles legislatively. He has earned the respect of his colleagues.

I wish Senator HART, and his lovely wife, Lee, good health and happiness in the future.

RETIREMENT OF SENATOR THOMAS EAGLETON

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to a retiring colleague who for the past 18 years has been a champion of our poor, elderly, and handicapped citizens as well as a watchdog for Government waste—Missouri Senator THOMAS EAGLETON.

Growing up in south St. Louis, TOM EAGLETON developed an early and intense interest in politics, even attending the 1940 Republican National Covention in support of Wendell Wilkie at the age of 10.

After graduating cum laude from both Amherst College and Harvard Law School and serving a short time in the Navy, TOM returned to his native St. Louis to pursue a career in law and politics. At age 27, he became the youngest man to be elected circuit attorney of the city of St. Louis.

In 1960, he was elected attorney general of the State of Missouri, quickly earning a reputation as an energetic and effective State official. He established the division of consumer protection within the attorney general's office, concentrating his efforts on battling consumer fraud.

Elected Lieutenant Governor in 1964, TOM EAGLETON's work as chairman of the Governor's Commission on Vocational and Technical Education led to the creation of Missouri's network of votech high schools.

He ran a successful campaign for the Senate in 1968, becoming chairman of the District of Columbia Committee and a member of the Committee on Environment and Public Works and the Committee on Labor and Public Welfare.

During his first Senate term, he led the fight for enactment of the Clean Air and Clean Water Acts and authored the Right To Read Program.

Following his reelection in 1974, TOM EAGLETON became chairman of the Subcommittee on Aging, the Appropriations Agriculture Subcommittee, and the Subcommittee on Governmental Efficiency.

Always fighting Government waste, he sponsored a bill creating the Office of the Inspector General in 12 major Federal departments and agencies to serve as internal auditors of fraud and corruption. These inspectors' investigations have led to hundreds of indictments for abuse of tax funds as well as the recovery of hundreds of millions of dollars of lost Federal money.

He is presently the ranking member of the Committee on Governmental Affairs.

TOM EAGLETON has been truly devoted to the citizens of Missouri as witnessed by the many awards they have bestowed upon him including: Missouri Man of the Year; the Harry S. Truman Good Neighbor Award; the Leon Jordan Memorial Award; and the Midcontinent Farmers Association Distinguished Service Award.

I have always admired TOM's commitment and conviction for those things in which he believes. He is a compassionate and dedicated Senator, and I wish him and his lovely wife, Barbara, our best wishes for a happy and long life back home in their beloved Missouri.

RETIREMENT OF SENATOR RUSSELL LONG

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to my very good friend, longtime Senate colleague, and next-door neighbor in the Russell Senate Office Building, Senator RUSSELL LONG, who is retiring from office.

On December 1955, I came to the Senate to fill the unexpired term of Senator Charles E. Daniel. Today, there are only two Members still serving in the Senate who were here on the first day that I assumed this office: Senator JOHN STENNIS and Senator RUSSELL LONG.

At the time, Senator LONG was already finishing his second Senate term at the ripe old age of 36, having been elected to fill the unexpired term of the late John P. Overton in 1948 and reelected in 1950.

During the 38 years he has served in the Senate, RUSSELL LONG has earned a reputation for his vast knowledge of our Tax Code, serving as chairman of the Senate Finance Committee from 1966 until 1980.

Assistant majority leader from 1965–68, RUSSELL LONG served as chairman of the Merchant Marine Subcommittee of the Commerce Committee from 1969–76, and took the chairmanship of the Surface Transportation Subcommittee from 1977–80.

Presently, he is ranking minority member of the Finance Committee and Surface Transportation Subcommittee, as well as serving on the Merchant Marine Subcommittee and three Finance subcommittees.

His commonsense approach and wry wit in heated debate have made him popular among his colleagues. A 1982 survey of Members of Congress ranked him as the most influential and most persuasive Democrat in the entire Senate.

RUSSELL LONG's love and loyalty for the State of Louisiana know no bounds. Over the years he has been responsible for numerous work projects for the State, including hurricane protection, flood control, and navigational improvements.

On the national level, he has led the fight for the Child Support Enforcement Program which has saved our Government more than $5 billion in welfare costs by locating "runaway"

fathers and requiring them to contribute to the support of their children.

A guardian of the disabled and elderly, RUSSELL LONG has worked diligently to protect their Social Security and Medicare benefits, ensuring that our truly needy citizens receive adequate medical treatment. At the same time he strove to revise the welfare system, discontinuing the guaranteed annual income for able-bodied persons who refuse to work.

Under his able leadership of the Senate Finance Committee, Congress passed the landmark 1972 and 1976 Federal revenue-sharing laws and the 1975, 1977, and 1978 tax cuts.

A conservative, articulate Senator, and devoted anti-Communist, RUSSELL LONG has always supported a strong defense and persuaded many of our colleagues to join him in voting to preserve our national security.

He is a man of the people, rendering outstanding service to the citizens of his State and never losing touch with his roots. RUSSELL LONG is a common man of uncommon abilities. He is a leader, a patriot, and a great American.

I will sincerely miss my good friend from Louisiana whose honesty, integrity, intelligence, and humor have added so much to the Senate over the years, and I wish RUSSELL and his lovely wife, Carolyn, many, many years of continued health and happiness.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS

Mr. THURMOND. Mr. President, as the days of the 99th Congress draw to a close, I would like to make a few remarks about our distinguished colleague from Maryland, Senator CHARLES McC. MATHIAS, who is retiring after 18 years of Senate service.

I have known Senator MATHIAS since he first came to the Senate and have had the privilege of serving with him on the Senate Judiciary Committee for many years.

He is an able legislator, who has represented his State fairly and faithfully. Although I have not always agreed with the positions he has taken, I have found him to be a man of integrity who votes his conscience on the issues.

Senator MATHIAS was born in 1922 in Frederick, MD. His schooling at Haverford College was interrupted during World War II while he served in the Coast Guard and the Navy.

He graduated from the University of Maryland Law School in 1949. After admission to the bar, he practiced law with his father, became an assistant attorney general of Maryland, city attorney of Frederick, and in 1958 he was elected to the General Assembly of Maryland as a delegate from Frederick County. He was elected to the U.S. House of Representatives in 1960 and reelected in 1974 and 1980 when he carried all the counties in the State and the city of Baltimore.

In the Senate, he is currently chairman of the Senate Rules Committee and member of the Foreign Relations Committee, Governmental Affairs Committee, and the Judiciary Committee.

As chairman of the Subcommittee on Patents, Copyrights and Trademarks, Senator MATHIAS has sponsored the the Trademark Counterfeiting Act of 1984, the Semiconductor Chip Protection Act of 1985, and other changes to patent law. He has supported legislation to allow joint research and development for corporations without violating antitrust laws. He has also fought for electronic communications privacy and computer software protection.

In his years in the Senate, Senator MATHIAS has proven to be a dedicated pubic servant and a truly great American. I am privileged to have known and served with him.

Mr. President, I commend Senator MATHIAS on his years of Senate service, and I wish the best for him, his lovely wife, Ann, and his sons, Charles and Rob, in the years ahead.

RETIREMENT OF SENATOR PAUL LAXALT

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who can be counted among the most admired and respected men in the U.S. Senate—and indeed the entire Nation—Senator PAUL LAXALT, who is retiring at the end of this session after a long and distinguished public service career.

In his years of public service, including 12 years as a Member of this body, Senator LAXALT has shown himself to be a man of integrity and independence. He is a fine example of those things which we consider to be virtues of the American West—strength, independence, loyalty, individuality, and honesty.

The eldest of six Children, Senator LAXALT grew up in Carson City, NV. His upbringing by his Basque parents instilled in him a strong sense of family and the traditional values which have sustained him during his years in public life.

He received an undergraduate degree from the University of Santa Clara and a law degree from the University of Denver Law School interrupting his undergraduate education to serve his country as a U.S. Army corpsman in the South Pacific in World War II.

In 1962, he left a successful private law practice to serve as Lieutenant Governor and then Governor of his State. During his tenure as Governor of Nevada, he concerned himself with establishing a policy of self-reliance and fiscal prudence, which he has continued to advocate during his Senate career as well.

He came out of a 4-year retirement from public life in 1974 and quickly established himself as a strong conservative influence in the Senate, working to meet the need for a strong national defense and to reduce the size and scope of the Federal Government.

Senator LAXALT has distinguished himself in many areas during his Senate career. He has been an able and dedicated member of the Senate Committee on the Judiciary, where it has been a pleasure to work with him, and I appreciate the valuable service he has rendered as a member of that committee. He also serves as the chairman of the Judiciary's Criminal Law Subcommittee. He served for 2 years as chairman of the Appropriations' State, Justice, Commerce Subcommittee.

Another noteworthy accomplishment was his establishment of the Senate's western coalition, which he formed to help Senators from Western States unite on issues of common concern.

He has shown himself to be an able legislator, leading the opposition to the Panama Canal Treaties during his freshman term, and later chairing the subcommittee which passed the regulatory reform bill through the Senate with no opposition. He also cosponsored the Comprehensive Crime Control Act of 1984. This bill has been called the most sweeping piece of anticrime legislation in the history of the Congress, and Senator LAXALT's role in its passage is especially noteworthy. He is currently working on the interstate water compact.

He has served as general chairman of the Republican Party since 1983; and after being the only Senator to publicly speak out on behalf of Ronald Reagan's campaign for the Presidency in 1976, he served as President Reagan's national campaign chairman in that year, as well as in 1980 and 1984.

Relying on a friendship which goes back to the early years of then-Governors Reagan and LAXALT, President Reagan now calls frequently on his friend from Nevada and considers him to be his "eyes and ears on Capital Hill."

President Reagan's belief in PAUL LAXALT is so great that he entrusted him with the task of handling delicate negotiations with former President Marcos of the Philippines, prior to the fall of the Marcos government. Senator LAXALT's perception of the situation in the Philippines proved invaluable to the President during the ensuing political upheaval in that country. In the short visit he had with President Marcos, he so impressed that leader that Marcos called to ask for his advice during the crisis.

The qualities which his colleagues have come to value most in him are his deep-seated sense of right and wrong; his quick sense of humor; his openness and honesty; and his unfailing loyalty. Our Nation was founded by men with these qualities—men who were not confined by the stale boundaries of prescription politics.

I am told that Senator LAXALT has a sign on the wall in his office which reads: "There is no limit to what a man can do or how far he can go as long as he does not mind who takes the credit."

This seems to be a true assessment of PAUL LAXALT's ideology. He quietly, and with determination, accomplishes what he thinks is necessary for the good of the people of his State and our Nation.

I shall miss my friend from Nevada, both personally and professionally. I know that all of my distinguished colleagues join me in wishing him and his lovely wife Carol, continued good health and happiness.

RETIREMENT OF SENATOR BARRY GOLDWATER

Mr. THURMOND. Mr. President, I have mixed feelings as I rise to honor Senator BARRY GOLDWATER on his retirement, for it is easy to pay tribute to a man of his character, but difficult to say goodbye to a friend and truly great Member of this body.

I have known him since I came to the Senate 30 years ago and have watched his leadership carry this Nation through some of the most formative and turbulent times in its history. Mr. President, I believe that few have served this country as faithfully as this man, and few will be remembered as well.

When we look back over the decades of this century, Senator GOLDWATER's image will be engraved there. He was part of the glory of World War II and privy to the threat of the cold war. He witnessed the unrest of the sixties and the crisis in Vietnam. He lived through the confusion of Watergate and the growth of the arms race. Through all these years, he has been a strong voice—at times a lonely voice—for fiscal conservatism, a strong defense, peace, and freedom.

We will remember him as the pre-Vietnam Presidential candidate, who warned the Nation that it could not commit itself to war one step at a time—that to shed the lifeblood of a Nation for any less a goal than victory is sacrilege. For his honesty, he was harangued by liberals and castigated by petty politicians. The Nation that was promised no war got a long war. History judges BARRY GOLDWATER to have been right and he is now known as a prophet whose words stood the test of time.

As the years go by, we will treasure his devoted public service, for he has defended this country in military combat and in the legislative trenches. BARRY GOLDWATER has spent 37 years of his life in active military service and in the Reserves, where he retired as a major general. He has spent 37 years in government, with responsibilities ranging from member of the Phoenix City Council to the distinguished chairman of the powerful Senate Armed Services Committee.

In addition, he has served ably as chairman of the Senate Select Committee on Intelligence and as a member on the Commerce, Science and Transportation Committee, the Small Business Committee, the Select Committee on Indian Affairs, and the Aeronautical and Space Sciences Committee.

Recently, in the final days of his career in public service, he crowned the legislative achievements of his years here with the Department of Defense Reorganization Act of 1986. This measure, named in his honor, is a sweeping reorganization of the military services and the culmination of years of work. Future generations will owe an unending debt to the leadership and wisdom of Senator GOLDWATER in this legislation.

As the years go by, these accomplishments will not be the only reminder of BARRY GOLDWATER's time here. His character will also be etched in our memories. We will remember his energy and enthusiasm; his humor and wit; his candor and kindness. We will recall the stubborn way he set his jaw when he thought he was right and the futility of getting him to change his mind. We will remember his courage; his patriotism; his integrity, and his compassion.

So great was my admiration for this man and the principles for which he stood that I switched parties in 1964 to support his Presidential candidacy.

Thomas Paine once said that in the times that try men's souls, "the summer soldier and the sunshine patriot" will shrink from the service of his country. In those times, he says, he who is able to stand "deserves the love and thanks of man and woman."

Mr. President, BARRY GOLDWATER is a man who has proven during his lifetime that in the "times that try men's souls," he will not "shrink from the service of his country." He is a man who has carried the sword so that he could raise the banner of peace. He is a man who has loved freedom and been willing to pay its price—a patriot for all seasons. He is a man who been a national servant and become a national treasure. Yes, Mr. President, he is a man who deserves the gratitude of every person in this Nation.

My words cannot capture all the contributions BARRY GOLDWATER has made, for much that he has offered has been given from his heart. I can only say that he has served our country well and fought for what is worthy. To him, I give my heartfelt gratitude.

Mr. President, it is with deep regret that I see this truly great American leave this Chamber, but I consider it a great privilege to have served our Nation with him, and I count it highest honor to have known him as a friend.

SENATOR CHARLES "MAC" MATHIAS

Mr. WEICKER. Mr. President, in their unusual and highly informative work entitled "The Book of America," Neal Pierce and Jerry Hagstrom make an interesting point about the State of Maryland as follows, and I quote:

> Maryland fits only reluctantly into a single portrait. What, after all, does the blue-collar port city of Baltimore, 55-percent black, have in common with the Washington, DC, suburb of Montgomery County, which has among the highest family incomes in the Nation? What do the watermen of the somnolent Eastern Shore have in common with the residents of mountain-locked Cumberland? What do the people who live in the almost continuous string of middle-class suburbs from Washington to Baltimore, in Prince Georges and Anne Arundel and Baltimore Counties, have in common with the others?

The answer given in the book is "not very much, except that they all live within Maryland's convoluted boundaries." My own answer is that the thing these disparate regions of a single State have in common and have had in common since 1969 to their enduring benefit is MAC MATHIAS.

I know what it is like to be a Republican in a State where the party has registered a minority of the voters. It is often not easy, but MAC, by dint of his honesty, nonpartisan ability, and bipartisan activity, has held the respect and affection of the people of the State of Maryland of all parties for nearly 30 years.

Likewise, he has held the respect and affection of this body and of the great majority of our party who believe that diversity is the key to growth and progress.

Of all the qualities of MAC MATHIAS as a man and as a Senator, none so stands out as his modesty. I remember a little over 1 year ago, standing in the back of the Senate caucus room, listening to MAC MATHIAS deliver his announcement not to seek reelection. He said then, "When I was elected to Congress in 1960, we were a nation divided by barriers of law, custom, and practice. Today, there is no legal barrier of any kind between Americans of differing race and creed. That is change in its most positive form. I am proud to have played a role in that peaceful revolution."

I suggest, Mr. President, that here, our colleague's modesty was excessive. They say that MAC MATHIAS' family has been associated with the Republican Party since the time of Abraham Lincoln.

It shows in the type of Senator he is and the type of Republican he is. In 1963, it was MAC MATHIAS and his Republican colleagues on the House Judiciary Committee who sponsored an omnibus civil rights bill. That bill later became the Civil Rights Act of 1964, the landmark civil rights legislation of the 20th century.

The legacy that MAC MATHIAS leaves to the field of civil rights also includes equal educational opportunity for the handicapped. MAC was the architect of an amendment in 1974 that provided the first Federal funding of schools attempting to serve the handicapped which Congress translated the following year into Public Law 94-142, the Education of All Handicapped Children's Act. His work for the disabled represents all that is best about this body and that is the provision of opportunity for all Americans to excel in a climate of peace.

MAC also played a key role in the work that led to the televising of Senate sessions. My only wish is that the Senate and the people of the United States would have at least another term to look upon the calm countenance of my friend, MAC MATHIAS.

But that is not to be and we must accept it. Some 50 years before MAC MATHIAS came to the Congress as a young Representative, another Maryland Representative, then in the twilight of his career, Joshua Talbott, delivered this wisdom to a freshman Member, and I quote.

> There are two kinds of Congressmen, show horses and work horses. If you want to get your name in the paper, be a show horse. If you want to gain the respect of your colleagues, keep quiet and be a work horse.

Not many Members can balance the demands of style and substance in the U.S. Senate, but MAC MATHIAS has done it with grace, he has done it with courage, and the country is richer for it.

SENATOR EAGLETON

Mr. WEICKER. Mr. President some of us in this body have suffered or enjoyed the designation as blunt speakers on occasion. To this Senator, that designation has been especially welcome when it earns a comparison with the senior Senator from Missouri, TOM EAGLETON.

TOM will always be remembered for making the tough decisions. One of my enduring memories of this body, although a very ambivalent memory, is of the difficult matter of Harrison Williams. No one had a more difficult time than TOM EAGLETON. And when the time came for a decision, TOM EAGLETON made his and explained it with a commanding eloquence on the floor of the Senate.

The Nation, of course, has more than the collective memories of the Senate when it comes to TOM EAGLETON. He played the major role in the establishment of the National Institute on Aging and was instrumental in expanding services available under the Older Americans Act.

TOM EAGLETON is a fighter and though we've found ourselves on opposite sides of an issue or two on this floor, his work in the U.S. Senate represents the very best of this institution. As the Senate moves into the 100th Congress, we will be poorer for his absence.

SENATOR LONG

Mr. WEICKER. Mr. President, today we say goodbye to a number of colleagues, among them a man who wears the title "Mr. Chairman" as comfortably as any in this Chamber.

That man is RUSSELL LONG and though he hasn't been in the majority for a few years he will always be remembered as a leader of uncommon ability; a man of conscience always and a man of compromise when necessary.

There is a quote attributed to Louisiana's senior Senator that makes the point, "In politics, you must help your friends or you won't have any." One thing is for sure, RUSSELL LONG has more friends around here than most Members.

I suspect our colleague is not retiring because he is tired of public life. That doesn't sound like RUSSELL LONG. No; I think he found a better deal down the road and none of us will find out anything about it until we read about it in the newspaper.

After 36 years in the Senate, RUSSELL LONG leaves here to go back to Louisiana where I read that his approval rating is somewhere in the neighborhood of 80 percent. Since so few of us ever get to visit the neighborhood, let me explain what that means.

It means that when 10 people get together in Louisiana, the chances are that 8 of them will have something good to say about RUSSELL LONG. The only rating that could beat that would be one from this body. And I would be willing to bet if I were a gambling man that 100 percent of the Senate would voice their approval of RUSSELL LONG in public or private.

I, for one, consider it a privilege to have served with RUSSELL LONG.

SENATOR LAXALT

Mr. WEICKER. Mr. President, it is no secret in this body that I am often at odds with the policies of the President of the United States. It is also no secret that PAUL LAXALT is a great friend of the President. But what may not be so well known is the respect and affection I hold for the senior Senator from Nevada.

PAUL has carried with him into the Senate these past 6 years an unusual burden and an unusual benefit. And that is his uncommonly close relationship to the President of the United States. This role is an unofficial liaison between the Senate and the White House has been of benefit to all Senators.

The quality the people of the State of Nevada have found in their senior Senator for the past 12 years is the quality that made PAUL the only Republican to win a previously Democratic seat in 1974.

That quality, quite simply, is candor in dealing with some of the Senate's and the Nation's most contentious issues. Those of us in the Senate who have differed with PAUL LAXALT have always agreed that his work is marked by an open and straightforward approach to public policy. No matter what our different philosophies and agendas, the entire Senate will miss PAUL LAXALT.

SENATOR GOLDWATER

Mr. WEICKER. Mr. President, Robert Frost said, "The middle of the road is where the white line is, and that's the worst place to drive."

Today, we honor a man who never tried to navigate that perilous center of the road and in so doing, constantly enriched both the political dialog and legacy of this Nation.

BARRY GOLDWATER is a man who speaks his mind and speaks it plainly, whatever the circumstance, whatever the issue, whatever the opposition.

Unlike many on this floor over the decades who wear the label only when it suits them, the senior Senator from Arizona is a political conservative to the core. It is not surprising therefore, that the Senator's conscience has caused him to vote and speak out for such supposedly "liberal" positions as the independence of the judiciary with the same passion and precision that marks his support of an adequate national defense.

In recent years, the sort of outspokenness has gotten Senator GOLDWATER in some trouble, not that he ever noticed it. The trouble came from the far right, social-issue wing of our party, those who call themselves conservatives because it is a label that commands respect. In large part, it commands this kind of respect because of BARRY GOLDWATER.

But the bullying of this group does not transfer to the true tenets of conservatism as Senator GOLDWATER him-

self observed in a speech in 1982. He said then:

> I am frankly sick and tired of the political preachers across this country telling me as a citizen that if I want to be a moral person, I must believe in "A," "B," and "C" and "D." I will fight them every step of the way if they try to dictate their moral convictions to all Americans in the name of conservatism.

Conservatism will survive the transient pressures of this or that wave or righteousness and the Senate with its rich variety of philosophy will survive after BARRY GOLDWATER moves on to his mountain climbing, photography, and I understand, some teaching. But it will not be the same around here. This year, the Senate loses some of its toughest veterans to bigger and better pursuits. None is a greater loss to the Senate, to the country, than BARRY GOLDWATER, a conservative, an American that I have been proud to call a friend.

TRIBUTE TO DEPARTING COLLEAGUES

Mr. MURKOWSKI. Mr. President, the 99th Congress is nearly over, and the Senate can look back with pride over a record of extraordinary and historic legislative accomplishments. In recent months the Senate has passed a revolutionary tax bill that sets the foundation for true tax reform. Our action on the drug bill, and on Superfund signals our commitment to deal seriously with pollutants that affect the health of our children and of our lands. Few can doubt that our other legislative efforts, including the Gramm-Rudman-Hollings measure to balance the budget, will have lasting legacies for the economic well-being of our Nation.

But while we can take some comfort from the many accomplishments of this 99th Congress, all of us in the Senate must temper our enthusiasm with the realization that six of our colleagues will depart the Senate at the end of this session.

Senator GOLDWATER, Senator LONG, Senator MATHIAS, Senator LAXALT, Senator EAGLETON, and Senator HART, have each made monumental contributions to our Nation. They articulate individual and distinct political philosophies, yet we have witnessed their unified goals to make the United States a better place to live, to make us a trustworthy neighbor to our foreign friends, and to make sure that our citizens realize the promises of democracy that were established by our Founding Fathers.

The accomplishments of our departing colleagues are found in the laws of our Nation, and in our political history. No one among us can doubt that these six Senators have dedicated their lives to serve the public interest. It is not enough to simply say that we will miss BARRY GOLDWATER, RUSSELL LONG, TOM EAGLETON, GARY HART, PAUL LAXALT, and MAC MATHIAS. It goes without saying that we will miss their companionship and grace. But what we will miss most of all are their gifts of leadership and wisdom.

TRIBUTE TO SENATOR CHARLES McC. MATHIAS

Mr. HATFIELD. Mr. President, with a combination of sorrow and joy, I bid farewell to Senator CHARLES McC. MATHIAS—sorrow because he is a man of conscience and decency whose voice and talents will be sorely missed in this body, but joy because he is a vital and committed man who will undoubtedly apply himself to equally important endeavors outside this body.

I have had the honor of serving with MAC MATHIAS for all 18 year of his Senate career. We often have been jokingly referred to as lonely lepers in the colony we call "moderate Republicanism," and I long ago learned to respect his strong voice and dedicated spirit.

A lot of history has been made during the past 18 years, and not all of it has been proud history: Vietnam, Watergate, and the incredible escalation of the nuclear arms race. But through it all, MAC MATHIAS has maintained not only his commitment but also his civility. He has refused to remain silent when his conscience and vision put him at odds with the majority. But instead of attacking the majority, MAC MATHIAS has set himself to the task of framing alternatives and advocating peace and justice.

Of all the accomplishments MAC MATHIAS can proudly claim, I think the Voting Rights Act stands as one of the greatest testaments to his energy, creativity, and compassion. At a time when domestic politics seemed to be coming apart at the seams, MAC MATHIAS refused to be among the naysayers. He knew what was right and melded it with what was possible and what was needed to frame a lasting piece of legislation. When we one day ratify the Comprehensive Test Ban Treaty, that too will stand as a testament to the will and vision of MAC MATHIAS.

As the ranking member of the Senate Rules Commitee, I will miss his leadership. As a moderate Republican, I will miss his companionship. And as a Member of this institution, I will miss his intellect, civility, and decency. But as I join my colleagues in bidding farewell to MAC MATHIAS, I take joy in the certainty that his commitment to civil rights, efficient government, and lasting peace will continue outside this Chamber.

TRIBUTE TO SENATOR THOMAS EAGLETON

Mr. HATFIELD. Mr. President, in a few days, my good friend and distinguished colleague TOM EAGLETON will be leaving this body. I will miss his presence in this Chamber greatly. During my 20 years in the Senate, it has been my honor to serve with many distinguished Americans, who also happened to be U.S. Senators. It always is difficult to come to the end of another term and say goodbye to one of these trusted friends and colleagues.

During the 18 years TOM and I have served as Senators, my appreciation and respect for this man have grown immensely. I am pleased to say that we have stood shoulder to shoulder in battle on this floor on numerous occasions. It is with much less pleasure that I report that we also have stood toe to toe in battle. Of the two, I much prefer the former, because TOM EAGLETON is a fierce warrior—he has no fear of battle. I learned this as chairman of the Appropriations Committee in many a markup session and also on the Senate floor during heated debates. My good friend, the senior Senator from Missouri, always did his homework and came before our colleagues eager to enter the fray.

But beyond our professional relationship, TOM and I have developed a close personal friendship. On a number of occasions, Antoinette and I have had the good fortune to travel with or entertain TOM and his wife, Barbara. He is a wonderful traveling companion. He is able to maintain the most rigorous schedule and always remain gracious. Above all else, TOM EAGLETON is able to keep his wits about him and to find humor in the most common experiences or in the most frenzied times.

Mr. President, it has been a privilege to know and serve with this most distinguished Senator. All who have served with TOM EAGLETON are better for it and we shall feel his absence profoundly.

THE RETIREMENT OF SENATOR BARRY M. GOLDWATER

Mr. DOMENICI. Mr. President, I rise to express my great respect and admiration for my distinguished colleague from the State of Arizona who, as we all know, will be retiring from the Senate after this year. It has been a pleasure and an honor to serve with Senator GOLDWATER in this body during the past 14 years, and I will sorely miss his presence. This Nation of ours has been fortunate to have had a leader such as he, whose commitment to national security and the Constitution go unparalleled.

Senator GOLDWATER came to the Senate in 1952, when he defeated then

Senate Majority Leader Ernest McFarland. Since then, he has been reelected four times and has become the best known member of the Republican Party. For so many years now, he has been the most articulate, forceful, courageous, and consistent advocate of our conservative ideals, and I daresay it will be nearly impossible to replace such a man. True statesmen always are.

Throughout his career, Senator GOLDWATER has been characterized as being an extremist in his views. It is this characterization that hurt his bid for the Presidency in 1964. However, in defending his political views, Senator GOLDWATER once declared, "Extremism in the defense of liberty is no vice, and moderation in the pursuit of justice is no virtue." There's much truth to this saying, and only history will judge whether or not our Nation made a mistake in 1964.

Coming from the Southwest as does Senator GOLDWATER, I feel a special closeness to him. We have shared many issues which are important to both Arizona and New Mexico. And as one of the earliest critics of high Federal spending, he is surely a man after my own heart. Back in 1957, Senator GOLDWATER gave a speech criticizing President Eisenhower's fiscal 1958 budget as being too high. That speech is often regarded as having launched his career as the leader of the conservative wing of our party. Nearly 30 years later, Senator GOLDWATER remains one of the most outspoken critics of Government spending policies. Appropriately enough, it seems as though Government is finally starting to listen.

Senator GOLDWATER'S unrelenting advocacy of a strong defense is all too well known. Again, I think it is appropriate that, as he leaves office, he does so at a time when our Nation's military preparedness has been reestablished after a period of considerable neglect. As chairman of the Senate Armed Services Committee, the Senator has played a key role in the rebuilding of our conventional forces and the modernization of our strategic forces.

In short, the legacy Senator GOLDWATER leaves his Nation is immeasurable. I wish my good friend and colleague all the best.

SENATOR BARRY GOLDWATER

Mr. WALLOP. Mr. President, there are among us, always, some who are giants. BARRY GOLDWATER is clearly one of those, a man of integrity, of vision, of principle, of philosophy, of guiding moral roots that have served him well and benefited his country.

Courage told him to stand on principle when he ran for President. That principle has been vindicated, although in the agony of defeat, clearly, the temptation to slide off principle into the always embraceable mainstream, must have been overpowering. To watch Senator GOLDWATER resist that has been one of the rare privileges of my life. To watch him urge America to stand up to its greatness, to watch him urge America to stand up to its word with allies such as Taiwan, to watch Senator GOLDWATER urge America to hang on to principles of freedom, liberty, and to fight to defend them has been an inspiration to all of us.

It has been, from time to time, stylish to think that America could get by without strength and that the force of our smiling presence in the world would be enough to win over all the forces of imperialism that washed from ocean to ocean. Senator GOLDWATER has been one who draws us back to the reality that if it is not we who stand for freedom, who then can, and who then will?

I believe that this country owes a tremendous debt of gratitude to BARRY GOLDWATER. I shall miss him as a legislator, miss him as a statesman, miss him deeply as a friend. I wish him well. All of us are better for having served alongside him.

SENATOR RUSSELL LONG

Mr. WALLOP. Mr. President, as we look this year at retirements from the Senate, certainly a couple of them will represent outstanding losses in capability and service to the American people. One of those Senators is my friend RUSSELL LONG.

RUSSELL LONG represents wisdom, experience, exuberant partnership when necessary, exuberant patriotism when obvious. His is a capability of reducing complex issues to understandable terms which focus on the necessary things.

RUSSELL LONG is a good friend. I have worked with him when he was chairman of the Finance Committee, and I have worked with him as ranking member of the Finance Committee. On matters of tax policy, sometimes we agreed, and sometimes we disagreed, but never was there a vitriolic word between us. Always there was an effort to achieve something a President, whether Carter or Reagan, wished within a spectrum of integrity, honesty, and the decent philosophy that American business and American earners have singular rights in a free economy.

RUSSELL LONG was creative. RUSSELL LONG was crafty. I say crafty with genuine admiration because, above all, RUSSELL could achieve goals which he viewed as important. By molding alliances, by relating events, by sheer craftsmanship in the legislative process RUSSELL achieved his objectives and those of the Presidents he served.

Mr. President, on top of all these truly wonderful qualities as a legislator and as a committee chairman, RUSSELL LONG just happens to be my friend. I wish him well as he enters his new life. The country can give thanks it had the services for such a long time of one who was so devoted to the very essence of that which makes America decent and successful.

SENATOR TOM EAGLETON

Mr. WALLOP. Mr. President, as Senator TOM EAGLETON retires this year, I am compelled to express a level of admiration for him that he would not let me express during the painful and trying times of the expulsion of Harrison Williams. TOM EAGLETON and Pete Williams had been friends, and the agony that Senator EAGLETON went through in making a judgment that the interests and integrity of the Senate outweighed bonds of friendship with an old and trusted ally was something that most of the Senate was not privileged to watch. I saw desperate internal struggle as he sought not to choose between the integrity of the Senate and an old friend, but how to handle the choice that he had made instinctively. The choice was one of integrity; it was a choice of a very great and courageous man.

On other instances Senator EAGLETON and I have disagreed philosophically, he riding with his party and I with mine, but over the course of the years, I have worked with him on several legislative initiatives. I have known him always to be honest, straightforward, understanding, and creative. He has been tough in resisting any erosion of principle and understanding as to the needs of others.

Mr. President, TOM EAGLETON is one who shows the civility of American political life, something which can elicit the admiration from friendly partisans and from people whose integrity is above reproach. I will miss TOM. He has been one from whom I have learned much in the course of my Senate career. If I have learned nothing else, I have learned what it is to watch courage and philosophy dominate in a struggle to do what is right. Again I say, America has benefited from the integrity and gentility of one who showed us that.

SENATOR PAUL LAXALT

Mr. WALLOP. Mr. President, one of our colleagues retiring this year is perhaps my first and longest friend in the U.S. Senate, PAUL LAXALT. PAUL came to Wyoming in the dark times of my first year of campaigning for the U.S. Senate and was willing to take a stand in my behalf. Some others who came out were willing to merely be present in my behalf, but PAUL LAXALT

weighed in. This typified PAUL's courage.

Since that time, as a Member of the Senate and as a colleague of the Senator from Nevada, I have watched with absolute admiration his ability to decently embrace the ideas of friend and foe alike, never rejecting anybody with arrogance or by posturing. He has friends, and deservedly so, on both sides of the aisle. PAUL is yet another one of those Americans, the son of a Basque immigrant, whose beginnings have given him an appreciation of the essence of this country—what this country is all about. America benefits enormously by the presence of people of that understanding and that level of devotion to America's greatness. America can be grateful, and I am grateful for the service of PAUL LAXALT, for his friendship and that of his family.

We lose a friend of the President. We lose an able and capable legislator. We lose an amiable and agreeable friend. We lose a tough and skilled fighter. As PAUL moves on, I wish him and his family well. Wherever his path leads him, we can be sure that if his country needs him, he'll be there. By his presence we've all been blessed. The country is stronger; the lives of Americans are more secure.

TRIBUTE TO SENATOR GARY HART

Mr. BOREN. Mr. President, at the end of the 99th Congress we will say farewell to Senator GARY HART. For the past 12 years, Senator HART has been an effective and hard-working spokesman for Colorado in this body. In addition, he has played an active role in defining our national agenda for the 1980's, particularly in the critical areas of economic policy, national security, and energy.

We in Oklahoma are proud that Senator HART spent his undergraduate college days at Bethany Nazarene College in Bethany, OK, obtaining a B.A. there in 1958 before attending divinity school and law school at Yale University.

Throughout his productive career in the Senate, Senator HART has presented innovative ideas to deal with our Nation's most severe problems. He has been a valued member of the Senate Armed Services, Budget, and Environment and Public Works Committees.

Senator HART is an acknowledged expert on military reform, particularly on naval operations, and founded the bipartisan Military Reform Caucus. He is also one of the most knowledgeable Senators in this body on the details of arms control.

In the environmental area, Senator HART has taken a leading role as a member of the Senate Environment and Public Works Committee, most often following a middle course in critical debates between the desires of environmental groups and business groups. He headed the Senate's investigation of the Three Mile Island nuclear powerplant accident and chaired the National Commission on Air Quality, which released a report in 1981 on the Clean Air Act that drew fire from both sides.

From the start of his career, Senator HART has been a strong advocate of policies to increase our Nation's energy independence, supporting imposition of an oil import fee and opposing the so-called Windfall Profits Tax.

As a member of the Senate Budget Committee, Senator HART proposed a plan which the committee adopted in 1981 to balance the Federal budget. He also introduced legislation to prevent taxpayers from being pushed into higher brackets by inflation.

I have been most honored by Senator HART's support and cosponsorship of my legislation to reform campaign finance laws. He has been an outspoken advocate of the need to change the way campaigns are financed in this country in order to preserve the integrity of our election process. His support for these changes will be sorely missed as we press ahead with this critical debate next year.

I join my fellow colleagues in paying tribute to the career of Senator GARY HART and in thanking him for his service to our country as a Member of the U.S. Senate. Senator HART, we all wish you and your family the very best for the future.

TRIBUTE TO SENATOR RUSSELL LONG

Mr. BOREN. Mr. President, when the 99th Congress adjourns we will say farewell to one of the Senate's most esteemed and senior Members, Senator RUSSELL LONG of Louisiana. His contributions to our Nation as a Senator will be sorely missed. I know that he will continue to make an immense contribution as a private citizen.

Senator LONG is currently second in seniority in this body, ranking behind only Senator JOHN STENNIS of Mississippi in length of service in the Senate. Elected just before his 30th birthday, Senator LONG has devoted more than half of his life to the United States Senate, to his State, and to this Nation.

There is no Member of this body who understands the Federal Tax Code better than Senator LONG. There is no Senator who works harder or better does his homework than does Senator LONG.

He has made his mark on this body in many ways, but most especially through his able service for 15 years as chairman of the Senate Finance Committee where he because known as the master of consensus building, a role he has continued during his service as the ranking member of that committee. Senator LONG was a skillful manager of the Finance Committee, encouraging bipartisan compromises and allowing all members of the committee to have a voice in the formulation of the critical legislation handled by that panel. His mark is on every major tax bill which has come out of Congress in the past 20 years.

Part of his success stems from his mastery of the Senate's parliamentary procedure, but, no doubt, much of his success also comes from his irrepressibly good sense of humor, his fairness, and his commonsense approach to any problem.

Senator LONG has always correctly believed that the chief priority for our economy should be balancing the budget, and he has worked diligently in promoting that much-needed goal.

Although to list all of his legislative accomplishments would be impossible, among them have been his authorship of the earned income tax credit, which rewards the working poor, and his proposal for welfare reform legislation to put a ceiling on Federal welfare costs and encourage able-bodied welfare recipients to work.

Senator LONG has also proposed a system of catastrophic health insurance and advocated employee stock ownership plans [ESOP's] to boost worker productivity. He has pushed for a reformed tax structure to encourage much-needed capital formation and give the private sector the incentives it needs to move toward full employment.

His work in promoting the need for energy independence in this country is unbounded, and he has always recognized the importance of the energy industry to this country's national security interests.

In addition, Senator LONG has made contributions as a member of the Senate Commerce, Science, and Transportation Committee, the Senate Select Committee on Ethics and the Joint Taxation Committee. He also served a term as Senate majority whip.

The son of the late Senator and former Louisiana Governor, Huey P. Long, Senator LONG was exposed to politics throughout his entire life. In fact, he was first elected to office while a junior at Louisiana State University, when he became student body president. He received his law degree from LSU in 1942 before going into the Navy to serve our country in World War II. In 1946, Senator LONG returned to Baton Rouge to practice law, but was again quickly immersed in politics, working for his uncle, Earl Long, who became Governor of Louisiana in 1948. Senator LONG served his uncle as executive counsel during his gubernatonial term.

Senator LONG won his first election to the U.S. Senate in 1948 to fill the unexpired term of Senator John Overton, who died while in office. He was elected to his first full term in the Senate in 1950 by a more than 68-percent margin, and has been in the U.S. Senate ever since, winning election five more times by comfortable margins.

It has been my distinct honor to serve on the Finance Committee and in this body with Senator LONG. He has been my good friend and adviser since I first came to the U.S. Senate in 1979. I truly value his friendship.

Upon announcing his impending retirement early in 1985, Senator LONG said, "Every Senator should decide for himself at what point he thinks he should retire," but also stated that when he leaves the Senate he will continue to "take an interest in public affairs." Those of us who know RUSSELL LONG and know of his honesty, integrity, and devotion to his country know that he will remain active in counseling us as we deal with our Nation's problems in the future.

I join my fellow colleagues in paying tribute to the career of Senator RUSSELL LONG and in thanking him for his many years of service to our country as a Member of the U.S. Senate.

I also want to thank his wife and partner, Carolyn Long, for supporting Senator LONG in his work and commitment to public service. I thank her also for making a very significant contribution of her own to the good of our Nation through her own earlier work on the staff of the U.S. Senate and for the encouragement and friendship which she has extended to countless Senators, their spouses, and families.

Senator RUSSELL LONG and his wife are truly loved by the people of Louisiana and those who make up the institutional family of the U.S. Senate. My hope is that they will constantly remember the great love and respect in which they are held by all of us and will have much happiness in the years ahead.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Mr. DOMENICI. Mr. President, like most of my colleagues, I will miss my very good friend "MAC" MATHIAS. He is well known for his wide range of talents and ability. As I recall, the Washington Post once commented on his remarkable ability to be at home with the dock workers of Baltimore and the wealthy residents of Maryland's eastern shore.

In the Senate, Mr. MATHIAS is at home in a technical debate about the impact of foreign trade on American industry or the fine points of nuclear proliferation treaties. I have always admired the strength of character and commitment to ideals of Senator CHARLES McC. MATHIAS, Jr. We in the Senate seldom allow ourselves to take the time to appreciate the work of a fellow Senator. On the occasion of Senator MATHIAS' completion of his last term, we owe it to MAC to thank him for his fine example.

There are two substantive issues about Senator MATHIAS that I would like to share with my colleagues. The first is his commitment to the terms of the agreement reached by the National Bipartisan Commission on Central America. Senator MATHIAS was one of the Senate's most convincing supporters of this bipartisan doctrine. We were trying to convince our colleagues that a balanced approach to the human development, security, and political needs of this troubled region.

While the full Congress did not ultimately implement the terms of our bipartisan effort to the extent we would have liked, I was always impressed with Senator MATHIAS' skillful and articulate exposition of the full range of economic, military, and political change needed in Central America. I will continue to work for our goals in this area, and I will truly miss the energetic support of my fellow senior counselor on the Commission.

The second debt I owe to Senator MATHIAS is for his fine work on patent protection for semiconductors. New Mexico is a producer of semiconductors and the law desperately needed clarification in this scientific and technical arena. The excellent work of Senator MATHIAS has done much to stabilize an otherwise violatile question about the rights of many of our good scientists in New Mexico to have their ideas protected. On behalf of New Mexico and America's computer industry, I thank my good friend for this lasting contribution to a vital industry.

In closing, I would only like to add that the U.S. Senate, as an institution, will sorely miss the calm and intelligence of one of its most individualistic and gentle Members. I hope MAC will continue to work with us in solving some of our most difficult problems. I know his hand can still carve out a path to agreement, as he showed us in the debate on Central America.

Indeed, the entire Senate and the entire Nation owe a debt of gratitude to a hardworking American who understands the problems of this Nation and its great future. We will only reach our national goals when more men and women of high caliber dedicate themselves to national service as Senator CHARLES McC. MATHIAS, Jr., has done.

RETIREMENT OF SENATOR PAUL LAXALT

Mr. DOMENICI. Mr. President, I rise today to pay tribute to my colleagues in the Senate who will retire at the conclusion of the 99th Congress.

As these Members retire, they will leave behind many years of outstanding leadership, leadership which has been provided to both sides of the aisle. When I think of the leaders of the Senate, one name which immediately comes to mind is PAUL LAXALT. As my colleagues know, Senator LAXALT is regarded as one of President Reagan's closest friends. This special personal and professional friendship with the President has enabled him to perform a unique leadership role with his Senate colleagues. Senator LAXALT has often been the informal liaison between the Senate and the White House, and I doubt we will be able to find anyone to step into this role.

Senator LAXALT also leaves behind another leadership role which will be difficult to fill, one with which I am particularly concerned. Sentor LAXALT is the cochairman of the Western Coalition, a bipartisan, informal group of Western Senators. Recently, I was chosen to succeed Senator LAXALT as cochairman, a job which I believe is very important to my State and other Western States. Every region of the Nation has special characteristics and issues, but I would argue that this is especially true in the West. The vast openness of the West, the extensive public lands, and the scarce availability of water are unique to the Western frontiers. These special attributes require an outstanding leader, and Senator LAXALT has been this man.

As Senator LAXALT leaves the Senate, I would like to take this opportunity to thank him for his friendship and leadership. The void he leaves behind will be difficult to fill, and I am certain my colleagues will agree.

TRIBUTE TO SENATOR THOMAS EAGLETON

Mr. PELL. Mr. President, it is with a sense of pride and regret that I rise to pay tribute to my dear friend and colleague, TOM EAGLETON. I am proud to have served with him for the past 18 years, and I regret very much that this will come to an end with the close of the 99th Congress.

A deep and abiding interest in education has been with TOM EAGLETON for a long, long time. His father was a prominent member of the St. Louis School Board, and a young TOM EAGLETON frequently accompanied his father to meetings. I understand, in fact, that TOM'S interest in politics may well have begun when he went to those meetings.

When he was Lieutenant Governor of Missouri, TOM EAGLETON chaired the Governor's Task Force on Vocational Education. That task force came up with the recommendations that result-

ed in the establishment of Missouri's system of areawide vocational-technical schools, a system that prevails even today.

It was only natural, then, that when TOM EAGLETON came to the Senate, he would want to continue his intense and passionate interest in education. His first request as a Member of the Senate was to be assigned to the Subcommittee on Education, Arts, and Humanities. That was also the year that I became chairman, and for the next 15 years we enjoyed one of the best working relationships that I have experienced as a Member of the Senate. When he left the subcommittee in 1985, the loss was immense not only to the subcommittee but to all of education.

His decade and a half of service on the subcommittee was remarkable in its achievements. He was the author of the first basic skills legislation, long before it was fashionable to champion these concerns.

It was Senator EAGLETON's leadership that brought about the reinstatement of the Emergency School Aid Act. This program, which provides critically important Federal assistance to schools undergoing desegregation, had been eliminated in the 1981 budget reconciliation, and it was only through the Herculean efforts of TOM EAGLETON that we got it back.

On a personal note, it was TOM EAGLETON who suggested that the Basic Education Opportunity Grant Program be renamed the Pell Grant Program. That was the effort of a kind and gracious man that I am proud to call my friend and an action for which I shall always be grateful.

This tribute would not be complete without noting also TOM's many contributions in the field of foreign relations. He and I have long shared an interest in the Greece-Cyprus-Turkey relationship. TOM was the most eloquent and forceful opponent of the Turkish invasion of Cyprus in 1974, and he has been a persistently powerful advocate of justice in Cyprus ever since then. I also greatly admired the important contribution that TOM EAGLETON made in the formulation and passage of the war powers resolution, one of the landmark acts of the Congress to reassert its constitutional prerogatives in the area of foreign policy.

For the past 2 years, I have had the great pleasure of serving with TOM EAGLETON on the Foreign Relations Committee. And here, I was particularly appreciative of TOM's leadership in putting together a compromise on the United States-United Kingdom extradition treaty that enabled this controversial treaty to be approved by an overwhelming bipartisan majority. When TOM took up this task the committee was hopelessly deadlocked in its efforts to reconcile antiterrorism concerns with the need to protect individual rights. What had seemed impossible soon became possible, and it would not have happened without TOM EAGLETON.

Mr. President, when this Congress comes to a close, TOM EAGLETON will go home to Missouri not to retire but to continue his interest in education and foreign affairs as a professor at Washington University in St. Louis.

I must add, too, that my wife and I shall particularly miss his lovely Barbara. However, his students will then experience what we have experienced for 18 years. For it is they who will learn next what a rare privilege it is to know TOM EAGLETON. It is they who will have the honor of working with him. They are the lucky ones, and the loss will be ours. For what a joy it has been to call him colleague and friend, and what a better place this Chamber is because he was here.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1000

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

COURT OF IMPEACHMENT

The PRESIDING OFFICER (Mr. LAXALT). Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed in closed session to deliberate upon the Articles of Impeachment. The time is equally divided in the usual form.

(At 10 a.m. the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 2:51 p.m. at which time, the following occurred.)

OPEN SESSION

(At 2:51 p.m. the doors of the Chamber were opened and the Senate resumed proceedings in open session.)

(During the closed session there was a call of the roll, Quorum No. 16.)

The managers of the House of Representatives, together with special counsel, were seated at the table assigned to them in the well of the Senate to the right of the Chair.

The respondent and his counsel were seated at the table assigned to them in the well of the Senate to the left of the Chair.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORITY FOR RECORD STATEMENTS UNTIL WEDNESDAY, OCTOBER 15, 1986

Mr. DOLE. I ask unanimous consent that all Senators may be permitted to insert their statements or their reasons for their votes through Wednesday.

The PRESIDENT pro tempore. Is there objection?

Mr. DOLE. That is through Wednesday of next week.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

Mr. DOLE addressed the Chair.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, Ernest E. Garcia, made proclamation as follows:

All persons are commanded to keep silent on pain of imprisonment while the House of Representatives is exhibiting to the Senate of the United States Articles of Impeachment against Judge Harry E. Caliborne.

ARTICLE I

The PRESIDENT pro tempore. The clerk will read the first Article of Impeachment.

The legislative clerk read as follows:

ARTICLE I

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1980, Judge Harry E. Claiborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1979, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of $80,227.04 whereas, as he then and there well knew and believed, he received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor

and, by such conduct, warrants impeachment and trial and removal from office.

□ 1500

VOTE ON ARTICLE I

The PRESIDENT pro tempore. The Chair reminds the Senate that each Senator, when his or her name is called, will stand and vote "guilty" or "not guilty."

Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 87, not guilty 10, as follows:

[Rollcall Vote No. 335]

[Subject: Article I—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—87

Abdnor	Ford	Melcher
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baucus	Gore	Murkowski
Bentsen	Gorton	Nickles
Biden	Gramm	Nunn
Boren	Grassley	Packwood
Boschwitz	Harkin	Pell
Bradley	Hart	Pressler
Broyhill	Hawkins	Proxmire
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Denton	Lautenberg	Stennis
Dixon	Leahy	Thurmond
Dodd	Lugar	Trible
Dole	Mathias	Wallop
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Wilson
Exon	McConnell	Zorinsky

NOT GUILTY—10

Bingaman	Hecht	Metzenbaum
Evans	Laxalt	Pryor
Hatch	Levin	
Hatfield	Long	

ANSWERED "PRESENT"—1

Stevens

NOT VOTING—2

Garn	Symms

The PRESIDENT pro tempore. I would remind the gallery there will be no expressions of approval or disapproval when the result is announced.

Upon this Article of Impeachment, 87 Senators have voted guilty; 10 Senators have voted not guilty; 1 voting present.

Two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

ARTICLE II

The PRESIDENT pro tempore. The clerk will now read the second Article of Impeachment.

The assistant legislative clerk read as follows:

ARTICLE II

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1981, Judge Harry E. Claiborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1980, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of $54,251 whereas, as he then and there well knew and believed, he received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor and, by such conduct, warrants impeachment and trial and removal from office.

□ 1520

VOTE ON ARTICLE II

The PRESIDENT pro tempore. I would remind the Senators when they vote they will stand and announce their decision.

Senators, how say you, is the respondent Henry E. Claiborne guilty or not guilty of this Article?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 90, not guilty 7, as follows:

[Rollcall Vote No. 336]

[Subject: Article II—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—90

Abdnor	Chafee	Durenberger
Andrews	Chiles	Eagleton
Armstrong	Cochran	Exon
Baucus	Cohen	Ford
Bentsen	Cranston	Glenn
Biden	D'Amato	Goldwater
Boren	Danforth	Gore
Boschwitz	DeConcini	Gorton
Bradley	Denton	Gramm
Broyhill	Dixon	Grassley
Bumpers	Dodd	Harkin
Burdick	Dole	Hart
Byrd	Domenici	Hawkins
Hecht	Matsunaga	Rockefeller
Heflin	Mattingly	Roth
Heinz	McClure	Rudman
Helms	McConnell	Sarbanes
Hollings	Melcher	Sasser
Humphrey	Metzenbaum	Simon
Inouye	Mitchell	Simpson
Johnston	Moynihan	Specter
Kassebaum	Murkowski	Stafford
Kasten	Nickles	Stennis
Kennedy	Nunn	Thurmond
Kerry	Packwood	Trible
Lautenberg	Pell	Wallop
Laxalt	Pressler	Warner
Leahy	Proxmire	Weicker
Lugar	Quayle	Wilson
Mathias	Riegle	Zorinsky

NOT GUILTY—7

Bingaman	Hatfield	Pryor
Evans	Levin	
Hatch	Long	

ANSWERED "PRESENT"—1

Stevens

NOT VOTING—2

Garn	Symms

Mr. DOLE. Mr. President, may we have order?

The President pro tempore. The Senate will come to order.

I admonish the galleries again that no noise of approval or disapproval is to be given to the result.

Upon this Article of Impeachment, 90 Senators have voted guilty, 7 Senators have voted not guilty, and 1 Senator voted present. Two-thirds of the Members present and having voted guilty, the Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

ARTICLE III

The President pro tempore. The clerk will now read the third Article of Impeachment.

The legislative clerk read as follows:

ARTICLE III

That Judge Harry E. Claiborne, having been nomimated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes in office in a manner and form as follows:

On August 10, 1984, in the United States District Court for the District of Nevada, Judge Harry E. Claiborne was found guilty by a twelve-person jury making and subscribing a false income tax return for the calendar years 1979 and 1980 in violation of section 7206(1) of title 26, United States Code.

Therefore, a judgment of conviction was entered against Judge Harry E. Claiborne for each of the violations of section 7206(1) of title 26, United States Code, and a sentence of two years imprisonment for each violation was imposed, to be served concurrently, together with a fine of $5,000 for each violation.

VOTE ON ARTICLE III

The President pro tempore. I will remind Senators when they vote they will stand and vote "guilty" or "not guilty" or "present," as the case may be.

Senators, how say you? Is the respondent, Harry E. Claiborne guilty or not guilty, or do you vote "present"?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ABDNOR (when his name was called). Present.

Mr. ANDREWS (when his name was called). Present.

Mr. ARMSTRONG (when his name was called). Present.

Mr. BIDEN (when his name was called). Present.

Mr. BURDICK (when his name was called). Present.

Mr. BYRD (when his name was called). Present.

Mr. COHEN (when his name was called). Present.

Mr. CRANSTON (when his name was called). Present.

Mr. D'AMATO (when his name was called). Present.

Mr. DOLE (when his name was called). Present.

Mr. DOMENICI (when his name was called). Present.

Mr. FORD (when his name was called). Present.

Mr. GORE (when his name was called). Present.

Mr. GORTON (when his name was called). Present.

Mr. GRAMM (when his name was called). Present.

Mr. HART (when his name was called). Present.

Mr. HEFLIN (when his name was called). Present.

Mr. HUMPHREY (when his name was called). Present.

Mr. INOUYE (when his name was called). Present.

Mr. KERRY (when his name was called). Present.

Mr. MATHIAS (when his name was called). Present.

Mr. MATTINGLY (when his name was called). Present.

Mr. McCONNELL (when his name was called). Present.

Mr. MELCHER (when his name was called). Present.

Mr. MOYNIHAN (when his name was called). Present.

Mr. MURKOWSKI (when his name was called). Present.

Mr. NUNN (when his name was called). Present.

Mr. PACKWOOD (when his name was called). Present.

Mr. RUDMAN (when his name was called). Present.

Mr. SARBANES (when his name was called). Present.

Mr. SIMPSON (when his name was called). Present.

Mr. STEVENS (when his name was called). Present.

Mr. THRUMOND (when his name was called). Present.

Mr. WALLOP (when his name was called). Present.

Mr. WEICKER (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 46, not guilty 17, as follows:

[Rollcall Vote No. 337]

[Subject: Article III—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—46

Baucus	Glenn	Nickles
Bentsen	Grassley	Pressler
Bingaman	Harkin	Proxmire
Boren	Hatfield	Quayle
Boschwitz	Hollings	Riegle
Bradley	Johnston	Rockefeller
Broyhill	Kassebaum	Roth
Bumpers	Kasten	Sasser
Cochran	Kennedy	Simon
Danforth	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Denton	Levin	Trible
Dixon	Long	Wilson
Durenberger	Lugar	Zorinsky
Eagleton	Metzenbaum	
Exon	Mitchell	

NOT GUILTY—17

Chafee	Hawkins	McClure
Chiles	Hecht	Pell
Dodd	Heinz	Pryor
Evans	Helms	Specter
Goldwater	Laxalt	Warner
Hatch	Matsunaga	

Answered "Present"—35.

NOT VOTING—2

Garn Symms

The PRESIDENT pro tempore. I admonish the galleries that no expression of approval or disapproval is to be given when the vote is announced.

Upon this Article of Impeachment, 46 Senators have voted guilty; 17 Senators have voted not guilty; and 35 voted "present."

Less than two-thirds of the Members having voted guilty, the Senate adjudges that respondent Harry E. Claiborne is not guilty as charged in this article.

ARTICLE IV

The PRESIDENT pro tempore. The clerk will now read the Fourth Article of Impeachment.

The assistant legislative clerk read as follows:

ARTICLE IV

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of misdemeanors in office in a manner and form as follows:

Judge Harry E. Claiborne took the oath for the office of judge of the United States and is required to discharge and perform all the duties incumbent on him and to uphold and obey the Constitution and laws of the United States.

Judge Harry E. Claiborne, by virtue of his office, is required to uphold the integrity of the judiciary and to perform the duties of his office impartially.

Judge Harry E. Claiborne, by willfully and knowingly falsifying his income on his Federal tax returns for 1979 and 1980, has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute on the Federal courts and the administration of justice by the courts.

Wherefor, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of misdemeanors and, by such conduct, warrants impeachment and trial and removal from office.

THE VOTE ON ARTICLE IV

The PRESIDENT pro tempore. I remind Senators that in voting, they will stand and vote "guilty," "not guilty," or "present" as the case may be.

Senators, how say you: Is the respondent, Harry E. Claiborne guilty or not guilty?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 89, not guilty, 8 as follows:

[Rollcall Vote No. 338]

[Subject: Article IV—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—89

Abdnor	Glenn	Melcher
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Boren	Harkin	Packwood
Boschwitz	Hart	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Denton	Lautenberg	Stennis
Dixon	Leahy	Thurmond
Dodd	Levin	Trible
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Weicker
Eagleton	Mattingly	Wilson
Exon	McClure	Zorinsky
Ford	McConnell	

NOT GUILTY—8

Bingaman	Hatfield	Metzenbaum
Evans	Laxalt	Pryor
Hatch	Long	

NOT VOTING—2

Garn Symms

ANSWERED "PRESENT"—1

Stevens

The PRESIDENT pro tempore. The Senate will be in order. I will again admonish the galleries that when the vote is announced there will be no expression of approval or disapproval.

The PRESIDENT pro tempore. Upon this Article of Impeachment, 89 Senators having voted guilty, 8 Senators having voted not guilty, 1 voting present, two-thirds of the Members present having voted guilty, the

Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

The Chair directs judgment to be entered in accordance with the vote of the Senate, as follows:

The Senate having tried Harry E. Claiborne, U.S. district judge for the District of Nevada, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in the first, second, and fourth Articles of Impeachment, it is, therefore, ordered and adjudged that the said Harry E. Claiborne be, and he is hereby removed from office.

Mr. DOLE. Mr. President, I send an order to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

Ordered, that the Secretary be directed to communicate to the President of the United States and to the House of Representatives the order and judgment of the Senate in the case of Harry E. Claiborne, and transmit a certified copy of same to each.

The PRESIDENT pro tempore. Without objection, the order will be entered and adjudged.

Mr. BINGAMAN. Mr. President, I rise to explain my own votes on the four Articles of Impeachment which have been presented by the House of Representatives against Judge Harry E. Claiborne.

Let me start by putting this proceeding in context as I understand it. This is the first time in history that the U.S. Senate has been asked to try the impeachment of a public official who has already been convicted of a felony in the Federal courts and who is serving time in a Federal penitentiary for that conviction. Judge Claiborne's conviction is final in the sense that all normal appeals from the conviction have been denied.

The charges being brought against Judge Claiborne in this impeachment trial are identical to the charges upon which he was convicted by a jury in the Federal District Court of Nevada.

A threshold question which we in the Senate need to decide is "What is the Senate's proper role in this proceeding?" In most cases, the Constitution clearly contemplates that the Senate shall sit as a trier of fact to determine whether the charged individual is guilty of "high crimes and misdemeanors," and therefore should be removed from office. It is clear to me that article I: section III, clauses 6 and 7 of the Constitution, which provides that the Senate shall have the "sole power to trial impeachments," did not contemplate a situation where the person charged would have already been convicted of a felony.

Since this case presents us with Articles of Impeachment based on the same underlying facts which supported a jury conviction for a felony, I believe we are not required to once again try those facts and make an independent determination as to those facts. Clearly we have the authority to do so if we believe the criminal proceeding in the courts was so flawed as to justify it, but we are not in any way bound by the Constitution to independently once again try again try the same factual issues.

In this case, the Senate has chosen to use the procedure under rule 11 of the Rules of the Senate to establish a committee to take testimony and prepare a record of the case to be presented to the full Senate. I have served on that committee and believe the committee did its work in a responsible and fair manner. And in light of my own opinion that the Senate is not required to try the underlying facts in a case such as this where a previous criminal conviction on those facts has been obtained, I believe the Senate action in delegating its responsibility to a special committee was appropriate and met all constitutional requirements imposed upon the Senate.

However, if this were not a case in which factual determinations underlying the Articles of Impeachment had earlier been established in a court, I would have serious doubts about the adequacy of the hearing which we in the full Senate have given to this matter in order to carry out the Senate's responsibilities under the Constitution.

Mr. President, this brings me to a discussion of the four Articles of Impeachment. The House of Representatives has presented its case to the Senate on two distinct theories. First, they have argued that the Senate should make an independent finding that Judge Claiborne willfully and knowingly filed tax returns for the years 1979 and 1980 which he did not believe to be accurate and true and that that willfull filing of false tax returns should be established by the Senate as constituting high crimes and misdemeanors justifying his removal from office. This theory is contained in Articles I, II, and IV of the Articles of Impeachment.

The second and alternative theory put forward by the House of Representatives is contained in Article III and essentially is a request that the Senate accept the judgment of conviction which was entered against Judge Claiborne for violation of section 7206(1) of title 26 of the United States Code as an adequate basis for his removal from office. As I understand this second theory, which is contained in Article III, a conviction by the Senate under this theory would not require an independent determination by the Senate as to the underlying facts supporting the conviction.

Let me discuss briefly my own view as to what has been presented under each of the two separate theories.

For the Senate to convict on Articles I, II, and IV, I believe the Senate would have to make an independent detertmination as to the state of mind of Judge Claiborne when he delivered information to his accountants in the spring of 1980 and 1981—for tax years 1979 and 1980—and when those returns were filed. To make that type of independent determination of his state of mind, I believe it would be essential to hear witnesses and judge the credibility of those witnesses. For the Senate to convict on Articles I, II, and IV, the Senate must conduct itself as a factfinding body and cannot delegate that responsibility to a special committee. In my opinion, putting the record of evidence presented to the committee into the possession of all Senators is not an adequate substitute for Senators hearing the witnesses present their case. At the very least, I believe it would be necessary for the Senate to permit the respondent, Judge Claiborne, to testify as a witness in response to the specific allegations of fact underlying these charges.

The Senator from Maine has argued that Judge Claiborne had a full hour to present his side of the case before the Senate and therefore any constitutional requirement has been fulfilled. In my view, this analysis is wrong. Judge Claiborne's presentation to the full Senate was in the nature of part of a closing statement. It was a plea for the Senate to hear the witnesses in this case and the fact that he did not adequately refute specific charges and specific evidence presented against him in the proceeding before the Senate committee or presented against him in the court case is not a waiver of by him of his right to testify before the Senate and defend himself against those charges.

In short, as to Articles I, II, and IV of the Articles of Impeachment, I believe the Senate has failed to give Judge Claiborne an adequate hearing to justify a finding that he willfully and knowingly filed false tax returns for the years 1979 and 1980. It may be impractical in the closing days of a legislative session to contemplate a week or more of trial presentation to the U.S. Senate, but absent that kind of hearing, I do not believe the Senate can hold itself out as having been a "trier of fact" as we would be required to be under Articles I, II, and IV.

Article III of the Articles of Impeachment does not require the Senate to make an independent factual determination about the willfulness with which the judge acted in 1980 and 1981. This article argues that the Senate should accept the felony conviction of Judge Claiborne in the Federal courts as an adequate basis for a

conviction here which then removes him from office. Mr. President, I will vote to convict on Article III because I believe this is a legally sound and logical course for the Senate to follow.

Mr. President, if we do not go forward with a conviction in this case, we have the anomaly of leaving a Federal district judge in office while he also remains in the Federal penitentiary, has been stripped of his right to vote and continues to be labeled a felon under the criminal laws of this country. To my mind, that is an unacceptable result in this particular case that has been presented.

Mr. President, one other issue needs to be addressed as part of this impeachment and that is the allegations of misconduct and abusive targeting by Federal prosecutors. Judge Claiborne's allegations in this regard are serious and it is clear from the debate which has taken place here in the Senate that many members are concerned about not only the evidence of overreaching by the Government in this case but other instances of similar overreaching. I do not believe that these allegations, even if true, would justify the Senate in failing to convict. However, I do believe that the Senate, in its oversight responsibility as part of the legislative branch of our Federal Government, should direct the Judiciary Committee to hold oversight hearings on this issue and to determine whether legislative action to deal with this problem is required.

In conclusion, Mr. President, we have not given the respondent an adequate hearing to support a conviction on Articles I, II, and IV. A vote of guilty on each of those Articles requires an independent determination as to Judge Claiborne's state of mind and in order to make that determination we need to hear testimony, not have a select few hear testimony, but actually have the Senate hear testimony. Accordingly, I will vote "no" on those three Articles. I believe a decision to remove the respondent on the basis of Article III is appropriate and I will vote to do so.

THE CLAIBORNE TRIAL

Mr. HATCH. Mr. President, the Senate conducted earlier today a trial because the Constitution clearly distinguishes between criminal and impeachment proceedings. Article I, section 3, commits criminal processes to the judiciary and impeachments to the Congress. As a separated power, Congress had the responsibility to make an independent assessment of whether Judge Claiborne had done anything to warrant removal from office. The separation of criminal and impeachment proceedings, in my mind, precludes this body from merely deferring to the existence of a criminal conviction. We have the duty to reach our own independent conclusion about the facts which gave rise to these charges.

REASONABLE DOUBT STANDARD

Each of the four counts of impeachment asserted that this body ought to convict Judge Claiborne because he willfully filed fraudulent tax returns which caused his conviction in a court of law. In other words, the reason the Senate was asked to convict is that a court found beyond a reasonable doubt that the judge willfully underreported his income. This is the charge that the Senate reviewed. It was obligated to ask itself whether, beyond a reasonable doubt, the judge purposefully and wittingly filed a false return. I contended that if the Senate found that he did, then it had to decide that he was properly convicted in court and it had to give him the same verdict on the question of removal. On the other hand, I argued, if there remains a reasonable doubt about his intentions, then the Senate was obligated to conclude that he should not have been convicted in court and that he should not have been impeached and that he should not have been convicted by the Senate. Relying as they did on the criminal conviction, the House Articles of Impeachment required the Senate to ascertain whether, beyond a reasonable doubt, Judge Claiborne intentionally filed a false return.

THE CRIMINAL CONVICTION

Claiborne was charged and convicted under the Internal Revenue Code, 26 U.S.C. 7206(1), which reads:

> Any person who * * * willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter * * * shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Upon his conviction on two counts covering 1979 and 1980, Claiborne was sentenced to 2 years of imprisonment for each violation, to be served concurrently, and was fined $5,000 for each violation.

WILLFULNESS

All of the issues before the Senate today were reducible to one simple question: Did Judge Harry Claiborne willfully file a false tax return? Both Judge Claiborne and the House agreed that the 1979 and 1980 tax returns fail to report taxable income. The issue before the Nevada District Court and the Senate today was whether that underreporting was "willful."

The Supreme Court, in *United States* v. *Pomponio*, 429 U.S. 10 (1976) stated that the term "willfully" in the Tax Code requires more than a showing of carelessness or negligence; it requires proof of an intentional violation of a known legal duty. In *United States* v. *Bishop*, 412 U.S. 346 (1973), the Supreme Court stated:

> Degrees of negligence given rise in the tax system to civil penalties * * * The Court's consistent interpretation of the word "willfully" to require an element of mens rea implement the pervasive intent of Congress to construct penalties that separate the purposeful tax violation from the well-meaning, * * * mass of taxpayers. Id at 360-361.

The import of these cases is that willfulness is the intentional, deliberate, voluntary, or witting violation of a know legal obligation.

Certainly Judge Claiborne knew the duty to file an accurate and complete tax return. It is far from clear from the evidence presented either in trial or during the impeachment proceedings that Judge Claiborne deliberately or intentionally or wittingly or purposefully tried to escape the obligation of every taxpayer. To the contrary, there is much to indicate that Judge Claiborne's deliberate actions were an attempt to file an accurate and complete return. According to the judge and much corroborating evidence, miscommunications with accountants and mistakes by those accountants caused errors in the judge's tax returns, or which he was aware until the criminal investigation was already underway. If the judge is correct, the voluminous evidence at most shows that he was negligent in failing to detect his accountant's errors. This, however, would not be willfulness. It would not be deliberate and witting tax evasion. It would be simple negligence, which as the Supreme Court's Bishop case stated, would be corrected by a civil proceeding, not a criminal action.

Because the pivotal issue in this case is the state-of-mind issue, I examined extensively the concept of willfulness. In that connection, I adopted the formulation of that concept found in the House brief. As the House brief concedes, there is no direct evidence of willfulness in this case. There is no letter from the judge to Watson or Wright instructing them to falsify income or conspiring with them to hide some other material fact. No direct evidence of willfulness is found in the records of this case in the courts or before Congress.

In the absence of direct evidence, the House was correct to note that "Willfulness may be inferred by the trier of fact from all the facts and circumstances of the attempted understatement of tax." *U.S.* v. *Conforte*, 624 F.2d 869, 875 (9th Cir. 1980). The House post-trial brief then detailed several circumstances that may indicate a willful filing of a fraudulent return. These include, for instance, a consistent pattern of underreporting, the magnitude of the error, a sudden change in accountants, and so forth. I examined the evidence of this trial in each of these categories of circumstantial proof to ascertain if they indicate, beyond a reasonable doubt, willfulness.

CIRCUMSTANTIAL WILLFULNESS EVIDENCE INSUFFICIENT

The House brief purports to show sufficient circumstantial evidence of willfulness. I examined each of these bits of circumstantial evidence of willfulness. The Seante had the duty to ask itself if this evidence leaves any reasonable doubts about Judge Claiborne's state of mind. To the extent that none of them establish beyond a reasonable doubt Judge Claiborne's willfulness, the Senate should not, in my opinion, have convicted.

The first of these is the consistent pattern of underreporting. Judge Claiborne did report fully and accurately his income in both 1979 and 1980. Let's look first at the evidence concerning the 1979 tax return. In his April 11 letter to his accountant, Mr. Wright, the judge gave an accurate accounting of his legal fee income. That letter was handwritten by Judge Claiborne and contained the full and correct amount he had earned in fees, $41,073. Wright does not remember receiving the letter, but the judge's secretary remembers delivering it, the judge saw the letter on Wright's desk when he visited Wright's office later that afternoon, Wright's employee—Ken Swanson—saw the judge's secretary in Wright's office on April 11, and the judge's tax return accurately reflects the sale of his airplane which was reported to Wright in the April 11 letter. In addition, on the final day of the Senate impeachment proceedings, an affidavit was filed by a former secretary in Mr. Wright's office attesting that she had received the letter from the judge's secretary, Judy Ahlstrom, on April 11, 1979. This enormous body of evidence that the April 11 letter was received includes verification from Wright himself in the form of his recordkeeping. He accurately notes that he received and filed the $8,000 check which accompanied the April 11 letter. The April 11 letter is a full and fair accounting of the judge's 1979 tax liability. The evidence shows that the judge fully and fairly reported his 1979 income.

Wright maintains that the judge sent him a figure of only $22,622 in legal fees. This is also naturally and believably explained. On April 11, Judge Claiborne had sent the letter to Wright disclosing his full fee income. On May 1, nearly 3 weeks later, the judge was engaged in a phone conversation with Mr. Wright. Mr. Wright was asking the judge several questions about his tax return. At one point Mr. Wright was searching for the judge's legal fee income. Wright then purported to find the amount and declared it to be $22,600. Because he had sent the accurate figure to Wright by letter a few weeks earlier, the judge naturally assumed that Wright has found the amount declared in the April 11 letter. The judge wrote that amount on his worksheet. Later Wright used that same worksheet as the judge's declaration of his income. This is a tragic mistake. It is a classic instance of miscommunication. It is not, however, a crafty plan to defraud the taxpayer.

In 1980, the judge also reported all of his income to his accountant. Judge Claiborne wrote down personally his legal fee income of $88,500 on a yellow legal pad and gave it to Watson. Charlotte Travaglia, the employee of Watson who did the work on the judge's 1980 return, testified that the judge made a full disclosure of his income. Although the House contended that the $88,000 never appears on the tax return, evidence presented by Travaglia and others, however, establishes that the only way that the 1980 return could have arrived, on an erroneous Watson theory, at a figure for long-term capital loss in the sale of his law business was by including the $88,000 as a capital gain to be offset against capital losses. It was improperly treated as a capital gain by Watson, but Judge Claiborne had fully and fairly reported his 1980 income.

On the point of whether this alleged underreporting was a consistent activity, the House made much of the fact that these errors occurred in 2 successive years. An examination of the evidence, however, offers a plausible explanation. After all, Judge Claiborne had only recently taken his position on the bench. He was still adjusting to new financial arrangements, new work schedules, new responsibilities, new demands on his time and talents. It was a time of turmoil and change in his life. He was selling his residence and purchasing another. He was turning over his law firm to his former partners and liquidating his assets in that business. These drastic changes were also an important reason that he elected to switch accountants. With changes of this magnitude underway in his life, it is not wholly unexpected that miscommunications, misperceptions, and mistakes might occur in these 2 years.

Another factor contributing to these errors is Judge Claiborne's reluctance to devote precious time to his financial dealings. The evidence shows that he once left several tens of thousands of dollars in a safety deposit box where it drew no interest for months. Money was not uppermost in the judge's mind. He hired accountants to relieve him of this unsavory part of his business life. In any event, because the judge did in fact disclose his income in each of the years in question, the fact that errors might have occurred in 2 years of turmoil still has no criminal implications.

In sum, Judge Claiborne did not underreport his income—consistently or otherwise.

The next circumstantial point made by the House concerns the magnitude of the error. The $18,700 shortfall in his 1979 return was not due to any willful act on Judge Claiborne's part. He thought the income he disclosed on April 11 was part of the return. The judge did not actually review the 1979 tax return before it was filed. On May 2, 1980, he was leaving town to take an assigned case in another jurisdiction. Fearing that he might not return before the filing deadline, the judge went to Wright's office and signed a return in blank. He signed the return in blank because he was going out of town on assignment. He certainly expected that it would contain income which he had reported to his accountant in an earlier hand-written and hand-delivered letter.

Wright's testimony on this point is that he had changed his practice of allowing tax returns to be signed in blank. It is nonetheless uncontroverted that early in his career Wright had permitted tax returns to be signed in blank. Judge Caliborne had been associated with Wright for 30 years. The recent changes in practice may not have been binding on a longstanding customer like Judge Claiborne who testifies persuasively that he signed the form in blank sometime on May 2.

In 1980, Judge Claiborne reported to Watson the $88,500 in income on the now-famous "yellow sheets." Watson told the judge that the income was reflected in the schedule D form concerning capital gains because it was part of the sale of the law business. Watson pointed out that this method had been checked by the CPA who did the actual work on the judge's tax return and further checked with the IRS.

The 1980 tax return was a mess. It contained numerous blatant errors. It did not even credit Judge Claiborne with the $22,000 he had already paid in estimated taxes for that same tax year. It was filled out in pencil and had arrows drawn from one part of the return to others. If the judge had intended to defraud, he certainly would have been more cunning. If Judge Claiborne had intended to defraud, he certainly would not have filed a return full of red flags pointing to its likely deficiencies.

Another aspect of the circumstantial evidence of willfulness discussed the disclosure of summary data only. By this the House meant to suggest that Judge Claiborne withheld from Wright or Watson information that they needed to file a complete return. If Judge Claiborne did write and cause to be delivered the April 11 letter, however, he withheld nothing. He had reported all of his income to Mr. Wright. His business practices had necessarily changed in 1978 when he began his service on the bench. For this reason, he no longer had deposits mailed directly to Mr. Wright. This

was because he was no longer paid by clients in the same manner. He did not manage his affairs in the same manner he had when he was managing a law business. Instead some lingering payments came sporadically from his former partners and these the judge often cashed for his living expenses or other needs. Nothing was hidden. The April 11 letter is evidence of his care to report all income.

The same is true in 1980. Judge Claiborne reported his income to Mr. Watson who in turn passed it on to Ms. Travaglia. Nothing was hidden. Nothing was withheld. There is no evidence that Judge Claiborne refused to share all relevant information with his accountants in 1979 and 1980.

The fourth aspect of circumstantial evidence of willfulness was the allegedly sudden change of accountants. Judge Claiborne had several good reasons for changing accountants. In the first place, he no longer was managing a law business. He had no need of the wide range of services provided by Wright. Moreover Wright had treated the judge coldly in some of their recent conversations. This may well have been because Mr. Wright had moved on to a different clientele after 30 years in the business. He may have wished that he was receiving more compensation for his services. The reason that Judge Claiborne and his accountant began drifting apart are not fully stated. It is clear, however, that the judge perceived that his accountant was no longer as interested in his account as he had been in the past.

Mr. Watson, on the other hand, came highly recommended by the judge's wife and had impressed the judge on the one occasion he had to observe his work. Watson was very interested in Judge Claiborne's account. He forthrightly solicited Judge Claiborne's business with the promise that he might be able to save him money on taxes in a legitimate manner. Judge Claiborne was selling his large home and Watson specifically mentioned in his letter a plan to treat that transaction favorably. In light of the distance between the judge and his former accountant, this offer must have been very attractive.

The fourth category of circumstantial evidence of willfulness involved purportedly surreptitious cash transactions. Judge Claiborne was buying and selling at the time of these events two places of residence, some fine riding horses, and was making extensive home improvements. Moreover, he was accustomed to a high standard of living. He consumed cash. Accordingly he cashed his checks at the casinos where he often had lunch or breakfast. These casinos often serve as substitute banks for Nevada residents. There was nothing surreptitious about these dealings. He often deposited the surplus amounts in his bank account. The evidence shows as well that the judge was accustomed to carrying large amounts of cash.

Another aspect of the circumstantial evidence focused on background of the accused. The House brief attempted to attribute great significance to the judge's expertise in tax matters. Although a fine judge, Harry Claiborne is no tax expert. During his years at the bar, he repeatedly referred tax cases to other attorneys and dealt only with the criminal procedure aspects of those cases. He relied on Wright for 30 years and then on Watson to do his tax preparation.

As a matter of law, reliance on a tax accountant is justified if the judge fully disclosed all pertinent facts and if his reliance was in good faith. In this case, the judge had fully disclosed his income in both 1979 and 1980. He had reason to rely in good faith on Wright because Wright had done his taxes for 30 years without a hitch. He had a reason to rely in good faith on Watson because Watson came highly recommended by his wife and seemed to handle business competently.

A final aspect of the circumstances cited by the House brief involved the question of whether the judge turned a blind eye to the problems with his returns. With respect to 1979, it would be difficult to make that claim because the judge signed the return in blank. He relied fully on his accountant to correctly record the income reported by the April 11 letter. It certainly cannot be maintained that the judge deliberately arranged his schedule to be out of town so that he would have an excuse to sign a fraudulent return in blank. In the first place, he had no idea it would be fraudulent. In the second place, his out-of-town assignment was dictated by his judicial superiors. It was out of his control.

With respect to 1980, the House contended that the judge may have voluntarily kept himself ignorant of the gross errors it contained. From Judge Claiborne's perspective, he had already reported all of his income. He felt no need to double check the work of someone he had paid well to do his taxes. The evidence shows that Charlotte Travaglia, the employee who actually did the work on the judge's return, sought some advice from Watson about the treatment of some items. She placed the incomplete return on Watson's desk and had no further contact with it. A secretary in Watson's office saw the return and called the judge to come sign it. Judge Claiborne went to Watson's office on a lunch break when time was undoubtedly short. He thumbed through the return and signed it.

A few days later, Watson was in the judge's office with a bill for his services. At that time, the judge did question the 1980 return, but Watson assured him that he had checked the theory of the return with IRS agents who agreed with the figures on schedule D. The judge was satisfied "as long as you can support it," in the words he used with Watson at that time. Judge Claiborne pointed out why he wanted it clearly supported by saying to Watson: "* * * I don't want any trouble with the IRS because I got all the trouble with the FBI that I can handle right now." This is an important insight into the judge's state of mind. He knew in 1980 that the FBI was angry with him and perhaps even looking for some way to hang his picture on their trophy wall. In that contentious state of affairs, it is simply inconceivable that Judge Claiborne would attempts to escape tax liability. Not even a 4-year-old attempts to raid the cookie jar when he knows he is being watched.

The sloppiness of the 1980 return is also significant. It is even more unlikely that in this time of tension Judge Claiborne would file a fraudulent return that begs for examination and audit. This is the equivalent of the judge shouting at the top of his lungs that he intends to raid the cookie jar and then proceeding to attempt the feat under his parent's noses.

SUMMARY ON INTENT

Each of the primary circumstantial factors cited by the House brief should not have been dispositive of this case. The House contended that the concurrence of these factors somehow cumulatively showed guilt, but if there is a reasonable doubt as to each of these factors, there must also be reasonable doubt as to their sum total.

NEGLIGENCE, NOT WILLFULNESS

With even this quick overview of the facts of this case in mind, it is easy to find extensive evidence of negligence. Willfulness—that intentional, witting, purposeful, crafty design—is another matter. If the evidence justifies a finding of negligence without willfulness, that would not justify a criminal conviction. In the absence of a criminal conviction, the House may not have urged impeachment. Indeed each of the Articles of Impeachment presupposed a criminal conviction and should not have been effective if the judge had been found to be only negligent. The Senate had to look behind the conviction to see if the judge had done anything that warranted the conviction the House contended as its sole basis for impeachment. Without the conviction, the judge had perhaps miscalculated taxes—a civil matter—which would not have warranted discipline any more than an addition mistake on a tax return.

ETHICS DISCLOSURE

Another important fact demonstrates that the judge was not deliberately attempting to violate the law. He

fully disclosed his 1980 income on his ethics report. Why would he deliberately evade taxes and then tell the Government the facts that disclose his fraud in another filing? This is incredible. If Judge Claiborne was acting with a criminal state of mind, it is inexplicable that he would lie on one Government filing and confess his guilt on another. The judge simply did not act willfully.

With regard to the 1979 ethics report, Judge Claiborne did fail to report some of his income. That is very understandable in light of the totality of the facts. The judge simply grabbed his tax worksheet—the one with Mr. Wright's erroneous suppositions about his 1979 income—when he filled out his ethics report.

VENDETTA

On the point of the Government's role in trying to "bag the judge," I would note that we all understand that law enforcement officers may not stoop to the level of a criminal in order to apprehend criminals. The revered Justice Brandeis gave us an excellent summary of the consequences of lawless law enforcement.

In a Government of laws, existence of a Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious.

If the Government becomes a lawbreaker, it breeds contempt for law; it invites anarchy. To declare that in the administration of criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private citizen—would bring terrible retribution. *Olmstead* v. *U.S.*, 277 438 (1928).

In the case of Harry Claiborne, we have not had the opportunity to exhaustively examine the allegations of Government misconduct. That is regrettable. In any event, this body ought to guard against Government overreaching with great care. Where there is even a spectre of this dangerous abuse, we should carefully examine the consequences of that intrusive conduct. This body, too, has the responsibility to stamp out law enforcement abuses. This must not be left to the judiciary.

CONCLUSION

In summary, I do not think that this body can assert that Harry Claiborne purposefully, intentionally, wittingly—willfully—filed a false return. If he had intended to violate the law, he would not have done it so poorly. Neither the 1979 nor the 1980 return shows any evidence of cunning or guile. They contain mistakes discernible by a grade school observer. The judge relied too heavily on unreliable accountants. The judge was negligent in failing to check his accountant's errors. Frankly if one of the Articles of Impeachment had cited the judge's gross negligence and disregard, I would have voted to impeach. The House Articles, however, are all based on the criminal conviction. The criminal conviction is only valid if Judge Claiborne acted willfully. For the reasons I have cited, I could not find sufficient evidence of willfulness.

I listened very carefully to every aspect of the testimony before the Impeachment Committee. I compared each witness' statements to the assertions made by other witnesses. In the long run, I found judge Claiborne to be a credible witness. I believed him. Moreover the evidence in this case supported the judge's explanations of the circumstances that led to his indictment and conviction. Giving the judge the benefit of the doubt, as I believe we are obligated to do when his life's work and reputation are at stake, the evidence did not support a finding of willfulness. The evidence clearly showed that the judge had been grossly negligent and had carelessly disregarded his obligations as a taxpayer. He did not, however, conspire or craftily design a plan to defraud the Government. In the absence of willfullness, beyond a reasonable doubt, he should not have been convicted, should not have been impeached, and, in my opinion, should not have been removed from office. This was why I voted not guilty on each of the Articles of Impeachment.

IMPEACHMENT OF JUDGE HARRY CLAIBORNE

Mr. DIXON. Mr. President, the Senate today performed an extremely unpleasant duty. We have impeached a Federal judge for only the fifth time in our history. The last previous impeachment was in 1936—50 years ago.

I listened carefully to the distinguished House managers and Judge Claiborne's representatives on the Senate floor. I have reviewed the transcripts of the committee proceedings. I have discussed the issues raised by the prosecution and the defense at length with my colleagues in our closed sessions. I believe the evidence permits only one conclusion: That Judge Claiborne is guilty as charged in the four Articles of Impeachment, and I, therefore, voted in favor of all four Articles.

Article III of the four Articles of Impeachment, in my view, states a kind of "per se" case for impeachment. Essentially, that Article makes the argument that Judge Clai-borne should be impeached because he was tried and found guilty in Federal court by a 12-person jury of two felony counts of filing false tax returns. In my own State of Illinois, the simple fact of his conviction for some crimes would automatically remove him from office.

Frankly, I find it unconscionable that a person serving a 2-year prison sentence should be able to continue to receive his judicial salary. Judge Claiborne had all the rights the American system of justice gives to anyone accused of a crime. He had the right to a trial by jury. Like any other defendant, he could not be convicted unless the jury found him guilty beyond a reasonable doubt. The jury in Judge Claiborne's case did find him guilty. He had the right, and exercised the right, to appeal his case. His appeal was heard by the court of appeals and turned down. The Supreme Court found no reason to overturn the jury verdict.

I think the Federal judiciary is no place for convicted felons, and that the third Article of Impeachment stated a sufficient case for impeachment. However, it is important for all of us to remember that the impeachment process is not part of our judicial system. Under the Constitution, the impeachment process is totally separate from and independent of ordinary judicial processes. The Senate had a responsibility to look behind the jury verdict and to make its own determination as to whether Judge Claiborne, as Judge Claiborne's defense phrased it, "willfully and knowingly made a false statement" on his 1979 and 1980 tax returns in violation of section 7206(1) of the United States Code.

I believe the Senate has made a full, fair, and independent evaluation of the charges. I will not take the time of my colleagues to recite the abundant evidence that convinces me that he is guilty. Let me simply say that I am convinced that Judge Claiborne willfully and knowingly failed to report almost half of the $41,072.93 he received in fee income in 1979. I am also convinced that Judge Claiborne knowingly and willfully failed to report $87,912 in fee income in 1980, and that he failed to report a taxable gain of $214,812 on the sale of his home, with the result that he reported taxes owed of only $1,101 for that year—about 1.1 percent of the $97,864 he actually owed.

Finally, Mr. President, I must say that I share the conclusions stated in the fourth Article of Impeachment. I believe his deliberate attempt to avoid paying his lawful tax obligations betrayed the trust of the people of the United States. His actions do reduce confidence in the integrity and impartiality of the judiciary, and do bring disrepute on the Federal courts and the administration of justice by the courts. The only way to restore that trust and confidence was for the Senate to take the action that it did take—to impeach Judge Claiborne and remove him from office.

IMPEACHMENT TRIAL OF JUDGE HARRY E. CLAIBORNE

Mr. SPECTER. Mr. President, the historical proceedings involving the trial of Judge Harry E. Claiborne are noteworthy not only because they are

the first such proceedings to be held since the impeachment trial of Judge Ritter in 1936, but also because, for the first time, the initial evidence received in the trial was taken by a committee, and not by the full Senate.

Yesterday, the Senate conducted a rollcall vote on Judge Claiborne's contention that this process was unconstitutional, and constituted a denial of his right to a "full and fair" trial. The distinguished majority leader placed before the Senate the question: "Yes or no—the Senate should not hear additional witnesses in the case." The purpose behind this question was to determine whether or not the Senate should reopen the case and conduct a more extensive trial. The vote on the motion was yeas 61, nays 32, thereby obviating the need to continue the trial, and allowing the Senate to proceed to consideration of the four Articles of Impeachment.

I voted in favor of precluding further witnesses to be heard in this matter. A full 7-day trial was held before the Senate Impeachment Committee, comprised of 12 of my able colleagues. A trial transcript consisting of thousands of pages was made available by this committee. A series of preliminary motions made by Judge Claiborne were referred to the full Senate for consideration, and determination.

In my opinion, Judge Claiborne has been accorded a full and fair proceeding. It should be noted, that U.S. District Court Judge Harold H. Greene yesterday ruled that the committee procedure was constitutional.

Article I, section 3 of the Constitution declares that the Senate has the sole power to try all impeachments. The Constitution does not dictate the manner in which the trial shall be conducted, apart from its command that "no person shall be convicted without the concurrence of two-thirds of the Members present." Article I, section 3. The Senate thus has the authority to fashion rules that govern the admissibility of evidence, the scope of the proceeding, and the manner, form, and location in which evidence will be received. Therefore, Senate Impeachment Rule XI, providing for evidence to be received by a committee of Senators, falls within the discretion of the Senate's power to conduct an impeachment trial.

As to the issue of Judge Claiborne's guilt, I have been convinced, on the basis of the evidence adduced by the House managers, that Judge Claiborne should be convicted on three of the four Articles of Impeachment. The House established that Judge Claiborne received and negotiated checks representing income received in 1979 and 1980 that was not reported on his income tax returns. This was set forth in prior admissions under oath by Judge Claiborne, through prior sworn testimony of witnesses, and by live testimony of a number of those same witnesses.

This evidence establishes that Judge Claiborne willfully and knowingly made false statements on his 1979 and 1980 returns in violation of title 26, section 7206(1) of the United States Code. Articles I and II of Impeachment. The testimony and written documentation depicts the changed behavior of Judge Claiborne—cashing fee income checks at local casinos, rather than at the bank which he had been utilizing for years, changing accountants to prepare tax returns despite a 30-year relationship with one accountant, Mr. Joseph C. Wright, and dealing in large amounts of cash. The defense, rather than succeeding in rebutting this evidence, concentrated on developing a picture of judicial and prosecutorial misconduct against Judge Claiborne. Although such allegations are indeed serious, and have been examined by this body, they are not determinative on the issue of guilt or innocence in this case.

As to Article III, I do not believe that that is a sufficient basis for impeachment. In my opinion, the Senate has a duty to make an independent determination of the underlying facts. That has been done on Articles I, II, and IV. The Senate should not merely accept the judgment of the U.S. district court in which Judge Claiborne was tried and convicted. Accordingly, I do not believe that Article III establishes in and of itself a basis of impeachment.

As to Articles I, II, and IV the evidence establishes that Judge Claiborne has betrayed the trust of the people of the United States, reduced confidence in the integrity and impartiality of the judiciary, and thereby brought disrepute on the Federal courts and the administration of justice. Such conduct by a Federal judge—one who should warrant respect from the American people—is particularly heinous. Our citizens have the right to expect and even demand proper conduct on the part of public officials, whether they be elected or appointed. As Judge Claiborne's case has emphasized, Federal judges are unique in that once convicted even by the trial court system of illegal conduct, the people may not simply vote them out of office if they so choose, assuming that the party refused to resign. Instead, a judge reluctant to relinquish his office must be subject to the impeachment procedures established by the Constitution.

The full gamut of those procedures has now been exhausted. Judge Claiborne has had his day in court, before the House, and before the Senate. It is time for him now to become an ordinary U.S. citizen, convicted of a felony offense, who must serve his remaining time in prison, without the reward of believing that he can then return to his bench and resume life as before. Judge Claiborne must pay for the offenses he committed, and can no longer assume the distinguished mantle of a Federal judge.

Mr. DOLE. Mr. President, I move that the Senate, sitting as a court of impeachment, adjourn sine die.

(Thereupon, at 4:13 p.m., the Senate, sitting as a court of impeachment, adjourned sine die.)

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

The Senate will come to order.

Mr. BYRD. Mr. President, may we have order in the Senate? There is further business, and there is going to be at least one rollcall vote.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I advise my colleagues that there will be one vote that counts for six. It will take place immediately.

TREATIES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following treaties on the executive calendar: Executive Calendar Nos. 14, 15, 16, 17, 18, and 19.

The PRESIDING OFFICER (Mr. GRAMM). Is there objection?

Mr. BYRD. Mr. President, there is no objection. These treaties have been cleared on this side by all Members, and we are ready to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Members will clear the well. The Senator will withhold until the well is cleared and the Senate is in order.

Mr. DOLE. Mr. President, I further ask unanimous consent that the treaties be advanced through the various parliamentary stages, up to and including the presentation of the resolutions of ratification, and all committee reported reservations and the two reservations introduced by Senator

LUGAR, which appear in the September 25 RECORD, be considered agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that a vote occur on the resolutions of ratification immediately upon reporting by the clerk, and that one vote count as six votes, and that it be in order now to request the yeas and nays, with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, the Senate will shortly vote on six treaties. Each one of these six has been carefully reviewed by the Senate Foreign Relations Committee. In each case, the committee unanimously recommended that the Senate give its advice and consent to ratification.

Five of the six relate to private law treaties. By this, I mean these treaties govern relations between individuals and companies located in different countries. These five are:

Hague Convention on the Civil Aspects of International Child Abduction,

U.N. Convention on Contracts for the International Sale of Goods,

Inter-American Convention on Commercial Arbitration,

Inter-American Convention on Letters Rogatory, and

Request for Advice and Consent to Withdrawal of a Reservation to the 1975 Patent Cooperation Treaty.

Each one of these treaties has been endorsed by the American Bar Association and by other associations concerned with private international law. I know of no opposition to any of them.

Mr. President, through an oversight, two reservations to the Inter-American Convention on Letters Rogatory and one to the U.N. Convention on the International Sale of Goods were not included in the resolutions of ratification to accompany these conventions. These reservations were recommended by the Department of State in the transmittal letters accompanying the conventions. I ask unanimous consent that they be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. LUGAR. Mr. President, of the five, the Hague Convention on Child Abduction merits special attention. This convention addresses the problems created when children are wrongfully removed or retained abroad in connection with parental custody disputes. It requires that these children be promptly returned to the country of their habitual residence upon application of the left-behind parent, subject only to express conditions and narrow exceptions.

The convention will help in resolving what is often a painful and difficult problem. It has been endorsed by the American Bar Association, the American Public Welfare Association, the National Center for Missing & Exploited Children, Vanished Children's Alliance, Children's Rights of Pennsylvania, the Kevin Collins Foundation for Missing Children and other groups concerned with missing children.

In addition, the distinguished Senator from Florida [Mrs. HAWKINS] together with the Senator from Wyoming [Mr. WALLOP], the Senator from California [Mr. CRANSTON] and the Senator from Illinois [Mr. SIMON] has strongly supported the convention. Their efforts in bringing the convention to the floor are deeply appreciated. Mr. President, I ask unanimous consent that a letter from the four Senators be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. LUGAR. Mr. President, the sixth treaty we will vote on is the Convention on Wetlands of International Importance. This convention will provide a framework for promoting the conservation of wetlands through international cooperation. It is supported by a variety of State agencies and environmental organizations including the Southeastern Association of Fish & Wildlife Agencies, the Natural Resources Defense Council and the Department of Natural Resources of the State of Wisconsin.

Mr. President, Dr. Faith Campbell of the Natural Resources Defense Council recently wrote me explaining the importance of this convention. I ask unanimous consent that a copy of Dr. Campbell's letter appear in the RECORD at the end of my remarks. It points out quite well the reasons for approving the convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 3.]

Mr. LUGAR. In sum, Mr. President, each of these six treaties is worthy of Senate consent to ratification. I urge my colleagues to support them.

EXHIBIT NO. 1

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY TREATY DOCUMENT 98-7

(Reservations intended to be proposed by Mr. Lugar)

Before the period at the end of the resolution of ratification, insert a comma and add the following:

"Subject to the following reservations:

"1. Pursuant to Article 2(b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.

"2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone.

U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

(Reservation intended to be proposed by Mr. Lugar)

Before the period at the end of the resolution of ratification, insert a comma and add the following:

"Subject to the following reservation:

"Pursuant to Article 95 the United States will not be bound by subparagraphs (1)(b) of Article 1."

EXHIBIT NO. 2

U.S. SENATE,
Washington, DC, April 9, 1986.

Hon. RICHARD G. LUGAR,
Chairman, Senate Committee on Foreign Relations, Washington, DC.

DEAR MR. CHAIRMAN: As this session gets under way, it is our strong hope that as Chairman of the Senate Committee on Foreign Relations you will schedule prompt action on the Hague Convention on the Civil Aspects of International Child Abduction, which the President transmitted to the Senate for advice and consent to ratification on October 30, 1985. The Convention has already been ratified by France, Switzerland, Portugal and nearly all of Canada's Provinces. The United Kingdom is presently working toward ratification.

We have long been concerned with the problem of parental kidnapping—the wrongful removal or retention of a child by one of its parents. An attorney on the staff of Senator Wallop joined the U.S. delegation as Congressional Observer at the final negotiations of the Convention in October, 1980. The United States signed the Convention in December, 1981.

The Convention establishes an administrative and a judicial mechanism to bring about the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence. Each country that becomes party to the Convention would establish a Central Authority to process applications from aggrieved parents for the return of their abducted children. Where a voluntary return could not be achieved, the Convention would give the aggrieved parent the right to seek the child's return in court. The court would be under a treaty obligation to order the child promptly returned unless one of the few exceptions to the return obligation set forth in the Convention was found to apply.

The object of the Convention is to restore an abducted child to his or her home country as soon after an abduction as possible in order to minimize the trauma to the child, to ensure that any litigation on the merits of child custody can be heard in the child's home country, and to deprive the abductor parent of any legal advantage resulting from the abduction. If the Convention succeeds in swiftly returning children to their pre-abduction circumstances, the ever-important goal of deterring abductions can be achieved.

The Convention is a logical extension of legislation enacted by Congress in 1980 to deal with interstate parental kidnapping. In

recognition of the intolerably high incidence of parental kidnapping in this country and the painful effects it has on children, the Congress adopted the Parental Kidnapping Prevention Act of 1980. That law, supported by a strong, bipartisan coalition in both Houses, mandates interstate enforcement of state custody decrees made in conformity with federal statute, directs the FBI to investigate state felony parental kidnapping cases pursuant to the Fugitive Felon Act, and authorizes the Federal Parent Locator Service to locate abductor-parents. The federal law complements the Uniform Child Custody Jurisdiction Act, now in effect in every state and the District of Columbia, governing interstate recognition and enforcement of child custody orders. Neither of these laws helps a parent whose child is abducted from the U.S. and taken abroad. The Hague Child Abduction Convention will fill this gap. It addresses the global dimension of the parental kidnapping problem, and, if ratified, will provide a meaningful remedy to parents whose children are abducted across international borders. The American Bar Association strongly supports this Convention. We know of no opposition to it.

We respectfully request that you schedule the Hague Convention on the Civil Aspects of International Child Abduction for the earliest possible consideration by your committee and expeditious ratification by the Senate. Please call upon us if we can be of any assistance to you in this regard.

Sincerely,

MALCOLM WALLOP,
ALAN CRANSTON,
PAULA HAWKINS,
PAUL SIMON,
U.S. Senators.

EXHIBIT NO. 3

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, July 17, 1986.

Hon. RICHARD LUGAR,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: The Natural Resources Defense Council would like to take this opportunity to support prompt ratification of the Convention on Wetlands of International Importance Especially and Waterfowl Habitat (the Ramsar Convention).

The Natural Resources Defense Council represents 62,021 members throughout the United States. For over a decade, NRDC's International Program has promoted greater efforts to conserve the global environment, including specifically the diversity of the Earth's plant and animal species. Wetlands are extremely rich habitats which support a wide range of species, including waterfowl important to sportsmen and marine and freshwater fin and shellfish important to the human diet. Wetlands also perform a myriad of ecological services, including filtration of pollutants, maintenance of water supplies, dampening of flood levels, and stabilization of shorelines,

Unfortunately, wetlands throughout the world are under threat from various human activities, including drainage for agriculture or urbanization; pollution by agricultural, domestic, or industrial discharges or careless dumping of poisonous wastes; and overexploitation of the native birds, fish, or vegetation (especially timber). The Ramsar Convention is an established and effective international forum for addressing these problems. NRDC is pleased that the United States is finally joining the treaty.

On a personal level, I can attest to the aesthetic and biological values of two of the wetlands chosen for addition to the List of Wetlands of International Importance. The Edwin B. Forsythe (Brigantine) National Wildlife Refuge is a prime habitat for ducks and geese, as well as wading birds, raptors, and forest birds, and such mammals as river otter, muskrat, and fox. Okefenokee NWR is a wonderous place, home of the alligator, pitcher plants, cranes and ibisis, as well as the endangered red-cockaded woodpecker. Although I have not visited Ash Meadows NWR, I understand that it is home to a dozen federally listed threatened and endangered fish and plant species—the highest density of such species anywhere in the continental United States. NRDC congratulates the Fish and Wildlife Service on nominating this unique wetland for recognition by this international program.

The Natural Resources Defense Council hopes that the Senate will move rapidly to complete the ratification process for the Ramsar Convention. We look forward to working with our colleagues in the conservation community—both inside and outside government—to utilize Ramsar's mechanisms to improve conservation of wetlands around the world.

Sincerely,

FAITH THOMPSON CAMPBELL, Ph.D.

RATIFICATION OF THE HAGUE TREATY ON CHILD ABDUCTION

Mrs. HAWKINS. Mr. President, I am pleased that the Senate is considering the ratification of the treaty for the 1980 Hague Conference on Private International Law. The Hague conference conducted a convention on the civil aspects of international child abduction and drafted a treaty to help resolve custody disputes. The convention proposed the prompt return of the child by the country of refuge.

The foreign court does not determine or redetermine which parent keeps the child. It is not a criminal remedy. It simply decides whether a youngster under the age of 16 has been wrongfully removed or retained by the alleged abductor. The treaty covers parental kidnapings that occur both before and after a custody order has been rendered and abductions by joint custodians. The treaty also addresses visitation rights grievances. Under the convention, each participating nation sets up a government office called a central authority, which will process applications for help by parents. Each central authority will be linked to other participating countries with the aim of trying to locate the child, to bring about the voluntary return of the child in order to resolve the custody or visitation conflict and to offer legal representation.

Every parental kidnaping is heartbreaking, but an international child kidnaping is even more so because of the costs, complications and difficulties in trying to work within a foreign jurisdiction's legal system. Sally Abrahams in her book, "Children in the Crossfire: The Tragedy of Parental Kidnapping," related the difficulties that American parents have faced in trying to locate and regain custody of children who have been taken abroad by ex-spouses who are unhappy with custody or visitation orders. Ms. Abrahams cited the possibility of the United States and additional countries ratifying the Hague conference as the one hope that an attempt to eliminate the redtape and facilitate a safer method of resolving custody disputes will be made internationally.

Florida has been fortunate to have some of the leading experts on international child abduction residing in our State. Kathy Rosenthal of Children's Rights of America, which is located in Largo, FL, has assisted numerous parents in the legal morass of redtape involved in locating and securing the return of a child abducted to a foreign jurisdiction.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Mr. WALLOP. Mr. President, I strongly support Senate ratification of the Hague Convention on the Civil Aspects of International Child Abduction. This convention establishes administrative and judicial mechanisms to bring about the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence. In rapidly returning a child to his or her preabduction circumstances, the convention seeks to minimize the trauma to the child caused by the abduction, to ensure that litigation on the merits of child custody be heard in the child's home country, to deprive the abductor of any legal advantage resulting from the abduction, and, ultimately, to deter international, parental kidnaping.

Parental kidnaping has long been a concern of mine. It is clear that parental kidnaping has harmful and long-lasting psychological consequences for its victim—children. In 1980, Congress enacted the Parental Kidnapping Prevention Act, legislation I had sponsored to reduce the incidence of interstate child abduction, and which enjoyed strong, bipartisan support in both Houses of the Congress. The Hague Child Abduction Convention is a logical and necessary extension of the Parental Kidnaping Prevention Act; it addresses the global dimension of the parental kidnaping problem. When ratified, it will provide a meaningful remedy to parents whose children are abducted across international borders.

I ask unanimous consent that the statement of the American Bar Association with respect to this convention be printed in the RECORD at the conclusion of my remarks. The portion of the ABA's statement on the child abduction convention was written by Partica M. Hoff, who, as an attorney on my staff between 1977 and 1980, worked with me on the Parental Kidnapping Prevention Act and joined the U.S. delegation as congressional ob-

server at the final negotiations of the child abduction convention in October 1980.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ARTHUR W. ROVINE, CHAIRMAN, SECTION OF INTERNATIONAL LAW AND PRACTICE, AMERICAN BAR ASSOCIATION

CONTENTS

In the preparation of this statement, the American Bar Association (ABA) has had the benefit of a number of experts whose authorship of each section is noted here. The professional background of each of these lawyers, as well as those who will be assisting in orally presenting the ABA's views, appear in Appendix A to this statement.

II. HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION (TREATY DOC. 99-11)

Mr. Chairman, I would next turn to the most recent of the treaties before us, and in many respects the most urgently needed—the Hague Convention on the Civil Aspects of International Child Abduction ("child abduction convention" or "Convention").

The ABA's endorsement of the child abduction convention is a direct outgrowth of nearly two decades of deep concern on the part of the Association and the ABA's Family Law Section about the harmful effects that parental kidnapping has on children. Parental kidnapping involves the unilateral taking, retention or concealment of a child by one parent from the other parent. Whatever the provocation, parental kidnapping is rarely, if ever, in the child's best interest. Rather, the child is uprooted from home, family, friends, school, and all that is familiar, and forced into an existence similar to that of a fugitive—a life on the run, frequently with new identities, denial of all past relationships, and above all, the loss of emotional security and stability that is so crucial to normal child development.

In recognition of the need to enact laws to safeguard children from parental kidnapping, the ABA in 1968 approved for enactment in all states the Uniform Child Custody Jurisdiction Act ("UCCJA"), drafted that same year by the National Conference of Commissioners on Uniform State Laws. The UCCJA, now the law in every state and the District of Columbia, eliminates a major incentive for parental kidnapping by denying the abductor any legal advantage in the state to which he or she removes the child. The UCCJA limits the exercise of custody jurisdiction to the state where the child had his home or where there were other significant contacts with the child and his family. It provides for the recognition and enforcement of out-of-state custody decrees in many instances and limits the right of states to modify sister state decrees. Judges in sister states are directed to communicate and cooperate with one another in order to avoid jurisdictional conflicts that can result in the issuance of inconsistent custody decrees, which suspend the child in a state of legal limbo.

While the UCCJA represented a major improvement in the legal system's response to parental kidnapping, the ABA recognized a need for a more comprehensive solution to the problems of interstate and international parental kidnapping. In 1978, at the request of the Family Law Section, the Association's House of Delegates adopted five resolutions designed to stem the proliferation of parental kidnapping. Among other things, the ABA supported passage by Congress of the Parental Kidnapping Prevention Act ("PKPA") which was enacted on December 28, 1980.

The PKPA is the federal analog to the UCCJA. It requires interstate enforcement of child custody decrees that conform to the articulated federal jurisdictional and related criteria (28 U.S.C. 1738a); makes the Federal Parent Locator Service available to locate absconding parents who abduct their children and conceal their whereabouts (42 U.S.C. 663); and authorizies the F.B.I. to investigate interstate felony parental kidnapping cases in accordance with the Fugitive Felon Act (18 U.S.C. 1073 note).

The UCCJA and PKPA, together with state criminal parental kidnapping statutes, today provide a fairly effective meachanism for deterring, or remedying, interstate parental kidnapping. There remains a need to expand the existing legal framework to provide more effective remedies in international parental kidnapping cases.

Cognizant of this need, the ABA has been interested from the outset in the development of the child abduction convention. The Association kept abreast of the brilliant contributions by the late Brigitte Bodenheimer, professor of law at the University of California at Davis Law School, to the drafting of the Convention. Then in October, 1980, Larry Stotter, past chairman of the Family Law Section, represented the ABA as observer on the U.S. delegation at the final negotiations of the Convention.

At the Midyear Meeting in February, 1981, only four months after the completion of the Convention, the ABA House of Delegates adopted a resolution urging "the appropriate government agencies to approve and ratify the Convention on the Civil Aspects of International Child Abduction as proposed by the Hague Conference on Private International Law."

The ABA's interest in ratification of the Convention has intensified over the last five years as the number of reported international parental kidnapping cases has steadily grown. According to State Department figures, between 1973 and the present there have been 2,184 cases reported to the Department involving children removed from our country and taken abroad.

The two-thousand-plus cases of children abducted from the United States represents two-thousands-plus bereft victim parents—those left behind after the child has been taken or kept abroad—and the same or greater number of children—depending upon the number of siblings who are victimized—whose lives have been disrupted and who oftentimes have been thrust into new cultures with unfamiliar languages and customs. The cost to the victim parent is significant—in legal fees, travel expenses and emotional upheaval. The cost to the victim child is beyond calculation.

For lawyers consulted by victim parents whose children have been taken out of the country, each of these cases represents a legal challenge of international dimension: the lawyer must learn the applicable foreign law and in all probability retain counsel in the foreign country to pursue the appropriate administrative or judicial procedures to secure the child's return. And no matter how artful the legal representation is, there is no certainty of success in recovering the child of children. Frequently, the foreign court is under no legal obligation to recognize and enforce a U.S. custody decree, and, absent a statutory requirement, will not enforce the U.S. order as a matter of comity. It then becomes necessary for the U.S. parent to reapply for custody in a foreign tribunal, which typically pits the U.S. petitioner against a citizen or resident of the foreign country who has the benefit of defending the custody suit in a family, if not friendly, forum. Moreover, in the absence of a custody decree in existence at the time of the abduction of retention which defines the respective custody, visitation or joint custody rights of the parents, it is extremely unlikely that a foreign court will order the child returned to the parent in the United States either pursuant to law or as a matter of comity.

In essence, under the present system, victim parents in the United States and their lawyers face very real and too often insurmountable obstacles in securing the return to the United States of a child who has been taken abroad.

Ironically, under present law when children are wrongfully brought to this country it is much more likely that they will be ordered returned to their country of origin. Over the last three years, 43 cases in this category have been reported to the State Department. For victim parents abroad, section 23 of the UCCJA, adopted by nearly every state, provides the statutory means for having a state court recognize and enforce a foreign custody determination, so long as it was made in conformity with UCCJA policies after notice and opportunity to be heard were given to the abducting parent. Section 23 applies to orders made even after the child has been abducted. UCCJA case law reflects adherence by courts in many states to section 23's mandate, with resulting orders to parents in the U.S. to return children to their parents abroad.

The Hague Convention on the Civil Aspects of Child Abduction will do for victim parents in the United States what UCCJA § 23 now does for many victim parents abroad—establish tangible remedies for recovering a child who has been wrongfully removed to, or retained in, a ratifying country. The Convention will likewise provide additional legal tools for parents abroad who seek return of their children for the United States.

Specifically, the child abduction convention is designed to secure the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence, and to facilitate the exercise of visitation across international borders.

The Convention does not depend upon the existence of court orders as a condition of returning children, nor does it seek to settle disputes about legal custody rights. The goal is to restore the child to the factual situation that existed prior to the removal or retention as quickly as possible, while reserving to the courts of the child's country of habitual residence the right to make substantive custody decisions regarding the child once the child is back home. By promising a swift and sure return remedy when a child is wrongfully removed or retained, the effect of the Convention, if successfully implemented here and abroad, will be to discourage abductions in ratifying countries.

In order to invoke the Convention remedies, the child's removal or retention must be wrongful within the meaning of the Convention. For purposes of the Convention, a removal or retention is wrongful if it violates custody rights that are defined in an agreement or court order, or that arise by

operation of law, provided these rights are actually exercised. The Convention covers abductions that occur both before and after the issuance of custody orders, as well as abductions by joint custodians. The Convention remedies apply to children under the age of sixteen.

ADMINISTRATIVE REMEDY

Each country that ratifies the Convention must establish at least one Central Authority ("CA") to process incoming and outgoing requests for assistance in securing the return of a child or the exercise of visitation rights. The duties of the CA include locating abducted children, facilitating the voluntary return of children, providing legal representation, either directly or indirectly, if voluntary return is impossible and judicial recourse is sought, promoting the exercise of visitation rights, and helping to arrange for the child's return travel.

Establishment of a Central Authority in each country party to the Convention will be remarkably beneficial for victim parents and their lawyers. At last there will be a government office charged with assisting parents recover their abducted children! No longer will victim parents be shunted from one office to the next in search of assistance. To parents who have been through this hellish experience, and to their lawyers who have found themselves apologizing for the official indifferences and legal process inability to right a wrong, the mere existence of a CA will be a meaningful improvement over current law.

JUDICIAL REMEDY

With all of its potential, the CA will sometimes attempt but fail to secure the voluntary return of a child, or determine it best not to seek a voluntary return from an abductor who has shown a propensity to flee and hide with the child. For wrongful removal and retention cases where voluntary return is impossible, the Convention establishes a judicial remedy which permits an aggrieved parent to seek a court order for the prompt return of a child. An aggrieved parent may pursue judicial relief while simultaneously pursuing administrative relief through the CA.

Articles 11-17 are the major provisions governing legal proceedings for the return of an abducted child. Under Article 12, if a proceeding is brought less than a year from the date of the wrongful removal or retention and the court finds that the conduct was wrongful, the court is under a treaty obligation to order the child returned. When proceedings are brought a year or more after the wrongful removal or retention, the court is still obligated to order the child returned unless the person resisting return demonstrates that the child is settled in the new environment.

Article 13 enumerates the exceptional circumstances under which a court need not order a child returned. The person opposing return has the burden of proving that (1) custody rights were not actually being exercised by the person seeking return, or the person seeking return had consented to or subsequently acquiesced in the removal or retention, or (2) there is a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation. A court also has discretion to refuse to order a child returned if it finds that the child objects to being returned and has reached an age or degree or maturity making it appropriate to consider his or her views. Finally, Article 20 permits a court to deny a return request if returning the child would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

Visitation rights, referred to in the Convention as "access rights," are covered in Article 21. The remedies for breach of access rights do not include the return remedy provided by Article 12. However, the noncustodial parent may apply to the CA under Article 21 for "organizing or securing the effective exercise of rights of access." The CA is charged with promoting the peaceful enjoyment of those rights.

Custodial parents in the United States who are reluctant to send their children abroad for court-ordered visitation with the noncustodial parent may also benefit from this provision. Prior to the visitation, it may be possible to enlist the cooperation of the foreign CA to monitor the visitation and take steps, if necessary, to have the child returned at the end of the lawful visitation period. Moreover, the Convention's return remedy would become available in the event of an unauthorized "holdover" visit. Thus, this provision will safeguard the custodial parent's rights while fostering the noncustodial parent's exercise of visitation rights across international borders.

The ABA is aware that Secretary Shultz has recommended that the United States enter two reservations, both of which are permitted by the Convention. The first reservation, pursuant to Articles 24 and 42, would require that all documents submitted to the U.S. Central Authority be accompanied by an English translation. The second reservation, pursuant to Article 26, would exempt the United States from paying any legal expenses incurred in connection with efforts to secure a child's return from the United States, except as otherwise covered by a legal aid program. The ABA supports entry of these reservations. With respect to the latter, the Family Law Section will attempt to identify lawyers willing to represent parents who seek relief pursuant to the Convention, and encourage the provision of legal services either on a pro bono or reduced fee basis.

To date, France, Portugal, Switzerland, and most of Canada's provinces and territories have become parties to the Convention. The United Kingdom has also very recently ratified the Convention, and Australia has taken all steps preliminary to ratification. The sooner the United States becomes a party to the Convention, the sooner parents in this country will have a meaningful vehicle for securing the return of children who are wrongfully removed to, or retained in, these ratifying countries and others that become party to the Convention. Toward this end, the American Bar Association strongly recommends prompt and favorable committee and Senate action on the Hague Convention on the Civil Aspects of International Child Abduction, as well as swift congressional approval of federal legislation to ensure its effective implementation.

Mr. DENTON. Mr. President, today I rise to encourage my colleagues to consider thoughtfully and thereafter ratify the Hague convention on the Civil Aspects of Child Abduction. I further urge my fellow Senators to support ensuing legislation which will implement aspects of the Hague convention and assure uniform enforcement of the convention.

Mr. President, between 1973 and the present there have been 2,184 cases reported to the State Department involving children abducted from our country and taken abroad. Higher rates of international marriages and resultant divorces have increased this caseload by 1,507 in the last 3 years. This amounts to an average of over 40 such abductions per month.

The long-term psychological trauma experienced by these children is staggering. In a recent article, the Journal of Pediatrics indicated that children who are victims of parental kidnapping suffer from one or more of five types of trauma ranging from long-term grief to rage to mental indoctrination. Other research has shown that parental kidnapping contributes to a child's depression, anger toward both parents; and obvious disruption of schooling.

Within the borders of our Nation, child abduction by a noncustodial parent has received appropriate and effective statutory attention at both the State and national levels. The Uniform Child Custody Jurisdiction Act drafted in 1968 and adopted by all States and the District of Columbia, eliminates the incentive for parental kidnapping by denying an abductor any legal advantage in any State to which he or she removes a child. The act eliminates incentive for parent abduction by providing for the recognition and enforcement of out-of-State custdry decrees of sister States. The Parental Kidnapping Prevention Act, Public Law 96-611, is the corresponding Federal statute which requires interstate enforcement of child custody decrees conforming to Federal jurisdictional criteria, provides for the Federal Parent Locator Service to locate absconding parents, and authorizes the FBI to investigate interstate felony parental kidnapping cases.

A need remains to confront the problem of parental abduction of children at the international level. This need was recently addressed by the Hague convention on the Civil Aspects of International Child Abduction.

The Hague convention, signed by the United States on December 23, 1981, was transmitted to the Senate by the President in October 1985. Hearings on the convention were completed earlier this month by the Foreign Relations Committee.

The Hague convention has three major purposes:

First, to restore an abducted child to the same status held by that child prior to abduction, in the country of his or her habitual residence.

Second, to provide central offices and procedures in each country by which applications can be made to locate and return abducted children; and

Third, to place the country to which a child has been abducted or in which a child is being wrongfully detained

under a treaty obligation to return the child promptly to the parent in the child's country of habitual residence.

Countries which are parties to the treaty are required to establish a central authority which will receive and process requests for locating and returning children. Expected duties of the U.S. central authority will be: To locate children removed or retained in the United States, to determine possibilities of voluntary return of abducted children without court proceedings; to expedite return of children by court proceedings when voluntary return is refused; to arrange for provisional care of the children during return proceedings; and to arrange for transportation of the child when a return is ordered.

Of particular interest is a measure contained in article 26 of the convention requiring that the costs of a successful return proceeding be levied against the wrongfully removing or retaining parent. It is the hope of the convention that this provision will deter the actions of a removing parent.

Other articles in the convention govern legal proceedings for the return of the abducted child. Timing of a custody hearing, visitation rights and exceptional circumstances precluding the return of a child are all enumerated by the convention.

Current parties to the convention include France, Portugal, Switzerland, Hungary, Canada, and the United Kingdom. Australia has completed all steps toward ratification. Our representatives to the convention have been informed that other countries will adopt the convention provided the United States does so.

Mr. President, in order to provide for full and uniform implementation of the Hague convention throughout the United States, the State Department has encouraged passage of legislation accompanying the convention ratification. This legislation would specifically deal with venue, determination of original jurisdiction, the effect of court orders in other U.S. jurisdictions, and necessary measures for the protection of children.

Again, I reemphasize, the approval of the Hague convention and the enactment of enabling legislation will represent a significant step in combating the child abduction problem. I urge my colleagues to lend their unanimous and enthusiastic support to both the Hague convention and ensuing legislation.

I ask unanimous consent to have a letter in this connection printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Re: The Hague Convention on the Civil Aspects of International Child Abduction.
Attention: Richard Holcomb.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN,
Washington, DC, October 2, 1986.

Hon. JEREMIAH DENTON,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DENTON: In response to your inquiry concerning the position of the National Center for Missing and Exploited Children on the Hague Convention on the Civil Aspects of International Child Abduction, I wish to take this opportunity to express the opinion of the Center that the Hague Convention on the Civil Aspects of International Child Abduction, which has just been favorably reported out of the Senate Foreign Relations Committee, be ratified. Parental kidnapping is a serious problem encountered by many American families as parents increasingly take the law into their own hands by unilaterally removing and often concealing the children from the other parent when the marriage or nonmarital partnership dissolves. Many times parents lose all contact with their children, unable to see or speak to them for years.

Recent research on the effects on the child-victim of parental kidnapping reveals that, in addition to the suffering of the left-behind parent, many of the children who have been kidnapped by noncustodial parents suffer long-term psychological trauma and other consequences. Clinical research (*Journal of Pediatrics*, July 1983, Terr) has demonstrated that children who are the victims of parental kidnapping suffer one or more of five basic kinds of psychic trauma—from long-term grief to rage to mental indoctrination.

In addition, a study done by Dr. Dorothy Huntington of the Center for the Family in Transition (Corte Madera, California) found that children victimized by parental kidnapping suffer from depression at having been torn from their families, their friends, and their school. These children are not only deprived of the other parent, they are deprived of both parents' families. Children become very angry at both parents as they continue to be a pawn in the struggle between the two parents. Their schooling is disrupted, and they find it difficult to make and keep friends, as the abductor parent may move frequently in order to avoid discovery. Moreover, in some cases these children are abused, neglected, or abandoned by the parents who snatched them vengefully. It is impossible to know whether these children are well cared for until they are located.

Families victimized by parental kidnapping routinely face tremendous difficulties in finding their children and in obtaining court orders for their return. These difficulties are compounded when the abductor parent removes the child from the United States. Court custody orders obtained in American courts are of little value when custody decisions must be relitigated in foreign courts.

The Hague Convention on the Civil Aspects of international Child Abduction promises to be of significant assistance in international cases of parental kidnapping, since it will require the return of the child to the country of the child's habitual residence. Disputes about custody rights can then be heard and settled in the courts of the child's habitual domicile. The abductor is, thus, denied legal advantage from the abduction to or retention in a foreign country. Moreover, the establishment of a Central Authority in the ratifying state will provide assistance to the families in locating their children and in securing the cooperation of foreign states.

Since the cooperation of countries other than the United States depends on the reciprocity of obligations, American citizens cannot avail themselves of the services of the Central Authorities of other countries until the United States ratifies this Convention. Nor can they avail themselves of the provisions requiring the return of the children to the country of habitual residence. Over 2,100 American families have experienced the difficulties of international child abduction since 1973. Of these, over one half (1,132) involved countries who have expressed an interest in ratifying the Hague Convention. State Department records reveal that over 137 Americans sought assistance on international child abduction cases in the first five months of 1986 alone.

The National Center for Missing and Exploited Children views the ratification of the Hague Convention on the Civil Aspects of Child absuction to be an important step in resolving the dilemmas currently faced by families victimized by international child abduction. Accordingly, the National Center for Missing and Exploited Children urges the Senate to ratify this Convention and requests your assistance in obtaining expeditious action on this matter.

Sincerely,

JAY HOWELL,
Executive Director.

THE RAMSAR CONVENTION: TOWARD THE PROTECTION OF WETLANDS

Mr. BIDEN. Mr. President, the Senate Committee on Foreign Relations recently reported the Convention on Wetlands of International Importance for Senate Consideration. The so-called Ramsar Convention will lay the groundwork for United States cooperation in international efforts to protect and preserve fragile wetland areas. As a member of the Foreign Relations Committee, and as a strong supporter of wetland protection, I urge the Senate to give its consent to this convention.

There is a growing recognition in this country of the importance of marshes, swamps, and bogs to the environment. The diversity of wildlife supported by wetlands, the vital role of wetlands in the life cycles of fish and birds, and the tenuous grasp on survival of wetland vegetation have led to strong public actions in support of the protection of these areas.

Wetlands have traditionally been viewed in the context of local or regional ecosystems. But this is only part of the story. Migratory waterfowl and fish depend on viable wetland systems in many countries for their survival. The United States needs to protect its wetlands, but that determination has to be matched in other countries for these migratory animals to survive. The Ramsar Convention, when approved by the Senate, will act as an encouragement for other nations to make similar commitments, and as a foundation for the exchange of information to improve the care and management of wetlands around the world.

The most important benefits for the United States will come from increased cooperation with Latin American and Caribbean countries, where many species of North American migratory birds have wintering habitats. The convention calls for the recognition by each signatory country of at least one wetland area of international importance. The designation of a wetland highlights the decision of that country to ensure its protection and survival. It also provides a focus for international technology and expertise in wetland protection and management.

Four national wildlife refuges have been proposed for designation under the Ramsar Convention. The diverse locations of these sites—Alaska, New Jersey, Florida, and Nevada—show that wetlands in all regions of our country are part of a larger, international ecosystem. The Ramsar Convention helps expand the recognition of the interconnection of seemingly separate wetlands, to the benefit of migratory birds and fish, which know no national boundaries.

The Rasmar Convention does not require any outlays of Federal dollars. However, it does signal a clear commitment on the part of the United States to the preservation and enhancement our wetlands for the good of all. Of equal importance, the convention provides the assurance that our efforts are matched by those in other countries. Approval of the Ramsar Convention serves notice that we are willing to commit our knowledge and experience to other countries who make a similar dedication to their own wetland areas.

One final point: This is not the final step toward international cooperation and understanding of wetlands management and protection; it is just a beginning. Other steps can and should be taken. The United States has clearly been at the forefront of wetland protection. Approval of the Ramsar Convention provides us with framework to put that experience to work on a larger scale.

Mr. CHAFEE. Mr. President, the Hague Convention on the Civil Aspects of International Child Abduction the Senate now has before it a treaty which is of major importance to the safety and well-being of our children. Before the 99th Congress come to a close, we should give this treaty, known as the Hague Convention, our resounding approval.

Negotiated in 1981, the Hague Convention deals with the problem of parental kidnaping—specifically, with the legal and practical complications that can result when a child is taken beyond national boundries.

At present, a parent whose child has been abducted to a foreign country in violation of a valid custody decree must go through the costly and time-consuming process of getting a foreign court to recognize that decree. The U.S. Department of State can offer some aid, but its authority in this area is at present quite limited, and the FBI can only become involved if the abduction is a State felony. Criminal extradition treaties have been of little effect under these circumstances.

These are the reasons that the proposed Hague Convention—approved last month by the Foreign Relations Committee and now before the full Senate ratification—represents a major stride forward. This convention requires that children who are wrongfully taken or retained abroad be promptly returned to their country of residence. Thus, it simply requires restoration of the custody status quo that existed before the abduction.

Mr. President, I urge the Members of the Senate to delay no further and to give their prompt approval to this valuable agreement.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Mr. CRANSTON. Mr. President, I am particularly pleased that the Senate is today approving the Hague Convention on the Civil Aspects of International Child Abduction. This treaty establishes an administrative and judicial mechanism to bring about the prompt return of children who have been abducted from their country in parental custody struggles.

In 1980, I coauthored with the Senator from Wyoming [Mr. WALLOP] the Parental Kidnapping Prevention Act which addressed the problem of domestic parental kidnaping cases. During the hearings I chaired on the problem of parental kidnaping in the 96th Congress, the need for a remedy to deal with international—as well as domestic—parental kidnaping cases was well documented.

On a number of occasions, I have seen the difficulties that parents from California have experienced in attempting to recover their children when they have been taken abroad by a noncustodial parent. Ratification of this treaty by the United States is a significant step forward in dealing with these very difficult cases. Each country that becomes a party to the Hague Convention is obligated to establish a central authority to process applications from aggrieved parents for the return of their abducted children and provide a judicial mechanism for the parent to recover these children.

Although ratification of this treaty will not end the heartache and distress that parental kidnaping brings about, it is designed to provide for a clear and hopefully a swift mechanism for restoring abducted children to their homes.

Mr. DOLE. Mr. President, I ask unanimous consent that the vote show in the record as six separate rollcall votes on the resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the treaties.

The legislative clerk read as follows:

Calendar No. 14, Treaty Doc. No. 98-9, United Nations Convention on Contracts for the International Sale of Goods; Calendar No. 15, Treaty Doc. No. 98-27, Inter-American Convention on Letters Rogatory, with Protocol; Calendar No. 16, Treaty Doc. No. 99-28, the Convention on Wetlands of International Importance; Calendar No. 17, Treaty Doc. No. 98-29, Request for Advice and Consent to Withdrawal of a Reservation made to the 1975 Patent Cooperation Treaty; Calendar No. 18, Treaty Doc. No. 97-12, Inter-American Convention on Commercial Arbitration; and Calendar No. 19, Treaty No. 99-11, Hague Convention on the Civil Aspects of International Child Abduction.

□ 1620

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, a good many Senators have left the Chamber not knowing there was going to be another rollcall vote. This one counts for six.

I wonder, while our cloakrooms are alerting, if the distinguished majority leader could tell us whether or not there are going to be any votes following this one today.

Mr. DOLE. I may be able to give the minority leader that reply in about 30 minutes. We are still working on reconciliation. That could occur.

Mr. BYRD. The majority leader would expect the Senate to be late today?

Mr. DOLE. If we have reconciliation we could be as late as 7:30 or 8, not real late.

Mr. BYRD. I thank the majority leader.

Mr. DOLE. We will leave the vote open for a while.

Mr. BYRD. Very well.

I thank the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announced that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 98, nays 0 as follows:

[Rollcall Vote No. 339—Treaty Doc. No. 98-9.]

[Rollcall Vote No. 340—Treaty Doc. No. 98-27.]

[Rollcall Vote No. 341—Treaty Doc. No. 99-28.]

[Rollcall Vote No. 342—Treaty Doc. No. 98-29.]

[Rollcall Vote No. 343—Treaty Doc. No. 97-12.]

[Rollcall Vote No. 344—Treaty Doc. No. 99-11.]

[Rollcall Vote No. 339, 340, 341, 342, 343, 344 Ex.]

YEAS—98

Abdnor	Goldwater	Melcher
Andrews	Gore	Metzenbaum
Armstrong	Gorton	Mitchell
Baucus	Gramm	Moynihan
Bentsen	Grassley	Murkowski
Biden	Harkin	Nickles
Bingaman	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Helms	Riegle
Chafee	Hollings	Rockefeller
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Laxalt	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Thurmond
Domenici	Long	Trible
Durenberger	Lugar	Wallop
Eagleton	Mathias	Warner
Evans	Matsunaga	Weicker
Exon	Mattingly	Wilson
Ford	McClure	Zorinsky
Glenn	McConnell	

NAY—0

NOT VOTING—2

Garn Symms

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the United Nations Convention on Contracts for the International Sale of Goods, adopted by a United Nations conference of sixty-two States on April 11, 1980, subject to the following reservation:

Pursuant to Article 95 the United States will not be bound by subparagraphs (1)(b) of Aticle 1.

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY, WITH PROTOCOL

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on Letters Rogatory, adopted at Panama City, Panama, on January 30, 1975, together with the Additional Protocol to the Convention, adopted at Montevideo, Uruguay, on May 8, 1979, and signed on behalf of the United States on April 15, 1980, subject to the following reservations:

1. Pursuant to Article 2(b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.

2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone.

THE CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Wetlands of International Importance especially as Waterfowl Habitat, concluded at Ramsar, Iran, February 2, 1971, with a Protocol to the Convention, concluded at Paris on December 3, 1982.

REQUEST FOR ADVICE AND CONSENT TO WITHDRAWAL OF A RESERVATION MADE TO THE 1975 PATENT COOPERATION TREATY

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Request for Advice and Consent to withdraw a reservation declaring that the United States would not be bound by the provisions of Chapter II of the Treaty made when the United States deposited its instrument of ratification for the Patent Cooperation Treaty with the World Intellectual Property Organization on November 26, 1975.

INTER-AMERICAN CONVENTION ON COMMERCIAL ARBITRATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on Commercial Arbitration adopted by the First Inter-American Specialized Conference on Private International Law, at Panama City, Panama, on January 30, 1975, and signed by the United States on June 9, 1978, subject to the following reservations:

1. Unless there is an express agreement among the parties to an arbitration agreement to the contrary, where the requirements for application of both the Inter-American Convention on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards are met, if a majority of such parties are citizens of a state or states that have ratified or acceded to the Inter-American Convention and are member states of the Organization of American States, the Inter-American Convention shall apply. In all other cases, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall apply.

2. The United States of America will apply the rules of procedure of the Inter-American Commercial Arbitration Commission which are in effect on the date that the United States of America deposits its instrument of ratification, unless the United States of America makes a later official determination to adopt and apply subsequent amendments to such rules.

3. The United States of America will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of only those awards made in the territory of another Contracting State.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Hague Convention on the Civil Aspects of International Child Abduction, adopted on October 24, 1980, at the 14th Session of the Hague Conference on Private International Law and signed on behalf of the United States on December 23, 1981, subject to the following two reservations:

(1) Pursuant to the second paragraph of Article 24, and Article 42, the United States makes the following reservation: All applications, communications and other documents sent to the U.S. Central Authority should be accompanied by their translation into English.

(2) Pursuant to the third paragraph of Article 26, the United States declares that it will not be bound to assume any costs or expenses resulting from the participation of legal counsel or advisers or from court and legal proceedings in connection with efforts to return children from the United States pursuant to the Convention except insofar as those costs or expenses are covered by a legal aid program.

□ 1640

Mr. KASTEN and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 2 minutes.

The PRESIDING OFFICER. The Senate is now in executive session.

Mr. KASTEN. I am pleased to yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, was there a motion to reconsider the vote by which treaties were ratified?

The PRESIDING OFFICER. There was not.

Mr. PACKWOOD. Mr. President, I have been asked by the majority leader to move to reconsider the vote, and I move to reconsider the vote by which the resolutions of ratification were agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. KASTEN. Mr. President, I ask unanimous consent that we go out of executive session, and that I be recognized as if in morning business for not to exceed 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

THE GOVERNMENT OF NICARAGUA'S VIOLATION OF INTERNATIONAL LAW

Mr. KASTEN. Mr. President, today, the Government of Nicaragua is in violation of international law. Eugene Hasenfus, a Wisconsinite, a United States citizen, is imprisoned in Nicaragua, and has not been allowed to speak to United States Embassy officials.

By international law, the Nicaraguan Government is violating the Vienna Convention. Under article 36, subparagraph a:

> Consulate officials shall be free to communicate with nationals of the sending state, and to have access to them.

Subparagraph b says that:

> If he so requests, the authorities for the receiving state shall without delay inform the sending state whenever a national is arrested or is detained in any other manner.

Subparagraph c goes on to say:

> Consulate officials shall have the right to visit a national of the sending state who is in prison, custody, or detention.

Mr. President, this treaty was signed by approximately 100 nations around the world, including the United States and Nicaragua. What this means is, all citizens have the right of access to their embassy officials in Nicaragua. The Government of Nicaragua is using Eugene Hasenfus as a pawn in an inflammatory media game. Our efforts must be to protect this man and create an environment that does not give the Nicaraguan Government an incentive to imprison Mr. Hasenfus.

I urge my colleagues here, and all Americans, to speak out against this injustice. I urge my colleagues to contact the Nicaraguan Embassy and protest their violations of international law. If this government continues to mistreat Eugene Hasenfus, we will not stand for it. This man must have his rights protected as an American citizen in a foreign country.

Mr. HARKIN and Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, are we in executive session?

The PRESIDING OFFICER. There is nothing before the Senate. We are in legislative session.

Mr. HARKIN. Mr. President, I ask unanimous consent that I be able to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

EUGENE HASENFUS AND THE DOWNING OF FLIGHT C-123

Mr. HARKIN. Mr. President, as more and more news of Eugene Hasenfus, and the Sunday downing of the C-123 cargo plane over Nicaragua comes out, I am reminded of a line from Alice in Wonderland: "This story gets curiouser and curiouser." First, no one claims ownership of the plane.

General Singlaub denies it, so does the Reagan administration, and so does Southern Air Transport which apparently commissioned two of the Americans on the flight.

No one claims responsibility for the Americans on the flight. Yet, Hasenfus' wife claims that her husband worked for the CIA.

The Salvadoran Government claims that it had no knowledge of the Hasenfus flight or any other mission in support of the Contras. Yet, the plane, after leaving Miami, landed in Ilopango, which we know is the Salvadoran military's main airport.

The President totally disavows any connection between the U.S. Government and the downed plane. Yet Hasenfus and his companions were wearing dogtags identifying them as U.S. military advisers.

The President's "absolute denials" and the administration's smoke and mirrors cannot hide from the American people and the Congress the real facts behind this incident.

When dealing with an administration which claims that truth must be protected by deception, we must keep asking questions and keep looking for the truth.

First, we have to ask who owned the C-123 downed over Nicaragua? The Contras deny ownership of the C-123 downed over Nicaragua, but claim that there was a third country involved in purchase of the plane; and General Singlaub, the commander of the private war against Nicaragua, denies that his group owns it and has completely disassociated itself from the Hasenfus mission. We know the Contras have never owned a C-123, yet their spokesman claims that a third country was involved in the mission.

Was the plane purchased with funds from a third country? Did the administration assist in any way in linking that country with the Contras?

What was the country? Why are they involved? Who involved them?

Second, just who is Eugene Hasenfus and what connection is there between Southern Air Transport and the CIA? From the President to Secretary Shultz to the Central Intelligence Agency, the administration claims that no one on the plane was an employee of the CIA or Defense Department.

Yet, Eugene Hasenfus' wife, Sally, admits that her husband worked for the CIA. Furthermore, Hasenfus and two other Americans on board had been employed by Southern Air Transport. Southern Air has a long history of ties with the CIA.

According to the Church Committee Report of 1976, Southern Air was owned by the CIA from 1960 to 1973. The airline has since maintained contact with the Agency, and according to a CBS News story of July 8, 1984, Southern Air flew guns to the Contras at the behest of the CIA.

Furthermore, Hasenfus was an employee of Air America during the Vietnam War. According to the Church Committee, Air America was also a proprietary of the CIA.

□ 1650

Has Mr. Hasenfus ever worked for the CIA? What was the last date of contract between CIA personnel and Hasenfus? Has the CIA or any other U.S. Government agency contracted with Southern Air Transport within the last year for flights in Central America?

Was there any prior knowledge by the U.S. Government? President Reagan admits that the U.S. Government has been aware of private efforts to aid Nicaraguan rebels, but denies any government role in the mission leading to Hasenfus' capture.

Yet, how did Hasenfus and his associates get ID cards from the Salvadoran Air Force identifying them as U.S. military advisers in El Salvador? Did any DOD or other U.S. Government employee approve the issuance of those identification cards by the Salvadoran Air Force?

Where did the Hasenfus flight originate? If it began in Miami, were any U.S. Government personnel aware that the flight was carrying or eventually would carry weapons to the Contras?

Most curious of all, Mr. President, how did the C-123 land at Ilopango Airport without the knowledge of U.S. military personnel at the airport? It is my understanding that a half dozen members of the U.S. milgroup are stationed at Ilopango, and one U.S. adviser is stationed at the control tower at the airport. Were U.S. personnel in Ilopango aware of the cargo on the C-123 flight and aware of its flight path?

Were any of them involved in any way in refueling, loading, transferring material, or in other ways supporting that aircraft at Ilopango Airport?

It seems unlikely to me, Mr. President, that the plane could land at Ilopango Airport yet no one knows anything about it. This C-123 lands, probably refuels, maybe takes on cargo, and yet nobody saw it.

It strains credulity to think that our military personnel there did not know of it or perhaps did not even have something to do with it.

Did U.S. personnel provide any assistance to the Hasenfus flight? Did any Defense Department or other U.S. Government employee assist Hasenfus and his companions in loading or refueling the cargo plane? Did any DOD or other U.S. Government employee meet with Hasenfus, advise them, or in any way assist them in carrying out their supply operation? Were the

weapons on board ever the property of the CIA, or purchased by U.S. Government funds?

Getting to the truth in this case is like trying to capture the Cheshire Cat in the Alice in Wonderland story. Every time you think you are getting closer, it disappears.

With the Hasenfus mission, we have entered that grey world of spooks and spies, where the law is an inconvenience and where truth is smothered by lies and half truths.

Mr. President, we have a responsibility to see that the laws, the laws which this body has passed and which previous Presidents have signed—such as the Neutrality Act and prohibitions against the CIA aiding the Contras—are not being broken. We have a responsibility to insure that the American people as well as our colleagues are not victims once again of an elaborate disinformation campaign.

Toward this end, next week I intend to offer an amendment seeking from the President a full and detailed accounting of both direct and indirect association, knowledge, or assistance provided Eugene Hasenfus and the downed flight, by the U.S. Government.

Again, Mr. President, I believe we have taken those final steps which are going to involve us ever more deeply in war in Central America. As I said yesterday, Mr. Hasenfus is the first POW. His American compatriots who were killed will be coming home in the first body bags.

There will be more, if the President continues this illogical, illegal, and damaging policy in Central America.

I am hopeful that we can get answers to these questions. I am hopeful that the Congress will speak before we adjourn and go home for the elections, not to probably meet again until next year in a new Congress. I am hopeful that this Congress will at least insist that we have a reporting from the President and a full accounting, not any coverups, not any grinning Cheshire cat that seems to evaporate when you get closer, but some cold, hard data on where this airplane came from and who owns it, who was the third country involved, and, if that is so, how was that country dragged into this?

Where did the arms come from? Who was Eugene Hasenfus? For whom did he really work?

And, most important of all, is the CIA, under the directorship of William Casey, obeying the law, or is it skirting the law, and possibly violating it, by using proxies such as Mr. Hasenfus and others to carry out what we in the Congress have declared should not be done?

Second, what was the involvement of the U.S. Department of Defense in this, if any, and were personnel aware of this at Ilopango Airport, and what were their orders?

What were the orders to the military group at Ilopango in terms of assisting this type of a mission or this particular mission?

If, in fact, those orders were to assist, then I submit, Mr. President, that certain officers or officials in the Department of Defense are also guilty of violating the laws of this country.

We just had an impeachment proceeding today, the first one in many years, in which the U.S. Senate has taken an official of the U.S. Government, a member of the third coequal branch of our Government, and, according to the procedures set forth in the Constitution of the United States, removed him from that office.

I believe that we ought to be taking a look at certain military officials if they are involved in this operation, if they have given orders to others under their command in clear violation of the laws of the land.

If such is the case, then those officers, no less than Judge Harry Claiborne, ought to also be removed from their positions for violating the laws of the United States.

So Mr. President, as more and more of information leaks out on this flight, and more and more questions are raised, I intend to take the floor on a daily basis to raise those questions and to ask for a full accounting.

As I said, Mr. President, sometime before this body adjourns, I hope to offer an amendment that will ask the President to be forthcoming with a full accounting of just who was involved in this flight, where the flight originated, and what, if any, was the involvement of both the Central Intelligence Agency and the Department of Defense.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President. I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. ABBY NKOMO, CHAIRMAN OF THE ATTERIDGEVILLE/SAULSVILLE CIVIC ASSOCIATION

Mr. McCONNELL. Mr. President, on behalf of Mr. COHEN, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, Mr. ROTH, and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, this resolution has been cleared on this side of the aisle.

Mr. McCONNELL. I thank the distinguished minority leader.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 503) relative to Dr. Abby Nkomo, Chairman of the Atteridgeville/Saulsville Civic Association.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, as we all know, on June 12, 1986, the South African Government imposed sweeping state of emergency regulations which grant the military and police broad powers to question and detain individuals.

Since June 12, 1986, the Government has acknowledged detaining close to 10,000 South Africans. Independent monitoring groups estimate more than 12,000 people have actually been detained. But I am not here to talk about these statistics, as horrifying as they may be. I would like to take a moment of my colleague's time to discuss just one victim of apartheid and the state of emergency regulations.

The resolution I have submitted concerns the case of Dr. Abby Nkomo. Over the past several years, Dr. Nkomo has been an active and well respected community leader. In addition to his successful medical practice, he has chaired the Atteridgeville Civic Association and served as vice chairman of the Pretoria Council of Churches. But most importantly, Dr. Nkomo has worked tirelessly for peaceful change in South Africa.

□ 1700

My colleagues probably wonder why I would bring Dr. Nkomo's case to their attention. Has he distinguished himself in some unusual way? the answer is "No." The fact of the matter is Dr. Nkomo is very much like many other community leaders who advocate including the black majority in the South African political process and power.

Inexplicably, it is just these voices of moderation that the South African Government has chosen to harass, detain, and put on trial. Dr. Nkomo is representative of thousands of black citizens and leaders who has advocated dialog with the Government—and the Government has responded with repression.

Over the past year, Dr. Nkomo and his family have been threatened, his clinics have been ransacked, and his car and home have been bombed. In spite of his pleas, none of these incidents have been investigated by the police. In fact, instead, his daughter was detained for 47 days and he has been detained since June 12. He has suffered solitary confinement, he has

been separated from his family, and he has been denied adequate medical attention.

Prior to his arrest, Dr. Nkomo was representative of the many moderate voices of reason within the black communities of South Africa who believe in dialog. As a detainee under the state of emergency, he is representative of thousands who have been stripped of their civil liberties and basic rights.

This resolution expresses the Senate's concern with the treatment Dr. Nkomo has suffered. But it is more than a statement of support for an individual victim of apartheid. It is a statement of support for due process and civil liberties for all South Africans. Most importantly, this resolution is a strong statement of support for dialog between the Government and the moderate advocates of peaceful change that Dr. Nkomo represents.

Last week, the Senate made the difficult decision to override the President's veto of the Anti-Apartheid Act of 1986. None of us should feel this action resolved the issue or closed discussion of the problems South Africa confronts.

By overriding the veto, we confirmed our responsibility and role in shaping our policy toward South Africa. This sense of the Senate resolution reaffirms our support for those who seek dialog and peaceful ways to dismantle apartheid.

The resolution has been cleared by the majority and minority leaders and the chairman and ranking minority members of the Foreign Relations Committee. I ask my colleagues' support in immediately adopting the resolution.

SOUTH AFRICA'S TREATMENT OF DR. ABBY NKOMO

● Mr. COHEN. Mr. President, I am pleased to join as a cosponsor of this amendment. It is important that the Senate make this firm statement on behalf of human rights and civil liberties for all citizens of the Republic of South Africa.

One of the real tragedies in that troubled country is that the Government, which is already oppressing the vast majority of its citizens under its apartheid policies, is harassing the moderate black leaders with whom it should be talking as forces seeking peaceful, rather than violent change in that country.

The case of Dr. Abby Nkomo is representative of many in South Africa today. Dr. Nkomo is a respected community leader, highly regarded by his peers and, I might add, by American Embassy officials in South Africa. He is a successful physician, chairman of the Atteridgeville/Saulsville Civic Association, vice chairman of the Pretoria Council of Churches, and an active member of the Methodist Church. Dr. Nkomo has also been a vocal advocate of peaceful change in South Africa.

Despite this, the Government, when it declared its state of emergency, detained Dr. Nkomo, placing him in solitary confinement on June 12. Since that time, he has been denied adequate medical attention, including medication for diabetes. He has been separated from his family and permitted only infrequent visits by his wife. Even then, the couple has suffered harassment from prison guards.

The harassment of Dr. Nkomo—and of other black leaders like him throughout the country—did not begin on June 12. Dr. Nkomo's clinics have been sabotaged, his home and car have been petrol-bombed, and telephone threats have been made against him and his family. The police have refused to investigate any of these incidents or threats.

Dr. Nkomo represents the majority of South Africans, black and white alike, who seek peaceful change. He is exactly the sort of individual with whom the South African Government should be engaged in dialog, rather than persecution.

The Senate must do all it can to encourage the Government of South Africa to enter into dialgo with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies. This resolution on behalf of Dr. Nkomo, who is representative of thousands of similar victims currently detained under the state of emergency regulations, is a forceful statement in that regard. My hope is that it will have the broad support of Members of this body and win unanimous approval.●

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 503

Whereas, Dr. Abby Nkomo, Chairman of the Atteridgeville,/Saulsville Civic Association, Vice Chairman of the Pretoria Council of Churches and an active member of the Methodist Church, has been detained by the South African police for an extended period without charge or trial;

Whereas, Dr. Nkomo has been a vocal advocate of peaceful change in South Africa;

Whereas, Dr. Nkomo has been in solitary confinement since his incarceration on June 12, 1986 and has been denied adequate medical attention including medication for diabetes;

Whereas, Dr. Nkomo has been separated from his family and permitted infrequent visits by his wife during which the couple suffers harassment from prison guards;

Whereas, Dr. Nkomo and his family have been harassed for more than twenty months, including the gasoline bombing of his home and car, the sabotage of the doctor's clinics, and telephone threats on their lives;

Whereas, the police have refused to investigate any of these threats or incidents;

Whereas, the police detained the doctor's daughter Suzan for 47 days and threatened his wife Marjorie with arrest:

Now, therefore, be it

Resolved, That it is the sense of the Senate that Dr. Nkomo is representative of the majority of South Africans who seek peaceful change and with whom the South African government should be engaged in dialogue rather than persecution;

That the government of South Africa be encouraged to enter into dialogue with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies;

That Dr. Nkomo has been subjected to an unreasonable and reprehensible deprivation of his civil rights;

That Dr. Nkomo is representative of thousands of similar victims currently detained under the state of emergency regulations;

That Dr. Nkomo's family has been the victim of continual, excessive harassment by the police authorities of South Africa causing severe emotional and financial loss;

That the actions of the South African government toward Dr. Nkomo are condemned as an obstruction to prospects for peaceful change in South Africa;

That the United States Government and its representatives should emphasize to officials of the Republic of South Africa our nation's resolve that all individuals in that country be afforded due process and that their civil liberties be protected.

Mr. McCONNELL. I move to reconsider the vote by which the resolution was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF SBA PILOT PROGRAM

Mr. WEICKER. Mr. President, I send a bill to the desk on behalf of myself and Senator BUMPERS and ask unanimous consent for its immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object. Mr. WEICKER and Senator BUMPERS have cleared this bill on this side of the aisle. We are ready to proceed. Therefore, I withdraw my reservation.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2914) to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act.

The Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, the legislation before the Senate would extend through fiscal year 1988, two Small Business Administration [SBA] Pilot Procurement Programs, which are designed to enhance the SBA's ability to assist minority-owned firms. This legislation is identical to Title I of H.R. 2787, which was unanimously

passed by both the House and Senate. Unfortunately, President Reagan, on October 7, 1986, vetoed H.R. 2787.

In his veto message, the President concentrated his remarks on title II of H.R. 2787, which authorized funding for a technology institute at the University of Bridgeport. Therefore, the pending legislation strikes title II of H.R. 2787 and simply reauthorizes these two important minority business development programs.

The principal program reauthorized by this legislation gives SBA the increased authority to select and reserve certain contracts from one agency designated by the President and to match that contract with a qualified minority-owned business. You might say it gives SBA additional clout to negotiate for quality contracts that foster business development. The administration argues that this authority is unnecessary, but the unanimous testimony of minority business owners at Small Business Committee hearings contradicted that point of view.

Under the regular 8(a) program, minority small business have traditionally received less sophisticated contracts, predominantly in service areas. The nature of the contracts offered to SBA by other agencies for the program has limited the growth potential for firms under the regular 8(a) program. The pilot authority was intended to give SBA authority to address that problem on a limited basis.

The pilot program was originally authorized in 1978. Since 1983 until it expired in 1985, the program operated in the Department of Transportation [DOT]. From testimony at committee hearings, I might add it has worked very well at DOT.

As I stated, each of the minority business owners who testified at committee hearings believed that without the existence of the pilot program their contract opportunity would not have been made available. According to Mr. Robert Jones of AMAF Industries, the pilot authority helps break some of the institutional resistance of procuring agencies to award quality contracts to minority businesses. As Mr. Jones stated,

> The pilot program is a countervailing force which alleviates the internal and external pressures not to make quality contracts available under the program.

In other words, the visibility and importance that Congress and the designated agency give to the program make the program work, even if SBA chooses not to use the additional clout provided under the law.

The second pilot program extended by this legislation is the Surety Bond Waiver Pilot Program. Under this authority the SBA can waive surety bonding requirements for section 8(a) startup firms, if certain other requirements are met. Again, this program is intended to give SBA a tool to help minority firms develop a track record and gain Government contracting experience. Since the program was originally authorized in 1978, SBA has never utilized this authority. Again, the administration has argued that it is unnecessary. Besides the fact that in this instance the administration has simply defied the will of Congress by refusing to test the concept, I am not persuaded by the argument that private surety companies will totally ignore actual performance on a previous job solely because it was done without a bond.

I would also point out that this legislation has been supported by the Latin American Manufacturers Association, the National Association of Minority Contracts, the National Federation of 8(a) Companies, and the Black Presidents' Roundtable—associations representing thousands of minority businesses.

Mr. President, this week, as proclaimed by the President, is "Minority Enterprise Development Week." Since Sunday, there have been celebrations here in Washington and around the Nation honoring the accomplishments and contributions of minority entrepreneurs to our Nation's economy. I am sure that a central question raised in many of the forums discussing issues of concern to minority businesses has been the role and commitment of the Federal Government to continuing the gains made over the past 15 years. It is unfortunate that the President has seen fit to veto reauthorization of these two modest programs. I believe it is important that we pass this legislation to give him another opportunity to reaffirm the Federal commitment to minority business development. Therefore, I urge my colleagues to support passage of this bill.

The PRESIDING OFFICER. Is there further debate? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Subparagraph (B) of section 8(a)(1) of the Small Business Act is amended by striking out "(other than the Department of Defense or any component thereof)".

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

SEC. 2. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after September 30, 1988.".

SEC. 3. The last sentence of section 8(a)(2) is amended to read as follows: "The authority to waive bonds provided in this paragraph (2) may not be exercised after September 30, 1988.".

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, before I move to lay the motion on the table, I want to compliment the distinguished Senator from Connecticut. I think it is a reflection of the high esteem in which he is held in this body that he calls up a bill, introduces it, has it advanced to third reading, voted on, and passed and motion to reconsider made—and the motion to reconsider will, I assume, be tabled—all in the space of less than 5 minutes.

I move to lay that motion on the table.

Mr. WEICKER. I thank the distinguished minority leader, who has been a dear friend of mine in this body, for his kind remarks.

I also thank the ranking member of the Small Business Committee (Mr. BUMPERS) who has assisted in every way in making this action possible.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1710

Mr. PRYOR. Mr. President, I ask unanimous consent that the proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. I thank the Chair.

ABUSE OF FEDERAL POWER

Mr. PRYOR. Mr. President, today I rise to speak against the raw and awesome power of the Federal agencies of the U.S. Government and about an abuse of that power that I truly believe led to the ultimate conviction in the lower court of Judge Harry Claiborne.

Mr. President, I rise today to speak for the opportunity, if not the basic right, of every American taxpayer to have the right to face an auditor of the Internal Revenue Service Civil Division to explain their tax return before criminal prosecution starts. Judge Claiborne did not have that opportunity. He was denied it.

Mr. President, I rise today to speak against what has become the accepted practice of arbitrarily and capriciously targeting individual citizens of our country, of intimidating witnesses in their trials, of forgiving past crimes to testify against particular people, of en-

snaring individuals into crime or become Government bounty hunters.

□ 1720

This is not what our Government or our country must stand for. The framers of our Constitution never intended it this way. In fact, in their wisdom and in their vision, they made it possible, as in this particular instance of Judge Claiborne, for the legislative branch to have a check over the judicial branch of Government.

Our constitutional framers spoke eloquently to the majesty and to the strength of our American system when they permitted one Harry Claiborne to bring his case to the court of last resort, the U.S. Senate.

After sitting for days as a member of the impeachment committee, I have attempted to the best of my ability to fairly judge and determine the case of Harry Claiborne. I must admit to my colleagues that a month ago, I, like most Americans, wondered why we were giving him even the benefit of the doubt. As the weeks passed, after reading transcripts and listening to and observing witness after witness, I must say at this time, and during this day, that at least in my mind there was a reasonable doubt about his willfulness or his deliberate intent to defraud the Government.

But, Mr. President, there is no reasonable doubt in my mind about another aspect of this case, and that is the long arm of the U.S. Government and the abuse of power that ultimately led to Judge Claiborne's conviction.

I have concluded that he was targeted by the Federal Bureau of Investigation in a very arbitrary and capricious manner. If we have any doubts about Judge Claiborne having been a target, then I ask these questions:

Why did our Government forgive $16 million in back income taxes to a criminal fugitive named Conforte to come back from Brazil and help make a case against Judge Claiborne?

Why did Harry Claiborne, unlike most other citizens, not have the opportunity to face an IRS audit in the civil division before criminal prosecution charges occurred?

Why did one IRS agent assigned to this sting operation of Harry Claiborne become so incensed and rebelled to the degree that he refused to participate, and ultimately was demoted and sent to another State?

Why was it that after administering a polygraph test to Harry Claiborne, a test which he passed, the polygraph operator, himself, became a target of intimidation by the Federal Bureau of Investigation?

What is going on in this country when we allow this sort of practice to occur?

In the Article of Impeachment No. III, we were asked by the managers to impeach from office Harry Claiborne. Why? Because, simply, he was convicted by a lower court and a jury.

My question concerning Article III this afternoon was, how was that conviction actually obtained?

Once again, I have concluded in my own mind that had Harry Claiborne not been a target of the Federal Government, had Harry Claiborne's accountant not been intimidated by the U.S. Government, had Harry Claiborne had the opportunity to submit all evidence into the lower court decision and trial, had an appeal en banc to the Ninth Circuit Court of Appeals been granted, I believe the case of Harry Claiborne might not have been before the U.S. Senate today.

No, Mr. President, I cannot, as one Senator or as one American, defend Harry Claiborne's abysmal tax return, especially for 1980.

No, I cannot defend his cashing checks at the casino and, no, I certainly cannot defend his Elmer Gantry type tax preparer. But especially, Mr. President, I cannot defend how this conviction was ultimately obtained.

The Federal Bureau of Investigation sent a special representative to Nevada by the name of Yablonsky. Mr. Yablonsky evidently was given the widest and unchecked latitude to headhunt in Nevada. He wanted someone big and someone important. Did he go after the drug lords? Did he go after the major crime figures? Did he go after the child pornographers? No. He went after Judge Claiborne, and allegedly he also wanted Senator LAXALT. He said he did not like LAXALT. I ask, is that the criteria our Federal Bureau of Investigation uses in going after someone?

I fear that there are too many Yablonsky's out there in this country, working for various agencies of government, who have become headhunters. They are unchecked. They are unbridled. They are people who arbitrarily and capriciously make these decisions which can suddenly bring to a crushing end the careers and lives of any American citizen they so choose.

The next Yablonsky may not like the names of people like MATSUNAGA or BOSCHWITZ or LAUTENBERG or Iaccoca or Smith or Jones. What happens then? Where do we install this system of checks, and when is our Government finally going to realize that these sorts of operations represent not the best but the worst within our system?

They set up Pete Williams. He was entrapped. They tried it on Senator PRESSLER. He smelled a rat.

The Claiborne conviction, Mr. President, is over. In my opinion, it is the fruit of the poisoned tree.

Judge Harry Claiborne has been found guilty. He has been impeached and removed from office, as I have said.

I hope that the resolution that I and other Members of this body will introduce within the next several hours, or certainly the next several days, calling for a full and total investigation of sting operations—how they are set up, how they are administered, and what checks and balances must be placed in that area of our system of Government—will certainly be passed by the great majority of this body.

Mr. President, we have seen a very sad day today, but I must say, also, that it has been a day when we have seen the majesty and the strength of our system work. I hope it worked well, and I hope it will be a lesson for us in the future, to make certain that such situations do not happen again.

Mr. President, I yield the floor.

□ 1730

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1740

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN INVESTIGATION IS NEEDED

Mr. HEFLIN. Mr. President, we have just finished a very historic event in the U.S. Senate; that is, the U.S. Senate has just sat as a court of impeachment and has removed a life-tenured Federal judge from office.

I have some thoughts that I would like to mention in a preliminary manner now, but I will develop and set them forth in a more succinct manner at a later date.

First, I think there is no question that most of the Members of the Senate feel that there should be an investigation by an appropriate committee pertaining to the possible overreaching by the executive branch into the judicial branch and an investigation into the procedure which has been called targeting.

I am not accusing the Executive Branch, the Department of Justice, the FBI or the Internal Revenue Service of improper targeting or of improper activity. But I feel that there is enough smoke to justify whether or not a fire exists.

We also had in recent years the Abscam incidents. It seems to me that if an appropriate committee of Congress investigates what potentially may have been an abuse of power in Nevada—it may not have been, I am not accusing anyone—but they should also take a look into Abscam.

I think that a vast number of the Members of Congress feel that a thor-

ough investigation ought to be made and that we ought to look into both incidents and determine whether or not there was targeting. Further, we should determine whether the targeting was proper or not. I think we all know that sting operations by the Department of Justice are necessary and that they may have to operate in a certain manner to catch some serious violators of the law. I think we must bear in mind that if you are going to apprehend criminals, sometimes it is necessary for FBI agents and others to disguise themselves as being "gutter brothers" and get into the gutter with the criminals. On the other hand, there is the potential for overreaching, there is the potential that someone may be out to get someone and that proper due process is not allowed the targeted person. Therefore, I think a thorough investigation is needed to determine if proper due process was allowed in the above two cases.

Second, I believe that a 100-man jury is too cumbersome and is unworkable. I think that we ought to examine what the States have done relative to the judiciary and the removal from office of judges who have become corrupt.

□ 1750

Most of the States originally followed the Federal pattern if they had a bicameral system of legislation which established the Senate as being the court of impeachment, and required the House of Representatives to act as a grand jury, or the indicting body.

Many of the States found that this procedure presents numerous problems and, therefore, they adopted other methods. Some States have created judicial inquiry commissions which are very representative and have broad-based membership. The members come from the laity, the judiciary, and some members come from the lawyer ranks. The commission in effect serves as the investigating body and the indicting body. There is a separate mechanism, usually composed of something like 10 or 12 people that would be a court of the judiciary, or a judicial commission, which would determine the guilt or innocence of the accused under the articles of the indictment that would come from the judicial inquiry commission. Most of the States have found this procedure to be workable. It has been adopted in their constitutions, and has proved to be very effective. I am going to study the various systems that now prevail in the States and I am going to offer a constitutional amendment to alter the Federal pattern when we return in January at the start the 100th Congress.

I feel like we ought to explore alternatives. In my own home State of Alabama we adopted a different procedure from the Federal scheme. We have a court of the judiciary, and a judicial inquiry commission which serves as the grand jury. There are other systems in the States. I think we ought to study them all.

I think we ought to replace the procedure that we have because in my judgment a 100-man jury is too cumbersome and is unworkable. When Judge Claiborne was giving his argument or testimony here on the floor of the Senate, I counted the number of Senators, in attendance and there were 63 present. Thirty-seven were absent. I think it is very crucial that all Senators should have been in a position to hear what he said at that time.

I suppose that throughout the entire proceedings there could have been as many as 30 Senators that never heard a word of the argument. If we are to sit as a court of impeachment, I think it is necessary that each individual Senator hear the arguments, read the transcripts, read the briefs, and prepare. Because, in effect, we act as judges. And I feel our system is not effective, I think it is unworkable, and I think as we look to the future, we can expect many, many more instances of impeachment or proposed impeachment of members of the judiciary.

The judiciary has grown, and it is now in the neighborhood of around 1,000 judges. There is no question in my mind that there are some bad eggs, or bad apples in the barrel, and that we need to look at this now. But, at the same time, we must protect the independence of the judiciary.

Therefore, I say to the Members of the Senate, let us benefit from the experiences of the States who have experimented with other systems. Some of those procedures have been in existence for 30 or 40 years. I think we can profit from a study. In my judgment, we need to adopt a better forum by which a life-tenure judge is removed from office.

Thank you, Mr. President.

The PRESIDING OFFICER. Would the Senator from Alabama like to suggest the absence of a quorum?

Mr. HEFLIN. Mr. President, I will follow the Chair's suggestion, and suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

□ 1830

PROGRAM

Mr. DOLE. Mr. President, let me indicate that there will be no votes this evening, but we will be in session tomorrow.

I have had a number of Senators make inquiries: "Are we going to have any votes tomorrow?" I really believe we will have two or more, but I cannot say that with certainty.

Reconciliation should be available tomorrow morning, and we would like to work out some way to resolve any outstanding issues on the drug bill and dispose of those two matters tomorrow.

There are other matters that I understand could require votes, and it may be that we can dispose of one or two of those.

So we will be in session tomorrow. I am almost certain there will be votes. There will be no votes before noon, but there could be votes starting at noon and continuing into the afternoon.

I hope we will be able to complete our work by early afternoon, but I have no assurance and have no control over whether or not that can be done.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to pass or indefinitely postpone any of the following calendar items: Calendar Nos. 216, 592, 593, 775, 1027, 1067, 1068.

Mr. BYRD. Mr. President, the first four items enumerated by the distinguished majority leader have been cleared for postponement on this side, and the three closing ones—1027, 1067, and 1068—are cleared for action on this side.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar items just identified, and that they be considered en bloc, and passed or indefinitely postponed en bloc, and that all committee-reported amendments be agreed to en bloc.

the PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF AN INFORMATION AGE COMMISSION

The Senate proceeded to consider the bill (S. 786) to establish an Information Age Commission, which had been reported from the Committee on Governmental Affairs, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Information Age Commission Act of **[**1985**]** *1986*".

SEC. 2. The Congress finds and declares that—

(1) the introduction and use of computer and communications systems have brought our Nation and the world into the Information Age;

(2) computer and communications systems are affecting the manner in which business, education, and government operate, and the manner in which our Nation's security and involvement in world trade are carried out;

(3) the rapid pace of technological change and the complexity of the issues involved with respect to computers and communications systems have combined to diminish public awareness and understanding of their impact on society;

(4) the impact of computer and communications systems on society has not been completely analyzed; and

(5) while Congress has begun to address issues relating to the Information Age, such as intellectual property rights, computer education, computer crime, and privacy, there remains a need for a comprehensive and systematic study of the Information Age.

SEC. 3. The purposes of this Act are to—

(1) create a forum for discussions and targeted ressearch on the present and future impact of computer and communications system on our Nation and its citizens; and

(2) present critical alternative views and choices to the President, Congress, and the public generally, so that such views and choices may serve as a catalyst for change, if necessary, and maximize the benefits of the Information Age to our society.

SEC. 4. (a) There is established a commission to be known as the Information Age Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty-three members. Individuals appointed to the Commission pursuant to clause (3) of this subsection shall have a competence in the areas with which the Commission deals. Members of the Commission shall be appointed as follows:

(1) three members appointed by the President pro tempore of the Senate, two upon the recommendation of the Majority Leader of the Senate and one upon the recommendation of the Minority Leader of the Senate;

(2) three members appointed by the Speaker of the House of Representatives, two upon the recommendation of the Majority Leader of the House of Representatives and one upon the recommendation of the Minority Leader of the House of Representatives;

(3) seventeen members appointed by the President including, to the extent feasible, at least three representatives each from the information industry, labor, and academe, not more than two public officials from State and local governments, and six members drawn from the Executive branch of the Federal Government, including the Secretary of Commerce or his designee, the Secretary of Defense or his designee, and the Secretary of Education or his designee.

(c) Of the members specified in paragraphs (1) and (2) of subsection (b) of this section, not more than two members specified in each such paragraph shall be from the same political party.

(d) The President shall designate one member of the Commission appointed from the private sector as Chairman of the Commission, and one such member as Vice Chairman of the Commission.

(e) Twelve members of the Commission shall constitute a quorum.

(f) Any vacancy in the Commission shall not affect its power, but shall be filled in the same manner in which the original appointment was made.

SEC. 5. (a) The Commission shall conduct or have conducted, through subcommittees or study groups, such research and studies as it determines necessary to develop a responsible understanding of the Information Age, including, but not limited to—

(1) the efforts and resources needed to maximize the benefit to society of computer and communications systems;

(2) the effort and resources needed to maintain the lead of the United States in the world information marketplace;

(3) the education and reeducation required to equip the people of the United States for the Information Age;

(4) the use and impact of computer and communications systems on the national defense of the United States;

(5) the effort and resources needed to encourage new technological innovations; and

(6) the impact of the computer and communications systems on labor and [employment.] *employment; and*

(7) the effect of computer and communications systems on personal privacy.

(b) In carrying our its functions and duties, the Commission shall make every reasonable effort to avoid duplication of studies and research relating to the matters referred to in subsection (a) of this section, and shall marshal existing information for reevaluation.

(c) The Commission shall develop a data base of material information to which the public shall have reasonable access during the life of the Commission.

(d) The Commission shall, from time to time, submit to the President and Congress analyses and reports summarizing the materials and positions of the Commission, and outlining responsive alternative views and choices developed by the Commission.

(e) The Commission shall assemble and reasonably make available, upon request, a comprehensive index of relevant materials.

(f) The Commission shall provide maximum information to the media and the public so as to stimulate the broadest responsible public understanding and appreciation of the Information Age.

SEC. 6. (a) The Commission, or on the authorization of the Commission, any subcommittee or study group thereof, shall, for the purpose of carrying out the functions and duties of the Commission, hold such public hearings and sit and act at such times and places throughout the Nation as the Commission or such subcommittee or study group may deem advisable.

(b) The Commission is authorized to negotiate and enter into such contracts with private organizations as the Commission determines necessary to enable it to carry out its duties and functions under this Act relating to research and studies and the preparation of analyses and reports.

(c) The Administrator of General Services, at the request of the Chairman of the Commission, shall provide the Commission with necessary administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement). Payment for such services shall be made in advance or by reimbursement from funds appropriated to the Commission. Payments shall be in such manner and in such amounts as may be agreed upon by the Commission and the Administrator of General Services.

(d) The Commission is authorized, in accordance with this subsection, to secure directly from any executive department, agency, or independent instrumentality of the Federal Government any information, facilities, and services the Commission deems necessary to carry out its functions and duties under this Act; and each such department, agency, and instrumentality is authorized and directed to cooperate with the Commission and, to the extent permitted by law, to furnish such information, facilities, and services to the Commission upon request made by the Chairman, unless the head of such department, agency, or instrumentality determines that urgent, overriding reasons will not permit the making of such information, facilities, or services available to the Commission and so notifies the Chairman in writing.

SEC. 7. Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

(1) appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, or any other provision of law relating to the number, classification, and General Schedule rates, of such personnel as the Commission deems advisable to assist in the performance of its duties; and

(2) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the extent as is authorized by law for agencies in the Executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule.

SEC. 8. (a) Members of the Commission shall serve on the Commission without additional compensation for their services as such.

(b) All members of the Commission shall be reimbursed for travel as authorized by section 5703 of title 5, United States Code, subsistence, and other necessary expenses incurred in the performance of the functions and duties of the Commission.

SEC. 9. The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

SEC. 10. For the purpose of carrying out its functions and duties under this Act, the Commission may accept, use, and dispose of gifts or donations of money, services, or property.

SEC. 11. On or before the expiration of the twenty-four-month period following the date on which this Act becomes law, the Commission shall transmit to the President and to the Congress a final report containing a detailed statement of the findings of, and studies conducted by, the Commission under this Act, together with its recommendations, if any. Upon the expiration of the thirty-day period following the date of the transmission of such report to the President and the Congress, the Commission shall terminate.

[SEC. 12. There is authorized to be appropriated the sum of $3,000,000 to carry out the provisions of this Act.]

Mr. NUNN. Mr. President, I rise in support of legislation that Senator LAUTENBERG and I introduced last year, the Information Age Commission Act. The purpose of this bill is to create a forum for discussions on the present

and future impact of computer and communications systems on our Nation and its citizens, and to present critical choices to the President, the Congress, and the public that will maximize the benefits of the "information age" to our society.

Mr. President, information systems of all kinds are playing an increasingly important and controlling role in our society. Sophisticated computer technology is being used routinely in business, education, government, and the military. It is being used in information storage, processing, management, and decisionmaking. Most of this technology was not even in the conceptual phase several years ago.

Furthermore, the introduction of additional information technology is driving social and economic changes. Most of these changes are benefiting our society and generally improving the quality of our lives. In the next few years, information technology will continue to undergo rapid development and will be applied to a growing number of activities. However, these technologies changes also appear to be rapidly outpacing the capability of our economic and legal system to respond.

To date, policy development regarding the "information age" has been a piecemeal effort, and generally reactive to situations that have come to our attention. For example, in the last Congress we adopted changes to the copyright laws for protecting computer chips. We adopted legislation, which I cosponsored with Senator TSONGAS, to provide assistance to small business in the areas of computer security and education; this legislation was the first of several "computer crime" bills adopted in the 98th Congress. We enacted several laws making it a crime to alter medical records or use a computer to obtain classified information.

Nevertheless, the 40 or so criminal laws which are on the books today, even coupled with the actions we took previously, are not sufficient to provide a firm basis for combating computer crime. Many States were not able to wait for the Federal Government, and have adopted their own set of laws on computer crime and security.

Mr. President, I will not take the time here to spell out the litany of congressional reports, executive agency actions, or private sector studies that demonstrate that fragmented nature of our "information age" policy, or the need for a comprehensive review of this issue. Suffice it to say that our current understanding of these issues, and our ability to respond, is neither adequate nor satisfactory.

We cannot continue to tackle these critical national issues in such a piecemeal fashion. In my view, it is worth the time and effort to take a step beyond our current reactive efforts and try to identify in advance those issues that need to be addressed at the national level. It is for this reason that the Information Age Commission Act is essential.

The Commission, to be composed of 23 members, will draw from government at all levels, industry, labor, education, and academia. Under the legislation, the Commission will conduct studies and analyses of the "information age" that will include the efforts and resources needed to:

First, maximize the benefit to society of computer and communications systems; second, maintain the lead of the United States in the world information marketplace; third, educate and reeducate our people; fourth, assess the impact of computers and communications systems on our national security, labor, and employment; and fifth, encourage technological innovations.

The Commission is to complete its work within 2 years and then submit its final report to the Congress and the President. I would hope that there would be interim reports as necessary when the Commission identifies critical issues which Congress or the Executive should immediately address.

We have purposely structured the Commission to select the best resources that are available within and outside the Federal Government. For example, we have specifically included the Secretaries of Commerce, Defense, and Education as members of the Commission. Each of these departments are directly and significantly affected by the use of computers and communications systems, and each has a critical role in any comprehensive solution to the problems of the "information age."

Of the public members, we have specified that at least three representatives be drawn from the information industry, labor, and academe. This will ensure that each of these perspectives are made available to the Commission for its deliberations. In fact, under the terms of the bill, the non-Federal members of the Commission have a majority of the votes on the Commission. We believe that such broad participation will enable the Commission to conduct its work with a diverse perspective that can only strengthen the product of its labors and lend credibility to its effort.

Mr. President, the $3 million authorization in the original bill Senator LAUTENBERG and I introduced has been deleted. In my view this $3 million authorization represented a modest commitment by the Federal Government to the important work of the Commission. In light of the serious budgetary constraints which exist at the Federal level, I believe this was all that could reasonably have been allocated to this function at this time.

However, in an effort to move this legislation through the Governmental Affairs Committee, I complied with Chairman ROTH's request to strike the funding provision from the bill. It is my understanding that private industry has agreed to underwrite the work of the Commission.

While the private sector is expected to make a significant contribution to the work of the Commission, Government participation is essential to provide a balance against protective or biased action by industry. Federal responsibilities in the areas of national security, trade policy, and education will broaden and complement the private sector perspective.

Mr. President, in the development of this legislative proposal, we have been working with many of the "information age" industry associations and companies. The Association of Data Processing Service Organizations [ADAPSO] has been particularly helpful in framing this issue and assisting me in developing the outlines of this legislation. However, this bill is not, and cannot be, a competitive proposal, with one group or company or type of technology seeking to use this Commission for its own purposes.

While this legislation is the culmination of substantial time and effort, it is also the beginning of a long, arduous process that we as a nation must undertake if we are to adequately deal with the complexities and multifaceted nature of our computer and communications society. But we cannot delay the process much longer. Upon enactment of this bill, I look forward to working with the Commission to provide answers to questions that have, thus far, in my view, received far too little attention.

Mr. President, identical legislation, H.R. 5515, has been introduced and cosponsored by Representatives GEORGE BROWN of California, and PAT SWINDALL and DOUG BARNARD both of Georgia. I am hopeful that in the little time remaining in the current session of Congress, this measure will be approved in the House so that the Information Age Commission's important work can begin without further delay.

I urge adoption of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE

The Senate proceeded to consider the bill (S. 511) to change the name of the Loxahatchee National Wildlife Refuge, FL, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge.

Mr. CHILES. Mr. President, I am very pleased that the Senate is now acting on legislation I introduced to honor an individual who has contributed greatly to the enhancement and protection of my State's natural resources.

S. 511, as reported by the Environment and Public Works Committee, renames the Loxahatchee National Wildlife Refuge in south Florida after Arthur R. Marshall. Art's academic work and personal efforts in the field of environmental protection have had tremendous impact on south Florida's ecosystem, particularly the everglades.

The Loxahatchee National Wildlife Refuge is, in fact, a small portion of the Florida Everglades and is one of the largest freshwater marshes on the North American continent. It is fitting, therefore, that this particular refuge bear the name of Arthur Marshall.

Art Marshall is highly regarded as an early champion of theories regarding the impact of growth on south Florida's natural system. He designed and advocated policies aimed at restoring the everglades system to permit the sheet flow of water across them, as once had occurred naturally.

He supported acquiring lands now known as the Big Cypress National Preserve, an area purchased by the Federal Government in order to ensure protected sheet flow of water necessary for the survival and livelihood of Everglades National Park.

Art Marshall was a pioneer in environmental conservation and has justly earned the respect and recognition of major environmental organizations in the State of Florida. He served as advisor to three Florida Governors and worked for 15 years for the U.S. Fish and Wildlife Service in south Florida.

Art felt the protection of our south Florida ecosystem was worth fighting for. He waged one conservation battle after another and was fortunate to see many of his ideas and initiatives put into constructive action. Art died on February 18. His death will be a loss to the fighters of conservation battles yet to be waged. It is highly appropriate that an example of the habitat and natural systems he worked so diligently to preserve bear his name.

For this reason, I am pleased the Senate is acting on legislation to rename the Loxahatchee National Wildlife Refuge in honor of the contributions of Arthur R. Marshall.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Loxahatchee National Wildlife Refuge, in the State of Florida, shall hereafter be known and designated as the "Arthur R. Marshall Loxahatchee National Wildlife Refuge". Any reference in any law, regulation, map, document, record, or other paper of the United States to such wildlife refuge, shall be held and considered to be a reference to the "Arthur R. Marshall Loxahatchee National Wildlife Refuge".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALBERT V. BRYAN FEDERAL COURTHOUSE

The Senate proceeded to consider the bill (S. 2890) to designate the U.S. Courthouse for the Eastern District of Virginia in Alexandria, VA, as the "Albert V. Bryan Federal Courthouse," which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Courthouse for the Eastern District of Virginia, located at 200 South Washington Street in Alexandria, Virginia, shall hereafter be known and designated as the "Albert V. Bryan **[**Federal**]** *United States* Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Albert V. Bryan **[**Federal**]** *United States* Courthouse".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the Albert V. Bryan United States Courthouse."

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FOREST SKI AREA PERMIT ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 922, S. 2266, the ski area permit system.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Ski Area Permit Act of 1986".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.

SEC. 3. SKI AREA PERMITS.

(a) LAW APPLICABLE TO PERMITS.—The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of pemits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall henceforth be governed by this Act and other applicable law.

(b) AUTHORITY.—The Secretary of Agriculture (hereinafter referred to as "the Secretary"), is authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

(1) may be issued for a term not to exceed 40 years;

(2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;

(3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and appropriate ancillary facilities;

(4) may be renewed at the discretion of the Secretary;

(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination, by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in

plans or operations in accordance with the provisions of applicable law;

(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) RULES AND REGULATIONS.—Within one year after the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this Act within 3 years of the date of enactment of this Act.

(d) Nothing in this Act shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to establish a ski area permit system on national forest lands, and for other purposes.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 99, H.R. 2067, to validate conveyance of certain lands in California.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2067) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELEASE OF RESTRICTIONS ON CERTAIN AIRPORT LAND

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1000, S. 2852, dealing with the Peninsula Airport Commission.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2852) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3265

(Purpose: To provide that the release of the use of certain property conveyed to the Peninsula Airport Commission, Virginia, be subject to certain conditions.)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator TRIBLE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. TRIBLE, proposes an amendment numbered 3265.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, add after line 21 the following new paragraphs:

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the city of Newport News, Virginia.

Mr. TRIBLE. Mr. President, the Peninsula Airport Commission which operates the Patrick Henry Airport in Newport News, VA, would like to grant a right-of-way to the city of Newport News for the construction of a public road that would provide access to a presently unusable tract of airport land. In addition the public road would serve a planned residential and commercial project adjacent to the airport property. In return for the right-of-way the public road and other improvements will be built by the developer of the adjacent project at no cost to the airport commission. The developer will also deed other adjacent land to the commission for airport use.

The current airport deed restricts land use to airport purposes. The Federal Aviation Administration cannot grant this right-of-way without legislative action, they lack the administrative flexibility under the Federal Airport Act which allowed the United States to transfer the property in 1947.

This is a local issue that can best be handled by the FAA and the Peninsula Airport Commission. The amendment to S. 2852 protects the public interest in the airport property by limiting the total amount of land that can be used for the right-of-way and by requiring that the grantee of the right-of-way be the city of Newport News, VA.

Mr. President, I believe that this measure has been cleared on both sides. Therefore I move the adoption of the amendment and the passage of S. 2852 as amended, and thank my colleagues for their support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3265) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947), the Secretary of Transportation is authorized, subject to section 4 of the Act of October 1, 1949 (50 U.S.C. App. 1622c) and subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed certain property in Newport News, and York County, Virginia, to the Peninsula Airport Commission for airport purposes.

(b) Any release granted by the Secrectary of Transportation under subsection (a) of this section shall be subject to the following conditions—

(1) The Peninsula Airport Commission shall agree that in leasing or conveying any interest in the property which the United States conveyed to such Commission by the deed described in subsection (a), the Commission will receive an amount for such interest which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Any amount so received by the Peninsula Airport Commission shall be used by the Commission for the development, improvement, operation, or maintenance of a public airport.

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States

conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 1001, H.R. 5379, the House companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

KOREAN WAR VETERANS MEMORIAL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 943, H.R. 2205, the Korean War Veterans Memorial.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2205) to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and insert the following:

AUTHORIZATION OF MEMORIAL

SECTION 1. The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 S. Rpt. 99-421).

ESTABLISHMENT OF KOREAN WAR VETERANS MEMORIAL ADVISORY BOARD

SEC. 2. (a) There is hereby established a Korean War Veterans Memorial Advisory Board which shall consist of 12 veterans who served in the Korean War. The members of the Board shall be appointed by the President within 120 calendar days of enactment of this Act.

(b) The Korean War Veterans Memorial Advisory Board shall be responsible for:

(1) recommending the site and selecting the design for the memorial, subject to the approval of the American Battle Monuments Commission and in accordance with section 7(a) of H.R. 4378, as approved by the Senate on September 10, 1986; and

(2) promoting the establishment of the memorial and encouraging the donation of private funds for the construction and maintenance of the memorial.

FEDERAL AUTHORIZATION AND PRIVATE FUNDING

SEC. 3. (a) The American Battle Monuments Commission shall establish the memorial with private funds except as provided in subsection (b) of this section. For the purpose of carrying out this Act, the American Battle Monuments Commission is authorized to solicit and accept private contributions. The Commission is directed to establish an account into which these private funds shall deposited and to maintain documentation of such contributions.

(b) There are hereby authorized to be appropriated:

(1) $500,000 for site preparation, design, planning and associated administrative costs for the establishment of the memorial; and

(2) $500,000 for construction of the memorial, to be available only after a construction permit has been issued for the memorial.

(c) Private funds donated in excess of the cost of construction and maintenance of the memorial shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (b) of this section.

AMENDMENT NO. 3266

Mr. DOLE. Mr. President, I send an amendment to the committee substitute to the desk on behalf of Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MCCLURE, proposes an amendment numbered 3266.

On page 3, line 5, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

On page 3, line 20, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986" and insert in lieu thereof "House of Representatives on September 29, 1986".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3266) was agreed to.

Mr. HEFLIN. Mr. President, it gives me great pleasure to see the Korean War Veterans Memorial Act finally come before the full Senate. This legislation would authorize the erection of a memorial to honor those members of the U.S. Armed Forces who so bravely and honorably served more than three decades ago, without reservation, in the struggle against the Communist threat to the country of South Korea. This is legislation which I have supported and advocated for quite some time. With this in mind, it gives me even greater pleasure to rise in support of this act.

Mr. President, on that day in June 1950 when the Communist forces of North Korea invaded South Korea, the people of the United States were outraged. Shortly after that, the Soviet Union and the People's Republic of China joined North Korea in its attempt to lay the cloak of communism over the people of South Korea. It soon became obvious that the free people of South Korea could not alone, even with their vast determination, withstand the surge from the North.

It was at this time that President Truman, honoring his commitment to South Korea, authorized U.S. combat support of what we may call the Korean freedom fighters; and entered, along with 16 other nations, into the Korean war. And, Mr. President, that is exactly what it was—war. Time and time again, we have heard this war called a "conflict" or a "police action." But it was war, Mr. President.

For 3 long years, brave American men and women gave of their all in a fierce struggle for freedom. What is more, these heroic men and women gave of their all for the freedom of the people of another country. They did this because they believed in the institution of liberty for all. The most accurate figures show that nearly 6 million Americans served in the Korean war. Of those, close to 5,000 were captured or missing in action. More than 100,000 were wounded and close to 55,000 paid the supreme sacrifice, giving their lives to the cause of freedom.

Mr. President, there are close to 90,000 Korean war veterans in my home State of Alabama. Many of these have spoken to me personally concerning the absence of a Korean war memorial in Washington. Others have either written or phoned, asking for something to be done about this indiscretion. There is a monument in this city honoring the veterans of every other war in which the United States has been engaged; but there is no memorial honoring the brave American veterans of the Korean war. Mr. President, the time for something to be done about this is long overdue.

This legislation would do just that. The Korean War Veterans Memorial Act would justly honor those brave men and women of the U.S. Armed Forces who so unselfishly gave of themselves when freedom was in need.

Mr. President, I urge speedy passage of this act.

Mr. WARNER. Mr. President, as a cosponsor of S. 1223 introduced by my distinguished colleague from Colorado [Mr. ARMSTRONG,] I rise as a strong supporter of this legislation as amended.

This memorial is long overdue. Our Nation's veterans of the Korean war deserve this recognition for having fought successfully under extremely harsh conditions.

As a Korean war veteran myself, serving with the U.S. Marine Corps, I experienced firsthand the adversities that confronted our troops. From 1950 to 1952, I served as a first lieutenant and communications officer with the First Marine Air Wing.

Our soldiers, sailors, marines, and airmen, together with the troops of other United Nations countries, fought valiantly, honorably and successfully to stop the advance of communism in Asia.

From Pusan to the Yalu River, in summer heat and arctic cold, almost always outnumbered and—in the beginning—ill-equipped, our men wrote a shining chapter of valor in the long history of the U.S. Armed Forces.

Their reward was not victory parades, but, unfortunately, public indifference and confusion at America's first "limited" war.

The memorial the Senate authorizes today is a belated step toward giving our Korean war veterans the honor they so richly deserve.

Their true monument, of course, is a free and prosperous South Korea, a strong ally of the United States and a bastion of freedom in the Far East.

To paraphrase Sir Christopher Wren's memorial in St. Paul's Cathedral in London, "If you would see their monument, look around you."

Nevertheless, it is fitting and proper that we should, before the Korean war fades from the national memory, recognize the bravery and sacrifice of our Armed Forces in a tangible form in the Nation's Capital.

Mr. GRAMM. Mr. President, as we take up the Korean War Memorial bill, I am proud to rise as a cosponsor of this important and long overdue legislation.

For over three decades since the conclusion of the Korean war, our recognition of the tremendous sacrifices and ultimate triumph of our Korean war veterans has, I believe, been incomplete. Nearly 6 million Americans served in that 3-year conflict and 54,000 paid the ultimate price, yet in our Nation's Capital we have erected no memorial to their noble service.

I visited the Republic of Korea last winter and found a thriving nation that itself stands as the greatest living monument to the American veterans of the Korean war. Every visitor to that country can see what our American heroes won in battle: they won a future of freedom and prosperity for 40 million people who otherwise would have been doomed to a life of oppression, poverty, and unrelieved suffering. And they won for America the lasting and palpable gratitude of the Korean people and nation.

Today, in authorizing the construction in Washington, DC, of a national memorial to the American veterans of the Korean war, we are acting to build a tangible symbol of the respect, admiration, and gratitude that up to now has been inadequately expressed, but that has lived within our hearts.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended, in the nature of a substitute.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2205) as amended, was passed.

The title was amended so as to read "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL LEASES IN THE EL PORTAL ADMINISTRATIVE SITE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 764, H.R. 1390, dealing with the Yosemite National Park.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1390) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following with amendments, as follows:

(The parts of the bill intended to be sticken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (82 Sat. 393; 16 U.S.C. 47-2), is amended—

(1) by striking out "fifty-five years to any operator of concession facilities in the park, or its successor for purposes of providing employee housing.", in the first sentence of the first section and inserting in lieu thereof "not to exceed ninty-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services.";

(2) by striking out "the concessioner may sublease the property to its employees" in the second sentence of the first section and inserting in lieu thereof "if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site,";

(3) in the proviso to the first section by striking out "an annual", inserting a period after "him", and deleting the remainder of the sentence; and

(4) by redesignating "SEC. 2." as "SEC. 3." and inserting the following new section after the first section:

"SEC. 2. (a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to the first section of this Act may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of Yosemite National Park, and he may use the proceeds from any leases for the purpose of making payments under any such contract.

"(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to this Act by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange."; and

(5) by adding at the end thereof the following new [section:] *sections:*

"SEC. 4. After the date of enactment of this section, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, and they shall set forth the circumstances under which the Secretary may elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after sixty calendar days from the day on which they have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

[**"SEC. 5. Concurrent with the submission of the regulations referred to in section 4, the Secretary shall submit a summary

report on the El Portal administrative site including existing and projected lease arrangements at that time contemplated to be exercised under the provisions of this Act, along with a timetable for the consequent removal of specific facilities in Yosemite National Park (with particular emphasis on Yosemite Valley). Not later than three years after the date the summary report is submitted, the Secretary shall submit an additional report to the committees referenced in section 4 as to the progress achieved in the development of the El Portal administrative site pursuant to the provisions of this Act. The report also shall include information as to the progress achieved in removal of facilities from Yosemite National Park. Implementation of the provisions of this Act shall at all times be in full accord with the then current general management plan for the park.]

"SEC. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment of rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.

"SEC. 6. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

AMENDMENT NO. 3267

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator MCCLURE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. MCCLURE, proposes an amendment numbered 3267.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 12, after the word "sublease," insert the following:

"the process to be used in establishing fees for such leases and subleases,".

On page 6, line one, delete "Sec. 6." and insert in lieu thereof: "SEC. 2.".

On page 6, after line 7, add the following new section 3:

"SEC. 3. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the exchange of all lands in four isolated federal parcels within the boundaries of Inks Creek Ranch, Tehama County, California, as described in Exhibit A of the July 25, 1986, letter of intent to exchange issued by the District Manager, Ukiah District Office, Bureau of Land Management.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3267) was agreed to.

Mr. WILSON. Mr. President, I would like to take this opportunity to thank the Energy Committee for successfully completing action on the bill before us, H.R. 1390. It will go a long way toward relieving the congested housing situation in Yosemite Valley, and thereby help to enhance the natural setting within the park.

The only question I have with regard to the committee's action on this bill relates to the intent of section 4. My reading of this section suggests to me that the Secretary is directed to allow for the full participation of the affected community and park employees in the writing of the regulations that will govern leases issued for the purpose of providing housing or other facilities in the El Portal administrative site.

Would the distinguished chairman of the Energy Committee state for the record whether my interpretation of section 4 of the bill is correct?

Mr. MCCLURE. I am happy to respond to my friend from California and would like to assure him that it is the intent of the committee that the Secretary will make every reasonable effort to solicit input from affected employees and residents during the period in which the regulations relating to the making of leases are being drafted.

Mr. WILSON. I thank the chairman for clarifying this matter.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1390) as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FRANCIS SCOTT KEY MEMORIAL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 941, S. 2370, the Francis Scott Key Memorial.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2370) to allow the Francis Scott Key Park Foundation, Incorporated to erect a memorial in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner," our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

SEC. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421), such memorial shall be required to comply with the provisions of that Act.

SEC. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to authorize the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia.".

AMENDMENT NO. 3268

Mr. DOLE. Mr. President, I send an amendment on behalf of Senator MCCLURE to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MCCLURE, proposes an amendment numbered 3268.

On page 4, line 25, of S. 2370 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3268) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner", our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

SEC. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the House of Representatives on September 29, 1986, such memorial shall be required to comply with the provisions of that Act.

SEC. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1840

LOWER COLORADO WATER SUPPLY ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1006, H.R. 5028, dealing with the Lower Colorado Water Supply Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION.

(a) The Secretary of the Interior is authorized to construct, operate, and maintain the Lower Colorado Water Supply Project, California, in order to supply water for domestic, municipal, industrial and recreational purposes **[**only**]** *only: Provided, That, the Secretary is hereby authorized, in his discretion, to contract with non-Federal interests for the care, operation, and maintenance of all or any part of the project works subject to such rules and regulations as he may prescribe.*

Such project shall be constructed *in stages as increases in demand warrant and* substantially in accordance with the plans set forth in the document entitled "Lower Colorado Water Supply Study, California" (December 1985): *Provided,* That the Secretary is prohibited from constructing facilities with a total capacity in excess of ten thousand acre-feet per annum under authority of this Act.

(b)(1) The Secretary is further authorized to enter into exchange contracts and take such actions as the Secretary deems appropriate to facilitate a water exchange agreement between non-Federal interests and those interests designated in section 2(b) of this Act in which such non-Federal interests agree to exchange a portion of their rights to divert water from the Colorado River for an equivalent quantity and quality of groundwater to be withdrawn from a well field located in the Sand Hills area, Imperial County, California.

(2) The Secretary is prohibited from executing any contracts under the authority of subsection (b)(1) of this section until such contracts have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and ninety calendar days have elapsed.

SEC. 2. REPAYMENT OF COSTS.

(a) The Secretary is prohibited from obligating or expending any of the funds authorized to be appropriated by section 3 of this Act until—

(1) a study has been completed, and submitted to the appropriate committees of the Congress, allocating among the Federal and non-Federal beneficiaries the capital costs and the costs of operating, maintaining, and replacing the project authorized by section 1 of this Act;

(2) the Secretary has entered into a contract or contracts with non-Federal interests for repayment of the capital costs, plus **[**interest,**]** *interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations to the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 per centum,* allocated to non-Federal interests for **[**municipal and industrial**]** *domestic, municipal, industrial, and recreational* purposes as identified in the cost allocation study prepared under subsection (a)(1): *Provided,* That the terms and provisions of such contracts and repayment shall be governed by section *9(c) of the Reclamation Project Act of 1939 (Act of August 4, 1939, ch. 418, 53 Stat. 1187) and by* the provisions of the Water Supply Act of 1958 which were in effect on January 1, 1986; and

(3) the Secretary has entered into a contract or contracts with non-Federal interests for payment of 100 per centum of the costs allocated to such non-Federal interests for the operation, maintenance, and replacement of the project.

(b) Any contracts executed by the Secretary to fulfill the requirements of subsections (a)(2) and (a)(3) of this section must be with persons, or Federal or non-Federal governmental entities whose lands or interests in lands are located adjacent to the Colorado River in the State of California who do not hold rights to Colorado River water or whose rights are insufficient to meet their present or anticipated future needs, as determined by the Secretary. Such persons, or Federal or non-Federal governmental en-

tities shall include the city of Needles, the town of Winterhaven, and other domestic, municipal, industrial, and recreational water users along the Colorado River in the State of California.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the construction of the Lower Colorado Water Supply Project [through September 30, 1991, the sum of $1,800,000, such sums to remain available until expended. There is further authorized to be appropriated for each of the fiscal years through September 30, 1991, the sum of $100,000 for the operation, maintenance, and replacement of that portion of the project used to supply] *the sum of $1,800,000 plus or minus such amounts, if any, as may be justified by reason of ordinary cost indices applicable to the types of construction involved therein and in addition thereto such sums as may be required for operation, maintenance and replacement of that portion of the project used to supply domestic,* municipal, industrial, or recreational water supplies for lands managed by the Federal Government. No funds are authorized to be appropriated for payment of the operation, maintenance, or replacement costs allocated to non-Federal beneficiaries as determined by the study undertaken under authority of section 2(a)(1).

SEC. 4. SAVINGS PROVISION.

Nothing contained in this Act shall be construed to alter, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994, 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), or the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or streams or over any groundwater resources, or

(b) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 3269

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators MCCLURE and METZENBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], on behalf of Mr. MCCLURE and Mr. METZENBAUM, proposes an amendment numbered 3269.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Page 4, line 8, strike the period and insert: "on a current basis."

Page 4, line 8, following the period insert: "(4) The Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project.".

Page 4, line 23, following "struction" insert: "through September 30, 1993".

Page 5, line 16, insert the following new section and renumber the existing section 4 as section 5:

SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

"The Secretary is authorized to accept monetary contributions from the City of Needles and other incorporated cities for the construction of project features of the Lower colorado Water Supply Project allocated to the provision of water supplies to the City of Needles *and other incorporated cities: Provided,* That, such contributions shall be credited towards the reimbursible costs to be repaid by the City of Needles *and other incorporated cities* pursuant to the contracts entered into pursuant to section 2 of this Act. Such contribution by the City of Needles *and other incorporated cities* shall be contributed during the construction of the appropriate project features and shall constitute twenty percent of the costs of such project features allocated to the City of Needles *and other incorporated cities* for repayment.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3269) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The amendments were engrossed and the bill was read the third time.

The bill (H.R. 5028), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTABLISHMENT OF A NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1028, S. 1209, to establish the National Commission to Prevent Infant Mortality.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1209) to establish the National Commission to Prevent Infant Mortality.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission to Prevent Infant Mortality".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that:

(1) The United States ranked seventeenth in the world in 1982 with an infant mortality rate of eleven and two-tenths deaths per thousand live births, a higher rate than many developed nations of the world.

(2) The infant mortality rate in some areas of the United States is twice the national rate.

(3) The main cause of a high infant mortality rate is low birthweight. Some 6.7 per centum of all infants born in the United States are of low birthweight.

(4) Inadequate prenatal care is associated with an increased risk of low birthweight. Some twenty-five percent of all pregnant women in the United States do not begin prenatal care until after the first three months of pregnancy, if at all.

(5) In certain areas throughout the United States, there exist barriers to medical services, nutritional support, educational opportunities, and financial support for adequate health care for pregnant mothers and infants. The absence of needed support services during prenatal care, labor and delivery, and post-partum care through the age of one year contributes substantially to a high national infant mortality rate.

(6) Our Nation, which benefits from many diverse governmental and private resources, has a patchwork, uncoordinated, and little understand approach to the delivery of services associated with preventing infant mortality.

(7) The Congress and the President can act to prevent infant mortality and the incidence of low birthweight infants by establishing a commission by law, whose purpose shall be to address respective governmental and private roles in the delivery of services associated with preventing infant mortality, and to recommend actions designed to change and improve the Nation's comprehensive approach to this national problem.

DEFINITION

SEC. 3. For the purposes of this Act, the term "infant mortality" refers to the number of infants born alive but who die before their first birthday.

ESTABLISHMENT OF A NATIONAL COMMISSION

SEC. 4. (a) To accomplish the purpose set forth in section 2 of this Act there is established the National Commission to Prevent Infant Mortality (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of fifteen members, as follows:

(1) Two members of the Senate, one to be selected by the majority leader of the

Senate, the other to be selected by the minority leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House, the other to be selected by the minority leader of the House.

(3) Three members from representatives of State and local government; to be selected by the President and no more than two of whom shall be members of the same political party. One shall be a Governor; one shall be a State legislator; and one shall be a representative of local government.

(4) The Secretary of Health and Human Services shall be a member.

(5) The Comptroller General of the United States shall be a member.

(6) Six at large members, with demonstrated expertise in maternal and child health, shall be jointly selected by the majority leader of the Senate and the Speaker of the House.

(c) The Commission shall select a Chairperson and Vice Chairperson from among its members.

(d) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) The Commission shall meet at the call of the Chairperson.

(f) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall:

(1) Identify and examine comprehensively Federal, State, local, and private resources which impact infant mortality, including but not limited to—

(A) the effectiveness and adequacy of programs such as the Supplemental Feeding Program for Women, Infants, and Children; the Maternity and Infant Care Program; the Improved Pregnancy Outcome Program; the Maternal and Child Health Block Grant; Community Health Centers; prepregnancy services and other programs that increase access to prenatal and postnatal education, care, and nutrition;

(B) the effectiveness of current Federal and State policies under the Medicaid Program to ensure adequate access to prenatal and postnatal care for low-income pregnant women and mothers;

(C) the role of income maintenance and other programs that impact infant mortality such as Aid to Families With Dependent Children and Federal housing subsidies; and

(D) the adequacy of current Federal and State efforts to enable an appropriate distribution of properly trained health care professionals to provide comprehensive maternal and child health services.

(2) Identify current financial, intergovernmental, and within the Federal Government, interagency barriers to the health care needed to prevent high infant mortality.

(3) Review recommendations made in recent regional and national reports that promote the health status of childbearing women and their infants and carry forward such recommendations as deemed appropriate.

(b) The Commission shall—

(1) recommend a national policy designed to change and improve the current approach to preventing infant [mortality. Such recommendations shall include] *mortality, including recommendations concerning* appropriate roles for the Federal Government, States, local governments, and private institutions;

(2) recommend to the Congress and the President what specific changes are needed within Federal laws and Federal programs to achieve an effective Federal role in preventing infant mortality; and

(3) present such recommendations to the President, the Speaker of the House, and the majority leader of the Senate no later than one year after enactment of this Act.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission, or at its direction, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. [Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.] Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission, subcommittee, or member thereof.

[(b) The Commission may require by subpoenas the attendance and testimony of such witness and production of such materials as the Commission may deem advisable.]

(b) The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) To carry out this Act, the Commission may enter into such contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Contracts and other arrangements may be entered into under this subsection with or without consideration or bond.

(d) The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

COMMISSION STAFF

SEC. 8. (a) The Chairperson and Vice Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the Commission.

(b) The Commission may appoint and terminate the executive director selected under subsection (a) and such other personnel as it considers appropriate to assist in the performance of its duties under this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such executive director and other personnel without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay [rates.] *rates, except that the rate of pay for such executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.*

(c) Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to coflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment of receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(d) Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of such title.

SUNSHINE PROVISION

SEC. 9. The Commission shall establish procedures to ensure its proceedings are open to the public to the maximum extent practicable.

TERMINATION OF THE COMMISSION

[SEC. 9.] *Sec. 10.* Ninety days after the Commission submits its recommendations as required by section 5(b)(3) the Commission shall terminate.

AUTHORIZATION OF APPROPRIATIONS

[SEC. 10.] *Sec. 11.* There are authorized to be appropriated to the Commission [such sums as may be necessary to carry out this Act] *$1,000,000. Amounts appropriated under this section shall remain available until the day on which the Commission terminates under section 10.*

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

INTERFERENCE TO THE BROADCASTS OF VOICE OF AMERICA AND RFE/RL, INCORPORATED

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Concurrent Resolution 391, dealing with the Voice of America, now being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resoluton (H. Con. Res. 391) calling on the Governments of the Soviet

Union, Poland, and Czechoslovakia to cease activities causing harmful inteference to the broadcasts of the Voice of America and RFE/RL, Incorporated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SIMON. Mr. President, on August 12, 1986, Senators HATCH, DIXON, LAXALT, RIEGLE, HATFIELD, and I submitted Senate Concurrent Resolution 160, expressing the sense of Congress that the jamming of radio broadcasting is contrary to the best interests of the people of the world and should be terminated, and urging the President to try to negotiate an end to this practice with the Soviet Union. Our resolution has 21 cosponsors.

Most of those who cosponsored our concurrent resolution also signed a letter to Mr. Charles Z. Wick, Director of the United States Information Agency, urging him to use his good offices to increase awareness of Soviet jamming and the ill will it creates internationally. This letter was sent to coincide with the sixth anniversary of the resumption of Soviet jamming of the Voice of America on August 20, 1986.

The House of Representatives passed a slightly different version, House Concurrent Resolution 391, which calls on Poland and Czechoslovakia, in addition to the U.S.S.R., to cease jamming Western radio broadcasts, with special reference to the Voice of America, Radio Free Europe, and Radio Liberty. I am pleased to join with my colleagues today in bringing up House Concurrent Resolution 391 for Senate consideration, because I believe that this measure will go a long way to expressing Senate dissatisfaction with Soviet and East European jamming practices.

These harmful activities set back East-West dialog and lead us away from understanding each other's concerns. We are not trying to propagandize. Our radios inform. They get out the news where none exists. They present a variety of Western views on issues of concern to the people of the Soviet Bloc. I hope that General Secretary Mikhail Gorbachev realizes just how counterproductive his jamming practices are, and that an agreement can be concluded soon on removing this barrier between the people of East and West.

The PRESIDING OFFICER. Is there further debate on the concurrent resolution?

If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 391) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GOVERNMENT SECURITIES ACT OF 1986

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2032.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 2032) entitled "An Act to amend the Securities Exchange Act of 1934 to provide improved protection for investors in the government securities market, and for other purposes", with the following amendment:

In lieu of the matter inserted by the aforesaid amendment, insert:

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act of 1986".

(b) FINDINGS.—The Congress finds that transactions in government securities are affected with a public interest which makes it necessary—

(1) to provide for the integrity, stability, and efficiency of such transactions and of matters and practices related thereto;

(2) to impose adequate regulation of government securities brokers and government securities dealers generally; and

(3) to require appropriate financial responsibility, recordkeeping, reporting, and related regulatory requirements;

in order to protect investors and to insure the maintenance of fair, honest, and liquid markets in such securities.

TITLE I—GOVERNMENT SECURITIES BROKERS AND DEALERS

SEC. 101. ESTABLISHMENT OF GOVERNMENT SECURITIES REGULATORY AUTHORITY.

The Securities Exchange Act of 1934 (hereafter in this title referred to as "the Act") is amended by inserting after section 15B (15 U.S.C. 78o-4) the following new section:

"GOVERNMENT SECURITIES BROKERS AND DEALERS

"SEC. 15C. (a)(1)(A) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer or a financial institution) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with paragraph (2) of this subsection.

"(B)(i) It shall be unlawful for any government securities broker or government securities dealer that is a registered broker or dealer or a financial institution to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer has filed with the appropriate regulatory agency written notice that it is a government securities broker or government securities dealer. When a government securities broker or government securities dealer ceases to act as such it shall file with the appropriate regulatory agency a written notice that it is no longer acting as a government securities broker or government securities dealer.

"(ii) Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a financial institution and any persons associated with such government securities broker or government securities dealer as the Board of Governors of the Federal Reserve System shall, by rule, after consultation with each appropriate regulatory agency (including the Commission), prescribe as necessary or appropriate in the public interest or for the protection of investors. Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a registered broker or dealer and any persons associated with such government securities broker or government securities dealer as the Commission shall, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(iii) Each appropriate regulatory agency (other than the Commission) shall make available to the Commission the notices which have been filed with it under this subparagraph, and the Commission shall maintain and make available to the public such notices and the notices it receives under this subparagraph.

"(2) A government securities broker or a government securities dealer subject to the registration requirement of paragraph (1)(A) of this subsection may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of filing of such application (or within such longer period as to which the applicant consents), the Commission shall—

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

The Commission shall grant the registration of a government securities broker or a government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or

course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any government securities broker or government securities dealer registered or having filed notice under paragraph (1) of this subsection or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary'), by rule or order, upon the Secretary's own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers, from any provision of subsection (a), (b), or (d) of this section or the rules thereunder, if the Secretary finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.

"(b)(1) The Secretary shall propose and adopt rules to effect the purposes of this title with respect to transactions in government securities effected by government securities brokers and government securities dealers as follows:

"(A) Such rules shall provide safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities subject to repurchase agreements and in similar transactions.

"(B) Such rules shall require every government securities broker and government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the Secretary specifies, be certified) and information concerning its financial condition as required by such rules.

"(C) Such rules shall require records to be made and kept by government securities brokers and government securities dealers and shall specify the periods for which such records shall be preserved.

"(2) Rules promulgated and orders issued under this section shall—

"(A) be designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, liquidity, and efficiency of the market for government securities, investors, and the public interest; and

"(B) not be designed to permit unfair discrimination between customers, issuers, government securities brokers, or government securities dealers, or to impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(3) In promulgating rules and issuing orders under this section, the Secretary—

"(A) may appropriately classify government securities brokers and government securities dealers (taking into account relevant matters, including types of business done, nature of securities other than government securities purchased or sold, and character of business organization) and persons associated with government securities brokers and government securities dealers;

"(B) may determine, to the extent consistent with paragraph (2) of this subsection and with the public interest, the protection of investors, and the purposes of this title, not to apply, in whole or in part, certain rules under this section, or to apply greater, lesser, or different standards, to certain classes of government securities brokers, government securities dealers, or persons associated with government securities brokers or government securities dealers;

"(C) shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers; and

"(D) shall consult with and consider the views of the Commission and the Board of Governors of the Federal Reserve System, except where the Secretary determines that an emergency exists requiring expeditious or summary action and publishes its reasons for such determination.

"(4) If the Commission or the Board of Governors of the Federal Reserve System comments in writing on a proposed rule of the Secretary that has been published for comment, the Secretary shall respond in writing to such written comment before approving the proposed rule.

"(5) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule under this section.

"(c)(1) With respect to any government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section—

"(A) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) Pending final determination whether registration of any government securities broker or government securities dealer shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered government securities broker or registered government securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered government securities broker or registered government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(C) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspend for a period not exceeding 12 months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(2)(A) With respect to any government securities broker or government securities dealer which is not registered or required to register under subsection (a)(1)(A) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may, in the manner and for the reasons specified in paragraph (1)(A) of this subsection, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or bar from acting as a government securities broker or government securities dealer any such government securities broker or government securities dealer, and may sanction any person associated with such government securities broker or government securities dealer in the manner and for the reasons specified in paragraph (1)(C) of this subsection.

"(B) In addition, where applicable, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), or section 407 of the National Housing Act (12 U.S.C. 1730), enforce compliance by such government securities broker or government securities dealer or any person associated with such government securities broker or government securities dealer with the provisions of this section and the rules thereunder.

"(C) For purposes of subparagraph (B) of this paragraph, any violation of any such provision shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, or section 407(e) or 407(f) of the National Housing Act, and the customers of any such government securities broker or government securities dealer shall be deemed, respectively, 'depositors' as that term is used in section 8(c) of the Federal Deposit Insurance Act, 'savings account

holders' as that term is used in section 5(d)(3) of the Home Owners' Loan Act of 1933, or 'insured members' as that term is used in section 407(f) of the National Housing Act.

"(D) Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities broker or government securities dealer under any other provision of law.

"(E) Each appropriate regulatory agency (other than the Commission) shall promptly notify the Commission after it has imposed any sanction under this paragraph on a government securities broker or government securities dealer, or a person associated with a government securities broker or government securities dealer, and the Commission shall maintain, and make available to the public, a record of such sanctions and any sanctions imposed by it under this subsection.

"(3) It shall be unlawful for any person as to whom an order entered pursuant to paragraph (1) or (2) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the appropriate regulatory agency, and it shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with it without the consent of the appropriate regulatory agency, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(d)(1) All records of a government securities broker or government securities dealer are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the appropriate regulatory agency for such government securities broker or government securities dealer as such appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Information received by any appropriate regulatory agency or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary or the recipient agency to the Commission, the Secretary, any appropriate regulatory agency, and any self-regulatory organization.

"(e)(1) It shall be unlawful for any government securities broker or government securities dealer registered or required to register with the Commission under subsection (a)(1)(A) to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security, unless such government securities broker or government securities dealer is a member of a national securities exchange registered under section 6 of this title or a securities association registered under section 15A of this title.

"(2) The Commission, after consultation with the Secretary, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any government securities broker or government securities dealer or class of government securities brokers or government securities dealers specified in such rule or order.

"(f)(1) Nothing in this section except paragraph (2) of this subsection shall be construed to impair or limit the authority under any other provision of law of the Commission, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, the Secretary of Housing and Urban Development, and the Government National Mortgage Association.

"(2) Notwithstanding any other provision of this title, the Commission shall not have any authority to make investigations of, require the filing of a statement by, or take any other action under this title against a government securities broker or government securities dealer, or any person associated with a government securities broker or government securities dealer, for any violation or threatened violation of the provisions of this section or the rules or regulations thereunder, unless the Commission is the appropriate regulatory agency for such government securities broker or government securities dealer. Nothing in the preceding sentence shall be construed to limit the authority of the Commission with respect to violations or threatened violations of any provision of this title other than this section, or the rules or regulations under any such other provision.

"(g)(1) The authority of the Secretary to issue orders and to propose and adopt rules under this section shall terminate on October 1, 1991.

"(2) All orders and rules—

"(A) which have been issued or adopted by the Secretary, and

"(B) which are in effect on the date specified in paragraph (1),

shall continue in effect according to their terms.".

SEC. 102. CONFORMING AMENDMENTS.

(a) DEFINITION OF EXEMPTED SECURITY.—Paragraph (12) of section 3(a) of the Act (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12)(A) The term 'exempted security' or 'exempted securities' includes—

"(i) government securities, as defined in paragraph (42) of this subsection;

"(ii) municipal securities, as defined in paragraph (29) of this subsection;

"(iii) any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian;

"(iv) any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph; and

"(v) such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.

"(B)(i) Notwithstanding subparagraph (A)(i) of this paragraph, government securities shall not be deemed to be 'exempted securities' for the purposes of section 17A of this title.

"(ii) Notwithstanding subparagraph (A)(ii) of this paragraph, municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A (other than subsection (g)(3)), and 17A of this title.

"(C) For purposes of subparagraph (A)(iv) of this paragraph, the term 'qualified plan' means (i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (ii) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (iii) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (II) is a plan funded by an annuity contract described in section 403(b) of such Code.".

(b) DEFINITION OF APPROPRIATE REGULATORY AGENCY.—Section 3(a)(34) of the Act is amended—

(1) by inserting after paragraph (F) thereof the following new paragraph:

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

"(iv) the Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association;

"(v) the Federal Savings and Loan Insurance Corporation, in the case of an institution insured by the Federal Savings and Loan Insurance Corporation (other than a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association);

"(vi) the Commission, in the case of all other government securities brokers and government securities dealers."; and

(2) by inserting ", and the term 'District of Columbia savings and loan association' means any association subject to examination and supervision by the Federal Home Loan Bank Board under section 8 of the Home Owners' Loan Act of 1933" before the period ending the last sentence thereof.

(c) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (B)—

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(2) in subparagraph (C)—

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(d) ADDITIONAL DEFINITIONS.—Section 3(a) of such Act (15 U.S.C. 78c(a)) is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means—

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

"(D) for purposes of sections 15C and 17A, any put, call, straddle, option, or privilege on a security described in subparagraph (A), (B), or (C) other than a put, call, straddle, option, or privilege—

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include—

"(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(44) The term 'government securities dealer' means any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection;

"(C) any bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise; or

"(D) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(45) The term 'person associated with a government securities broker or government securities dealer' means any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), and any other employee of such government securities broker or government securities dealer who is engaged in the management, direction, supervision, or performance of any activities relating to government securities, and any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer.

"(46) The term 'financial institution' means (A) a bank (as such term is defined in paragraph (6) of this subsection), (B) a foreign bank, and (C) an insured institution (as such term is defined in section 401 of the National Housing Act).

"(48) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15 or 15B of this title, except that in paragraph (3) of this subsection and sections 6 and 15A the term means such a broker or dealer and a government securities broker or government securities dealer registered or required to register pursuant to section 15C(a)(1)(A) of this title.".

(e) ENFORCEMENT AND DISCIPLINE.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) in paragraph (4)(A), by inserting "or with any other appropriate regulatory agency" after "Commission" the first time it appears therein;

(2) in paragraph (4)(B), by inserting in clause (ii) thereof "government securities broker, government securities dealer," after "municipal securities dealer,";

(3) in paragraph (4)(C), by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer,"; and

(4) in paragraph (8)—

(A) by striking out "any broker or dealer required to register pursuant to this title" and inserting in lieu thereof "any registered broker or dealer"; and

(B) by striking out "an exempted security".

(f) NET CAPITAL.—Section 15(c)(3) of such Act (15 U.S.C. 78o(c)(3)) is amended—

(1) by inserting "(other than a government securities broker or government securities dealer, except a registered broker or dealer)" after "dealer"; and

(2) by inserting "(except a government security)" after "exempted security".

(g) REGISTERED SECURITIES ASSOCIATIONS.—(1) Section 15A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(f)) is amended to read as follows:

"(f)(1) Except as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.

"(2) A registered securities association may adopt and implement rules applicable to members of such association (A) to enforce compliance by registered brokers and dealers with applicable provisions of this title and the rules and regulations thereunder, (B) to provide that its members and persons associated with its members shall be appropriately disciplined, in accordance with subsections (b)(7), (b)(8), and (h) of this section, for violation of applicable provisions of this title and the rules and regulations thereunder, (C) to provide for reasonable inspection and examination of the books and records of registered brokers and dealers, (D) to provide for the matters described in paragraphs (b)(3), (b)(4), and (b)(5) of this section, (E) to implement the provisions of subsection (g) of this section, and (F) to prohibit fraudulent, misleading, deceptive, and false advertising.

"(3) Nothing in subsection (b)(6) or (b)(11) of this section shall be construed to permit a registered securities association to make rules concerning any transaction by a registered broker or dealer in a municipal security.".

(2) Section 15A(g) of such Act (15 U.S.C. 78o–3(g)) is amended—

(A) by inserting after paragraph (3)(C) the following:

"(D) Nothing in subparagraph (A), (B), or (C) of this paragraph shall be construed to permit a registered securities association to deny membership to or condition the membership of, or bar any person from becoming associated with or condition the association of any person with, a broker or dealer that engages exclusively in transactions in exempted securities.";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4)(A) A registered securities association may deny membership to, or condition the membership of, a government securities broker or government securities dealer if such government securities broker or government securities dealer (i) does not meet standards of financial responsibility under rules adopted pursuant to section 15C(b)(1)(A) of this title, or (ii) has engaged and there is a reasonable likelihood that it will again engage in any conduct or practice which would subject such government securities broker or government securities dealer to sanctions under section 15C(c) of this title. A registered securities association may establish procedures including examination of the books and records of government securities brokers and government securities dealers to verify compliance with the provisions of this title and the rules thereunder.

"(B) A registered securities association may bar any person from becoming associated with a member or condition the association of a person with a member (i) if such person has engaged in any conduct or practice and there is a reasonable likelihood that such person will again engage in any conduct or practice which would subject such person to sanctions under section 15C(c) of this title, or (ii) if such person does not agree to supply such association with such information with respect to its relationship and dealings with the member as may be specified in the rules of the association and to permit examination of its books and records to verify the accuracy thereof.".

(h) FILING OF AND ACCESS TO DOCUMENTS.—Section 17(c) of the Act (15 U.S.C. 78q(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission or the appropriate regulatory agency may specify that documents required to be filed pursuant to this subsection with the Commission or such agency, respectively, may be retained by the originating clearing agency, transfer agent, or municipal securities dealer, or filed with another appropriate regulatory agency. The Commission or the appropriate regulatory agency (as the case may be) making such a specification shall continue to have access to the document on request.".

(i) LOST AND STOLEN SECURITIES.—Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)) is amended—

(1) in paragraph (1) by inserting "government securities broker, government securities dealer," after "municipal securities dealer,";

(2) in paragraph (1)(A), by inserting "and, in the case of government securities, to the Secretary of the Treasury" after "Commission" the second time it appears; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding the following new subparagraph:

"(B) In order to carry out the authority under paragraph (1) of this subsection, the Commission or its designee and the Secretary of the Treasury shall enter into an agreement whereby the Commission or its designee will receive, store, and disseminate information in the possession, and which comes into the possession, of the Department of the Treasury in regard to missing, lost, counterfeit, or stolen securities.".

(j) BURDEN ON COMPETITION; PUBLIC RULEMAKING REQUIREMENTS.—Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "and the Secretary of the Treasury" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Secretary's" after "Commission's" in paragraph (2);

(3) by inserting "and the Secretary" after "Commission" the first, second, and fourth places it appears in paragraph (3); and

(4) by inserting "or the Secretary" after "Commission" the third place it appears in paragraph (3).

(k) JUDICIAL REVIEW OF ORDERS AND RULES.—Section 25(d)(1) of the Act (15 U.S.C. 78y(d)(1)) is amended by inserting before the period at the end thereof the following: "and the Secretary of the Treasury insofar as he is acting pursuant to section 15C of this title".

(l) INVESTMENT COMPANIES: DISQUALIFICATIONS.—Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by striking out paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or";

(2) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(2); and

(3) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(3).

(m) INVESTMENT ADVISERS: DISQUALIFICATIONS.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by striking out "or fiduciary" in subsection (e)(2)(B) and inserting in lieu thereof "government securities broker, government securities dealer, fiduciary, or entity or person required to be registered under the Commodity Exchange Act";

(2) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."; and

(3) by inserting "the Commodity Exchange Act," after "this title," in paragraph (4) of subsection (e).

SEC. 103. STUDIES AND RECOMMENDATIONS WITH RESPECT TO EXTENSION OF TREASURY AUTHORITY.

(a) TASK FORCE RECOMMENDATION.—The Secretary of the Treasury, together with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall evaluate the effectiveness of the rules promulgated pursuant to section 15C of the Securities Exchange Act of 1934 in effecting the purposes of such Act, and shall submit to the Congress, not later than October 1, 1990, their recommendation with respect to the extension of the Secretary's authority under such section and such other recommendations as they may consider appropriate.

(b) COMPTROLLER GENERAL STUDY AND RECOMMENDATIONS.—The Comptroller General shall conduct a study of the regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this Act in protecting investors and in effecting the purposes described in section 15C(b)(2), and shall submit to the Congress, not later than March 31, 1990, his recommendations with respect to the extension of the Secretary's authority under such section and such other recommendations as he may consider appropriate.

SEC. 104. STUDY OF TRADING SYSTEM FOR GOVERNMENT SECURITIES.

(a) REQUIREMENTS FOR STUDY.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve, the Secretary of the Treasury, and the Commission, shall study the nature of the current trading system in the secondary market for government securities, including—

(1) the extent and form of availability of bids and asks for government securities transactions on a real time basis;

(2) the extent and form of the availability of government securities brokers' services in the secondary market; and

(3) whether quotations for government securities and the services of government securities brokers are available on terms which are consistent with the public interest, the protection of investors, and the purposes of this title.

(b) PUBLIC HEARINGS.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) REPORT AND RECOMMENDATIONS.—The report of the Comptroller General shall be submitted to the Congress no later than 6 months after the date of enactment of this Act.

SEC. 105. SECURITIES AND EXCHANGE COMMISSION LEGISLATION STUDY.

(a) GENERAL REQUIREMENTS.—The Securities and Exchange Commission is authorized and directed to make a study of the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) for securities guaranteed by banks, and of the use of insurance policies to guarantee securities. Such study shall include an analysis of—

(1) the impact of the guarantee provision of such section 3(a)(2) on investor protection and the public interest;

(2) the impact of the guarantee provision of such section 3(a)(2) on competition between banks and insurance companies and between domestic and foreign guarantors;

(3) whether, and under what circumstances, debt securities guaranteed by insurance policies should be exempt from registration under the Securities Act of 1933;

(4) an analysis of the impact of such an exemption on investor protection and the public interest; and

(5) such other issues as the Commission deems relevant.

(b) CONSULTATION.—In conducting the study required by subsection (a), the Commission shall consult with and solicit comment from the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and other Federal bank regulatory agencies.

(c) REPORT.—The Securities and Exchange Commission shall, on or before 6 months after the date of enactment of this Act, submit a report to the Congress containing—

(1) the results of its study under this section;

(2) the actions it proposes to take on the basis of its study; and

(3) recommendations for legislation.

TITLE II—DEPOSITORY INSTITUTIONS

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENT TO CHAPTER 31 OF TITLE 31, UNITED STATES CODE.—Section 3121 of title 31, United States Code, is amended by adding at the end thereof the following:

"(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

"(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

"(5) As used in this subsection—

"(A) 'depository institution' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(B) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(C) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(D) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.".

(b) AMENDMENTS TO CHAPTER 91 OF TITLE 31, UNITED STATES CODE.—Chapter 91 of title 31, United States Code, is amended—

(1) by adding at the end thereof the following:

"§ 9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers

"(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration.

"(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

"(e) As used in this subsection—

"(1) 'depository institution' has the meaning stated in clauses (i) through (vi) of subparagraph 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(2) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(3) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(4) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."; and

(2) by adding at the end of the chapter analysis the following:

"9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers.".

TITLE III—TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 301. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) EFFECT ON PENDING ADMINISTRATIVE PROCEEDINGS.—The provisions of this Act shall not affect any proceedings pending on the effective date of this Act.

(b) EFFECT ON PENDING JUDICIAL PROCEEDINGS.—The provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) DISCRETION OF THE FEDERAL RESERVE BANK OF NEW YORK.—Nothing in this Act shall be construed to limit or impair the discretion or authority of the Federal Reserve Bank of New York to require reports or establish terms and conditions in connection with the Bank's relationship with any government securities broker or government securities dealer, including a primary dealer.

(d) JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION.—Nothing in this Act affects the jurisdiction of the Commodity Futures Trading Commission as set forth in the Commodity Exchange Act over trading of commodity futures contracts and options on such contracts involving government securities.

TITLE IV—EFFECTIVE DATES

SEC. 401. GENERAL EFFECTIVE DATES.

Except as provided in section 402, this Act and the amendments made by this Act shall take effect 270 days after the date of enactment of this Act.

SEC. 402. EFFECTIVE DATE AND REQUIREMENTS FOR REGULATIONS.

Notwithstanding section 401, the Secretary of the Treasury and each appropriate regulatory agency shall, within 120 days after the date of enactment of this Act, publish for notice and public comment such regulations as are initially required to implement this Act, which regulations shall become effective as temporary regulations 210 days after the date of enactment of this Act and as final regulations not later than 270 days after the date of enactment of this Act.

SEC. 403. REGISTRATION DATE.

No person may continue to act as a government securities broker or government securities dealer after 270 days after the date of enactment of this Act unless such person has been registered or has provided notice to the Commission or the appropriate regulatory agency as required by the amendment made by section 101 of this Act.

● Mr. GARN. Mr. President, for several years, savings institutions have been attempting to resolve a serious problem that is interfering with their ability to take full advantage of certain new powers they have been granted. Specifically, they have been impeded in their efforts to issue signature guarantees because of the unwillingness of stock transfer agents to accept signature guarantees from thrifts. There is no basis for this refusal, which continues notwithstanding advice from the SEC's Division of Market Regulation that discrimination among signature guarantors solely by reference to the

type of financial institutions issuing the guarantee appears to be inconsistent with State and Federal law. Although the SEC has attempted to resolve this situation on a voluntary basis, insufficient progress has been made.

Accordingly, the committee expects the SEC to move promptly to issue regulations to remedy this situation. These regulations should require that transfer agents apply the same reasonable standards to all institutions, including securities exchanges, banks, savings institutions, credit unions and similar institutions, in evaluating the acceptability of their signature guarantees. Regulatory agencies such as the SEC should exercise their regulatory authority to prevent the disparate treatment of thrift institutions with regard to signature guarantees.

Because savings institutions historically have been overwhelmingly mutual in form, their involvement with the SEC over the years has been minimal. This situation has been changing, however, as more and more thrifts have converted to stock charters in order to improve their capital positions, and as the industry has become more active in the capital markets generally. Although the Federal Home Loan Bank Board has primary responsibility for the securities regulation of thrifts, that agency basically follows SEC rules and procedures, and the SEC has direct securities jurisdiction over savings and loan holding companies. Nevertheless, the level of familiarity between the SEC and thrift institutions could be increased.

Given the well-known finanical problems of the savings institution industry, and significance of this industry for the Government and the public, it is extremely important that the SEC be cognizant of the impact of its actions on thrift institutions. While such institutions can participate in the public comment process associated with SEC rulemaking proceedings, we believe the need for increasing the degree of industry-agency understanding is sufficiently great to warrant creation by the SEC of a Savings Institutions Advisory Committee, and it is our expectation that the agency will act very promptly to establish one.

The Committee would consist of knowledgeable industry representatives who would meet with the SEC Chairman and Commissioners, as well as key SEC staff, on a regular basis to discuss matters of joint interest and importance, and should be large enough to assure diversity of membership—there should be at least two members from each of the twelve Federal Home Loan Bank districts.

It should be noted that the Federal Reserve Board for several years has had a body of this kind in place—the Thrift Industry Advisory Committee—and it has been very successful as a device for enhancing the quality of industry-agency communication.●

● Mr. D'AMATO. I would like to engage now in a brief colloquy with Senator GARN to establish legislative history on a point that has been of concern to me for some time. Specifically, I would like to establish that it is the sense of the Senate that it is extremely important given the problems besetting the thrift industry and that industry's increasing involvement with the SEC, that the SEC take steps to create a Savings Institutions Advisory Committee.

● Mr. GARN. I agree that such committee would do much in raising the level of familiarity between the SEC and the thrift industry, to the benefit of both as well as of the general public. The Federal Reserve Board established a body of this sort several years ago, the Thrift Industry Advisory Committee, which has been very successful as a device for improving the quality of industry-agency communications. Senator D'AMATO, could you give us some idea of how the committee you envision would operate?

● Mr. D'AMATO. Certainly, the committee would consist of knowledgeable thrift industry representatives who would meet with the SEC Chairman and Commissioners, as well as key SEC staff, on a regular basis to discuss matters of joint interest and importance. The committee should be large enough to assure diversity of membership, with at least two members from each of the 12 Federal Home Loan Bank districts.

● Mr. GARN. The idea of a committee is an excellent one. The Senate anticipates that the SEC should move very promptly to establish the Savings Institutions Advisory Committee in accordance with your description.

● Mr. D'AMATO. I would like at this time to engage in a colloquy with Senator GARN to establish legislative history on a point of considerable concern to me. Specifically, I would like to ask the Senator whether in his view adequate progress has been made in resolving the problem created by the unwillingness of stock transfer agents to accept savings institutions' signature guarantees.

● Mr. GARN. The answer is no. Despite the efforts of the SEC to achieve a voluntary end to this disparate treatment, very little improvement has occurred. There is simply no basis for the refusal of stock transfer agents to accept thrifts' signature guarantees, and I believe the time has come for the SEC to solve the problem by regulation.

● Mr. D'AMATO. I agree with the Senator. The SEC should use its authority to issue regulations that will assure that transfer agents apply the same reasonable standards to all institutions, including securities exchanges, banks, savings institutions, credit unions, and similar institutions, in evaluating the acceptability of their signature guarantees.

● Mr. GARN. The Senator is correct. This completely reflects the sense of the Senate on this issue, in my opinion. Regulatory agencies such as the SEC should use their regulatory authority to remedy the current inequities that exist with regard to the acceptability of signature guarantees.●

● Mr. D'AMATO. Mr. President, I rise to urge my colleagues to support the Government Securities Act of 1986. Passage of this legislation is the culmination of a process that began over a year ago. Each provision of the bill has been carefully crafted because this legislation will have a profound effect on the manner in which the Department of the Treasury finances and manages the Federal debt. The bill that we enact today will ensure that the market in U.S. Government securities, the largest securities market in the world, will remain the safest, the most efficient, stable, and liquid securities market in the world. Maintaining investor confidence and the integrity of the market in these securities is of paramount importance to the effective, low-cost financing of the national debt.

The importance of this legislation cannot be underestimated. Given the depth and breadth of the Government securities market, the Government Securities Act of 1986 is perhaps the most important Securities legislation since the enactment of the Securities Act of 1933—Securities Act—and the Securities Exchange Act of 1934—Exchange Act. The Government Securities Act of 1986 would provide, through an amendment to the Exchange Act, a comprehensive and coordinated pattern for the regulation of brokers, dealers, and financial institutions trading Government securities. The lack of Federal regulation of the conduct of Government securities professionals and the trading market for Government securities has encouraged the proliferation of fraudulent practices resulting in substantial losses to investors. Such a result presents a serious threat to the integrity of the capital-raising system upon which the U.S. Government relies to finance the Federal debt and to conduct monetary policy.

The market in U.S. Government securities is expanding, increasingly active, in recent years increasing volatile and, ironically, the least regulated securities market in this country. The expansion and volatility of the market has been driven by the amount of Federal debt to be financed, both new debt resulting from Government deficits and old debt that must be refinanced. The absence of a coordinated regulatory structure for this market generally, and specifically for unregis-

tered brokers and dealers, was cited in testimony before the Securities Subcommittee as a major factor in the recent failures of Government securities dealers. This legislation was necessitated by the failures of several unregistered Government securities dealers with losses to investors in exess of $1 billion.

Between July 1975 and April 1985, several failures of unregistered Government securities dealers have occurred. The failures include Financial Corp. of Kansas City, MO, 1975; Winters Government Securities, 1977; Drysdale Government Securities, 1982; Lombard-Wall, 1982; Comark, 1982; Lion Capital Group, Inc., 1984; and most recently E.S.M. Government Securities, Inc. and Bevill, Bresler & Schulman Asset Management Corp., 1985. All of the dealer failures occurred in firms outside of the Federal regulatory structure.

After extensive hearings that addressed the appropriate form of regulation of the Government securities markets, two legislative proposals—S. 936 and S. 1416—were introduced in the Senate. After these hearings and many hours of exhaustive study, debate, and analysis of these proposals by my colleagues, committee staff and representatives of the Federal regulatory agencies and Government securities industry, substantial amendments were made to S. 1416 by the time it was considered by the Senate Committee on Banking, Housing, and Urban Affairs.

As a result of the deliberations on this issue, the committee determined that legislation regulating the Government securities market must accomplish three purposes: First, the legislation should contain certain safeguards to maintain a fair and orderly market in Government securities; second, the regulation of the Government securities market should not adversely affect the liquidity and efficiency of the market; and third, the legislation should, where possible, rely upon existing regulation, since many Government securities brokers and dealers are already subject to some of Federal regulation. The legislation which we consider today is specifically designed to satisfy these requirements and to protect the public interest in the Government securities market. Because the legislation addresses identified weaknesses in the Government securities market, it would not result in excessive regulation that would impair the efficient operation of the market, increase the costs of financing the Federal debt or compromise the execution of domestic monetary policy.

On August 13, 1986, S. 1416—containing the committee amendment—was unanimously reported from the Banking Committee. The substance of S. 1416 was offered and accepted by the Senate as an amendment to H.R. 2032. Therefore, the language of S. 1416 as reported by the Senate Banking Committee was offered and passed as an amendment which struck the language of H.R. 2032 as passed by the House on September 17, 1986. H.R. 2032, containing the Senate amendment subsequently passed the Senate on September 16, 1986. The legislation that we consider this morning is, with a few modifications, almost identical to the bill that was passed by the Senate on September 16, 1986. These few modifications to H.R. 2032 as passed by the Senate are reflected in an amendment which was passed by the House under House Resolution 547 on October 6, 1986. House Resolution 546 provided for the concurrence of the House to amendments of the Senate to H.R. 2032 with an amendment.

Without providing an exhaustive explanation of the House amendment before the Senate, I think an explanation of some of the most important provisions of H.R. 2032, in its present form, is required.

In its present form the legislation adds a new section to the Exchange Act, section 15C, and provides for various conforming amendments to the Exchange Act, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. The legislation requires currently unregulated Government securities brokers and dealers to register with the Commission and other Government securities brokers and dealers, specifically registered brokers and dealers and financial institutions, to file a notice with their appropriate regulatory agencies.

In addition, the bill grants specific rulemaking authority to the Secretary of the Treasury to adopt rules regarding: financial responsibility including capital adequacy, custody and use of customers' securities, and the transfer and control of Government securities in repurchase transactions; financial statements; and recordkeeping exemptions from registration. The enforcement of these rules would be the responsibility of the Commission as to currently registered brokers and dealers and those Government securities brokers and dealers required to register with the Commission under the bill. The enforcement of the rules promulgated by the Secretary would be the responsibility of other appropriate regulatory agencies as to banks and other institutions specified in the bill.

Government securities would continue to be treated as exempted securities for purposes of the Exchange Act except for section 17A of the Exchange Act. Therefore, a registered securities association would have no new authority with respect to Government securities brokers, Government securities dealers, or Government securities transactions except as specifically authorized in the bill or as already exists under current law.

The legislation invests the Secretary with the rulemaking authority due to the expertise of the Treasury in these markets and to ensure that the rules will accomplish the purposes of the bill. I am confident that the Secretary possesses the exquisite expertise and the commitment to pursue fully and faithfully the rulemaking authority granted in this legislation.

Since rulemaking authority is vested in the Secretary, the establishment of a new self-regulatory organization as required by the original House bill becomes unnecessary. Moreover, the legislation affords significant advantages over granting rulemaking authority to an existing self-regulatory organization such as the Municipal Securities Rulemaking Board [MSRB]. The creation of a new self-regulatory organization would fail to take advantage of existing regulatory structures and would be unnecessarily duplicative and expensive. To grant rulemaking authority to the MSRB, or a self-regulatory organization created specifically to regulate the Government securities market, would be unwarranted.

The legislation would grant to the Secretary specific rulemaking authority in the areas of financial responsibility and related practices, financial statements, recordkeeping, and exemptions from registration. Rulemaking authority in additional areas does not appear to be necessary to address the weaknesses that have been identified in the Government securities market. The Secretary, in exercising rulemaking authority under the bill, will account for the differences between types of transactions engaged in by brokers or dealers participating solely in the markets for securities of Government agencies and Government-sponsored corporations and transactions of brokers or dealers participating in the general market in Government securities.

In adopting rules under section 15C, the Secretary must consider the adequacy of rules already applicable to Government securities brokers and Government securities dealers. The provisions of section 15C(a)(4) together with section 15C(b)(3) authorize the Secretary to exempt Government securities brokers or dealers from the rules under section 15C in areas where such brokers or dealers already are adequately regulated. As a result, the Secretary should be able to avoid applying duplicative and unnecessarily costly requirements to brokers and dealers registered under section 15 of the Exchange Act and financial institutions, which are already subject to Federal regulations in areas covered by section 15C(b)(1). This exemptive authority is intended to avoid, to the maximum extent consistent with

achieving the objectives of the bill, subjecting registered broker-dealers and financial institutions to conflicting or unnecessary regulation in the areas of financial responsibility or recordkeeping.

To preserve flexibility and to guard against the negative effects on the efficiency and liquidity of the government securities markets, the Secretary would also be empowered to exempt any Government securities broker or dealer or class of Government securities broker or dealer from registration or any rules or regulations that the Secretary promulgates pursuant to this legislation.

The business relationship the Federal Reserve Bank of New York has with primary dealers—and those seeking to become primary dealers—is protected by this legislation.

Although no formal conference was convened to reconcile the differences between H.R. 2032 as passed by the House and H.R. 2032 containing the Senate amendment—which passed the Senate on September 16, 1986—staffs from both bodies conducted extensive negotiations and ultimately reconciled the differences between the two bills. No formal conference was required due to the acceptance of most of the Senate amendments to H.R. 2032. I thank my colleagues in the Senate and the House, especially Congressman DINGELL, for their efforts to resolve their differences in such an expeditious and considerate manner.

Since no formal conference met, thereby obviating the need for a conference report, an explanation of those few House amendments made in to the Government Securities Act, as passed by the Senate, is required. The statement of the chairman and ranking minority member of the Banking Committee and the chairman and ranking minority member of the Securities Subcommittee which appears at the end of my remarks identifies those few provisions of the Government Securities Act, as passed by the Senate, which were amended by the House in accordance with House Resolution 547. As detailed in the statement, these amended provisions affect: First, the duration of the Secretary's rulemaking authority; second, the scope of the rulemaking authority; third, the registration requirements for primary dealers; fourth, the registration requirements for clearing agencies; and fifth, inclusion of a study regarding the blind broker trading system that was contained in H.R. 2032 as passed by the House on September 17, 1986. For those provisions unique to the Senate bill that were not modified by the House amendment in accordance with House Resolution 574, the Senate report—Report 99-426—which accompanied S. 1416 explains those provisions of the Government Securities Act as passed by the Senate on September 16, 1986.

While the statement that appears at the conclusion of my remarks is intended to provide guidance regarding the House amendment to the bill approved by the Senate on September 16, 1986, I would like to explain the significance of a few of these amendments to the bill as reported by the Senate. Briefly, I would like to address five points.

First, the provision in the legislation addressing the registration of clearing agencies is not designed to single out one specific company that would be required to register under section 17A of the Exchange Act. In providing for the applicability of the registration and other requirements of section 17A of the Securities Exchange Act to clearing agencies for Government securities, the Commission has broad authority under section 17A—as well as under section 23—to take into account the distinctions between membership clearing agencies and proprietary clearing agencies. In the report accompanying S. 249, the Securities Act Amendments of 1975, the legislation which first provided for the regulation of clearing agencies, the committee stated—at pages 124-125—that:

> The rules of the clearing agency must assure fair representation of its shareholders (or members) and participants in the decision making process of the clearing agency. (17A(b)(3)(c)) The reference to shareholders or members makes it clear that the bill establishes no norm as to whether clearing agencies should or should not be operated for profit. The bill makes no attempt to set up particular standards of representation or participation. Rather, it provides that the Commission must assure itself that the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders or members.

In light of the foregoing, the Commission, under the expanded scope of section 17A, should recognize distinctions between proprietary and membership clearing agencies, and exercise its discretionary authority to interpret and adapt the requirements of section 17A, where appropriate, to proprietary clearing agencies for Government securities.

Second, new section 15C(b)(2) of the Securities Exchange Act of 1934, as added by the bill, provides certain guidelines regarding the nature of the rules to be proposed and adopted by the Secretary under section 15C(b)(1). These guidelines are not intended, however, either to expand or to limit the scope of the Secretary's rulemaking authority under the bill.

Third, the new definition of "registered broker or dealer" added by the bill would encompass those intrastate brokers and dealers—within the definitions in existing sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934—who are required to register under section 15B but not under section 15 of that act, and is not intended to cover banks or separately identifiable departments or divisions of banks that do not fall within the definition of broker or dealer.

Fourth, this bill and the existing legal structure, as well as the successful working relationships between the Treasury, the Federal Reserve Board and the Government securities industry, are adequate to deal with such issues as when-issued trading and margin and other issues—such as operational capability—not expressly referred to in the areas of rulemaking set out in the bill.

Finally, one provision of H.R. 2032 as passed by the Senate on September 16, 1986, section 208, has been deleted from the legislation presently pending before the U.S. Senate. Section 208, which was the subject of much discussion subsequent to its passage by the Senate, would have provided that debt securities guaranteed by an insurance policy of the highest rating would have been exempt from the registration requirements of the Securities Act of 1933. This provision was not intended to exempt such securities from any other provisions of the securities laws.

Section 208 arose from the competitive inequities created by the ability of banks, under section 3(a)(2) of the Securities Act of 1933, to issue letters of credit assuring payment to investors of interest and principal of corporate debt instruments. Because a bank letter of credit protects security holders from default by the bond's issuer, the Securities Act of 1933 exempts those bonds from registration. However, securities covered by insurance policies do not receive the same treatment. Securities guaranteed by an insurance policy would not qualify for an exemption from registration under section 3(a)(2) of the Securities Act of 1933 since the promise of indemnification comes from an insurance company and not a bank. The Securities Act's exemptive provisions do not apply to securities backed by insurance policies and, therefore, issuers have to register those securities with the SEC.

Since the Comptroller of the Currency has determined that guarantees provided by bank letters of credit and insurance policies are functional equivalents, there is much merit to the argument that securities covered by insurance policies be treated in the same manner as securities guaranteed by bank letters of credit. Like bank letters of credit, insurance policies would offer similar protections to purchasers of corporate debt by insuring payments of interest and principal. However, the Securities Act's distinction between bank and insurance company guarantees makes it virtually im-

possible for insurance companies to provide cost-effective coverage to issuers and raises important competitive issues.

Section 208 was deleted from the legislation because it was a legislative proposal that required further analysis and refinement. Such a detailed examination was not possible during the waning days of the 99th Congress. Although the concept embodied in section 208 was worthwhile, time limitations prevented the formulation of legislative language that would permit securities guaranteed by an insurance policy of the highest rating to be treated in the same manner, with regard to the registration requirements of the Securities Act of 1933, as securities guaranteed by a bank letter of credit.

While the language of section 208 may have been imprecise, it caused the Congress and the SEC to focus upon the competitive inequities that presently exist under the Securities Act of 1933 between securities guaranteed by insurance policies and securities guaranteed by a bank letter of credit. Realizing the need for more study of this proposal, as chairman of the Securities Subcommittee, I asked the SEC to make recommendations on legislative proposals which would improve upon section 208 and would solve the competitive inequities created by the Securities Act while maintaining investor protection. The SEC should be commended for its expeditious response to the subcommittee's inquiry. Therefore, I would like to place into the RECORD the SEC's response to the subcommittee's inquiry to acknowledge the Commission's efforts.

Further, section 105 of the bill pending before us directs the SEC to conduct a study of section 3(a)(2) of the Securities Act of 1933 which exempts from registration securities that are guaranteed by banks. The scope and purpose of this study are articulated in section 105 of the bill. It is incumbent upon the Banking Committee, and specifically the Securities Subcommittee, to hold hearings to determine whether the current statutory scheme is adequate or whether section 3(a)(2) requires amendment to enhance competition among the providers of financial services in a manner consistent with the protection of investors and the public.

The statement describing the differences between H.R. 2032 as amended by the Senate on September 16, 1986, and the concurrence of the House, with an amendment to the Senate amendments to H.R. 2032 provided by House Resolution 547, which I referred to earlier in my remarks is provided below. Again, I urge my colleagues to support this legislation because it would provide comprehensive regulation of Government securities brokers and Government securities dealers and would not impair the efficiency or liquidity of the market in Government securities.

The material follows:

H.R. 2032, THE GOVERNMENT SECURITIES ACT OF 1986

On September 17, 1985, the House passed H.R. 2032, the Government Securities Act of 1985, and, on September 16, 1986, the Senate passed the bill with an amendment. On October 6, 1986, the House passed House Resolution 574 providing for the concurrence of the House to amendments of the Senate to the bill (H.R. 2032) with an amendment. In lieu of a conference report, this floor statement represents the views of the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs, and the chairman and ranking minority member of the Subcommittee on Securities and is intended to serve as the legislative history, along with S. Rpt. 99-426 (September 3, 1986) and CONGRESSIONAL RECORD (September 16, 1986) at S12699-S12706 and H. Rpt. 99-258 (September 9, 1985) and CONGRESSIONAL RECORD (September 17, 1985) at H7479-H7490.

ANALYSIS OF MAJOR PROVISIONS

The Rulemaker.—The amendment grants specific rulemaking authority to the Secretary of the Treasury (Secretary) and provides that the authority of the Secretary to issue orders and to propose and adopt rules shall terminate on October 1, 1991. All orders and rules which have been issued or adopted by the Secretary and which are in effect on the sunset date shall continue in effect according to their terms.

It is our intent and belief that, should Congress fail to renew or transfer this authority by October 1, 1991, the Secretary has the authority to respond to emergency situations and make technical corrections beyond October 1, 1991, pursuant to the Secretary's authority to interpret such rules. The government securities market is vital to the financing of the national debt and the implementation of monetary policy. For this reason, we believe that responsible regulation of this market will be a continuing necessity.

In this regard, the amendment requires certain studies and recommendations with respect to extension of the rulemaking authority of the Department of Treasury (Treasury). The Comptroller General is authorized and directed to conduct a study of the regulation of government securities brokers and government securities dealers and the effectiveness of the amendments made by the legislation, and submit a report, not later than March 31, 1990, with recommendations with respect to, among other things, the extension of the Secretary's authority.

The Secretary, together with the Securities and Exchange Commission (SEC) and the Board of Governors of the Federal Reserve System (Federal Reserve Board) are charged to evaluate the effectiveness of the rules promulgated and submit to Congress, not later than October 1, 1990, their recommendation with respect to, among other things, the extension of the Secretary's authority. Although the Committee expects the Task Force recommendation required by section 103 to reflect a consensus, the Committee understands that such unanimity, while desirable, is not always attainable. Therefore, the recommendation, if appropriate, will contain any divergent viewpoints of the Task Force participants.

These studies and recommendations, along with effective oversight and hearings over the intervening five years, will form the basis for a fair and timely evaluation of the extension or transfer of the Secretary's authority in order to provide the government securities markets with certainty and continuity.

The Rules.—The amendment maintains the core rulemaking areas agreed to by the House and Senate versions of the bill. These include: financial responsibility, recordkeeping and financial statement rules, including the requirement to file annually or more frequently a balance sheet and income statement certified by an independent public accountant. The amendment drops specific reference to rulemaking authority relating to when-issued trading in government securities since the Secretary currently possesses that authority under 31 USC subsection 3121. Furthermore, we believe that our concerns about operational capability and margin can be addressed through capital adequacy requirements and early warning rules.

The amendment incorporates the House positive and negative standards and prohibitions, along with two Senate requirements, for Treasury rulemaking, including authority to classify, a requirement to consult with the SEC and the Federal Reserve Board, and a requirement that the rules not be designed to permit unfair discrimination between customers, issuers, government securities brokers or government securities dealers, or to impose any unnecessary or inappropriate burden on competition. Further, the rules, as specified under the rulemaking authority under 15C(b)(2), will be designed to prevent fraudulent and manipulative acts and practices.

In order to avoid duplicative rulemaking, the amendment also requires the Secretary to consider the sufficiency and appropriateness of existing laws and rules of appropriate regulatory agencies which, to varying degrees, exercise some existing authority over the entities affected by this legislation. For example, the SEC has promulgated extensive net capital and other related rules with respect to currently registered brokers and dealers that will probably be sufficient for government securities brokers and government securities dealers that are currently registered with the SEC.

Registration.—The amendment requires unregulated government securities brokers and government securities dealers to register with the SEC. The amendment requires currently registered brokers and dealers and financial institutions to file a notice with their appropriate regulatory agencies. The Federal Reserve Board shall, after consultation with the appropriate regulatory agencies, prescribe a common notice form for financial institutions in order to ensure the necessary and appropriate consistency in form and content. The amendment does not create an exemption for the so-called primary dealers. Although the Secretary does have authority to exempt and to develop appropriate classifications of registrants, primary dealer status alone should not be a sufficient basis for such a classification.

Clearing Agencies.—The amendment includes the House provision to require clearing agencies, as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, to register with the SEC pursuant to Section 17A of the Securities Exchange Act of 1934. Under this amendment, for example, the MBS Clearing Corporation, the proposed Federal National Mortgage Association clearing corporation and the subsidiary established by Security Pacific Corporation to

provide clearing functions with respect to government securities options would be required to register with the SEC pursuant to Section 17A. We believe that this treatment is consistent with the general purpose of H.R. 2032 to ensure that adequate public safeguards exist for transactions in government securities.

Studies. —The amendment retains the House provision for a study of the current blind broker trading system in the secondary market for government securities and a report to the Congress by the Comptroller General. It is essential that Congress have sufficient information available to it to facilitate an evaluation of whether quotations for such securities and the services of government securities brokers are available on terms which are consistent with the Exchange Act and the public policy goals of H.R. 2032.

The amendment also includes a requirement that the SEC study the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 for securities guaranteed by banks, and the use of insurance policies to guarantee securities in competition with banks. We are concerned about broad application of the principle of national treatment under the International Banking Act and recent administrative interpretations which raise competitive and investor protection questions as regards the applicability of the federal securities laws to foreign and domestic banks and domestic financial guarantee insurance companies. We anticipate that at least one public hearing shall be held during the course of conducting the study and that the views of the Department of State and insurance and banking industry representatives will be solicited. It is our intent that there be Congressional hearings as soon as practicable after receipt of the SEC's report.

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, October 6, 1986.

Hon. ALFONSE M. D'AMATO,
Chairman, Securities Subcommittee, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN D'AMATO: With reference to Section 208 of the Government Securities Act of 1986, this letter summarizes four alternative approaches, including revised language concerning the proposed amendment that you provided on October 1st.

Section 208 and the October 1 proposed amendment address the competitive disparities between bank and insurance company guarantees. On October 2, the Commission carefully reviewed the October 1 proposed amendment and various alternatives. The Commission recognized that repeal of the bank exemption from registration under Section 3(a)(2) of the Securities Act would effectively resolve the competitive disparity issue.

If Congress does not repeal the bank exemption, the Commission can revisit the question of whether bank letters of credit should continue to be treated as "guarantees" for purposes of the Section 3(a)(2) exemptions (*i.e.*, whether securities backed by bank letters of credit should be exempt from the Securities Act). The competitive disparity might be alleviated adminstratively by the Commission reinterpreting the word "guaranteed" as it appears in Section 3(a)(2) to exclude bank letters of credit.

If, however, Congress decides to enact legislation that would exempt securities guaranteed by insurance companies, Congress could consider: (a) authorizing the Commission to exempt by rule from the registration requirements securities guaranteed by insurance; or (b) enacting the enclosed revision of the October 1 proposed amendment.

COMPETITIVE DISPARITY BETWEEN BANKS AND INSURANCE COMPANIES

Under Section 3(a)(2) of the Securities Act of 1933, any security guaranteed by a bank is exempt from registration. Section 3(a)(8) exempts insurance policies issued by state-regulated insurers, but not securities guaranteed by insurance policies. As a result, while an issuer may choose to enhance the credit rating of its securities through either bank or insurance guarantees, bank guarantees also exempt the securities from Securities Act registration. Insurance guarantees do not.

Vice President Bush's Task Group on Regulation of Financial Services included the heads of all the bank and other federal agencies that regulate financial services. The Task Group unanimously recommended consolidating within the SEC the securities registration and reporting requirements of banks and thrifts. This recommendation is expected to be formally transmitted to Congress in the near future. The Commission supports this recommendation.

ALTERNATIVES

The competitive disparities between banks and other guarantors of securities might be addressed in four ways.

First, Congress could repeal the bank exemption under Section 3(a)(2) of the Securities Act.

Second, without legislation, the Commission could address the disparities through regulatory action. The Commission has interpreted the Section 3(a)(2) exemption to include securities backed by bank letters of credit. However, federal banking law, and the banking laws of many states, preclude banks from guaranteeing securities of other parties. The Commission, in consultation with the bank regulatory authorities and through the rulemaking process, can reconsider whether bank letters of credit should be treated as guarantees for Section 3(a)(2) exemptive purposes.

Third, the competitive disparity can be addressed legislatively by granting the Commission rulemaking authority to exempt securities guaranteed by insurance companies from the registration requirements of the Securities Act. This would provide flexibility by permitting the Commission to adapt exemptions to new financial instruments as the markets evolve. A draft of this legislative approach is set forth under Tab A.

Fourth, Congress could create an insurance guarantee exemption. This is the approach reflected in Section 208 and in the October 1 proposed amendment. Both of these formulations raise Securities Act questions which the Commission has attempted to resolve in the revised language set forth under Tab B. The revised language amplifies and also makes explicit implicit provisions of the October 1 proposed amendment. It makes it clear that the guaranteed security is subject to the antifraud provisions of the securities laws; that it must be a debt instrument rated in the highest category by at least two nationally recognized statistical ratings organizations, pursuant to such rules and regulations as the Commission may adopt in the public interest or for the protection of investors; that there must be public information available concerning the issuer and the guarantor; and that the guarantor is among those responsible for the accuracy of the offering documents.

The Commission has approved sending this letter. One Commissioner also requests that a potential revision to part (i) of the alternative set forth at Tab B be forwarded. That revision (enclosed at Tab C) would subject the insurer, but not the issuer, to certain disclosure and filing requirements.

The views expressed herein do not necessarily reflect those of the Administration. [See Section 111 of Pub. L. No. 93-495, 88 Stat. 1500 (Oct. 28, 1974).] A copy of this correspondence is being sent to the Office of Management and Budget. The Commission will promptly provide any views received from OMB.

The Commission's staff and I will be pleased to answer any questions and lend any assistance you desire.

Sincerely,

JOHN SHAD.

LEGISLATIVE ALTERNATIVE NO. 1—SEC RULEMAKING

SEC. 208. (a) Section 3 of the Securities Act of 1933 [15 U.S.C. 77c] is amended by adding after paragraph (c) the following paragraph:

"(d) The Commission may, having due regard for the public interest and the protection of investors, by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section, any note, bond, debenture, evidence of indebtedness, or collateral trust certificate, or any guarantee of any of the foregoing, which is guaranteed as to the payment of interest, principal, and premium, if any, and any other amounts when due, pursuant to an insurance policy described in Section 3(a)(8) of this title. In any action under Section 12(2) of this title, both the corporation issuing the insurance policy and the issuer of the guaranteed security shall be included among those persons deemed to have sold the guaranteed security."

(b) Section 304(a)(4) of the Trust Indenture Act of 1939 [15 U.S.C. 77ddd(a)(d)] is amended by adding after Subsection (B) the following paragraph:

"(C) any security exempted from the provisions of the Securities Act of 1933, as amended, pursuant to Subsection 3(d)."

LEGISLATIVE ALTERNATIVE NO. 2—STATUTORY EXEMPTION

SEC. 208. (a) Section 3(a) of the Securities Act of 1933 [15 U.S.C. 77c(a)] is amended by striking the period at the end of paragraph (11), inserting "; and" in lieu thereof, and adding the following thereafter:

"(12)(A) Any note, bond, debenture, evidence of indebtedness, or collateral trust certificate, or any guarantee of any of the foregoing, which is guaranteed as to the payment of interest, principal, and premium, if any, and any other amounts when due, pursuant to an insurance policy described in Section 3(a)(8) of this title; provided that:

(i) both the issuer of such guaranteed security and the corporation issuing such insurance policy, for at least the twelve months immediately preceding the first date upon which such guaranteed security is bona fide offered to the public, have timely filed all reports (including at least one annual report) that would be required by Section 13(a) or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m(a), 78o(d)], and

(ii) the guaranteed security is rated at the time of the first bona fide sale of such security in the highest rating category by at

least two nationally recognized statistical rating organizations, pursuant to such rules and regulations as the Commission may adopt in the public interest or for the protection of investors.

(B) In any action under Section 12(2) of this title, both the corporation issuing the insurance policy described in Clause (A) of this paragraph (12) and the issuer of the guaranteed security shall be included among those persons deemed to have sold the guaranteed security.

(b) Section 304(a)(4)(A) of the Trust Indenture Act of 1939 [15 U.S.C. 77ddd(a)(4)(A)] is amended by deleting "or (11)" and inserting in lieu thereof "(11), or (12)".

ALTERNATIVE LANGUAGE FOR PROPOSED SECTION 3(a)(12)(A)(i)

(i) the corporation issuing such insurance policy has filed with the Commission such information as would be required to register a security under section 12 of this title and, since the filing of such information, such information as would be required pursuant to section 13 of this title in respect of a security registered pursuant to section 12 of this title.

● Mr. RIEGLE. Mr. President, the Government Securities Act of 1986 is much needed legislation which I support.

The health and integrity of the market for the obligations of the United States, its agencies, and related entities is important for the protection of the savings of our citizens, and an important element in the ability of the Government to finance its debt at the least possible cost of them as taxpayers.

The failures of several Government securities dealers, which have resulted in losses of hundreds of millions of dollars to investors since 1977, have raised questions about the need for some form of oversight, and this legislation addresses that need.

Failures, or near failures since 1977 include Winters Government Securities, Inc. (1977), Hibbard & O'Connor Government Securities, Inc. (1982), Drysdale Government Securities, Inc. (1982), Comark, Inc. (1982), Lombard-Wall, Inc. (1982), Lion Capital Group, Inc. (1984), RTD Securities, Inc. (1984), ESM Government Securities, Inc. (1985), Bevil Bresler Schulman Asset Management Corp. (1985), and Parr Securities Corp. (1985).

These failures occurred for a variety of reasons including the fraudulent use of customer securities and margin payments, improper use of accrued interest, the transfer of large losses from affiliates, as well as normal trading reverses.

A repurchase agreement is an agreement to sell securities with a commitment to repurchase the same securities from the buyer at a future date. Buyers in these transactions generally view them as investments carrying little risk. In particular, the buyer in a repurchase agreement transfers cash to a seller and receives collateral—or has securities held on its behalf—as "collateral," and the seller agrees to repurchase the securities for the cash plus interest at a future date.

In several of the failures since 1977, repurchase customers found upon the failure to the firm in question that the securities subject to repurchase had been in other transactions, or that the value of securities subject to repurchase had declined. In addition, repurchase customers that had provided excess margin lost the difference in value between the securities provided as margin for these transactions and the cash received. Among the more prominent of these failures were Drysdale, Lion, ESM, and Bevil Bresler.

The legislation which we are currently considering establishes a responsible foundation of regulation by requiring the registration of all Government securities brokers and dealers; financial responsibility, record-keeping, and audit rules; and regulations directly affecting market safety such as collateralization of repurchase agreements. This measure also provides for parity of treatment between primary dealers and other Government securities dealers.

During the course of the legislative process it was agreed that the treasury should be the appropriate rulemaker, acting in close consultation with the Federal reserve, and that the Securities and Exchange Commission and bank regulators should be the enforcement agencies. In this regard, the Secretary of the Treasury together with the Chairman of the Federal Reserve Board and the Chairman of the Securities and Exchange Commission are in accord with the responsibilities of their respective department and agencies.

More specifically, this legislation provides that the Secretary of the Treasury is invested with the authority to promulgate rules that are designed to prevent fraud on the part of Government securities brokers and dealers.

In pertinent part, the Secretary's rulemaking authority includes rules that:

(1) "Provide safeguards with respect to the financial responsibility and related practices of Government securities brokers and Government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of Government securities subject to repurchase agreements and in similar transactions."

(2) "Require every Government securities broker and Government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the secretary specifies, be certified) and information concerning its financial condition as required by such rules."

(3) "Require records to be made and kept by Government securities brokers and Government securities dealers and shall specify the periods for which such records shall be preserved."

A great deal of careful consideration on the part of a number of Government agencies as well as interested parties has gone into the drafting of this legislation. The regulatory apparatus that has been established is designed to be streamlined and limited in nature to address the problems that have been identified. I am aware of no opposition to this measure, and the fact that consensus has been achieved is no small tribute to the drafters and principal authors.

In conclusion, I want to acknowledge the chairman of the Senate Securities Subcommittee, as well as the Chairman of the House Committee on Energy and Commerce and the Chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance for their work on this bill. Senator D'AMATO and congressmen DINGELL and WIRTH are to be particularly commended for their efforts on this legislation. Their respective counsel, Tom Lykos, Consuela Washington and Marti Cochran are also to be highly commended for their work on the Government Securities Act of 1986.

I believe that the Senate should enact this legislation without further delay.●

● Mr. HART. Mr. President, we are considering legislation of great importance to Americans who have invested in Government securities. With prompt Senate approval, we can provide overdue protections for small investors whose faith in our financial system was badly shaken less than 2 years ago.

This bill was written in response to a crisis which shook our financial system. An $18 trillion market in Government securities was destabilized when unsupervised dealers were found to be engaged in fraudulent and unsafe activities. A number of unsupervised dealers went bankrupt. Consumers lost their savings. Two banks in Colorado were threatened with significant losses. The entire banking system of Ohio was closed down. Confidence in our financial system was shaken internationally.

How did this occur? While broker-dealers in corporate and municipal securities must register with the SEC, and bank dealers are supervised by bank regulators, dealers who trade in Government securities operate totally outside the U.S. system of financial regulation. This is troubling because transactions by Government securities dealers now exceed $75 billion per day. Without supervision, frauds of the kind the system experienced can harm

virtually every bank and savings institution in this country—nearly all invest in these securities.

The legislation we're debating today will close this gap in financial supervision. It requires Government securities dealers to register with the SEC. It provides enforcement powers to the SEC and the bank regulators. The Secretary of the Treasury will write rules relating to capital, financial responsibility, custody, and use of customers' securities, financial statements, and other matters. It is a prudent approach that will restore confidence to this market.

I commend Senators CRANSTON, PROXMIRE, RIEGLE, and D'AMATO for bringing this compromise legislation before the Senate.

But I am also proud to support this legislation because it was crafted by the chairman of the House Subcommittee on Finance, a fellow Coloradan, Congressman TIM WIRTH. Congressman WIRTH has been a leader in the House on behalf of a sound and competitive financial marketplace. He has worked tirelessly and with great effectiveness to see that this gap in our system of financial supervision is filled.

On this issue, as with so many others, Congressman WIRTH understands that consumers and the integrity of the financial system can be protected without burdensome regulation. Colorado investors, and investors across this country, owe Congressman WIRTH a debt of gratitude for his work on this legislation.●

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GREAT BASIN NATIONAL PARK, NEVADA

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2506.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2506) entitled "An Act to establish a Great Basin National Park in the State of Nevada, and for other purposes", do pass with the following amendments:

(1) Page 2, line 5, strike out [fourty-four], and insert: *seventy-six*

(2) Page 2, line 6, strike out [generally].

(3) Page 2, line 8, strike out [20,016, and dated April 1986.], and insert *20,017, and dated October 1986.*

Mr. HECHT. Mr. President, I am very pleased that the Senate is about to send to the President this legislation to create the Great Basin National Park in Nevada.

When the Senate passed S. 2506 a few weeks ago, I was confident that we had done an excellent job designing a park that took in the most impressive features of the Snake Range, while still protecting the mainstays of the local economy: mining and ranching. Another very important provision in the Senate-passed bill involved language protecting water rights in Nevada. Finally, the boundaries of the bill excluded private land from the 44,000-acre park. Everyone who has a national park in their State understands the complex, chronic, and emotionally charged problems that almost always occur when private land is put inside a national park.

One of the main reasons I introduced a modest 44,000-acre bill was simply because I expected the Senate would have to give some ground on the grazing issue, and a bill affecting a small number of acres would also limit any damage that would result from the House weakening our Senate language on grazing.

I was pleased to see that the House's only change to the Senate bill was in the acreage involved. I was also plesently surprised to see that even with the larger acreage, the House was willing to keep private land outside of the park, and accept the Senate language with regard to water rights and grazing.

With the Senate language left intact, I feel comfortable agreeing to the House amendment to my bill, which expands the Senate bill to 76,800 acres.

After I had a chance to review the House amendment, I spoke with Interior Secretary Hodel, and George Dunlop, the Assistant Secretary of Agriculture for Natural Resources and Environment. On the basis of these conversations, I am satisfied that the administration will support the amended Senate bill.

I must compliment Congressman VUCANOVICH on her defense of the Senate language, and Congressman VENTO for his willingness to be cooperative and for his efforts to help Congressman VUCANOVICH pass this bill through the House with an amendment that we in the Senate could accept.

Mr. President, this legislation will add a new crown jewel to our Nation's National Parks System. It will give Nevada its first national park. It will protect forever a beautiful piece of our Nation, and it will also protect the rights and way of life of the good citizens of White Pine County, NV.

Mr. President, I urge the Senate to act on this legislation, and bring to a close in a fair and gratifying manner the 60 years of debate and conflict that has revolved around the creation of this park.

Thank you, Mr. President.

Mr. DOLE. I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SEEK AND COLLEGE DISCOVERY DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 735, "National SEEK and College Discovery Day" just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (H.J. Res. 735) to designate December 11, 1986, as "National SEEK and College Discovery Day".

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MOYNIHAN. Mr. President, the importance of education to our Nation's youth cannot be overstated. It is vital to our future as a nation to offer educational opportunities to every student who wishes to pursue them from kindergarten through college.

That is why I rise today to draw attention to the passage of House Joint Resolution 735, designating December 11, 1986, as "National SEEK and College Discovery Day." I introduced the companion measure to this resolution in the Senate on September 24, 1986, in order that the Nation might come to know of some very special educational programs being conducted at the City University of New York.

The City University of New York will always have a special place in my life. I attended CUNY for 1 year before entering the Navy and though I could not afford an expensive private college at the time, I was able to experience a full and rich college education through the City University system.

CUNY is also partly responsible for my being a U.S. Senator. I decided to run for the Senate the day the City University system was forced to shut down because it couldn't meet its payroll. Catastrophes such as these had to be avoided and if anyone was willing to work on the Federal level to preserve CUNY, I was and still am, 10 years later, in order that as many stu-

dents have the same opportunity for a quality college education that I had.

This quality education is indeed still offered today and enhanced by such programs as SEEK, Search for Elevation, Education and Knowledge, and College Discovery. Both these programs provide specialized remedial instruction and tutorial services to nearly 14,000 disadvantaged students a year.

By passing this resolution today, we encourage colleges all across the country to follow the example of the City University of New York and employ innovative methods of meeting the extra needs of our Nation's disadvantaged students. I congratulate my colleagues on passing this important resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 735) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF REAL PROPERTY TO CITY OF MESQUITE, NV

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 3352, dealing with Mesquite, NV, just received from the House.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3352) to transfer certain real property to the City of Mesquite, Nevada.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3352) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LAND

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 565.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 565) entitled "An Act to direct the Secretary of Agriculture to convey, without consideration to the Town of Payson, Arizona, approximately 30.96 acres of Forest Service lands", do pass with the following amendments:

Page 4, strike out lines 11 through 15, inclusive, and insert:

SEC. 4(a) Notwithstanding any other provision of law or regulation, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized and directed to transfer title to certain land in Arizona in accordance with the terms of the Memorandum of Agreement Regarding the Disposal of Federal Lands at Lake Havasu City among the U.S. Department of the Interior, Bureau of Land Management, the Arizona State Land Department, the Arizona State Parks Board and Lake Havasu City, dated November 25, 1985. The transfer of title to land along the shoreline of Lake Havasu shall be to elevation 450 feet above sea level: *Provided*, That the United States shall reserve unto itself the right to maintain the shoreline and to flood up to elevation 455 feet above sea level.

(b) The Secretary of the Interior is hereby authorized and directed to process an application by the County of Santa Cruz, Arizona, pursuant to the Recreation and Public Purposes Act for the following described lands: *Provided*, That, the processing shall be in accordance with the Memorandum of Understanding among the U.S. Forest Service, the Bureau of Land Management and Santa Cruz County, dated September 17, 1986: S½NW¼ Section 5, and Lots 10 and 11, Section 6, T. 24 S., R. 14 E., G&SM. Executive Order No. 1398, dated August 15, 1911, which temporarily withdrew the above described land for use by the U.S. Forest Service for administrative purposes, is hereby revoked in its entirety, effective on the date of patent of the above described lands pursuant to the Recreation and Public Purposes Act to the County of Santa Cruz, Arizona.

Amend the title so as to read: "An Act to provide for the transfer of certain lands in the State of Arizona, and for other purposes.".

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments with a further amendment which I send to the desk on behalf of Senator MCCLURE and Senator DECONCINI.

AMENDMENT NO. 3270

Mr. DOLE. Mr. President, I send to the desk an amendment on behalf of Senator MCCLURE and Senator DECONCINI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MCCLURE and Mr. DECONCINI, proposes an amendment numbered 3270.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the House amendment insert the following new section 5 as follows:

SEC. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

(2) by adding at the end thereof the following new subsection:

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.".

At the end of the bill, add the following new section:

SEC. . Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to:

(2) revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated May 19, 1964, insofar as said withdrawal applies to section 31 (lots 1, 2, 3, W½E½, E½NW¼, SE¼SE¼) T. 5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

Add a new section to S. 565 as follows and number accordingly:

"SEC. . Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceeed with such exchange.".

Mr. DECONCINI. Mr. President, I have offered an amendment to S. 565, a bill to convey approximately 31 acres of Forest Service land to the town of Payson, AZ. The Payson legislation passed the Senate on August 9, 1986 and was sent to the House, where it passed with amendment. Two amendments were added in the House by Congressman UDALL to allow two very important land exchanges involving Bureau of Land Management lands in the State of Arizona to be finalized. Those amendments, which I heartily

endorse, authorize the Secretary of the Interior to revoke two land classification withdrawals in Arizona. The land exchanges are being held up because of a court injunction in the National Wildlife Federation versus Burford lawsuit, which challenged certain withdrawal revocations. The Secretary of the Interior has been temporarily enjoined from revoking certain withdrawals and land classifications and the injunction is now being applied to all withdrawals and classifications. In the case of the Arizona exchanges which are included in the Payson bill, the National Wildlife Federation and the Department of the Interior have been contacted and have no objection to the exchanges. One exchange involving Bureau of Land Management lands in the Lake Havasu Area, known as Pittsburg Point, would allow the Federal Government to virtually repay the State of Arizona for lands that were taken from the State as a result of the construction of the Central Arizona Project. The State land department of Arizona has worked long and hard on this exchange and feels it is urgent that the exchange be completed without further delay. The other exchange involved some Bureau of Land Management lands in Santa Cruz County, AZ that the county wishes to acquire to provide space for the construction of a greatly needed county courthouse and public park. The BLM supports this exchange and it has been endorsed by the National Wildlife Federation.

In order to take care of one remaining exchange in Arizona that is important to wildlife habitat and at the same time, reduce the large number of checkerboard forest lands, I am sponsoring an amendment which will authorize the Secretary of the Interior to revoke a reclamation withdrawal so an exchange of private and Forest Service lands in Maricopa County, AZ can be completed. This exchange has the support of the National Wildlife Federation, Congressman UDALL, and many others in the State of Arizona.

I know of no objections to this amendment, Mr. President, and I ask that the Senate approve this amendment to S. 565. I further request that the Senate adopt S. 565 as amended.

● Mr. SYMMS. Mr. President, I rise to strongly support the passage of S. 565. The purpose of this bill is simply to effect changes in ownership between the Federal agencies and private or local government entities. These changes should not be controversial. They give force of law to agreements already reached between the interested parties.

My amendment to S. 565 allows the Forest Service to complete a land exchange with Sunlight Development Co. This exchange is in the best interests of the United States, the development company and several individuals who own structures on Forest Service land under special use permits. When the exchange is completed these uneasy tenants will have title to the land they occupy, the Forest Service will have control of a particularly scenic and vulnerable stretch of Hanry's Fork of the Snake River and the Sunlight will be fairly compensated for property no longer available for the purpose for which it was acquired. This exchange should have been accomplished very quickly administratively. However, due to legal action in which the Forest Service is only indirectly involved it appears that legislation is necessary.

This is an almost unique transaction where all parties benefit. I want to express my appreciation to my distinguished colleague Senator MCCLURE who has used his influence, as chairman of the Energy Committee, to move this bill forward rapidly. Mr. President, this is good legislation and I urge its passage.●

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3270) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1850

CONSENT OF CONGRESS TO THE ARKANSAS-MISSISSIPPI GREAT BRIDGE CONSTRUCTION COMPACT

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1082.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1082) entitled "An Act granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. CONSENT OF CONGRESS TO COMPACT.

The Congress consents to the Arkansas-Mississippi Great River Bridge Construction Compact, which was entered into between the States of Arkansas and Mississippi and was approved by law in the State of Arkansas on February 7, 1985, and in the State of Mississippi on March 19, 1985. The compact is substantially as follows:

"ARKANSAS MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

"ARTICLE I

"The purpose of this compact is to promote the construction of a highway bridge or a combined highway-railroad bridge connecting the States of Mississippi and Arkansas at, near or between Rosedale, Mississippi, and McGehee and Dumas, Arkansas, and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II

"This compact shall become effective immediately as to the States ratifying it whenever the States of Arkansas and Mississippi have ratified it and Congress has given consent thereto.

"ARTICLE III

"(a) The states which are parties to this compact (hereinafter referred to as 'Party States') do hereby establish and create a joint agency which shall be known as the Arkansas-Mississippi Great River Bridge Authority (hereinafter referred to as 'The Authority'). The membership of The Authority shall consist of five (5) members from the State of Mississippi, to be selected in such manner as may be provided by laws enacted by the Legislature of the State of Mississippi, and five (5) members from the State of Arkansas, to be selected in such manner as may be provided by laws enacted by the Arkansas General Assembly. The terms of the members of such Authority from each of the Party States, the method of appointing successor members, and the method of filling vacancies on The Authority, shall be determined by the laws of Mississippi and Arkansas.

"(b) The members of The Authority shall not be compensated for services on the Authority, but each member shall be entitled to actual and reasonable expenses incurred in attending meetings or incurred otherwise in the performance of his/her duties as a member of The Authority.

"(c) The members of The Authority shall meet upon the call of the chairman and hold such other meetings as its business may require. Special meetings of The Authority may be called by the chairman or upon written request of a majority of the members of The Authority from each of the Party States. The Authority shall choose annually a chairman and vice chairman from its members, and the chairmanship shall rotate each year among the Party States, in order of their acceptance of this compact.

"(d) The Secretary of The Authority (hereinafter provided for) shall notify each member in writing of all meetings of The Authority in such a manner and under such rules and regulations as The Authority may prescribe.

"(e) The Authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of The Authority.

"(f) It shall be the duty of The Authority, in general, to promote, encourage, and coordinate the efforts of the Party States to secure the development of the Arkansas-Mississippi Great River Bridge at, near or between Rosedale, Mississippi, and McGehee-Dumas, Arkansas. Toward this end, The Authority shall have power to:

"(i) Hold hearings;

"(ii) Conduct studies and surveys of all problems, benefits, and other matters asso-

ciated with the construction of the Arkansas-Mississippi Great River Bridge, and to make reports thereon;

"(iii) Acquire by gift, grant or otherwise, from local, federal, or private sources, such money or property as may be provided for the proper performance of their function, and to hold and dispose of the same and to expend such monies as is necessary to defray the cost of establishing and operating The Authority;

"(iv) Cooperate with other public or private groups, whether local, state, regional, or national, having an interest in the bridge construction;

"(v) Formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States;

"(vi) Negotiate with one or more railroads in the State of Mississippi and the State of Arkansas and with the appropriate Federal authorities for the construction of the Arkansas-Mississippi Great River Bridge as a combined highway-railroad bridge. If necessary, The Authority may enter into a contract with one or more railroads and/or the appropriate agencies of the United States to borrow funds for the construction of the railroad portion of the bridge, to be reimbursed, including all costs of principal, interest and other costs in connection with such indebtness, by revenues derived from rental fees, grants, or other charges, with such indebtedness to be secured solely by a pledge of such revenues; and

"(vii) Exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the construction of the Arkansas-Mississippi Great River Bridge as a highway bridge or a combined highway-railroad bridge, and to carry out the purposes of this compact.

ARTICLE IV

"The Authority shall appoint a secretary, who shall be a person familiar with the nature, procedures, and significance of the bridge construction and the informational, educational, and publicity methods of stimulating general interest in such developments, and who shall be the compact administrator. The term of office of the secretary shall be at the pleasure of The Authority and such officer shall receive such compensation as The Authority shall prescribe from monies provided to The Authority under Article III(f)iii). The secretary shall maintain custody of The Authority's books, records, and papers, which shall be kept by the secretary at the office of The Authority, and shall perform all functions and duties and exercise all powers and authorities which may be delegated to the secretary of The Authority.

"ARTICLE V

"Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any Party State, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other bridge project, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a Party State.

"ARTICLE VI

"This compact shall continue in force and remain binding upon each Party State until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other Party State by the secretary of state of the Party State which takes such action.".

SEC. 2. FEDERAL JURISDICTION RETAINED.

Nothing in the compact approved by section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States.

SEC. 3. RESERVATION.

The right to alter, amend, or repeal this Act is expressly reserved.

Mr. BUMPERS. Mr. President, I rise today in support of S. 1082, as amended by the House, a bill to authorize the States of Arkansas and Mississippi to create an interstate compact for the purpose of building a highway-railroad bridge across the Mississippi River. I would like to commend my friends and colleagues, Senators PRYOR, STENNIS, and COCHRAN, as well as our Representatives from Arkansas and Mississippi in the House, for their efforts in connection with this important legislation which will provide for a vital link between our great States.

The Arkansas-Mississippi Great River Bridge Authority to be established under the compact will coordinate and promote the efforts of the two States to construct an auto and train bridge between Rosedale, MS, and a point near McGehee, AR. The new bridge will be a positive and essential ingredient in ongoing efforts to attract new industry to our region of the country.

Mr. President, the people in Arkansas and Mississippi have worked long and hard on this project, focused on revitalizing the economies in our State, and I ask the Senate today to give its stamp of approval to this compact so that these State officials and local citizens can move forward with their construction plans. I would note that this body has previously given its unanimous approval to this piece of legislation and we need now only agree to a minor, technical amendment made by the House to correct an error in the compact language.

In addition, Mr. President, I am pleased to be able to point out that this legislation will not require the Federal Government to spend one dime. It will instead create an authority that will coordinate local, State, and Federal agencies in planning for a bridge that will be a commercial boon to southeast Arkansas and western Mississippi.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

GEORGIA WILDERNESS ACT OF 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5496, the Georgia Wilderness Act, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the discharge of the measure from the Agriculture Committee, and there is also no objection to proceeding to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5496) to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading and passage.

The bill (H.R. 5496) was ordered to be read a third time, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SALUTE TO SCHOOL VOLUNTEERS DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 407, Salute to School Volunteers Day, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to discharging the Committee on the Judiciary from further consideration of the joint resolution and no objection to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 407) designating November 12, 1986, as Salute to School Volunteers Day.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

S.J. RES. 407

Whereas the success of America's schools stems from the competence and dedication of their instructional staffs, combined with the commitment of students, parents, and other community members;

Whereas citizen volunteers are a vital component of an effective educational experience, assisting professional educators to deliver quality instructional services;

Whereas many States and communities have demonstrated that citizen volunteers in the classroom enhance, extend, and enrich student learning as they contribute to the work of dedicated professional educators;

Whereas numerous communities encourage groups, such as business and civil groups, to create mutually beneficial working partnerships with their schools, thus offering positive support from the community which, in turn, both encourages staff and benefits the students;

Whereas the Congress recognizes that four million unpaid citizen volunteers in thousands of classrooms coast to coast contribute daily to the enhancement of the quality of instruction in our schools and thus, to the development of an educated citizenry; and

Whereas the magnitude, quality, and selflessness of these contributions of America's citizen school volunteers merit the highest appreciation and gratitude: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12, 1986, is designated as "Salute to School Volunteers Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHINA-BURMA-INDIA VETERANS ASSOCIATION DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 359, to designate National China-Burma-India Veterans Association Day, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the committee discharge and no objection to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 359) to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 359) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 359

Whereas all veterans are to be recognized, honored, and thanked for making sacrifices in order to make the United States a free and peaceful Nation;

Whereas the China-Burma-India Veterans Association is composed of men and women who most admirably served in the China-Burma-India theatre of operations during World War II, and the members of such Association deserve the right to preserve the recollections, comradeships, and experiences of Americans who have served in the Orient;

Whereas all Americans should become better acquainted with the situations and problems of the Far East; and

Whereas members of the China-Burma-India Veterans Association deserve the right to pay tribute to and preserve the memory of fellow veterans who died in defense of the United States and to maintain a proper standard of dignity and honor among all veterans of World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1987, is designated as "National China-Burma-India Veterans Association Day" and the President is authorized and requested to issue a proclamation calling upon Americans to observe such day with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 4731

Mr. DOLE. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4731, the Recreational Boating Safety Act, and I ask that it be placed on the calendar.

Mr. BYRD. Mr. President, there is no objection to the request of the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO ISSUE CERTAIN PERMANENT EASEMENTS FOR WATER CONVEYANCE SYSTEMS

Mr. DOLE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2921, the "ditch right-of-way" bill, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the committee discharge and there is likewise no objection to the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2921) to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems, in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. WALLOP. Mr. President, as discharged, this Act, H.R. 2921, would authorize the Secretary of Agriculture to issue permanent easements for certain water conveyance systems upon request of the owners, who are solely agricultural and livestock watering users, in order to resolve title claims, which claims arise under acts repealed by the Federal Land Policy and Management Act of 1976 [FLPMA]. The bill is intended to provide an optional method of confirming the status of certain irrigation systems which were constructed on Federal lands prior to the enactment of FLPMA, and to transfer administration of pre-FLPMA rights-of-way across National Forest System lands from the Department of Interior to the Department of Agriculture.

There exist on Federal lands ditches, canals, reservoirs, and other systems for the conveyance of water to the ultimate consumers. Many of those systems have existed under claim of right for long periods of years prior to the passage of the Federal Land Policy and Management Act of 1976. The committee has been acquainted with cases where despite this long established usage under claim of right, there is inadequate documentation or nonexistent of the right. In some cases it is difficult to demonstrate that the owners and users of these water conveyance systems had fulfilled the record keeping requirements of the General Land Office and successor agencies so as to establish clearly the right to continued, peaceable enjoyment of these rights-of-way. When the

matter first came to the attention of our committee, we urged the agricultural interests and the Department of Agriculture to work together to develop a mutually agreeable statutory solution to the problem. The bill before us is the result of that effort.

In testimony before our committee, however, other concerned Federal lands users pointed out that the bill is so narrowly drawn that it is sure to create problems for the very intended beneficiaries of the legislation. For example, many ditches and ditch rights-of-way are owned in common by cotenants in the ditch, or by the shareholders in mutual ditch and reservoir companies, or other entities, public and private in nature, formed for the delivery of water to consumers off the Federal lands. The water rights carried in such ditches are generally, under the appropriation doctrine prevailing in the public lands States of the West, marketable without constraint from the other co-tenants or shareholders in the ditch system. It will lead to absurd results if a permanent easement obtained under H.R. 2921 and valid only so long as the use of the water is "solely agricultural" were then terminated because one, or several, of the common owners exercised their right to alienate their property interest in water rights to nonagricultural users. Amendments were proposed to cure this problem, and to assure that a change in the end use of water would not destroy the benefits of the legislation. Such a change in end water use places no greater burden on the actual usage of Federal lands.

A further concern expressed to the committee has to do with the consequences of the transfer of administrative jurisdiction over existing rights-of-way from the Department of Interior to the Department of Agriculture. Owners of these rights-of-way question whether the Department of Agriculture may use its new administrative powers to seek forfeiture of rights-of-way granted under the Act of March 3, 1891, (26 Stat. 1095, as amended by the Act of May 11, 1898, 30 Stat. 404), where the end use of waters carried on such rights-of-way are no longer used for the main purpose of irrigation, but instead have, through the operation of the free market system, undergone conversion to municipal and related beneficial uses pursuant to State law.

A further area of concern devolving from the proposed transfer of jurisdiction over existing rights-of-way to the Department of Agriculture was stated to be the deviation in the administration of pre-FLPMA rights-of-way under the long-settled principles, decisions, policies and regulations developed by the Department of Interior. Particular concern was advanced that those established principles continue to apply.

Amendments were proposed to lay to rest these concerns. One specific amendment would have deleted this transfer of jurisdiction from the bill until such time as all of the effects of the transfer can be studied and discussed fully before the Congress. These proposed amendments would also maintain existing conditions, policies and procedures of the Department of Interior in order to maintain rights of grantees.

The committee inquired of the Department of Agriculture for its views on these points. The response is appended to this report. In it, we were again requested to refrain from amendments to the bill. With respect to the narrowness of the "solely agricultural" standard by which eligibility for the new category of rights-of-way has been defined, the Department has assured the committee that it will devote a good faith effort, in cooperation with concerned water users, to develop amendments for consideration by the Congress in a subsequent session to cure the problems flowing from the narrowness of the eligibility standard. This broadening will enable market forces to allow a multiplicity of uses of the water rights associated with rights-of-way on Federal lands.

With respect to the prospect of a departmental construction of the act of March 3, 1891, as amended by the Act of May 11, 1898, whereby the holders of grants thereunder would face loss of their rights-of-way by reason of a change in the end use of the water carried to purposes other than primarily agricultural irrigation, the committee has been assured that no such construction of the statute is advanced by the Department. Re-permitting with its attendant substantial costs and uncertainties for such existing conveyance systems is not intended by the Department or by Congress. Accordingly, no amendments to preclude such a construction are required. With respect to the potential disruption on pending administrative matters, the Department of Agriculture has assured the committee that it will continue to employ the applicable rules, policies, and regulations of the Department of the Interior. Holders of existing rights-of-way shall continue to have the full use of the estate granted in accordance with the terms of the grant and applicable law. These include the right to cure defects discovered during administration, whether they be minor or require an application to amend the granted rights-of-way. No administrative action will preclude the full enjoyment of the granted rights-of-way nor alter the nature of the interest granted. No requirement for re-permitting is intended by the Department.

With these representations of the Department in mind, we determined to accede to the request to refrain from amendments, to discharge the bill without amendment, and to defer amendments until we have considered further the suggested areas of amendment to H.R. 2921 described in the letter from the Department and the testimony before the committee. In so doing, we rely on the Department's representation that until Congress has had a full opportunity to consider proposed amendments, no action to divest users who would qualify for the benefits of H.R. 2921 but for their inability to qualify as "solely agricultural * * *" will be undertaken by the Department. We fully expect the Department of Agriculture to take care to avoid any action that will diminish or reduce the rights conferred under a right-of-way granted prior to October 21, 1976, including any deviation or amendments required subsequent to the original grant.

We expect the Department to work with holders of rights-of-way to preserve the full extent of rights vested prior to FLPMA, and to develop any necessary amendments to the act securing holder these benefits.

Mr. President, I ask unanimous consent that a letter received from the Department of Agriculture dated October 1, 1986, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 1, 1986.

Hon. MALCOLM WALLOP,
Chairman, Subcommittee on Public Lands, Reserved Water, and Resources Conservation, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: At the September 23, 1986, hearings on H.R. 2921 before the Senate Subcommittee on Public Lands, the Colorado Water Congress testified to the need for amendments to the bill. You asked for the Department of Agriculture's views on these suggested amendments.

In our view, the concerns expressed relate to three somewhat different issues. The first concern expressed was that the limitation in H.R. 2921 to "solely agricultural or livestock watering purposes" unnecessarily constricted the benefits of the legislation. The legislation has the purpose of recognizing the rights of a certain class of ditch owners who cannot document a right of way issued prior to October 21, 1976. It was pointed out that many ditches on the Federal lands have a multiplicity of owners, any one of whom under State law may change the ultimate use of his share of the water right carried in the ditch to other than agricultural irrigation purposes. Many such changes have occurred over the past 90 years and many are occurring today. Thus it was observed that intended beneficiaries of this bill may lose any entitlement under it from the operation of State sanctioned market systems in water rights by or among co-users of ditches.

The Department understands the desire of the Subcommittee to avoid amendments now, considering the lack of time remaining

in the session. We acknowledge that further amendments, carefully drawn and considered, would be appropriate to cure these situations. The end use of water off the Federal lands, as it may change over time, casts no greater burden on the Federal property to carry the water to its place of use. The Department contemplates administrative procedures under H.R. 2921 which obviate much of this concern, particularly a procedure whereby easements allowed by H.R. 2921 may be automatically converted for permits under FLPMA. The Department will work with your committee and other concerned persons to develop and support appropriate administrative action or statutory amendments for the consideration of Congress in a future session. In that way, relief from uncertainty can now be provided for certain irrigators and stockmen without creating unintended implications for other water users. In a succeeding Congress the full, necessary consideration of the scope of the amendments can be achieved. The Department reemphasizes that H.R. 2921 does not create any implication attributable to any pre-existing rights of way, the owners of which may elect not to avail themselves of the benefits of H.R. 2921.

Second, concerns were expressed at the hearing that the Department of Agriculture, under the jurisdictional authority proposed to be transferred to it as part of H.R. 2921, contemplates asserting forfeitures against those holders of rights of way issued pursuant to the Act of March 3, 1891 (26 Stat 1095) as amended by the Act of May 11, 1898 (30 Stat. 404), whose end use of water off the public lands is no longer for the primary purpose of irrigation.

Third, concerns were expressed that rights of way previously granted by the Act of February 15, 1901 (31 Stat. 790), and the Act of February 1, 1905 (33 Stat. 628), will not be administered by the Department of Agriculture in accordance with the settled procedures and laws that have developed over the past 85 years during which the administration of such rights of way have been subject to the jurisdiction of the Department of the Interior. To resolve these concerns, amendments to H.R. 2921 were suggested which would preclude administrative changes to the detriment of holders of pre-FLPMA rights of way.

For reasons which follow, the Department does not believe that such amendments are now appropriate or required. The construction placed on the Act of 1891, as amended, by the Department for the rights of way it will administer does not prejudice or diminish the rights of grantees thereunder. We do not assert that the end-use of water, which may change from irrigation to municipal or other beneficial uses recognized under State law, in and of itself occasions a forfeiture of such rights of way.

The Department is fully aware of the decision of the United States Court of Appeals in *City and County of Denver* v. *Bergland*, 695 F.2d 465 (1982). Concern has been expressed that with its acquisition of administrative jurisdiction, the Department will diminish the entitlements of rights of way holders under existing grants. The Department disavows any such intention. The Department will be careful to avoid any action that will reduce the rights conferred under pre-FLPMA grants, and will process pending application for amendment and other pending administrative matters in accordance with the applicable regulations, policies, and procedures of the Department of the Interior.

The Department must of course maintain its authority to assure that holders of rights of way on Federal Lands use those lands in sound ways. However, we do not assert that pre-FLPMA rights of way for water conveyance and storage systems must be subjected to a repermitting process. The Department recognizes that long-standing uses ought not be diminished by insignificant defects in survey or description made many years ago, or a change in the end use of the water off the Federal lands.

We hope that this letter has adequately clarified the Department of Agriculture's position on concerns that have been raised related to H.R. 2921.

Sincerely,

DOUGLAS W. MACCLEERY,
Deputy Assistant Secretary for Natural Resources and Environment.

Mr. ARMSTRONG. Mr. President, I rise to lend my support to the passage of H.R. 2921 sponsored by Congressman MIKE STRANG of Colorado. I wish, however, to make certain that the understandings that have been arrived at in discussions with the Department of Agriculture and the Forest Service regarding its administration of ditch rights of way on national forest lands are clear and unequivocal.

I strongly support the basic objectives of H.R. 2921, but share the concerns about the limited scope of the bill and possible unintended effects of its passage that were expressed by the representatives of the Colorado Water Congress at the hearing on September 23, 1986. Subsequent to the hearing, extensive discussions of H.R. 2921 were held between the representatives of the Colorado Water Congress and Mr. Douglas MacCleery, Deputy Assistant Secretary of Agriculture for Natural Resources and Environment, regarding the administration of the bill, should it be enacted. There was also extensive discussion regarding the administration of all other rights of way which would result from the transfer of administrative jurisdiction over existing rights of way from the Department of the Interior to the Department of Agriculture. As a result of those discussions, Mr. MacCleery has written a letter to Senator WALLOP describing the Department's views and policies on the administration of ditch rights of way on national forest lands.

With the receipt of the letter from Deputy Secretary MacCleery and its incorporation into the record by Senator WALLOP, I have been advised by the Colorado Water Congress that most of the major concerns that stem from the passage of this bill have been alleviated. But, because there continue to be serious reservations expressed to my office by municipal and agricultural water users with rights of way on forest lands, I want to make it clear that my support of this bill is contingent upon the good-faith effort by the Department of Agriculture and the Forest Service to carry out the policies and objectives outlined in the MacCleery letter. I regard this legislation as only one step in the process of resolving these ditch rights of way issue and I accept the representations in the letter that the Forest Service does not claim the power and will not undertake or embark on a policy of re-permitting of pre-FLPMA rights of way.

Passage of this specific legislation to cure a unique problem in no way implies or should be construed as an intent by Congress to restrict or preclude further oversight amendments to address other problems. Congress has no intention to provide by implication or exclusion any directive to the Department of Agriculture or other Federal agencies that applies in an adverse way to any other water use, easement, access, or permit on or utilizing lands of the United States.

Key commitments by the Department expressed in Deputy Secretary MacCleery's letter are, and I quote: "* * * we do not assert that pre-FLPMA rights of way for water conveyance and storage must be subjected to a re-permitting process. The Department recognizes that longstanding uses ought not be diminished by insignificant defects in survey or description made many years ago, or a change in the end use of the water off Federal lands." In addition, the Department has committed to assist to, and I quote from the letter, "* * * develop and support appropriate amendment for the consideration of Congress * * *" to cure situations not covered by H.R. 2921.

I fully recognize, as does the Department and other water experts who have studied the rights of way problem, that much remains to be done before a long term, stable resolution or the rights of way problem can be achieved. Most important, we cannot allow the administration of ditch rights of way on public lands to diminish or damage longstanding water rights that form the basis of the economies of Western States.

It is absolutely essential to the water systems of the West that all pre-FLPMA ditch rights of way be fully protected, either by confirmation of the continued validity of these pre-existing rights of way, or by issuing new permits in perpetuity. It is also essential that no cost be attached to the permitting for agricultural uses. Many of these agricultural ditches are as old as the Forest Service, and the economies of agricultural use of water cannot sustain the extra burdens of fees for ditch rights of way. At the same time, it is well recognized that water users have the obligation to maintain these rights of way in a manner that will protect adjoining forest lands from damage.

In conclusion, I want to express my appreciation to Senator WALLOP for his efforts to resolve this very complex and difficult problem. His understand-

ing of water and the history of its development in the West give him unique qualifications to deal with the issues we now confront. I appreciate the leadership the distinguished Senator from Wyoming provides in water issues so crucial to the West. I look forward to working closely with him to develop future legislation that may be required to finally resolve the ditch right of way issue.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading and passage of the bill.

The bill (H.R. 2921) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to confirm the following executive calendar nominations: Calendar No. 1065, Paul A. Russo; Calendar No. 1103, Robert B. Barker.

Mr. BYRD. Mr. President, both of those calendar numbers have been approved on this side by all Members and we are ready to proceed.

Mr. DOLE. I thank the minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the nominations just identified and that the nominations be considered en bloc and confirmed en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations are considered en bloc and confirmed en bloc.

Mr. DOLE. I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Paul A. Russo, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of Dominica, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Lucia, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Vincent and the Grenadines, Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Christopher and Nevis.

DEPARTMENT OF DEFENSE

Robert B. Barker, of California, to be Chairman of the Military Liaison Committee to the Department of Energy.

PAUL RUSSO, AMBASSADOR TO BARBADOS

Mr. DOLE. Mr. President, I am pleased that the Senate has confirmed Paul A. Russo as the new U.S. Ambassador to Barbados. He has solid governmental experience at the highest levels, having completed outstanding work for President Reagan in the White House as Special Assistant for Political Affairs and as a Deputy Undersecretary at the Department of Labor, to name but two of Mr. Russo's recent responsibilities.

The Senator from Kansas has known the new Ambassador for a number of years and can attest to his hard work ethic and integrity. Barbados and its nearby island nations play a key role in the Caribbean for the United States in both their economic and strategic importance, and I am confident he will serve his country well.

Mr. Russo is a graduate of Ohio State University who has compiled a superb career in politics and Government. He will continue to do the same good work in his new assignment in the Barbados.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I move that the Senate resume legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WILD AND SCENIC RIVERS ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resoures be discharged from further consideration of H.R. 2826, amending the Wild and Scenic Rivers Act, and that the Senate turn to its immediate consideration.

Mr. BYRD. Mr. President, I shall have to object at this time. I hope the matter can be cleared before the end of the session and we shall make every endeavor to do that.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, does the Senator from Alaska seek recognition?

Mr. MURKOWSKI. I thank the majority leader.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of H.R. 4162, Calendar Item No. 1083.

Mr. BYRD. Mr. President, I regret that I have to object on behalf of several Senators.

The PRESIDING OFFICER. The objection is heard.

Mr. MURKOWSKI. Mr. President, I wonder if the minority leader has any idea or if he feels that this might be cleared prior to the end of the session?

Mr. BYRD. I understand that there is a substitute for the measure. It has been printed in the RECORD and is being studied by various Senators. Perhaps it can be cleared before the end of the session.

Mr. MURKOWSKI. I thank my friend, the minority leader. I do wish to assure him for the record that I shall make every attempt, as will my senior colleague, Mr. STEVENS, I am sure, to meet with any Senators on the minority side who object to the proposed bill. I shall try to answer any questions that they may have.

I do thank the minority leader for his consideration on this matter at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. STEVENS. Mr. President, I wonder if it is in order that somehow or other, we be given a list of bills that are going to be cleared for the consent calendar for the balance of the session?

The PRESIDING OFFICER. The Chair has no such list.

Mr. STEVENS. I am in a conference committee. It is a continuing conference committee now that I think will be continued right up until the end of the session. It is awfully difficult to be here at the same time that bills are coming and going. I know it is an extreme burden on the staff, but I think that in view of the timing of the winding down of this session, it is fair that we have some information concerning the bills other Members are seeking to clear.

I note with some respect that there are a series of measures that pertain to our State that are not being cleared. It happens, in my judgment, that they are being objected to by the same Senators. Since we are in this unanimous consent mode, I felt that perhaps we might be able to obtain information concerning matters that

other Senators may be seeking unanimous consent on so I might be present to lodge an objection when it is appropriate.

Is there some way we can ask for advance notice of items that are cleared? I note that we no longer have the rule that matters appear on the calendar for 1 day, which pertained in all prior Congresses where I was involved in management on the floor. It is not easy to follow these matters under the current procedures.

The PRESIDING OFFICER. The Chair has no such list and does not have access to such list. He regretfully states that he cannot be of assistance to the Senator from Alaska.

□ 1900

Mr. MURKOWSKI. I wonder if the Senator from Alaska will yield on this question—and I defer to the minority leader—if it is a policy or procedure to have available the information relative to the number of Senators who might have a hold or, as I understand it, the information available currently on H.R. 4162 does not give the name of the individual Senator and the difficulty is the inability to respond to that Senator. I wonder if I could direct this to the President for a ruling, a question specifically as to whether or not if we cannot get the name of the individual Senator with the hold, whether we can get an indication if there is more than one. I will ask that of the Chair.

The PRESIDING OFFICER. The Chair would tell the junior Senator from Alaska that there is no procedural status, and the Chair is not able to provide the Senator from Alaska with such information and respectfully suggests that the junior Senator from Alaska address the question to the minority leader inasmuch as he has indicated the objection.

Mr. MURKOWSKI. I thank the Chair.

I assume there is not much more that the minority leader could impart as far as information as to whether there might be more than one hold or not on this matter?

Mr. BYRD. Yes. Mr. President, as I indicated earlier, there is an objection on the part of several Senators, or various Senators, I do not remember the word that I used, but there is more than one objection.

Mr. MURKOWSKI. I thank the minority leader, and I assume the procedure then is to informally do the best you can.

Mr. BYRD. Yes, I think that is correct. I am sure that the staff on the distinguished Senator's side of the aisle will continue to work with staff on this side of the aisle and will attempt to clear the item.

Mr. MURKOWSKI. Let me reassure the minority leader of our willingness to work with those who have questions on this legislation. I appreciate the Senator's courtesy and I thank the Chair.

Mr. BYRD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

SENATOR MATHIAS DEPARTS

Mr. PELL. Mr. President, it is with a real sense of impending loss that I note the retirement from this body of the distinguished, unique, and able senior Senator from Maryland, Mr. MATHIAS.

"MAC" MATHIAS is one of those rare people in public life who has never let the trappings of office overwhelm his true nature. His grace and good humor are constant qualities that he brings to every occasion, thereby making even the most daunting task seem easier.

For me, he has become a true friend and wise counsel, as well as an ally in many a good cause.

It has been my special good fortune to have him as a colleague on the Committee on Foreign Relations where his perception and sense of fairness have contributed greatly to the balance of the committee.

I particularly commend him for his work on the South African sanctions bill, where his leadership was critical in ensuring that the committee take a strong stand in opposition to apartheid.

As chairman of the Subcommittee on International Economic Policy, Senator MATHIAS was among the first to sound the alarm about the threat to international stability posed by the burgeoning debt of underdeveloped countries.

He also has taken a keen interest in our relationship with our NATO allies. For many years, he served as chairman of the Senate delegation to the North Atlantic Assembly, and he is currently finishing up a year of service as the Assembly president. His expert knowledge, diplomatic skill, and personal grace have greatly strengthened the United States-European interparliamentary relationship in support of NATO.

On the Committee on Rules and Administration, where he succeeded me as chairman, Senator MATHIAS has presided with notable equanimity and fortitude over the often-vexing problems involving internal management of the Senate.

Telephone procurement, Capitol security, computer services, campaign finance regulation, oversight of the Smithsonian Institution and the Library of Congress and a host of other matters have received calm and patient consideration under the chairmanship of the Senator from Maryland.

By all odds, the most historic achievement of Chairman MATHIAS' tenure at the helm of the Rules Committee is the smooth, and I might say beneficial, transition of the Senate to the television age.

I must admit that I myself came only late and with reluctance to support TV coverage of Senate proceedings. But Senator MATHIAS was perhaps more farsighted than some of the rest of us in recognizing some time ago not only that the Senate owed it to itself and to the Nation to adapt to the times, but that the institution would not suffer from doing so. I believe our experience to date has amply confirmed his judgment.

"MAC" MATHIAS will be remembered fondly for many things but perhaps most of all for his sense of scholarship and erudition. To the wonderment of us all, he is never at a loss for an appropriate literary allusion to sum up an occasion.

In the words of one of his most frequent sources of inspiration, Dr. Samuel Johnson, he is indeed "a Lord among wits."

Notwithstanding Dr. Johnson's abiding prejudice against Scotland, CHARLES MCCURDY MATHIAS, JR., is probably just the man Dr. Johnson had in mind when he said:

"Much may be made of a Scotsman if he be caught young."

The Senator from Maryland was indeed caught young. He started public life as an assistant State attorney general at the tender age of 31 and has been at it ever since. He first entered elective office in 1958 and has been reelected time and again, proving that Maryland respects his independent style and political courage. He has served his State with great distinction and while many of us are sad to see him leave the Senate, everyone would agree that he richly deserves a respite.

I only hope that he maintains his contacts and friendship with all of us he leaves behind in the Senate.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 8 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF THE MERCHANTS NATIONAL BANK OF MOBILE, AL

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 593.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 593) entitled "an Act for the relief of the Merchants National Bank of Mobile, Alabama", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period January 1, 1976, through December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

SEC. 2. (a) The payment made pursuant to the first section of this Act shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by this Act.

(b) No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. DENTON. Mr. President, I rise in support of the amended version of S. 593, a bill for the relief of the Merchants National Bank of Mobile, introduced by Senator HOWELL HEFLIN and myself on March 6, 1985. Passage of the bill would conclude a congressional reference proceeding that began in the U.S. Senate more than 6 years ago. On October 31, 1985, the original bill was considered by the Judiciary Committee and was unanimously reported to the full Senate for consideration. On December 6, 1985, the Senate approved the original bill by voice vote. Today, the House approved an amended version of the bill.

The bill complements the legislation that was introduced by Senator HEFLIN in the 96th Congress (S. 2052), and referred in November 1979 by Senate Resolution 291 to the Chief Commissioner of the U.S. Claims Court.

The reference sought the court's consideration of whether the Merchants National Bank of Mobile [the bank] was legally or equitably entitled to compensation for losses sustained in connection with a defective Federal loan guarantee issued by the Department of Defense. After a lengthy trail before a hearing officer, and argument before a review panel, the U.S. Claims Court, through its chief judge, has advised the Senate that the bank has an equitable claim for $809,609, and that payment of the amount would not constitute a gratuity.

The losses sustained by the bank relate to loans made to a Government contractor in Mobile, AL, which was attempting to perform two contracts, awarded by the Defense Logistics Agency in 1976, to assemble combat rations for the military. In the early stages of the contracts, lengthy delays and mishandling of materiel by the Government, generated substanial unforseen costs to the contractor. To assist the contract in securing financing for the costs, the Agency approved a loan guarantee to the bank pursuant to the Defense Production Act V-Loan Guarantee Program.

When the bank had advanced virtually the entire guaranteed sum—almost $2 million—the Agency abruptly cancelled the guarantee because it discovered that no funds had been appropriated to support the guarantee agreement. Nevertheless, stressing the importance of the combat rations contracts to the defense effort, the Agency pledged its full assistance to Merchants Bank and the contractor to encourage them to proceed with the contracts. The Agency even drafted legislation to allow the issuance of a suitable replacement guarantee. Based upon these assurances, the bank agreed to continue supporting the Government's contractor.

Soon thereafter, appropriate language was included in the 1978 DOD Appropriations Act to make available $5 million for the express purpose of authorizing new loan guarantee agreements. At this point, the bank applied for a new v-loan guarantee consistent with the assurances it had received from the Defense Logistics Agency. Notwithstanding the availability of suitable loan guarantee authority and the assurances that the Agency would do everything possible to restore the guarantees upon which the bank had relied, the Agency refused the application. Instead, it offered a guarantee substantially less favorable than the first, and only after requiring the bank to extend an additional half-million dollars in unguaranteed credit to the Government's contractor.

Meanwhile, the Agency acknowledged that its handling of the contracts had substantially increased the cost of performance. Consequently, it enlarged the credit requirements of the contractor. Because the second loan guarantee was wholly insufficient to support these credit requirements, and since the Bank could not prudently extend further credit in light of its alreay substantial unguaranteed exposure, the contractor was forced to close its doors and file for bankruptcy in 1978. Both before and after the bankruptcy petition was filed, the bank expressed its willingness several times to join with the Agency in cooperative financing arrangements that would save the company. The Agency refused to entertain these suggestions, and in April 1978 the contractor was adjudged bankrupt.

In extending credit for the performance of the Government contracts, the bank understandably relied upon representations and assurances of the Defense Logistics Agency. When the first guarantee was suddenly cancelled, the bank again relied upon the assurances of senior Agency officials that, pending enactment of new guarantee authority, a replacement loan guarantee would be established in an amount sufficient to protect the bank. When the Agency ultimately refused to stand by those assurances, the resultant credit limitations left the contractor facing bankruptcy and caused the bank to suffer losses of nearly $1.7 million.

Because the bank's losses were primarily the result of its reliance upon a guarantee that exceeded the authority of the responsible Government officers, it was apparent that a successful legal cause of action for the recovery of these losses was extremely unlikely. Where Government officials act beyond the scope of their authority, the obstacles to maintain a legal cause of action to recover from the United States are virtually insurmountable. For that reason, S. 2052 was introduced in the 96th Congress and was referred by Senate resolution to the court of claims for consideration.

After a lengthy trial, which filled 2,000 transcript pages, Judge Spector, a senior judge of the claims court, on April 30, 1984, issued an exhaustive 65-page report in which he recommended that Congress authorize payment to Merchants Bank of $809,609 in full settlement of all its legal or equitable claims against the United States. The report concluded that the Government was responsible for a series of wrongful acts, including several unfulfilled assurances upon which the bank had relied in extending credit to the contractor. Judge Spector also found that the bank's cooperation with the Government and its contractor was in part motivated by the Agency's insistence that continued production under the contract was urgently required to support national defense needs.

Government counsel took exception to many of the findings, and a three-judge review panel of the claims court considered yet another round of briefs and oral argument from the parties.

The resulting 22-page report of December 6, 1984, confirmed Judge Spector's conclusions and recommended that the chief judge transmit to the Senate its conclusion that Merchants Bank has an equitable claim against the Government for $809,609. Copies of the decisions of both judge Spector and the review panel were referred to the Secretary of the Senate by the chief judge of the claims court on December 19, 1984.

The bill would give effect to the conclusions rendered after careful adjudication by the claims court. It does not compensate the bank for all of the losses it has suffered in supporting this Government contractor. Indeed, the bank has never sought total compensation from the United States for its losses, nor does it seek to recover the painful costs generated by some 5 years of watching this congressional reference proceeding take its long and careful course.

The bill would confirm the efficacy of some of the longstanding traditions of a congressional reference, traditions founded in part upon a simple recognition that there should be an avenue by which the Government can be held accountable for its mistakes and excesses. Accountability is particularly important when, as in this case, losses are suffered expressly because of the trust and reliance that was placed quite naturally in a Government agency responsible for the national defense.

Mr. President, the House version of the bill contains language which makes clear that no part of the amount appropriated in the bill in excess of 10 percent thereof could be paid or delivered to any agent or attorney of the bank on account of services rendered in connection with the claim. The purpose of this language is to prohibit any agent or attorney of the bank from receiving funds due from the bank on a contingent fee or success fee basis as a result of its representation of the bank; the language makes clear that payments by the bank to any agents or attorneys on a contingent basis in excess of 10 percent of $809,609 are unlawful. The section is not intended to apply to traditional hourly arrangements made by the bank for attorneys in connection with representation of the bank in handling this congressional reference claim through the detailed process set out in title 28, United States Code, sections 1492, 2509. This additional language is acceptable to Senator HEFLIN and myself.

Mr. President, the bill involves a unique, unprecedented set of facts, and will provide compensation only to the Merchants National Bank of Mobile for its own proven losses.

I urge my colleagues to again support equitable compensation for the Merchants National Bank of Mobile by concurring with the House amendment and passing the bill.

Thank you, Mr. President.

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table

The motion to lay on the table was agreed to.

NAVY RABBI JOINS ICELAND TEAM

Mr. PELL. Mr. President, as the President departs for the summit meeting in Iceland with Soviet leader Gorbachev, the Nation's Jewish community prepares to observe one of the most important dates on the Jewish religious calendar, the high holiday of Yom Kippur.

For this reason the President has asked Rabbi Arnold Resnicoff, a Navy chaplain stationed at the Naval Chaplains School in Newport, RI, to fly to Iceland with President Reagan and conduct Yom Kippur services for the President's staff.

This is not the first time that Rabbi Resnicoff has been a part of momentous events. In 1983, the rabbi cared for the injured and dying in the aftermath of the terrorist bombing of the Marine barracks in Beirut, Lebanon. The President took note of Rabbi Resnicoff's actions in Beirut and asked him to prepare a report on the terrorist attack and subsequent rescue effort.

Mr. President, the Providence Journal recently reported on Rabbi Resnicoff's participation in the Iceland summit and I ask unanimous consent that the text of the article, entitled "Navy Rabbi To Join Iceland Team," be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAVY RABBI TO JOIN ICELAND TEAM

NEWPORT.—Rabbi Menachem Resnicoff and his family immigrated to America nearly a century ago, in flight from the persecution that haunted Jews in their native Russia.

Today, his grandson will complete the journey that his grandfather began more than 80 years ago, Rabbi Arnold Resnicoff, a Navy chaplain, will fly to Iceland to lead Yon Kippur services for President Reagan's summit staff.

"I'm only sorry that my father is not alive to see this, that one generation after they escaped to America, one of our family will lead a service at a meeting with Russia," Rabbi Resnicoff said from his office at the Naval Chaplains School in Newport.

"My grandfather used to thank God that there was a country like America. It was that feeling he bequeathed to me."

ONLY CHAPLAIN AT SUMMIT

Rabbi Resnicoff isn't sure why he was chosen to be the only chaplain at the presummit between Mr. Reagan and Soviet leader Mikhail Gorbachev that begins Friday. All he knows is that the White House asked the Armed Forces Chaplain Board to select a rabbi, and the Navy's chief of chaplains picked him.

Perhaps someone in the administration remembered the Navy chaplain who cared for the dying and wounded in the aftermath of the 1983 terrorist bombing of a Marine barracks in Beirut, Lebanon.

Mr. Reagan asked Rabbi Resnicoff to write an account of the attack and the rescue effort that followed. The President later read the report during a national convention headed by the Rev. Jerry Falwell.

"My first feeling was one of pride in America," Rabbi Resnicoff said of his trip to Iceland. "(It's) the thought that someone in Reagan's staff felt comfortable bringing in religion as a matter of course, that this was an important time of the year."

The summit falls during the high holy days of the Jewish religion. Yom Kippur—the day of atonement—is the holiest day in the Jewish year, capping a period of reflection, study and prayer.

Rabbi Resnicoff believes there is a certain lovely irony to the timing of these two "events."

"Jews believe they can learn from the past," he explained. "We're telling ourselves as individuals, as a people and as a nation that we should learn from past actions and break out of unhealthy cycles."

Someone recently asked Rabbi Resnicoff what he would say if he met the Soviet leader.

"What would I say to Gorbachev if I could stand in front of him in the uniform of a U.S. Navy officer with the Ten Commandments—the symbol of a Jewish chaplain—on my sleeve? I would not have to say another word. My uniform says it all."

Rabbi Resnicoff joined the Navy because of his father's love of America. But it was his experience in the Navy that led him to become a rabbi. It was in Vietnam's Mekong Delta that he began to lead services for fellow Jews.

He said he returned to the Navy after completing his rabbinical studies for two reasons. "Loyalty. If it hadn't been for the Navy, I wouldn't have become a rabbi. And second, almost never did I see a rabbi in the Navy."

The rabbi isn't sure what he will say in his sermon on Sunday, the beginning of Yom Kippur. He said he might draw on the historic message of Yom Kippur—the notion that people can learn from their mistakes.

The idea I got from my father is you can make things better or worse. Just as individuals can make a difference, so can nations. A nation is not an evil thing. It can either be a force for good or for suffering.

"I believe it's my responsibility not only to be a good individual but to be a good citizen."

What hopes does Rabbi Resnicoff have for the first meeting of the two superpower leaders?

"It may be impossible, but if Russia could understand that America does not negotiate based only on what's good for us (and that) we really care about individual liberties and

human rights, that would be a step forward."

The only thing Rabbi Resnicoff regrets is not being able to spend Yom Kippur with his wife and daughter. But after 10 years in the Navy, the rabbi has grown accustomed to missing holidays with his family.

If his father were alive today. Rabbi Resnicoff thinks he would be thrilled with the honor bestowed on his son.

"For my father, I know there would be tears on his cheeks. He'd say that he's only sorry that his father wasn't alive to see this."

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on October 8, 1986, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 748. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the 2d session of the 99th Congress; and

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:55 a.m., a message from the House of Representatives, announced that the Speaker pro tempore [Mr. FOLEY] had signed the following enrolled bill:

H.R. 2005: An act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:29 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona;

H.R. 4021. An act to extend and improve the Rehabilitation Act of 1973;

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; and

H.J. Res. 678. Joint resolution to designate October 1986 as "Crack/Cocaine Awareness Month."

The enrolled bills and joint resolution were signed by the President pro tempore [Mr. THURMOND].

At 5:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that pursuant to section 301 of Public Law 99-371, the Speaker appoints as members of the Commission on Education of the Deaf, the following from private life on the part of the House: Ms. Patricia A. Hughes of Seattle, WA, Mr. David J. Nelson of Washington, DC, Mr. William Page Johnson of Jacksonville, IL, and Ms. Nanette Fabray of Pacific Palisades, CA.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5445. An act to amend chapter 96 of title 18, United States Code.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 404. A concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the emigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases; and

H. Con. Res. 406. A concurrent resolution expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes.

MEASURES REFERRED

The following bills, previously received from the House of Representatives, were read the first and second times by unanimous consent, and referred to indicated:

H.R. 103. An act to require the Secretary of the Interior to permit trapping in the Ozark National Scenic Riverways Area; to the Committee on Energy and Natural Resources.

H.R. 235. An act to authorize the establishment of the Jimmy Carter National Historic Site in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5445. An act to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 404. Concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the emigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases; to the Committee on Foreign Relations.

H. Con. Res. 406. Concurrent resolution expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 4731. An act to amend chapter 131 of title 46, United States Code, relating to the Federal recreational boating safety programs, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED DURING RECESS

Under the authority of the order of the Senate of January 3, 1986, the following enrolled bills and joint resolutions were signed on October 8, 1986, during the recess of the Senate, by the President pro tempore [Mr. THURMOND]:

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards;

H.R. 4718. An act to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes;

H.R. 5362. An act to extend the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.R. 5548. An act to amend the Export-Import Bank Act of 1945;

H.J. Res. 635. Joint resolution to designate the school year of September 1986 through May 1987 as "National Year of the Teacher" and January 28, 1987, as "National Teacher Appreciation Day";

H.J. Res. 748. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the Ninety-ninth Congress; and

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3820. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Commodity Credit Corporation's Financial Statements for 1985 and 1984"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3821. A communication from the Assistant Secretary of Agriculture (Science and Education), transmitting, pursuant to law, the Renewable Resources Extension Program Five Year Plan for 1986-1990; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3822. A communication from the Secretary of Transportation, transmitting, pursuant to law, a recommendation with respect to a supplemental appropriation for the Pollution Fund administered by the U.S. Coast Guard; to the Committee on Appropriations.

EC-3823. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of the appropriation for Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-3824. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report on certain properties to be transferred to the Republic of Panama in accordance with the Panama Canal Treaty and related agreements; to the Committee on Armed Services.

EC-3825. A communication from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on the conversion of the refuse collection function at Elmendorf Air Force Base, Alaska to performance by contract; to the Committee on Armed Services.

EC-3826. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of the intention of the Defense Logistics Agency to exercise the provision of law concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-3827. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of the intention of the Defense Logistics Agency to exercise a provision of law concerning the examination of records by the Comptroller General; to the Committee on Armed Services.

EC-3828. A communication from the General Counsel of the Department of Commerce, transmitting, purusant to law, the comments of the Department of S. 991, the Marine Fisheries Program Authorization Act of 1985; the Committee on Commerce, Science, and Transportation.

EC-3829. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize occupancy of substandard family housing units by members of the Coast Guard on the same basis as members of the other Armed Forces; to the Committee on Commerce, Science, and Transportation.

EC-3830. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3831. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report under the Mining and Minerals Policy Act of 1970 for calendar year 1985; to the Committee on Energy and Natural Resources.

EC-3832. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, a report entitled "The National Historic Preservation Act of 1966: An Assessment of Its Implementation Over Twenty Years"; to the Committee on Energy and Natural Resources.

EC-3833. A communication from the Acting Secretary of State, transmitting, pursuant to law, a report on the situation in El Salvador; to the Committee on Foreign Relations.

EC-3834. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 3, 1986; to the Committee on Foreign Relations.

EC-3835. A communication from the Deputy Assistant Secretary for Health Operations and Director, Office of Management, Department of Health and Human Services, transmitting, pursuant to law, an annual report on the PHS Commissioned Corps Retirement System for fiscal year, 1985; to the Committee on Governmental Affairs.

EC-3836. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, an annual report of the Securities and Exchange Commission on the Government in the Sunshine Act, for calendar year 1985; to the Committee on Governmental Affairs.

EC-3837. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an annual report of personal property furnished to non-federal recipients for fiscal year 1985; to the Committee on Governmental Affairs.

EC-3838. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a plan for the use and distribution of the Rincon Band of Mission Indians judgement funds; to the Select Committee on Indian Affairs.

EC-3839. A communication from the Chief Justice of the United States, transmitting, pursuant to law, reports of the Proceedings of the Judicial Conference of the United States, held in Washington, D.C. on March 12 and 13, 1986, and the Special Session held on June 30, 1986; to the Committee on the Judiciary.

EC-3840. A communication from the Treasurer of the Jewish War Veterans, USA National Memorial, Inc., transmitting, pursuant to law, an annual audit report for fiscal year ended March, 31, 1986; to the Committee on the Judiciary.

EC-3841. A communication from the Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, the annual audit report for the year ended August 31, 1986; to the Committee on the Judiciary.

EC-3842. A communication from the Director of the National Science Foundation, transmitting to law, a report on the research facilities needs of U.S. universities; to the Committee on Labor and Human Resources.

EC-3843. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Carl D. Perkins Scholarship Program; to the Committee on Labor and Human Resources.

EC-3844. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for debt collection; to the Committee on Labor and Human Resources.

EC-3845. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Railway Labor Act; to the Committee on Labor and Human Resources.

EC-3846. A communication from the Acting Administrator of the Small Business Administration, transmitting, pursuant to law, the interim report on the 504 Development Company Pilot Program; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report entitled "Child Pornography and Pedophilia" (Rept. No. 99-537).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 893: A bill to create the Florida Panther National Wildlife Refuge in the State of Florida (Rept. No. 99-538).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

H.J. Res. 67: A Joint resolution calling for a wildlife sanctuary for humpback whales in the West Indies.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself and Mr. BUMPERS):

S. 2914. A bill to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act; considered and passed.

By Mr. RIEGLE:

S. 2915. A bill to deny most-favored-nation treatment to imports from Yugoslavia; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2916. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. DOLE, Mr. KASTEN, Mr. LAXALT, Mr. NICKLES, Mr. DENTON, Mr. HEINZ, Mr. MCCLURE, Mr. THURMOND, Mr. WEICKER, Mr. WILSON, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. GLENN, Mr. NUNN, Mr. ZORINSKY, Mr. DECONCINI, Mr. CHILES, Mr. METZENBAUM, Mr. GORE, Mr. HOLLINGS, Mr. DIXON, Mr. LEVIN, Mr. PRYOR, and Mr. STENNIS):

S.J. Res. 426. Joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself, Mr. COHEN, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, and Mr. ROTH):

S. Res. 503. Resolution relative to Dr. Abby Nkomo, chairman of the Atteridgeville/Saulsville Civic Association; considered and agreed to.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. Res. 504. Resolution relating to United States-Japan ash trade; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. KENNEDY, Mrs. HAWKINS, Mr. MOYNIHAN, Mr. SIMON, Mr. STAFFORD, Mr. MELCHER, Mr. JOHNSTON, Mr. BOREN, Mr. MATSUNAGA, and Mr. SARBANES):

S. Con. Res. 167. Concurrent resolution to express the sense of Congress regarding efficient and compassionate management of the Social Security Disability Insurance (SSDI) Program; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE:

S. 2915. A bill to deny most-favored-nation treatment to imports from Yugoslavia; to the Committee on Finance.

STATUS OF IMPORTS FROM YUGOSLAVIA

Mr. RIEGLE. Mr. President, I am today offering a bill that deals with a problem that has arisen where an American citizen has been tried by a court in Yugoslavia and sentenced to a 7-year prison term for activities that this American citizen carried out in the United States—activities of a proper political sort. Expressing his views here in the United States is the reason he has been jailed, tried, and now convicted to a 7-year term in Yugoslavia.

The man in question, Pjeter Ivezaj, is a U.S. citizen from Sterling Heights, MI. I am greatly distressed by this development, as are others in my State. Certainly his family is greatly distressed, as are others who have followed this case, because of what is obviously improper conduct by the Government of Yugoslavia.

This afternoon, my colleague in the House of Representatives from Michigan, Congressman WILLIAM BROOMFIELD, who is the senior Michigan Republican in the House and ranking Republican on the Foreign Affairs Committee, filed a bill that is exactly the same as the one I will now file, containing the cosponsorship of the 18 House Members in both parties from the State of Michigan, as well as several dozen other colleagues in the House of Representatives.

What the bill would do is, if passed, suspend the most-favored-nation trading status with Yugoslavia until such time as this illegal detainment of an American citizen comes to an end and this, and any other similarly incarcerated individual, is released.

This is a very serious matter. I say to the officials of Yugoslavia that this is unacceptable behavior and conduct toward citizens of this country and toward our country, and I, for one, feel strongly that unless this matter is resolved quickly and properly, we ought not to be seeing Yugoslavian goods of any sort coming into the United States, because this is just unacceptable and intolerable conduct between our Nations.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill and two articles from the Detroit News and the Detroit Free Press relating to this matter.

There being no objection, the text of the bill and articles were ordered to be printed in the RECORD, as follows:

S. 2915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. DENIAL OF NONDISCRIMINATORY TREATMENT.

Nondiscriminatory treatment (Most-Favored Nation treatment) shall be denied to any product of Yugoslavia that is entered, or withdrawn from warehouse for consumption, in the customs territory of the United States on or after the 10th day after the date of enactment of this Act unless prior to that 10th day, the President determines and reports to the Congress that the Government of Yugoslavia has released all citizens of the United States who the President finds have been imprisoned or otherwise detained in the custody of government authorities in Yugoslavia without adequate justification and that the Government of Yugoslavia has ceased to implement any policy or program which results in such unjustified imprisonment or detainment of United States citizens.

SEC. 2. DURATION OF DENIAL.

In the event that the denial of nondiscriminatory treatment (Most-Favored-Nation treatment) to any product of Yugoslavia required under section 1 of this Act takes effect, such denial shall continue in effect until such time as the President determines and reports to the Congress that the Government of Yugoslavia has released all citizens of the United States who the President finds have been imprisoned or otherwise detained in the custody of government authorities in Yugoslavia without adequate justification and that the Government of Yugoslavia has ceased to implement any policy or program which results in such unjustified imprisonment or detainment of United States citizens.

YUGOSLAVS CONVICT AMERICAN

DETROIT AREA MAN GETS 7-YEAR TERM

(By Roddy Ray)

Pjeter Ivezaj, a U.S. citizen from Sterling Heights, was sentenced Wednesday to seven years in prison by a panel of judges in Yugoslavia for participating in peaceful anti-Yugoslav activities in this country.

The sentence prompted outrage in Washington and at the Ivezaj family's home. His lawyer in Yugoslavia entered an immediate appeal.

"Please help us," his father, Leka, a 56-year-old Chrysler Corp. worker, said through an interpreter. The family had declined previously to be interviewed for publication, fearing their statements would adversely affect the outcome of Ivezaj's trial.

"I was told that I should button my lips, so to say," said his brother Frano, 28. "I've buttoned my lips enough. Now I intend to take this matter to the court of world opinion. If U.S. citizenship has any value, which I believe it does, now is the time for the U.S. government to make a move."

Ivezaj, 30, of Albanian descent, was arrested in August after flying to Yugoslavia with his wife and daughter to visit relatives, family members said. He has been a naturalized U.S. citizen for 10 years and has worked as a bilingual technician with the Detroit Public Schools.

A statement released Wednesday by the U.S. Embassy in Belgrade said the charges apparently stemmed from his "alleged membership in an alleged Albanian-American student organization and participation in an 'Anti-Yugoslav' demonstration" in Washington in 1981.

"The U.S. Government will continue to press vigorously for Mr. Ivezaj's release. We have informed senior Yugoslav officials of our outrage that an American citizen could be arrested and tried for . . . exercising his constitutional rights in the United States. We have also informed Yugoslav government officials that actions such as these can only harm bilateral relations between Yugoslavia and the United States," the statement said.

In Washington, U.S. Rep. William Broomfield of Birmingham, the ranking Republican on the House Foreign Affairs Committee, joined with four other congressmen in drafting a letter asking Secretary of State George Shultz to revoke Yugoslavia's favored-nation trade status.

Sen. Carl Levin, D-Mich., asked the Senate Foreign Relations Committee to investigate Ivezaj's "deplorable case."

Broomfield, whose district includes Sterling Heights, and Levin said U.S. diplomatic officials expressed optimism that Ivezaj's sentence would be overturned.

Ivezaj's trial began Friday and ended Monday. The news of his sentence apparently hit hardest at home, when the family took the 8:45 a.m. telephone call from his wife, Juliana, in Titograd, Yugoslavia. Juliana Ivezaj, who is pregnant, attended the trial with other family members, including

Ivezaj's mother, Pashka, 55. Juliana Ivezaj told relatives in the United States that her husband was forbidden to face her or other supporters in the Titograd courtroom.

"Everything had gone through my mind about what might have happened," said Frano Ivezaj, as he sat among about a dozen family members and reporters at the well-kept, single-story brick ranch home. "I thought he would be found not guilty. Or I thought he would be sentenced to 50 days, which he already has served. And the third possibility, I didn't want to think about it, that he would be found guilty."

In a gesture of typical Albanian hospitality, the family poured cognac for visitors.

Associated Press quoted unnamed sources in Yugoslavia as saying the five-judge panel at the Titograd district court charged Ivezaj with participating in demonstrations "in Detroit, Chicago and Washington" that were "directed against the Yugoslav constitutional system and were aimed at toppling the socialist government."

Tanjug, the official Yugoslav news agency, quoted Judge Sreten Ivanovic as saying the trial proved Ivezaj had been a member of an Albanian-American student organization in Detroit since 1978, AP reported. The judge said the group includes political emigres from Albania and Yugoslavia and promotes anti-Yugoslav activity, it reported.

Frano Ivezaj said his brother had attended a meeting of such a group about 10 years ago, but "he thought it was a social organization, and he quit when he found out they were political." He said Ivezaj had attended the Washington demonstration but no other.

Said Nua Ivezaj, 22, a cousin: "We just want Pjeter back."

[From the Detroit News, Oct. 9, 1986]

YUGOSLAVS CONVICT IVEZAJ

(By Diane Katz and Lou Fintor)

WASHINGTON.—A seven-year prison sentence imposed on a suburban Detroit man by a Yugoslav court has prompted threats from lawmakers to sever U.S. relations with the European nation.

After learning that Pjeter Ivezaj, 30, of Sterling Heights, was convicted Wednesday of crimes against the state, congressmen vowed to rescind trade agreements and expel Yugoslav diplomats unless he is released.

Ivezaj, a naturalized U.S. citizen, had been accused of participating in an anti-Yugoslav demonstration in Washington in 1981.

But U.S. Ambassador John Scanlan, during telephone calls from Yugoslavia to Michigan Rep. William Broomfield, R-Birminghan, and Sen. Carl Levin, D-Mich., expressed optimism that Ivezaj could be freed soon.

"The ambassador is very optimistic that the case will be satisfactorily resolved, and in a matter of days," Levin said during a speech Wednesday on the Senate floor. "That optimism is based upon discussions our ambassador has had with Yugoslav officials at the highest levels."

Ivezaj, a language technican for the Detroit public schools and computer science student at Wayne State University, was convicted by a five-judge panel in Titograd on two charges of violating Article 136 of the Yugoslav criminal code. That statute prohibits membership in anti-government groups and hostile acts against the state.

The verdict followed two days of testimony during which Ivezaj, represented by a Yugoslav lawyer, affirmed his innocence. When the court pronounced sentence, Ivezaj burst into tears, observers told his family in Metro Detroit.

According to Yugoslav authorities, Ivezaj, who is Albanian, had joined an outlawed Albanian-American student group in Detroit and participated in an anti-government demonstration at the Yugoslav Embassy.

Although Ivezaj holds U.S. citizenship, Yugoslav officials still consider him a citizen of their country. Ivezaj remains in custody in a jail outside Titograd. But under Yugoslav law, he will not begin serving his sentence until an appeal is heard. That procedure is under way, authorities said.

During a briefing Wednesday for the House Foreign Affairs Subcommittee on Human Rights, lawmakers threatened to cancel export-import loans to Yugoslavia, rescind trade agreements and expel Yugoslav diplomats from the United Nations in New York and their embassy here unless Ivezaj is released.

"The American people are fed up with the Yugoslavs' disregard for the most basic rights of American citizens at the same time our government is helping bail out the Yugoslav economy," Broomfield said.

Broomfield, along with Michigan Rep. Dennis Hertel, D-Harper Woods, and several members of the House Foreign Affairs Committee, sent letters Wednesday to President Reagan and Secretary of State George Shultz, urging them to support trade sanctions. The letters also recommend that a travel advisory be issued to warn Americans about the risk of arrest and detention in Yugoslavia.

Also angered by Ivezaj's plight, Rep. Philip Crane, R-Ill., called Yugoslav agents "creeps and slimebags" for their surveillance here of U.S. citizens who then are prosecuted in Yugoslavia.

Ekrem Bardha of West Bloomfield, chairman of the Albanian-American Republican Clubs of America, appealed to lawmakers at the briefing to press for Ivezaj's release.

"Can the United States, the leader of the free world, permit a foreign Communist country to dictate to American citizens which of their constitutional rights they can or cannot exercise?" Bardha asked.

And Michigan's two senators, Levin and fellow Democrat Donald Riegle, requested a review of U.S. relations with Yugoslavia in a letter to Sen. Richard Lugar, R-Ind. Lugar is chairman of the Foreign Relations Committee.

The State Department and U.S. Embassy officials in Belgrade, the Yugoslav capital, also condemned the court action and warned that the case could harm diplomatic relations between the two countries.

By Mr. BOSCHWITZ:

S. 2916. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

CAPITAL GAINS TAX DIFFERENTIAL

Mr. BOSCHWITZ. Mr. President, I will introduce a bill this evening with respect to capital gains. I was a very enthusiastic supporter, Mr. President, of the tax bill that passed here in the Senate and passed by such an overwhelming majority and if I have one exception with it, and really I have several, but one major exception, it is the treatment of capital gains.

Capital gains, which in my State of Minnesota prior to the new tax law, had a maximum rate of 22.8 percent, now under this new tax law has a maximum rate of 39 and 40 percent and as a result there is great penalty put on capital and the accumulation of capital and the investment of capital, and it makes it much more difficult, of course, for small businesses, large businesses, to invest or to get capital to either to begin or to expand their facilities.

Of course, the reason that has occurred, Mr. President, was that although rates were higher under the old tax law there was an exclusion. Under the old tax law there was a 60 percent exclusion so that if you made a $1,000 gain only $400 of it was taxed, 60 percent was excluded, and the $400 that was left was taxed at 50 percent or 20 percent of the entire gain.

Now, without the exclusion, 28 percent applies to the entire gain and also the State tax applies to the entire gain as well because many of the States follow the Federal rule.

The bill that I will be introducing will change that by once again bringing the exclusion into play. There would be two holding periods, Mr. President, rather than the one holding period of the old law.

One holding period would be for 1 year and then there would be a 40-percent exclusion. This would bring the overall rate down to about where it was or slightly above where it was when both the State and the Federal rates are included.

Then, in the event that a taxpayer were to hold the asset for more than 3 years, there would be a 60 percent exclusion. This would bring the tax rates down very, very substantially to about 16 percent of the whole as opposed to about 23 percent under the old law.

The capital gains rates, Mr. President, in other nations are either nonexistent or they are certainly lower than the capital gains rates of the United States. In fact, they are lower than they used to be and certainly enormously lower than they presently are under the new law.

Also, Mr. President, under the new law of higher capital gains rates, nearly 40 percent as I said in our State, there is no assurance that more revenue will inure to the benefit of the Federal Government. As a matter of fact, there is a good deal of evidence to suggest that if you raise the capital gains rates in the manner that we are now doing that the revenue to the Federal Government would go down.

Studies that have been done by Martin Feldstein and his associates at Harvard University would suggest that at a rate of 16 percent the Federal Government will collect the most money and if there is a 3-year holding period with a 60-percent exclusion

under present rates it would indeed amount to approximately 16 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD my outline in support of the proposal and a table prepared by the American Council for Capital Formation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE IN SUPPORT OF THE BOSCHWITZ TWO-TIERED CAPITAL GAINS PROPOSAL

1. Mr. President, I am an enthusiastic supporter of the "Tax Reform Act of 1986". Nevertheless, I very much disagree with the new law's treatment of capital gains.

2. While tax rates are lowered substantially—the top bracket tax rate is reduced from 50 percent to 28 percent—the tax rate on long-term capital gains increase substantially:

a. The top federal rate on long-term capital gains increases from 20 percent (50 percent top × 40 percent subject to tax) to 33 percent (top marginal rate under the new law). That's a 65 percent increase!

b. But that only tells half the story. We must also look at the combined state and federal tax on long-term capital gains:

(i) Current law: The top combined rate is in Arkansas and North Carolina—$235 per $1,000 of gain. In California and New York, tied for third highest, the maximum combined federal/state tax is $228 per $1,000 of gain.

(ii) Under a new law, the combined federal/state tax in New York will go as high as $422 per $1,000 of gain. That's an 85 percent increase, and will give New York the highest combined rate in the country. There will be four states (and also the District of Columbia) where the combined federal/state tax on $1,000 of long-term capital gains will exceed $400. In no state will the maximum combined rate be less than $330. Again, the maximum under current law is $235 per $1,000 of gain.

3. Such increase is unwise.

a. Consider: For the wealthiest taxpayers, the top federal tax rate on long/term gains will go from 20 percent to either 28 percent or 33 percent. At most, a 65 percent increase.

However, for a middle-income family with $32,000 of taxable income, the top federal tax rate on long-term capital gains will increase from 11.2 percent (28 percent marginal rate × 40 percent subject to tax) to 28 percent. A 150 percent increase!

And that's not the only way middle-income taxpayers will be hurt by an increase in the capital gains tax rate. For many of these taxpayers, their single largest capital gain often comes from the sale of an asset—such as a farm or a business—which they have held for years. In many cases the asset represents a substantial portion of their net worth. An unexpected and very substantial increase in their capital gains rate could be very difficult for these people to bear.

Indeed, in many cases the capital gain being taxed is not real economic gain, but merely "inflationary gain" which does not add to personal wealth. When we remove the capital gains exclusion, the taxpayer will no longer have any cushion against inflationary gain.

b. Such a substantial increase in the capital gains rate will reduce venture capital that leads to new businesses, new jobs, new technology, new R & D.

Certainly new business will continue to be created, but fewer new businesses and projects will be created. Many innovative but risky projects will not go forward. The preference will be to invest in less risky, dividend paying securities as opposed to risky, growth oriented ventures.

In fact, our competitors seem to agree about the importance of preferential treatment for capital gains. According to the American Council for Capital Formation, 11 industrialized countries including Japan, Taiwan, West Germany, Hong Kong, Italy and South Korea impose no taxes on long-term capital gains, and Canada's maximum tax is only 17 percent.

4. Accordingly, I am introducing legislation to provide a two-tiered capital gains exclusion for individuals. In the case of assets held more than one year but less than three years, the exclusion would be 40 percent. As a result, the top combined federal/state tax would be $254 on $1,000 of gain. That would be higher than current law ($235), but certainly not anywhere near $422 per $1,000.

For assets held three years or more, the exclusion would be 60 percent. That would mean a top combined rate of $179 per $1,000 of gain. Investors would really have an incentive to invest in longer term, higher risk ventures.

5. The available evidence suggests that this bill, standing alone, could be "revenue neutral":

a. Capital gains collections are not only a function of the rate applied, but equally important, of the amount subject to tax. Professor Lawrence Lindsay of Harvard University has estimated that each 1 percent increase in the maximum rate on long-term capital gains above 20 percent results in 5 percent fewer realizations. If true, collections from the wealthy will not increase by raising rates. In fact, the experience demonstrates that reducing the rate on long-term capital gains does not reduce collections. (See attached chart)

b. In fact, the Treasury Department Capital Gains Report (September 1985) concludes: "any effort to raise substantial revenue by increasing capital gains tax rates . . . is likely to be ineffective." Recent work on this issue by Dr. Martin Feldstein and by Professor Lawrence Lindsay of Harvard University also suggests that such an amendment is by itself "revenue neutral".

CAPITAL GAINS TAX INCREASES RESULT IN REDUCED REVENUES—CAPITAL GAINS TAX CUTS RESULT IN INCREASED REVENUES

Year	Maximum capital gains rate (percent)	Capital gains revenues (millions)
1968	25.9	$5,943
1969	27.5	5,275
1970	32.2	3,161
1971	30.8	4,380
1972	45.5	5,708
1973	45.5	5,366
1974	45.5	4,253
1975	45.5	4,535
1976	49.1	6,621
1977	49.1	8,104
1978	49.1	9,348
1979	28.0	11,669
1980	28.0	12,459
1981	20.0	12,684
1982	20.0	12,900
1983	20.0	17,800

Source: American Council for Capital Formation.

Mr. BOSCHWITZ. So, Mr. President, that is the essence of the bill that I will introduce and I will submit this evening and ask that it be referred to the appropriate committee, and I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill of the Senator from Minnesota will be received and appropriately referred.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF AMENDMENTS RELATING TO TAXATION OF CAPITAL GAINS.

(a) IN GENERAL.—Subtitles A and B of title III of the Tax Reform Act of 1986 (relating to individual and corporate capital gains treatment) are hereby repealed as of the close of December 31, 1986.

(b) CONFORMING AMENDMENT.—The Internal Revenue Code of 1986 shall be applied and administered as if such subtitles A and B (and the amendments made by such subtitles A and B) had not been enacted.

SEC. 2. REDUCTION IN DEDUCTION FOR CAPITAL GAINS WITH RESPECT TO CAPITAL ASSETS HELD FOR MORE THAN 1 YEAR BUT LESS THAN 3 YEARS.

(a) IN GENERAL.—Section 1202 of the Internal Revenue Code of 1986 (relating to deduction for capital gains) is amended—

(1) by amending subsection (a) to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 60 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified net capital gain, plus

"(B) 40 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the qualified net capital gain taken into account under subparagraph (A).", and

(2) by amending subsection (c) to read as follows:

"(c) QUALIFIED NET CAPITAL GAIN.—For purposes of subsection (a), the term 'qualified net capital gain' means the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for at least 3 years at the time of the sale or exchange were taken into account.".

(b) INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.—Subsection (e) of section 1001 of the Deficit Reduction Act of 1984 is amended by striking out "1988" and inserting in lieu thereof "1987".

(c) CONFORMING AMENDMENTS.—

(1) Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS.—

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within

the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).".

(2) Subparagraph (B) of section 170(e)(1) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "100 percent minus the percentage described in subparagraph (A) or (B) of section 1202(a)(1), whichever is applicable".

(3) Paragraph (4) of section 691(c) of such Code (relating to deduction for estate tax) is amended by striking out "section 57(a)(9)" and inserting in lieu thereof "section 57(a)(8)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

By Mr. WARNER (for himself, Mr. DOLE, Mr. KASTEN, Mr. LAXALT, Mr. NICKLES, Mr. DENTON, Mr. HEINZ, Mr. MCCLURE, Mr. THURMOND, Mr. WEICKER, Mr. WILSON, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. GLENN, Mr. NUNN, Mr. ZORINSKY, Mr. DECONCINI, Mr. CHILES, Mr. METZENBAUM, Mr. GORE, Mr. HOLLINGS, Mr. DIXON, Mr. LEVIN, Mr. PRYOR, and Mr. STENNIS):

S.J. Res. 426. Joint resolution to designate the week of October 19 through October 25, 1986, as "National CPR Awareness Week"; to the Committee on the Judiciary.

NATIONAL CPR AWARENESS WEEK

● Mr. WARNER. Mr. President, today I am joined by 12 of my colleagues in introducing a Senate joint resolution declaring the week of October 25 through 31, 1986, "National CPR Awareness Week." I hope that you will all join in my efforts to encourage CPR training by cosponsoring this resolution.

Heart attacks are the leading cause of death in the United States. As many as 1.5 million people will suffer a heart attack in 1986, and of these victims, almost half will not survive. Cardio-pulmonary resuscitation is a simple first aid procedure which could prevent many heart attack deaths. It is a tragedy that most people do not know how to perform CPR, and are thus helpless to aid heart attack victims whose lives depend on immediately administered first aid. As a tremendously successful life-saving procedure, it is of vital importance to maximize public participation in CPR training.

"National CPR Awareness Week" is an ideal way to increase public recognition of the importance of CPR training. Last year's resolution was successful in bringing attention to the availability of CPR training, and ultimately in saving lives. Please join me in this worthwhile effort by cosponsoring the second annual "National CPR Awareness Week."●

ADDITIONAL COSPONSORS

S. 1456

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 2479

At the request of Mr. TRIBLE, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2536

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2536, a bill to provide for block grants to States to pay for the costs of immunosuppressive drugs for organ transplant patients.

S. 2651

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2651, a bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes.

S. 2770

At the request of Mr. GORTON, his name was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2808

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2808, a bill to amend title XI of the Social Security Act to require hospitals participating in the Medicare and Medicaid Programs to establish protocols for organ procurement, to establish standards for organ procurement agencies, and for other purposes.

SENATE JOINT RESOLUTION 112

At the request of Mr. DOLE, his name was withdrawn as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE JOINT RESOLUTION 419

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of Senate Joint Resolution 419, a joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day."

SENATE CONCURRENT RESOLUTION 164

At the request of Mr. D'AMATO, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Concurrent Resolution 164, a concurrent resolution expressing the sense of the Congress concerning the Soviet Union's continued interference with postal communications between the United States and the Soviet Union.

SENATE CONCURRENT RESOLUTION 167—REGARDING EFFICIENT AND COMPASSIONATE MANAGEMENT OF THE SOCIAL SECURITY DISABILITY INSURANCE [SSDI] PROGRAM

Mr. KERRY (for himself, Mr. KENNEDY, Mrs. HAWKINS, Mr. MOYNIHAN, Mr. SIMON, Mr. STAFFORD, Mr. MELCHER, Mr. JOHNSTON, Mr. BOREN, Mr. MATSUNAGA, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 167

Whereas Congress established the Social Security Disability Insurance [SSDI] Program in 1956 to improve the quality of life for disabled Americans;

Whereas the decision of the Social Security Administration to require an increased caseload for SSDI examiners and expand the continuing disability review process caused several hundred thousand recipients to be removed improperly from the SSDI rolls during the period of 1981 through 1983;

Whereas the widespread termination and denial of benefits for eligible disabled Americans during such period created undue hardship for countless deserving individuals;

Whereas more than 60 percent of the recipients who appealed a decision to terminate or deny benefits were ultimately successful in reversing the decision;

Whereas the substantial increase in the number of appealed cases drained millions of dollars from the Social Security Trust Fund;

Whereas Congress passed (with only one dissenting vote) the Social Security Disability Benefits Reform Act of 1984 in order to end the inconsistent and frequently arbitrary manner in which the Social Security Administration was applying disability standards, as well as to restore public faith and confidence in the SSDI program;

Whereas since enactment of such Act, there has been, as intended by Congress, a marked improvement in the SSDI review process and the beginning of a restoration of public confidence in the program; and

Whereas recent budget proposals by the Social Security Administration for the fiscal year 1987 indicate that there will be an increase in the SSDI workload for many states, thus threatening a return to the chaos that existed prior to the 1984 Act: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Social Security Administration should not—

(A) reduce the staff of state Disability Determination Services or increase the workload of SSDI examiners to levels that would prevent adequate case development in accordance with the standards established in the Social Security Disability Benefits Reform Act of 1984, or

(B) initiate any other action that would impair the ability of examiners to determine eligibility for benefits in accordance with the requirements of such Act; and

(2) the Social Security Administration should place higher priority on assisting states in both complying with the 1984 reforms and improving the accuracy with which SSDI eligibility is determined.

● Mr. KERRY. Mr. President, 2 years ago today the Congress passed the Social Security Disability Benefits Reform Act of 1984, an act designed to establish a more fair and equitable Social Security Disability Insurance [SSDI] Program. On this anniversary I stand before you and ask my colleagues the simple questions, have we yet witnessed the implementation of the efficient and equitable National Disability Reform Program that was intended by Congress; has the Social Security Administration [SSA] provided States adequate staff and resources to implement the 1984 reforms; has the SSA provided the States adequate time and guidance necessary to ensure that a balanced and equitable SSDI system is in place?

Mr. President I have asked these questions to Vocational Rehabilitation Administrators and Directors of Disability Determination offices throughout the country, and their response has been "no." No—there is not an efficient National Disability Reform Program in place; no—the Social Security Administration has not provided them with adequate staff and resources to implement the 1984 reforms; and no—sufficient guidance and time has not been offered to the States to provide balanced and equitable services as mandated by the 98th Congress.

Are we close to achieving the kind of SSDI system that Congress envisioned when they passed the Social Security Disability Reforms Act in 1984? I think we all recognize the fact that we are beginning to achieve the goals that Congress intended—the goals of a fair and compassionate National Disability Reform Program.

It is for this reason, Mr. President, that I am today, submitting a concurrent resolution which calls upon the Social Security Administration to work with the States and offer them the necessary assistance to carry out what Congress intended when they passed the 1984 reforms. Mr. President, I raise this issue on the second anniversary because I am deeply concerned with the implementation of the 1984 reforms.

Recently the Social Security Administration informed Disability Determination Service Offices nationwide, that they can expect an increase in the determination caseload—in some cases an increased workload of up to 50 percent. According to the SSA, the reasoning behind this increase is so that the system may become more efficient. This action carries with it disasterous implications. The notion of increasing the workload of examiners at an overwhelming rate in the name of efficiency is vaguely reminiscent of what occurred in 1980 prompting Congress to pass the 1984 SSDI reforms. During that period the Social Security Administration implemented the housecleaning reforms with such fervor, that the local SSA offices were unprepared: Employees were not properly trained, the offices were not adequately staffed, and the consequences, Mr. President, were truly disastrous. I recall one case where an individual in a full body cast was told he could work; in another case an individual who was completely blind from a recent accident had his disability benefits terminated. In the name of efficiency we did not get a fair and equitable SSDI system but instead we witnessed a Federal program thrown into administrative disarray and chaos which resulted in the denial of benefits of countless deserving disabled Americans.

Let us recall for a moment how during the period from 1981 through 1983 over 450,000 individuals were thrown off of the SSDI rolls. To date over 60 percent of these deserving disabled Americans have had their SSDI benefits reinstated. Today we are just beginning to witness a restored public faith and confidence in the SSDI Program. Because of the new thorough review process the number of cases being appealed has dramatically decreased.

In my own State for example the number of appeals has dropped by roughly two-thirds. In some States the number of appealed cases going to administrative law judges is so low, they are hiring their ALJ's out to neighboring States. This signals to me not only a system that is beginning to work, but a system that is also saving the taxpayer millions of dollars in unnecessary appeals.

I am fearful, Mr. President, that the recent directive by the Social Security Administration to the local SSA offices to increase their productivity threatens a return to the chaos that occurred prior to the enactment of the 1984 reforms. I think it is safe to say that the regulations resulting from the 1984 reforms are commendable. The evidence clearly indicates a step in the right direction toward a fair and equitable system. I have before me a summarized list of 13 excellent new provisions that have evolved from the 1984 reform for State examiners to follow in making disability determinations, and I ask unanimous consent that this list be inserted into the RECORD at the conclusion of my remarks. These new changes undeniably represent a more thorough review process and a significant improvement in the system as a whole.

However, at a time when we have developed a more labor intensive review process it makes absolutely no sense to me, that in the name of efficiency, we increase the caseload of examiners, particularly adding this burden on top of a national hiring freeze already imposed by the SSA in May. It seems ob-

vious to me that this will make it exceedingly difficult for States to successfully administer fair and equitable SSDI Programs.

Let me give you an example of a tragic incident that occurred this week in my home State of Massachusetts which is the result of the new directive to increase caseloads. A constituent of mine who had been diagnosed with leukemia, was hospitalized near his home for several weeks, more recently he was moved to a Boston hospital for a bone marrow transplant; he was denied disability benefits. It is unconscionable to think that a caseworker determined that this man lying in a hospital bed in Boston is able to work. The caseworker explained his action by stating quite simply that he did not have the time to wait for the medical records, he was behind in his cases and was under pressure to move the case along. How degrading is a system that tells the family of a terminally ill man that he is fully capable of working and not eligible to receive disability benefits? Is this what Congress had in mind when they passed the 1984 reforms? Is this what the Commissioner of SSA had in mind when she directed local offices to increase workloads in the name of efficiency? I would like to believe that it is not.

In closing let me underscore one central point. At a time when new regulations are just beginning to improve the overall review process, it seems especially unjustified to increase workloads while restricting the number of examiners. Mr. President, the resolution that I am introducing today is not designed to point the finger at the SSA and say that their actions are necessarily wrong. The resolution that I am introducing today, is designed to ultimately send a very clear message to the Commissioner of the Social Security Administration and that is—Congress is watching. If regulations and directives are sent to the States which undermine the intentions of Congress when the 1984 reforms were passed, Congress will not allow hundreds of thousands of disabled American citizens to endure the same suffering or degradation which they endured from 1981 through 1983.

I hope that this concurrent resolution will clear both sides of the aisle and pass this evening, thus expressing our disapproval to the Social Security Administration regarding any efforts to undercut the intentions of Congress when they passed the Social Security Disability Benefits Reform Act of 1984.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF CHANGES

1. Consultative Examination (C/E) follow-up protocol requiring examiners and/or physicians to make follow-up calls to treating sources before a C/E can be scheduled.

2. Comprehensive Medical Improvement Standard requiring comparative analysis and case reconstruction.

3. Implementation of new Medical Listings requiring more specific clinical and laboratory information for certain disability populations.

4. Comprehensive Mental Impairment Listings, Regulations, and Guidelines requiring the completion of a lengthy PRFT by Agency physicians.

5. Requirements for obtaining activities of daily living information in claims alleging mental impairments.

6. Requirements for using Work Evaluations in Mental Impairment and other claims.

7. Elimination of non-severe findings resulting in RFC and vocational factor analysis for all claims (Many States).

8. Implementation of more comprehensive procedures for evaluating substance abuse. In many states, approximately fifty percent of the claimants allege substance abuse which not requires comprehensive follow-up.

9. Proposed requirement for completing reationales by examiners in all cases.

10. Implementation of procedures increasing and improving the documentation requirements.

11. Consideration of the combined affect of multiple non-severe impairments in evaluating disability.

12. Development of complete medical history for at least the past twelve months.

13. Completion of the medical portion of the Case Review by a qualified psychiatrist or psychologist for cases involving mental impairments.●

SENATE RESOLUTION 503—RELATIVE TO DR. ABBY NKOMO

Mr. COHEN (for himself, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, and Mr. ROTH) submitted the following resolution; which was considered and agreed to:

S. RES. 503

Whereas, Dr. Abby Nkomo, Chairman of the Atteridgeville/Saulsville Civic Association, Vice Chairman of the Pretoria Council of Churches and an active member of the Methodist Church, has been detained by the South African police for an extended period without charge or trial;

Whereas, Dr. Nkomo has been a vocal advocate of peaceful change in South Africa;

Whereas, Dr. Nkomo has been in solitary confinement since his incarceration on June 12, 1986, and has been denied adequate medical attention including medication for diabetes;

Whereas, Dr. Nkomo has been separated from his family and permitted infrequent visits by his wife during which the couple suffers harassment from prison guards;

Whereas, Dr. Nkomo and his family have been harassed for more than twenty months, including the gasoline bombing of his home and car, the sabotage of the doctor's clinics, and telephone threats on their lives;

Whereas, the police have refused to investigate any of these threats or incidents;

Whereas, the police detained the doctor's daughter Suzan for 47 days and threatened his wife Marjorie with arrest: Now, therefore, be it *Resolved*, That it is the sense of the Senate that Dr. Nkomo is representative of the majority of South Africans who seek peaceful change and with whom the South African government should be engaged in dialogue rather than persecution;

That the government of South Africa be encouraged to enter into dialogue with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies;

That Dr. Nkomo has been subjected to an unreasonable and reprehensible deprivation of his civil rights;

That Dr. Nkomo is representative of thousands of similar victims currently detained under the state of emergency regulations;

That Dr. Nkomo's family has been the victim of continual, excessive harassment by the police authorities of South Africa causing severe emotional and financial loss;

That the actions of the South African government toward Dr. Nkomo are condemned as an obstruction to prospects for peaceful change in South Africa;

That the United States Government and its representatives should emphasize to officials of the Republic of South Africa our nation's resolve that all individuals in that country be afforded due process and that their civil liberties be protected.

SENATE RESOLUTION 504—RELATING TO UNITED STATES—JAPAN SODA ASH TRADE

Mr. WALLOP (for himself and Mr. SIMPSON) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 504

Whereas, the United States merchandise balance of trade deficit with Japan reached the unprecedented level of $49.8 billion in 1985, and is expected to reach $60-65 billion in 1986—accounting for almost one-third of the entire United States deficit with the world;

Whereas, the principles of free trade provide for trade flows between nations on the basis of each nation's comparative advantage;

Whereas, Japan has extensive access to the United States market for products in which Japan has a comparative advantage;

Whereas, United States soda ash exporters lack access to the Japanese market for soda ash in which the United States has a comparative advantage;

Whereas, highly competitive U.S. soda ash exports to Japan have been restricted by anticompetitive practices by Japanese soda ash producers;

Whereas, Japan's Fair Trade Commission found that a secret cartel of Japanese soda ash producers had in fact been illegally restricting imports of U.S. soda ash, but imposed no sanctions against the Japanese producers;

Whereas, U.S. soda ash sales in Japan are stagnating, and there is clear evidence that U.S. soda ash sales are still being restricted by continuing anticompetitive activities of Japanese soda ash producers and their affiliated trading companies;

Whereas, Japanese government antimonopoly laws, antitrust enforcement practices, and antitrust penalties are proving inadequate to prevent such anticompetitive and restrictive Japanese practices;

Whereas, efforts by the U.S. Government to obtain meaningful improvement in market access for competitive United States

soda ash exports, including securing the elimination of anticompetitive or restrictive Japanese practices, have so far proven unsuccessful;

Whereas, the merchandise balance of trade deficit with Japan and the soda ash trade problem with Japan have the potential of undermining the entire range of bilateral relations between the United States and Japan; and

Whereas, action by the United States is appropriate—(1) to enforce United States rights under trade agreements to which Japan is a party, and (2) to obtain the elimination of anticompetitive Japanese practices that restrict U.S. exports of soda ash in the Japanese market; Now therefore be it

Resolved by the Senate, That it is the sense of the Senate that the President should take all appropriate and feasible action within his power to obtain the elimination of such anticompetitive or restrictive foreign practices.

● Mr. WALLOP. Mr. President, before the 99th Congress ends, I want to submit a resolution directed toward Japan's unwillingness to address illegal trade practices that prevent the competitive sale of domestic soda ash in the Japanese market.

The resolution requests that the President act decisively to eliminate anticompetitive foreign practices that restrict competitive United States exports of soda ash to Japan. Of course, if a solution to this problem is not in sight when Congress reconvenes, I will reintroduce a similar resolution seeking Senate support to dismantle barriers that limit American sales of soda ash in the multimillion-dollar Japanese soda ash market.

This case has become symbolic of Japan's unwillingness to implement fair trade practices with the United States. To date, all efforts by U.S. Government officials and the U.S. soda ash industry seeking a solution to this problem have been unsuccessful.

Soda ash is a basic commodity used in glassmaking and other industrial procesess. The largest natural deposits in the world are found in my home State of Wyoming. Because of these superb natural deposits, the soda ash industry can produce higher quality soda ash at a far lower cost than any other such industry in the world, including that of Japan. This competitive edge has been enhanced by U.S. producers' investments in energy-efficient production processes.

Our soda ash industry has made substantial efforts to expand its sales in Japan. It has established soda ash warehouse facilities in Japan and currently maintains a $5 million inventory in Japan—more than the domestic Japanese producers—to assure customers of its long term commitment to the market. U.S. producers have established relationships with Japanese trading companies to market and distribute soda ash, as well as to develop new Japanese customers. In addition, U.S. firms have priced their product competitively, offered discounts and successfully satisfied their Japanese customer's quality requirements. But despite these efforts, United States soda ash producers have failed to competitively penetrate the Japanese soda ash market.

After making every diligent effort, why has the United States soda ash industry failed to gain fair access to the Japanese market? In 1983, after numerous complaints, the Japan Fair Trade Commission conducted an investigation and found that an illegal cartel of Japanese soda ash producers was restricting imports of United States soda ash. No sanctions or no fines were imposed on the Japanese producers, although shortly after the JFTC discovery, United States sales of soda ash increased. However, sales leveled off again in 1984, and since that time, U.S. sales have shown virtually no growth and currently remain stagnated.

In February 1986, in a white paper released by American Natural Soda Ash Corp. [ANSAC], entitled "Japanese Market Barriers in Soda Ash," U.S. firms reported renewed instances of anticompetitive behavior by Japanese producers. In light of this new evidence, I joined members of the Senate Finance Committee, as well as Senator SIMPSON in dispatching a letter to Prime Minister Nakasone urging corrective action if anticompetitive practices were shown to continue. To date we've received no response. Mr. President, I ask that our letter, dated June 6, 1986, be printed in the RECORD at the conclusion of my remarks.

I became so frustrated with Japan's failure to take any action that I traveled to Japan last summer. I met with Japanese Cabinet members and urged them to open Japan's market. I also hosted Japanese Ambassador Nubuo Matsunaga in my home State of Wyoming where we toured the soda ash mines. I must admit I was hopeful our efforts to negotiate a solution would result in a commitment from the Japanese Government when its representatives met in August with United States trade officials at a bilateral trade meeting in Hawaii. However, the reports emanating from that meeting are deeply disappointing. I understand that Japan agreed to a government-sponsored meeting between United States suppliers and Japanese buyers.

It is my sincere hope, Mr. President, that the Japanese Government will soon take the necessary steps to ensure that United States soda ash producers enjoy full access to the Japanese markets. However, but if all efforts by the U.S. Government to negotiate a solution to this problem fail, strict enforcement of U.S. trade laws to resolve the soda ash problem would be an appropriate response.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 6, 1986.

Hon. YASUHIRO NAKASONE,
Prime Minister, Government of Japan, Tokyo, Japan.

DEAR PRIME MINISTER NAKASONE: We have become increasingly concerned over Japanese unfair trade practices that impede U.S. exports of soda ash, the raw material used in glass manufacture and other industrial processes. Despite past and present government and industry efforts to address the barriers, U.S. exporters continue to have limited access as a result of anticompetitive actions by Japanese soda ash producers and their affiliated trading companies. You have been a strong advocate of fair trade principles. We believe the soda ash case deserves your close attention.

U.S. soda ash production, based on the existence of the world's largest deposits of a natural mineral ore from which soda ash can be manufactured at half the cost of Japanese soda ash, allows the U.S. to be the world's lowest cost producer. American soda ash has been an overwhelming success in other world markets where fair access has been available.

The problem in Japan stems from weak enforcement of Japan's Antimonopoly Act that continues to allow the four Japanese soda ash producers, in concert with consumers and several major trading companies, to protect the Japanese market from import competition.

At the urging of the U.S. Government, the Japan Fair Trade Commission [JFTC] in 1982 began an investigation into allegations of anticompetitive practices of these producers. In March 1983, the JFTC issued a decision finding that an illegal producers cartel was restricting imports of U.S. soda ash. The JFTC ordered this anticompetitive activity to cease but imposed no fines and did not specifically direct the producers to cease pressuring domestic consumers to limit their purchases of imported soda ash.

Though U.S. exports increased in the year following the JFTC decision, they have leveled off to approximately 16 percent of Japanese market share in the past two years. We and the U.S. industry are convinced U.S. exports would increase substantially if our exporters were able to operate in a competitive environment where supply and demand are allowed to have effect.

The U.S. industry's goal of fair access to Japan has strong support from the Administration and many leaders in Congress who have been outspoken on this issue. The industry recently has responded through the Office of the U.S. Trade Representative [USTR] to comments on this issue by MITI. We believe there is a compelling case for the JFTC to conduct a thorough investigation of the industry and to take corrective action if anticompetitive practices are shown to continue. In December 1985, the JFTC informed USTR it was monitoring its 1983 decision. We are convinced this is not sufficient action in light of the overriding international competitiveness of U.S. soda ash and the inability of U.S. exporters to compete fairly for sales to Japanese customers.

Our nations are making progress in achieving fair access in trade. We urge you

to give this case strong attention and we look forward to your response.

Sincerely,

Malcolm Wallop, John H. Chafee, George Mitchell, John C. Danforth, David L. Boren, Alan K. Simpson, Steve Symms, John Heinz, William V. Roth, Jr., U.S. Senators.●

● Mr. SIMPSON. Mr. President, today I join with my fine senior colleague, Senator WALLOP, in introducing a resolution that directs the President to take all actions possibly available to him in order to eliminate Japanese unfair trade practices and anticompetitive activities that impede United States exports of competitive United States soda ash into Japan.

The United States soda ash industry enjoys an enormous natural resource advantage that permits it to produce soda ash by means not available to Japan. United States manufacturers are so efficient that American producers can produce, ship, and pay Japanese duties and still be competitive with Japanese soda ash producers in quality, service and price. In fact, those Japanese producers must import most of the raw materials and energy needed to make soda ash.

The commitment of United States soda ash producers is extensive and substantial—including the establishment of several distribution and marketing channels in Japan; the establishment of seven bulk warehouses in the cities of Osaka, Kawasaki, Tachibana, Yokkaichi, and Chiba; the maintenance in Japan of inventories of United States soda ash in excess of $5 million; and extensive United States industry export promotion efforts, including the sponsorship of multiple trade mission tours for Japanese customers and distribution personnel to Green River, WY, and Trona, CA, the major locations in this country where soda ash is produced.

American soda ash sales in Japan have not increased since 1983. There is clear evidence that the continued stagnation of United States soda ash sales reflects the continuing restrictive and anticompetitive activities of Japanese soda ash producers and their affiliated trading companies.

I believe very strongly in the concept of free trade and comparative advantage. However, while the United States has opened its markets to products in which Japan has a comparative advantage, Japan has not opened its markets fully to products in which this country has a comparative advantage. We do not have and have not had a free market in soda ash in Japan.

The unprecedented growth in the size of the Japanese trade surplus with the United States and the rest of the world has made it imperative for Japan to liberalize access to its market. It is time that Japan fully accepts, the responsibilities that accompany its role in the international marketplace.

While it is very late in the session and it would be difficult for my friends and colleagues in the Senate to rush this to consideration, I earnestly trust that by introducing the resolution now, both Senator WALLOP and I have placed the Congress on notice that we intend to vigorously pursue this resolution—or similar legislation—very early in the 100th Congress.●

AMENDMENTS SUBMITTED

RELEASE OF RESTRICTIONS ON CERTAIN PROPERTY

TRIBLE AMENDMENT NO. 3265

Mr. DOLE (for Mr. TRIBLE) proposed an amendment to the bill (S. 2852) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes; as follows:

On page 2, add after line 21 the following new paragraphs:

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.

KOREAN WAR VETERANS MEMORIAL

McCLURE AMENDMENT NO. 3266

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (H.R. 2205) to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict; as follows:

1. On page 3, line 5, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

2. On page 3, line 20, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986" and insert in lieu thereof "House of Representatives on September 29, 1986".

ADDITIONAL LEASES IN THE EL PORTAL ADMINISTRATIVE SITE

McCLURE AMENDMENT NO. 3267

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (H.R. 1390) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, CA, and for other purposes, as follows:

1. On page 4, line 12, after the word "sublease," insert the following: "the process to be used in establishing fees for such leases and subleases,".

2. On page 6, line one, delete "Sec. 6." and insert in lieu thereof: "Sec. 2.".

1. On page 6, after line 7, add the following new section 3: "Sec. 3. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the exchange of all lands in four isolated federal parcels within the boundaries of Inks Creek Ranch, Tehama County, California, as described in Exhibit A of the July 25, 1986, letter of intent to exchange issued by the District Manager, Ukiah District Office, Bureau of Land Management.".

FRANCIS SCOTT KEY MEMORIAL

McCLURE AMENDMENT NO. 3268

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (S. 2370) to allow the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia, as follows:

1. On page 4, line 25, of S. 2370 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

LOWER COLORADO WATER SUPPLY ACT

McCLURE (AND METZENBAUM) AMENDMENT NO. 3269

Mr. DOLE (for Mr. McCLURE, for himself and Mr. METZENBAUM) proposed an amendment to the bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act," as follows:

Page 4, line 8, strike the period and insert: "on a current basis."

Page 4, line 8, following the period insert: "(4) The Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project."

Page 4, line 23, following "struction" insert: "through September 30, 1993"

Page 5, line 16, insert the following new section and renumber the existing section 4 as section 5:

"SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

"The Secretary is authorized to accept monetary contributions from the City of Needles *and other incorporated cities* for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the City of Needles *and other incorporated cities;* Provided, that, such contributions shall be credited towards the reimbursable costs to be repaid by the City of Needles *and other incorporated cities* pursuant to the contracts entered into pursuant to Sec. 2 of this Act. Such contribution by the City of Needles *and other incorporated cities* shall be contributed during the construction of the appropriated project features and

shall constitute twenty percent of the costs of such project features allocated to the City of Needles *and other incorporated cities* for repayment.

CONVEYANCE OF CERTAIN LANDS

McCLURE (AND DeCONCINI) AMENDMENT NO. 3270

Mr. DOLE (for Mr. McCLURE, for himself and Mr. DeCONCINI) proposed an amendment to the amendment of the House to the text of the bill (S. 565) to direct the Secretary of Agriculture to convey, without consideration to the town of Payson, AZ, approximately 30,96 acres of Forest Service lands; as follows:

At the end of the House amendment insert the following new section 5 as follows: Sec. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

(2) by adding at the end thereof the following new subsection:

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.".

At the end of the bill, add the following new Section:

Section. . Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to:

(2) revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated may 19, 1964, insofar as said withdrawal applies to Section 31 (Lots 1,2,3,W½E½, E½NW¼ SE¼SE¼) T.5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

Add a new section to S. 565 as follows and number accordingly:

Sec. . Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceed with such exchange."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 9, in open later to become closed executive session, in order to continue the nomination hearing of William A. Clinkscales, to be Director of the Selective Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NOMINATION OF JIM R. BILLINGTON TO SERVE AS A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD

● Mr. BOREN. Mr. President, yesterday, the Senate confirmed the nomination of Jim R. Billington to be a member of the Farm Credit Administration Board. Jim Billington is a longtime friend and distinguished Oklahoman.

Jim Billington is a farmer and rancher from southwestern Oklahoma, raising wheat, cotton, and feed grains and maintains a cow-calf operation. He has been an agricultural leader for many years. He first served as president of the Oklahoma Wheatgrowers from 1977 until 1979. His hard work and dedication to the organization gained him the presidency of the National Association of Wheatgrowers, in which capacity he served from 1981 to 1982. He presently serves as president of the National Association of Wheatgrowers Foundation, the educational arm of the National Association of Wheatgrowers.

In addition to his work with the Wheatgrowers Association, he served as a board member of the Federal Grain Inspection Service advisory committee between 1982 and 1984.

Jim Billington will be an asset to the Farm Credit Administration Board not only from the standpoint of his extensive knowledge of agriculture, but also from his vast knowledge of agricultural credit. Jim has served as a president and chief exective officer of a bank and a production credit association. He has also served as an examiner for the Federal Intermediate Credit Bank, Ninth Farm District, Wichita, KS.

We have waited a longtime for the administration to nominate the third member of the Farm Credit Administration Board. For several months, the Board has operated with only two members. There are many of us who feel very strongly about getting the third member on the Board as soon as possible.

Mr. President, I am very proud of Jim's accomplishments for agriculture and for our State. I enthusiastrically commend him to serve as a member of the Farm Credit Administration Board.●

CONCERNING THE SAFETY PROGRAM OF TINDLE MILLS, INC.

● Mr. DANFORTH. Mr. President, truck safety is a serious problem on our Nation's highways. Heavy truck accidents kill 5,000 people each year. Truck accidents reported to the Department of Transportation were 18 percent higher in 1984 than in 1983 and rose another 6 percent in 1985.

There are some companies that are taking steps to stop this disturbing trend. For example, Tindle Mills, Inc., of Springfield, MO, pays drivers on a per-mile basis for every mile driven without an avoidable accident.

Tindle has shown that safety pays for both the company and its drivers. In a 28-month stretch, Tindle's drivers accumulated almost 1.5 million miles without an accident. Its drivers have received $70,000 in bonuses since the program began in 1979.

I congratulate Tindle on its succcessful program and urge other companies to profit from its example.●

THE GOVERNMENT MANAGEMENT REPORT ACT OF 1986—S. 2004

● Mr. ROTH. Mr. President, I am pleased to present for the Senate's consideration S. 2004, a bill which provides for the President of the United States to submit an annual report, with his budget, on the major activities undertaken and planned to improve the management of the executive branch of Government. The bill also requires the Comptroller General to prepare for Congress a statement analyzing such report within 90 days of its submission.

In 1984, the Congress mandated in the Deficit Reduction Act a report by the President on how he had responded to recommendations made by outside organizations, including the Grace Commission, to improve Government management. A report issued by OMB in 1985 not only addressed the legislative requirement, but also informed the Congress of other efforts being undertaken, especially Reform 1988: the President's Management Improvement Program. OMB issued a second report, "Management of the U.S. Government, Fiscal Year 1987," with this year's budget documents.

OMB has advised my Committee on Governmental Affairs that it plans to continue reporting annually on management at the time the budget is issued, but we have no assurance beyond the agency's promise that this

report will be issued in future years, and Congress has no voice in deciding what the report will contain. The Deficit Reduction Act required only a single report. S. 2004 ensures that Congress will receive such a report every year. In addition, it outlines the specific subjects on which the President would report, including the provision of a summary of major management improvement initiatives and a discussion for each initiative of its purpose, the progress and problems in implementation, and the impact on agency operations.

The report required by S. 2004 would not be another document to be quietly forwarded to Congress and end up collecting dust in committee staffers' in-boxes. Rather, I see this report as the basis for annual hearings before the Governmental Affairs Committee on the state of Government management, any Presidential management legislative initiatives, and what is being done to ensure that our Government has the leadership, the systems, and the organization to meet the challenging times ahead.

The bill keeps the reporting requirements as simple and flexible as possible, but improves the usefulness of information available to Congress for overseeing executive branch management improvement activities. It also assures that the President's report will cover all management activities and present, insofar as possible, a balanced summary of both the problems and accomplishments in management.

In his February 26, 1986, testimony before the Governmental Affairs Committee, Comptroller General Charles A. Bowsher said, "History tells us that implementing management initiatives effectively has often proven illusive. Sustained attention is needed from OMB and the line agencies." He said S. 2004 is a means for establishing a process to help sustain executive branch commitment and for providing a forum for congressional oversight.

In its comments on S. 2004, the Office of Management and Budget welcomed the opportunity to provide a report on the administration's initiatives, but expressed concern about the overly prescriptive requirements contained in the bill. Following the hearing, the committee staff met with OMB officials to clarify the nature of these concerns.

To respond to these concerns, the committee adopted an amendment removing language on page 3 of the bill pertaining to costs, benefits, efficiency improvements, and so forth, and inserted in lieu thereof a requirement that the President submit for each initiative a description of "any significant and identifiable impact of the initiative on agency operations." The committee report on S. 2004 noted that such description should include information on costs, savings, efficiencies, and service delivery improvements only where appropriate.

To accommodate another OMB concern, the committee in its report on S. 2004 requested that GAO minimize its information and documentation requests on OMB, but also stated that OMB should be forthcoming in meeting those information needs. Finally, the report made clear that the President need report only on his "major management improvement initiatives"—as currently specified in the bill—not the "detailed report on all Government-wide problems and issues" described in OMB's comments on the bill.

Three years ago, OMB instituted a management review process, parallel to the budget process, wherein OMB officials meet annually with the management staff of each of the 20 or so largest Federal agencies to discuss an agenda of management reforms for the coming year. Following these meetings, the agencies submit management plans for OMB review and approval. These plans then are the blueprints for agency action the following year. The annual hearings triggered by the report required by S. 2004 would not set up so systematic a process, but they would give Congress an opportunity, similar to that exercised by OMB with executive agencies, to ensure that appropriate actions are being taken to see that the Federal Government is managed in the manner the Nation expects and deserves.

On June 25, 1986, the Governmental Affairs Committees ordered S. 2004 reported to the full Senate by unanimous vote. I strongly urge my colleagues' support of this measure in a similar manner.

REAUTHORIZE SUPERFUND

● Mr. BIDEN. Mr. President, there are disturbing reports that the President is considering a veto of the Superfund bill passed by Congress last week. I cannot think of a more mistaken action that could be taken.

The Superfund Program addresses a dangerous threat to the health of Americans in thousands of communities across our Nation. Public support for Federal action on this issue is unquestioned. Any debate on the Superfund Program does not question the need for Federal action, but how far it should go.

The Superfund Program has not yet reached its potential in resolving the threats of abandoned hazardous waste dumps. The cleanup of thousands of sites lies ahead, an operation expected to take decades. And there is much more to be understood about the safe containment and destruction of toxic wastes. While the job ahead is imposing, the Superfund Program provides the framework and resources to do it.

But the progress we are making in hazardous waste management would be lost in the event of a Presidential veto. The Superfund Program has hobbled along this year on temporary funding, resulting in delays and cutbacks of critical cleanup efforts. Now, the research, technology, expertise, and manpower that comprise this program are in grave jeopardy, posing an enormous cost in time and resources, and risking the public's health and safety.

There are some provisions of the bill that environmentalists would like to see improved, that manufacturers would like to see changed, that the oil industry has reservations about. The important point is that a strengthened Superfund Program will be in place and the $8.5 billion in costs will be distributed in a fair manner. This is a far-reaching bill on a complex issue that is the product of bipartisan compromise. Hazardous waste cleanup is a shared responsibility; the dangers of toxic waste expose all of us to risk.

It is ironic that several times this year the Administrator of the Environmental Protection Agency has made clear the problems a shutdown of the Superfund Program would cause. He knows that the severe disruption that would occur could take years to recover. He has appealed to the President to sign this legislation but his plea so far has been ignored. Three former Administrators of the EPA—Russell Train, Doug Costle, and William Ruckelshaus—have written to President Reagan urging him to support Superfund. The Senate passed the conference report by the overwhelming vote of 88 to 8; the House acted by an equally wide margin. Mr. President, all of these people, experts and politicians alike, are not wrong. There is an urgent need to act and the American people are demanding that we do so.

The risks that hazardous waste sites pose to so many Americans require that the Superfund Program not be allowed to end. It is perhaps the most important environmental legislation of the past decade. The decision is now in the President's hands. There is only one right decision and that is to sign the Superfund bill.●

THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

● Mr. METZENBAUM. Mr. President, on October 3, 1986, I introduced S. 2907, a bill to amend the Racketeer Influenced and Corrupt Organizations Act, more commonly known as "RICO." Earlier this week, the House passed an almost identical bill by the vote of 371 to 28. Because of the interest in this measure, I ask that the text of S. 2907 be printed in the RECORD.

The text follows:

S. 2907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY".

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof;

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first and fifth place it appears and inserting "criminal" in lieu thereof; and

(B) by striking out "racketeering" each other place it appears and inserting "criminal" in lieu thereof.

SEC. 2. AMENDMENTS TO SECTION 1964 RELATING TO CIVIL SUITS.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1) Any person injured in his business or property by reason of conduct in violation of section 1962 of this chapter may sue any person who engaged in that conduct and, with respect to such conduct, was convicted of an illicit activity or of a violation of section 1962 in any appropriate United States district court, and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

"(2) If the business or property of the United States or a State, including any department, agency, or Government corporation of the United States or a State, is injured by conduct in violation of section 1962 of this chapter—

"(A) the Attorney General of the United States or the chief legal officer of the State; or

"(B) in the case of a political subdivision of a State, the chief legal office of such subdivision, if the State has authorized him to bring such action

may sue any person who engaged in that conduct in any appropriate United States District Court and shall recover threefold the actual damages that the government sustained by reason of such injury and the cost of the suit, and a reasonable attorney's fee.

"(3)(A)(i) Except as provided in paragraphs (1) and (2), any person injured in his business or property by reason of conduct in violation of section 1962 of this chapter (subject to the definition of pattern of illicit activity provided in subparagraph (B) of this paragraph) may sue any person who engaged in that conduct in any appropriate United States district court, and shall recover the actual damages such injured person sustains, the cost of the suit, and reasonable attorney's fee: *Provided*, that in the case of plaintiffs eligible for punitive damages under division (ii), a prevailing plaintiff shall recover a reasonable attorney's fee.

"(ii) In addition to the recovery provided by division (i), the trier of fact shall award punitive damages up to twice the level of actual damages to a person if—

"(I) such person is a natural person;

"(II) neither Federal nor State securities laws make available an express or implied remedy for the type of illicit activity in which the person bases his claims;

"(III) the injury occurred in the purchase or lease of a product, property, service, credit, or investment for personal or household use or investment; and

"(IV) the defendant's conduct was in wanton disregard of plaintiff's rights.

The amount of punitive damages recoverable under this division, if any, shall take into account—

"(aa) the degree or culpability of the defendant;

"(bb) the vulnerability of the victim;

"(cc) any history of similar conduct by the defendant;

"(dd) the benefits derived from the unlawful conduct by the defendant;

"(ee) the number of persons victimized; and

"(ff) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(B) For purposes of this paragraph, the term 'pattern of illicit activity' requires at least two acts of illicit activity—

"(i) one of which occurred not more than five years after the prior act;

"(ii) each of which is not so closely related in time and place to the other that together the acts constitute a single transaction; and

"(iii) (for actions based on section 1962(c)) each of which is related to the affairs of the enterprise.

"(4) A civil action under this subsection may not be commenced—

"(A) later than three years after the time the cause of action accrues or the conduct causing injury to the plaintiff terminates; or

"(B) two years from the date of the criminal conviction required for an action to be brought under paragraph (1) of this subsection,

whichever is later. The statute of limitations is tolled during the pendency of a government civil or criminal action relating to the course of conduct upon which the claim is based.

"(5) In an action under this subsection the plaintiff must aver with particularity as to each defendant the facts supporting the claim.".

SEC. 3. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any action initiated after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only actual damages and attorney's fees under paragraph (8) of section 1964(c) as added by this Act, if this Act has been enacted prior to the commencement of that action, that person may recover only actual damages and attorney's fees unless—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that such limitation of recovery would result in manifest injustice.●

SUPERFUND REAUTHORIZATION

● Mr. MURKOWSKI. Mr. President, I rise today to express my strong support for the Superfund Reauthorization bill. I voted for the Senate Superfund Reauthorization bill over a year ago. I voted for the conference committee report on this bill last week.

This bill represents nearly 3 years of extraordinary effort by many people. It is a carefully developed compromise of many competing interests. It is overwhelmingly supported by the Members of Congress and the public.

The reason for this support is obvious. Superfund is perhaps the most important environmental protection program we have. Its purpose is to address the very serious problems posed by hazardous waste. Toxic fumes in the air we breath, risk of fire and explosion, and poisons in the water we drink are all the results of the improper disposal of the residues of our chemical dependent society.

The ill-effects of toxic wastes are not limited to the contamination of our environment, however. People are the ultimate victims of these chemicals. People who drink them or inhale them; or children who are exposed to them while playing in a playground or abandoned field. These people face a much greater risk of contracting cancer and other crippling or fatal diseases.

Mr. President, I think everyone should take a moment to consider what will happen if Superfund is not reauthorized.

The program has already been on a shoestring budget for over 15 months. Despite two interim funding measures during the past year, cleanup activities at more than 200 toxic waste sites nationwide have been significantly delayed. If the program is not reauthorized now, these cleanups will cease entirely.

The long-term result, however, is much more serious. Failure to reauthorize Superfund now means the death of this program. There is no saving it with some interim, stop-gap funding measure.

What does termination of the program mean? It means that cleanup of perhaps 10,000 or more very dangerous hazardous waste dumpsites will be delayed indefinitely. Any delay in cleaning up these sites translates directly into greater pollution of the environment and more and more people exposed to serious health risks.

This Nation's toxic waste problem is a time bomb. We created it and it will not go away by itself. The longer we wait to correct the problem, the more dangerous the situation becomes.

Mr. President, no one doubts the serious nature of this Nation's toxic waste problem and the need for Superfund. The disagreement between President Reagan and the Congress concerns how we pay for this program. I believe that the funding mechanism hammered out by the conference committee is a fair and reasonable approach. We are dealing with a national problem which affects all Americans. It is a problem for which we are all, in one way or another, responsible. And, therefore, the solution to that problem is something that we all should pay for by one means or another.

Mr. President, the American people strongly support Superfund and I believe they are willing to pay for it. More importantly, the American people want their elected public officials to stop arguing about what the program should look like and get on to the job of cleaning up toxic wastes. I suggest that we do that.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a revised budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 9, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 120. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through October 8, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report Congress has completed action on the Superfund Amendments and Reauthorization Act, H.R. 2005, and the Federal Technology Transfer Act, H.R. 3773, changing budget authority, outlay and revenue estimates for 1987.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONG. 2D SESS., AS OF OCT. 8, 1986

[In billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 120	Current level +/− resolution
FISCAL YEAR 1987			
Budget authority	634.0	1,093.4	−459.4
Outlays	734.5	995.0	−260.5
Revenues	857.7	852.4	5.3
Debt subject to limit	2,111.0	[2] 2,322.8	−211.8
Direct loan obligations	20.4	34.6	−14.1
Guaranteed loan commitments	33.1	100.8	−67.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111 billion.

SUPPORTING DETAIL FOR CBO WEEKLY, SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG., 2D SESS., AS OF OCT. 8, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
FISCAL YEAR 1987			
I. Enacted in previous sessions:			
Revenues			843,799
Permanent appropriations and trust funds	733,558	647,692	
Other appropriations		195,861	
Offsetting receipts	−165,990	−165,990	
Total, enacted in previous sessions	567,568	677,563	843,799
II. Enacted this session:			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251)		2	
Technical Corrections Amends to Food Security Act (Public Law 99–253)	50	50	
VA home loan guarantee amendments (Public Law 99–255)		49	
Food Security Improvements Act of 1986 (Public Law 99–260)	−115	−115	
White Earth Reservation Land Settlement Act of 1985 (Public Law 99–264)	10	10	
Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99–272)	155	−3,553	2,503
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289)		−178	
Federal Employees' Retirement System Act of 1986 (Public Law 99–335)	−150	−1,670	−666
Judicial Improvements Act (Public Law 99–336)	2		
Temporary extension of certain housing programs (Public Law 99–345)		−85	
Military Retirement Reform Act (Public Law 99–348)	−47	146	
Urgent supplemental appropriations, 1986 (Public Law 99–349)	−278	−914	
Panama Canal Commission Authorizing Act (Public Law 99–368)		2	
Omnibus Diplomatic Security and Anti-Terrorism Attack Act (Public Law 99–399)	1	1	
Children's Justice and Assistance Act (Public Law 99–401)	10		
Socorro County land conveyance (Public Law 99–427)	−1	1	
Total, enacted this session	−363	−6,255	1,837
III. Continuing resolution authority			

SUPPORTING DETAIL FOR CBO WEEKLY, SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG., 2D SESS., AS OF OCT. 8, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
IV. Conference agreements ratified by both Houses:			
Tax Reform Act (H.R. 3838)	65	65	11,462
Higher Education Amendments of 1986 (S. 1965)		−579	
Bankruptcy Amendments of 1986 (H.R. 5316)	−55	−55	
Superfund Amendments and Reauthorization (H.R. 2005)			583
Federal Technology Transfer Act (H.R. 3773)	2	2	
Total, conference agreements	12	−567	12,045
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	126	126	
Claims, defense	156	150	
Payment to the foreign service retirement trust fund [1]	(173)	(173)	
Range improvements	10	7	
BLM: Miscellaneous trust fund	([2])	([2])	
Compact of free association	42	42	
Administration of territories	35	30	
Payments to air carriers, DOT	32	30	
Retired pay—Coast Guard	370	341	
Maritime, operating-differential subsidies		297	
BIA: Miscellaneous trust funds	1	1	
Social services block grant	2,700	2,538	
Family social services	758	584	
Guaranteed student loans	3,219	2,580	
Guaranteed student loans (S. 1965)	−75	−65	
Higher education facilities loans and insurance	19		
Government payment for annuitants	1,459	1,301	
Retirement pay for PHS officers	83	81	
Medicaid	19,595	19,241	
Medical facilities guarantee and loan fund	20	19	
Payments to health care trust funds [1]	(20,826)	(20,826)	
Special milk program	16	11	
Child nutrition programs	4,212	3,791	
Federal unemployment benefits and allowances	103	102	
Advances to unemployment trust fund [1]	(9)	(9)	
Special benefits (general retirement and Federal employee retirement)	257	257	
Black lung disability trust fund	549	549	
Supplemental security income	7,846	7,846	
Special benefits for disabled coal miners	698	638	
Assistance payments	7,350	7,350	
Child support enforcement	599	583	
Payments to Social Security trust funds [1]	(501)	(501)	
Veterans insurance and indemnities	5	4	
Veterans readjustment benefits	750	723	
Veterans compensation	10,300	9,360	
Veterans pensions	3,684	3,385	
Veterans burial benefits	138	138	
Salaries of judges	104	103	
Fees and expenses of witnesses	46	37	
Compensation of the President	([2])	([2])	
Payment to civil service retirement trust fund [1]	(4,557)	(4,557)	
National wildlife refuge fund	6	6	
Military pay raises and benefits	1,566	1,539	
Total, entitlements	66,780	63,728	
Total, current level as of Oct. 8, 1986	633,996	734,468	857,681
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution			5,281
Under budget resolution	459,354	260,532	

[1] Interfund transactions do not add to budget totals.

[2] Less than $500,000.

Note.—Numbers may not add due to rounding.

NAKASONE'S REMARKS

● Mr. SIMPSON. Mr. President, Japanese Prime Minister Yasuhiro Nakasone has now publicly apologized to the American people for the very unfortunate comments he made about minority groups in the United States. I know that this episode—and all of the coverage and heavy criticism that has surfaced from it—are of great and deep personal anguish to the Prime Minister. And I believe that he is being most sincere in his apology.

Please know that I do not intend to defend the remarks in any way. Racist remarks—alleged or real—are highly offensive to me. Yet, I do feel that Nakasone is truly distraught over the remarks that may have brought pain to individuals and groups in this country.

There were and are indeed times in my life when I wished "I could have said that differently"—or not at all. I would suggest that many of us had similar experiences. Prime Minister Nakasone has indeed erred—and admitted that error of judgment.

His specific remarks seemed very uncharacteristic to me—although I note some suggestion that the remarks may have been misinterpreted. Yet over the past 2 years I have had the fine opportunity of three personal visits with Prime Minister Nakasone. Those were arranged by the U.S. Ambassador Mike Mansfield, our former majority leader. Mike Mansfield was one of my "idols" in politics, serving with remarkable distinction my neighboring State of Montana. Mike and my father Milward, served together in the U.S. Senate. They were fine friends and respected each other greatly. It was Mike Mansfield who shared with me the stature of the man—Nakasone. Funny place here—in this Washington government. Only several short months ago we in Congress and in the media were hoping and praying that this remarkable man would be able to lead his government again and we would be the beneficiary of that and many glowing things were written of him and of his legislative skills and abilities and his compassion, for he is a man of solid integrity and honor.

Let us just say for now—without reading a lot of "stuff" into the situation how much we appreciate having the apology. It is tough to apologize. We all know how very personally tough it is to admit that we are wrong or to admit that we just did not quite "mean it that way." Prime Minister Nakasone has had the great courage to apologize. I am one who accepts that apology in the spirit in which it is tendered. It takes guts to do that and I always admire that trait. Let me also commend the Japanese Ambassador, Nobuo Matsunaga, a fine and sincere man who has anguished greatly in this situation. He has been a strong force in resolving the matter. He deserves great credit.

Let me take this moment to ask to submit for the record a column written by Nathaniel B. Thayer, in the Tuesday, September 30, 1986, edition of the Washington Post. This article, penned by an American who has worked closely with Prime Minister Nakasone provides us with a most interesting and valuable insight that might give us a better perspective of this very painful episode.

The United States and Japan have many, many issues confronting our fine countries. My dear friend and colleague from Wyoming, MALCOLM WALLOP, and I are deeply disturbed about the Japanese Government's treatment of trade in soda ash and beef cattle and coal. There is this tremendous and very serious trade imbalance between our two countries. Both of us need a very monumental and good faith effort in order to resolve that imbalance. I would earnestly trust that Mr. Nakasone's apology might properly lay this recent and highly publicized episode to rest in order that we can be about our critical business of honestly discussing and conscientiously negotiating our differences with the nation of Japan. We have much to do together. We must be about it. Continually elevating this incident like a target on a firing range diverts us from an objective that is one of overwhelming national interest. We should put this behind us and press on.

The article referred to follows:

[From the Washington Post, Sept. 30, 1986]

(By Nathaniel B. Thayer)

NAKASONE IS NOT A RACIST

I have known and argued with Yasuhiro Nakasone for 25 years. A few years back, I helped him put an autobiography into English. I am now working on a political biography of him. I see him regularly, the last time just 10 days ago. I feel confident I know what he thinks. He is not a racist.

Nakasone got to be and has stayed on as Japan's prime minister by doing first things first and doing them fast. That explains his summoning the press in the middle of the night and giving it a handwritten apology to the American people for comments he made about U.S. minority groups. That apology, he hoped, would allow him to get on with his "political commitment to strengthen the friendship between our two peoples." But he was also aware that it would serve to confirm the charges of racism that many Americans leveled against him for his speech to young Liberal Democratic Party workers in the Shizuoka foothills of Mount Fuji.

The problem with the Shizuoka speech seems to rest with Nakasone's penchant for mixing English phrases into his Japanese sentences. I've listened to a voice clip from the speech. He says that Japan has an "intelligent society." The quotation is the part of the sentence in English. In a following sentence, he says its level is low in the United States, and attributes that to the blacks and Hispanics. The Japanese foreign office has said that he was talking about education and literacy.

I agree that Nakasone was talking about education. But I think he was talking about something beyond just literacy. I think he was talking about intellectual integration, though that term is mine not his. I think Nakasone was talking about the ability of a nation to recognize its general welfare, formulate its goals and then act on them. He could just as easily have been talking about established America's inability to bring its minorities into the mainstream of society as about the minorities themselves. He was condescending. He is contrite. That accounts in part for his speed in issuing an apology.

The last time I met with Nakasone, he handed me a pamphlet of a speech he had given to a seminar of other party workers in the mountains at Karuizawa on Aug. 30. In it, he speaks of a philosophy of accommodation. He quotes from the 13th-century Japanese Buddhist sage Dogen, who found divinity in all living matter. He recalls the Asian idea that all men are brothers. He speaks of respect for human values.

The Karuizawa speech is not Nakasone at his best but Nakasone as usual. It's a better measure of his thinking than the Shizuoka speech.

What are the attitudes of other Japanese toward the West? That question was explored in five national polls between 1950 and 1970. In the first two, a plurality of the Japanese felt inferior to Westerners. In the next two, a plurality of the Japanese felt superior to Westerners. In the fifth poll, only the Japanese who felt Westerners and Japanese were the same were on an upward curve.

But while Japanese intellectuals write of learning from China, since it is the historical source of much Japanese culture, polls show this attitude is not accepted by other citizens. More common is the attitude that China has something to learn from Japan. And while South Korea ranks above North Korea in Japan's estimation neither is liked.

A Japanese diplomat, writing under the pen name Satoru Nagasaka, has said, "Japanese will accord Koreans equal social status when their nations have achieved an economic status equal to Japan. Europeans and Americans imposed the same condition on Japan." The book received a literary prize.

Japanese spend little time worrying about their own minorities, although from time to time powerful Japanese writers have come to their defense. Police fear of North Korean spies and illegal immigrants has greatly affected treatment of Koreans in Japan. Keidanren, the organizaton of economic organizatons, has committees to study every possible problem in the Japanese economy, but it has no committee to study employment problems among the Burakumin, a caste that is subject to various forms of discrimination.

The great intellectual theme of the 1970s and 1980s has been the "internationalization" of Japan. But it is fair to say that most Japanese see their society as quite different from others. Some Japanese see this difference as a blessing, others as a burden. Nakasone sees it as both. It is not always easy to tell which thought is uppermost in his mind when he talks of Japan's future.●

GREEK INDEPENDENCE DAY

● Mr. LAUTENBERG, Mr. President, yesterday the Senate passed Senate Joint Resolution 308, a resolution designating March 25, 1987 as "Greek Independence Day: A National Day of Celebration of Greek and American

Democracy." This resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

This resolution passed the House of Representatives last week. It is an amended version of an earlier Senate resolution sponsored by Senator SPECTER and myself, which designated March 25, 1986 as Greek Independence Day. That resolution passed the Senate on March 25, 1986.

Since we last considered this resolution, Greece has taken a number of steps which have improved the climate of American-Greek relations. That improvement was confirmed by Secretary of State Shultz, who said, upon his return from Greece, that there has been a "real turn for the better" in United States-Greek relations.

For example, in May, Greece expelled Libyans associated with terrorism, and in July cut the size of the Libyan "diplomatic" delegation in Athens. The United States and Greece have cooperated in the training of anti-terrorist personnel, and the Greek maritime industry has become a leader in anti-terrorist procedures.

In March, Secretary of Defense Weinberger reported to Congress that Greece was No. 1 among all NATO nations in the 1971-84 period in its increase in total defense spending for NATO security. It was also No. 1 in 1984, the last year for which figures are available, in the percentage of its gross domestic product spent on NATO defense.

I'd also like to speak about why March 25, 1987, has been designated as Greek Independence Day. March 25, 1987, marks the 166th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost." Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. Indeed, our own Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy.

Constitutional democracy has made the American way of life possible. It established the precious freedoms of speech, religion, and assembly which Americans cherish, and which are so fundamental to American democracy. For that contribution alone, we owe a heavy debt to the Greeks. The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek Americans in New Jersey and across the country to our American culture.

I thank my colleagues for passing this resolution as a tribute to these contributions, past and present, which have greatly enriched American life. I look forward to even closer United States-Greek ties in the months and years ahead.●

RETIRING SENATORS

● Mr. SPECTER. Mr. President, at the close of the 99th Congress, the U.S. Senate will lose some of its most distinguished Members. It has been an honor for me to serve with them.

Senator PAUL LAXALT has the unique gift of effectively advocating a cogent point of view while remaining the friend even of those whose views are different. His unique role as a bridge between the administration and the Senate is irreplaceable. All of us who have counted PAUL LAXALT among our friends will feel his absence acutely. He has been a unique resource for us, as well as for the President.

Senator CHARLES MATHIAS has also occupied a special niche in this institution. The people of Maryland have long revered him for his independence and integrity, and rightly so. He is one of those Senators who not only have the courage of their convictions, but who manage to make it a pleasure either to agree or to disagree with them. The respect in which MAC MATHIAS is held cannot be overstated. He has helped keep alive the tradition of Abraham Lincoln in the Republican Party, and the Senate will be poorer for his absence.

Senator BARRY GOLDWATER has much in common with Senator MATHIAS in terms of adherence to principle. His steadfastness has earned him the admiration and affection of millions of people who agree with him on the issues, and millions of others who do not. In the Senate, he has built his reputation on many talents, but most of all on his consistency, and on his willingness to express his opinion even when a consistent application of principle leads him to a somewhat unorthodox position. Not only has Senator GOLDWATER written about the The Conscience of a Conservative, but he has lived life as a conservative with a conscience. I know of no higher compliment that could be paid to any political figure.

The relationships of friendship and respect that we enjoy here in the U.S. Senate fortunately are not limited to one side of the aisle. Senator RUSSELL LONG will be remembered as a major figure in the history of the Senate. Some Senators make their reputations through their orations on the floor; others make their reputations through their quite effectiveness in getting things done. Senator LONG is famous for the depth and breadth of his knowledge in critical areas of public policy such as the tax laws. Both as chairman of the Finance Committee and as its ranking minority member, his influence has been incalculable. Indeed, few Senators have affected the daily lives of all Americans as much. I join in wishing him every success in his next endeavors.

Senator TOM EAGLETON has served with great distinction in the U.S. Senate for 18 years after a remarkable career as attorney general of Missouri and the prosecuting attorney of St. Louis. Senator EAGLETON is well known for his candor and his incisive comments which go to the heart of any subject under discussion. In meetings at the North Atlantic Treaty Assembly, his comments would go to the heart of controversial issues affecting the United States and our NATO allies and still leave the friendliest of feelings with his diplomatic approach. We will all miss TOM in the Senate.

Senator GARY HART has helped focus our attention on the issues of the future. Both inside and outside the Senate, he has worked hard to give the younger generation of our citizens an effective voice in national policy. Most of my contacts with Senator HART have been in the Senate gym. In those less formal settings, he provides real insights into complex issues with a very few words. He made an admirable showing in the 1984 Presidential sweepstakes, and we shall all watch our departed colleague as 1988 approaches.

All of us who remain in the Senate—and I sincerely hope to be one of them—will be held at a high standard by the public's recollections of these retiring Senators. They will remain a living challenge to us as we face the difficult issues remaining before this country in the years ahead.●

IN COMMEMORATION OF MINORITY ENTERPRISE DEVELOPMENT WEEK

● Mr. LAUTENBERG. Mr. President, October 5-11, 1986, has been designated as Minority Enterprise Development Week.

I am pleased to take note of the importance of the contributions of minority entrepreneurs to our economy. I know from personal experience how it feels to start a new business and watch it grow. Many risks and problems face the aspiring entrepreneur.

However, the pride and self-esteem which accompany success and acceptance in the marketplace make it well worth the effort.

Successful business activity is the basis for our country's economic growth. And, economic well-being in our minority communities will increase as entrepreneurial opportunities expand. The challenge for Government is to provide assistance and opportunities for the many talented and ambitious minority citizens who wish to establish or enlarge their own businesses. This assistance can range from sharing information to setting aside portions of Federal contracts for minority enterprises.

Mr. President, I would like to address set-asides for a moment. Attention has focused on set-asides recently, as some have called for their elimination. I strongly support set-asides as one method of providing an opportunity for minority enterprises to gain equal footing in bidding for Government-funded contracts. Set-asides have a long history of bipartisan support in the Congress and have been upheld in executive and judicial decisions. While I do not dispute that there have been some abuses of the program, this does not justify terminating the program. Rather, these problems should be addressed.

I am pleased to salute the minority entrepreneurs around the country. I stand ready to do everything I can to help them flourish and to increase their numbers.●

NAUM AND INNA MEIMAN: A SPECIAL PLEA

● Mr. SIMON. Mr. President, the Reagan-Gorbachev presummit meeting begins tomorrow. Although there are many pressing and important issues to discuss, the importance of human rights cannot be exaggerated. Human rights are the basic ingredient of a civilized society. We have a responsibility to do all that we can to help everyone attain the freedom that they deserve.

I would like to make a special plea for my Soviet friends Naum and Inna Meiman. They have been trying to emigrate for more than 10 years. Naum has always been a vocal leader attempting to bring human rights to all Soviet citizens. He was an instrumental member of the Helsinki Watch Group. His quest for human rights has now become a matter of life or death. His wife Inna suffers from cancerous tumors on her neck. After the removal of four tumors, the Soviet doctors decided that there is nothing more they can do for her fifth and most recent tumor. Fortunately, there is experimental treatment available to her in the West. I only hope that the Soviets allow Inna to receive this necessary treatment before it is too late.

I strongly urge the Soviet Union to allow Naum and Inna Meiman to emigrate to Israel.●

HUMAN RIGHTS IN EAST TIMOR

● Mr. HATFIELD. Mr. President, since the 1975 invasion and occupation of East Timor by the Indonesian military, as many as 200,000 of a population of 650,000 East Timorese men, women, and children have perished. As William Buckley wrote in the National Review last May, "It is worthy of comparison with Pol Pot's bloody reign over Cambodia, not only for the devastation inflicted, but also for the lack of attention, in the world community, paid to the holocausts." For those of us concerned about international human rights, the repression and brutality carried out in East Timor since 1975 stands out as one of the great crimes of our time.

When we talk about 200,000 people, 3 men seem almost trivial. But they are not, Mr. President. Today I bring to the attention of my colleagues the troubling case of three East Timorese law students who were recently arrested in Jakarta. They are the subjects of two Amnesty International "Urgent Actions," and they may represent an entirely new dimension of Indonesia's disregard for East Timor and its population at a time when the situation on the small island seemed to be improving.

Antonino Goncalves, Joao Freitas de Camara, and Francisco Fernandes Carvalho have all been arrested by the Indonesian military in Jakarta during the past several weeks. Since the arrests, the Indonesian authorities have refused to reveal information about where these students are being held. The Indonesian Government recently informed United States Embassy officials that the students were charged with stockpiling guns in their homes in the East Timor town of East Timor, but details of the charges have yet to be released. Amnesty International is concerned that these men may be the victims of torture, as have many East Timorese in the past.

These arrests and the potential of torture are troubling, and I have made my concerns known to the Government of Indonesia. But there is more. Although the East Timorese have endured incredible hardships and mysterious arrests at the hands of the military in their native land, rarely if ever have there been reports of such arrests outside East Timor. Now we have witnessed three such arrests in several weeks.

Mr. President, being straightforward with Indonesian officials about our concern for the many thousands of East Timorese who continue to be denied even the most basic human rights can only serve to strengthen our relationship with that nation of great strategic interest to us. Being straightforward with Indonesian authorities about our concern for these students can only serve to help them and stem what could be a most dangerous tide before it threatens an entire population and endangers Indonesia's ties with the United States as well.●

HONORING SENATOR STAFFORD AND REPRESENTATIVE WAXMAN ON THE 10TH ANNIVERSARY OF MECA

● Mr. CHAFEE. Mr. President, some of my colleagues recently attended an event commemorating the 10th anniversary of the Manufacturers of Emission Controls Association and honoring our colleagues, Senator ROBERT STAFFORD, and Representative HENRY WAXMAN, for their role in shaping our Nation's clean air laws.

The development of an environmentally clean automobile was placed on the country's urgent agenda in 1970, and there were many people in and outside the auto industry who said the standards we set in law were too restrictive, the deadlines too ambitious, cleanup technology too far in the future.

The doubters were proven wrong, and due to advances in catalytic converters and other cleanup technologies, our Nation's air is cleaner today. Despite substantial increases in motor vehicle mileage, our cars are more efficient, and the engineers have turned their minds and research money to the problem of pollution from larger vehicles and diesel engines.

MECA was formed 10 years ago to give Congress and other policymakers the benefit of its technical expertise. The MECA companies have shown that technology-forcing legislation like the Clean Air Act can and does yield important gains in pollution control, and that there is a profit in the business of a clean environment.

This event honored two legislators whose commitment to clean air is unquestioned, irreplaceable, and historically significant—Senator BOB STAFFORD and Congressman HENRY WAXMAN. They presided over the committee and subcommittee of jurisdiction on clean air issues at a time when the Clean Air Act was under extreme pressure. Their defense of the Clean Air Act looked beyond questions of party loyalty and put the public interest foremost. At times, in 1981 and 1982, each must have felt like a lonely voice in the wilderness. But while they worked alone, each in his own way, each in his own arena, together they turned aside efforts to roll back our clean air laws. And since 1983, both have authored and advanced legislation to extend and improve the Clean Air Act.

The battle is not over yet. We need to get more pollution control from mobile sources, and we will look again to the MECA companies and others to guide our policies. We also need legislation to stop acid rain, address the problems of our upper atmosphere and protect our citizens from toxic air pollution.

The unfinished agenda is a long one. But it should not overshadow the genuine contribution to public health and welfare of the MECA companies in cleaning up the Nation's automobiles.

It was fitting, Mr. President, that the Honorable Paul Rogers, former Congressman from Florida, HENRY WAXMAN's predecessor as chairman of the Health and Environment Subcommittee, and the veteran of so many Clean Air Act battles, presented MECA's first Awards for Excellence in the Preservation of the Environment.

Mr. President, as long as men and women of the character, strength, and perseverance of BOB STAFFORD and HENRY WAXMAN serve in Congress, that goal will continue to be national policy.

I ask, Mr. President, that Mr. Howitt's remarks at the 10th anniversary MECA reception be printed in the RECORD at this point.

The remarks are as follows:

REMARKS OF JOHN HOWITT, MECA PRESIDENT, AT AWARDS CEREMONY HONORING SENATOR STAFFORD AND CONGRESSMAN WAXMAN

Good evening. My name is John Howitt. I am President of the Manufacturers of Emission Controls Association.

I would like to take this opportunity to welcome everyone and to thank you for joining us this evening to mark MECA's 10th anniversary and to honor two distinguished gentlemen for their outstanding efforts to protect our environment.

I believe most of you are familiar with MECA but for the benefit of those who are not, let me briefly introduce the Association and explain the origin of the environmental awards. MECA is a non-profit association of leading manufacturers of motor vehicle emission control equipment. The association was created ten years ago to serve as a source of technical information on emission control for public officials and others. Since the early days, we have grown considerably and now 16 companies participate in MECA activities.

The U.S. Motor Vehicle Pollution Control Program is probably the greatest environmental success story of the past two decades. The credit for the success of that program belongs to many of you who are in this room this evening. It's something I believe all of us can take great satisfaction in. I know our companies—some of whom have been involved in the development of emission control since the early 1960's—are proud to have played a role in this environmental success.

As we looked back over the past decade while planning for our 10th anniversary, we concluded that it would be very appropriate to honor an individual or individuals who have made and are making a substantial contribution to the preservation of this nation's environment. It is our hope to continue this awards program by recognizing, on a biennial basis, other public officials and individuals from the private sector who have served our environment well.

We felt the Steubben rendition of the American Bald Eagle in flight over the Earth a fitting award, for the eagle symbolizes the strength and beauty of our natural environment—a national resource and treasure worth preserving.

At this time, it is my great pleasure to introduce the gentleman who has honored us by agreeing to present these environmental awards—the Honorable Paul G. Rogers.

This gentleman certainly needs no introduction to most of you in the room who will remember his Herculean efforts in championing major environmental legislation of the 1970's.

Paul Rogers served 24 years in the U.S. House of Representatives and eight of those years as Chairman of the House Subcommittee on Health and the Environment. Virtually every major health law in effect today bears the Rogers' mark.

Some of the more prominent pieces of environmental and health legislation which bear the Rogers' name are the Clean Air Act, the Safe Drinking Water Act, the National Cancer Act, the Health Manpower Training Act, the Heart, Blood Vessel, Lung and Blood Act, the Research on the Aging Act, the Comprehensive Drug Abuse Convention and Control Act of 1970, the Medical Device Amendments of 1970, the Emergency Medical Services Act, the Health Maintenance Organization Act, and the Radiation Health Safety Act.

Paul Rogers is a partner in the law firm of Hogan and Hartson in Washington, DC, and has continued his keen interest in conservation and the environment. In 1982, the National Academy of Sciences awarded him its Public Welfare medal in recognition of his "distinguished contributions in the application of science to the public welfare."●

TAIWAN

● Mr. LUGAR. Mr. President, I rise today to take note of the recent announcement by President Chiang Ching-kuo of his proposal to end martial law on Taiwan. This, I believe, is a most welcome development. I was in Taiwan in August of this year and had the opportunity to visit with the President. We discussed, among other things, the long-term evolution of economic and political developments on Taiwan. I believe that it is inevitable that a nation which develops economically—as Taiwan has done so strongly—will develop pressures to expand participation in political life. This is what is occurring on Taiwan and I am pleased that the Government is prepared to take the step of terminating martial law and loosening restrictions on personal freedoms.

Mr. President, I would note, too, that October 10 is Taiwan's national day. President Chiang Ching-kuo's announcement has thus occurred at a most appropriate time of celebration.

I am confident that I join all colleagues in congratulating Taiwan and in looking forward to further developments in the coming months and years.●

MUNICIPAL GARDENS

● Mr. LUGAR. Mr. President, in May 1986, the Municipal Gardens Amateur Basketball Team, made up of 13 and 14 year-olds from the Indianapolis region, won the Indiana AAU Junior Olympic Championship.

Under the astute leadership of Tom "Red" Taylor, they defeated an excellent Washington, DC, team to capture the 1986 National AAU Junior Olympic Championship. This team—with some changes over the years—has won the National AAU Junior Olympic title 3 of the last 4 years.

In the week-long tournament, held in beautiful Orlando, FL, the Municipal Gardens team defeated teams form California, Oklahoma, Iowa, Georgia, West Virginia, and Washington, DC.

This outstanding team consisted of the following members: Damon Dailey, who was named the tournament's most valuable player; Lloyd Carr, Marc Dickison, Jeff Gradek, Elliot Hatcher, Chuck Huffman, Kyle Kenworthy, Paul Lee, Eric Montrose, Tom Moore, Steve Mozingo, and Troy Terrill.

Coach Taylor, who works as the vice president treasurer at Ivy Technical College, has been coaching at Municipal Gardens for the past 17 years. In that time, his team have won five AAU Junior Olympic National Championships and finished runner-up another three occasions. He also led his teams to 16 Indiana State AAU Junior Olympic Championships. This exceptional leadership and ability is indicative of the talent both Coach Taylor and his teams exhibit.

Indiana is proud of these achievements and wish the Municipal Gardens teams continued success.●

10TH ANNIVERSARY OF UKRAINIAN PUBLIC GROUP TO PROMOTE IMPLEMENTATION OF HELSINKI ACCORDS

● Mr. HEINZ. Mr. President, I join the other members of the Helsinki Commission and my colleagues in the Senate in saluting the 10th anniversary of the heroic Ukrainian Public Group to Promote Implementation of the Helsinki Accords, the Ukraine's Helsinki monitoring group.

The group was formed spontaneously on November 9, 1976, a decade ago. In those 10 years the Ukraine Helsinki monitors have performed the same noble task as similar groups in Moscow, Lithuania, Georgia, and Armenia have—to bear moral witness to the continuing Soviet violation of its solemn international commitments on human rights.

For us in the West, the signing of the Helsinki Final Act in 1976 marked the end of one long series of diplomatic negotiations to frame the act, and the opening of another to review im-

plementation of the Final Act's human rights provisions. For the courageous members of the Ukraine monitoring group, the ceremony in Helsinki marked the beginning of years of intensified persecution, detention, arrest, torture, and, for some, death in Soviet labor camps.

The 37 members of the Ukraine monitoring group have paid the price for their moral witness. All but 1 have been imprisoned, with 16 in prison or exile today. Three have become martyrs to the principles of basic human rights and Ukrainian national identity, suffering death in Soviet labor camps.

The Soviets employ all of the standard instruments from their toolkit of expression. Ukrainians who join the Helsinki group are accused of common crimes and shipped off to harsh regime labor camps. They are sent into exile in the West. Their sympathizers are incarcerated in mental hospitals. Their homes are searched, their documents seized, they are followed, detained and tortured, their communications monitored, their privacy destroyed. The hypocrisy of Soviet officialdom is never more brazen than in its persecution of a group whose only purpose is to ensure respect for human rights, rights that Moscow has pledged itself to observe.

The Ukrainian monitoring group has shown extraordinary courage in the face of the brutal repression of the Soviet authorities. In this they have carried on a proud tradition of Ukrainian nationalism that has resisted russification and cultural genocide for generations. From the days of the independent Ukrainian Republic at the time of the Russian Revolution, to the struggle of the Ukrainian Insurgent Army against the Nazis and the Soviets in World War II, the Ukraine has seized every opportunity to assert its rights against the great powers that have denied it self-determination.

The Soviets have unknowingly paid tribute to the indomitable spirit of Ukrainian nationalism in persecuting Yuriy Schukevych, son of Roman Shukhevych, commander of the Ukrainian Insurgent Army during the Second World War. Yuriy has spent 34 of his 52 years in prison or exile, all for refusing to renounce his father, who led Ukrainian guerrillas against the double occupation of the Nazis and the Soviet Red Army.

Shukhevych managed to join the Helsinki group in 1979, despite his twilight life in the Soviet gulang. Today, he has begun to show the physical disability of those who are consigned to the living hell of Soviet labor camps—blindness, ulcers, and heart disease. His body is failing, but his very life stands as a testament to the spirit of human dignity and national identity of the Ukrainian people.

The rollcall of heroism on behalf of universal principles of human rights and national rights of the Ukrainian people goes on and on. It is a melancholy list, for all of those on it are either exiled from the land they love or degraded, imprisoned, and tortured at home by the Soviet authorities. Some have paid the ultimate price, giving their lives in defense of their ideals.

By adopting Senate Concurrent Resolution 154, we make the smallest of gestures in saluting those whose courage cannot be adequately described. But we must let the people of the Ukraine, the members of the Ukrainian Helsinki monitoring group, know that their struggle is not conducted in the darkness, as Moscow might wish. It is waged in the glaring light of world opinion, world opinion that does not forget, does not give up, does not surrender the hope that the struggle is not in vain. When we vote for this resolution, we reaffirm our bond with those who daily suffer for the principles of freedom we are fortunate to enjoy here in the United States.●

THE NEW GOVERNMENT OF PRESIDENT AQUINO

● Mr. LUGAR. Mr. President, the publisher and editor-in-chief of the Philippine News, the largest Filipino-American newspaper in the United States, Mr. Alex A. Esclamado, has written a most perceptive and moving article about the new government of President Aquino. The article appeared in the San Francisco Examiner on September 24, 1986. It presents the case for assistance to that government very persuasively, especially the argument that it is the national interest of the United States that we help democracy survive in the Philippines. I ask that Mr. Esclamado's article be printed in the RECORD at the appropriate place.

The article follows:

STRONG SUPPORT FOR AQUINO

(By Alex A. Esclamado)

When the Filipino people succeeded in regaining their freedom in a most dramatic revolution last February, freedom-loving peoples around the world cheered them on. In center focus was Corazon C. Aquino, wife of the fallen hero, Senator Benigno S. Aquino Jr.

There were doubts in many minds whether she had the ability to lead a devastated nation. The most stinging indictment of her supposed lack of competence to handle the Herculean job of the presidency of the Philippines was made by The New York Times editorial board.

The Times had interviewed Aquino immediately after her victory. Candidly and unguardedly, acting like the sincere housewife she used to be, always giving center stage to her dynamic husband, she expressed her personal doubts about her ability to govern. She answered questions with the sincerity and openness characteristic of her personality.

Obviously, no politician of her newly-acquired stature would have dared to display such candidness. Predictably, the Times article was devastating. The image created of Corazon Aquino was of a president who had no experience, who admittedly had to take crash courses in government and leadership under special tutors—tutors who, as many feared, could take advantage of her political naivete.

Today, barely seven short months after she assumed the powers of the presidency, Americans are being given the opportunity to size up, at close range, a diminutive housewife-turned president of 55 million people.

What is her performance rating? I can only sum up what she has already done in such a short time:

She has restored freedom to the Filipinos. This is clearly demonstrated by the reinstitution of press freedom. There are 26 newspapers and magazines in the Philippines today each trying to find fault with her government.

She is dismantling the corrupt political machinery of the past regime. Local, provincial and national officials who for 20 long years were the vital instruments of power of a totally corrupt administration are being replaced. One can appreciate the enormity of the undertaking and the tremendous implications it has on political stability.

She is restructuring the framework of the nation through the formulation of a new constitution that embodies the Filipinos' high aspirations of a truly democratic system. She has announced that elections will be held under the new constitution soon after it is ratified.

With a duly elected Congress that provides the checks to the presidency and local officials receiving fresh mandate from the people, together with an independent judiciary, full political stability shall be achieved.

She has personally implemented the laudable policy of reconciliation with the rebel and insurgent elements of the Philippine society which flourished from the brutal repression and unconscionable corruption of the past regime. She released all political prisoners including Communist leaders.

Aquino has traveled to the dangerous southernmost region of the country to meet the leader of the Moslem rebels with whom she has struck a ceasefire agreement. She has flown to the almost inaccessible jungles of northern Luzon to "smoke the peace pipe," so to speak with one of the most enigmatic of rebels.

She is in the process of negotiating peace with the New People's Army, the Communist-backed insurgents, whose cause and numbers flourished under the injustices and inequities of the Marcos dictatorship.

As Aquino pointed out in her speech before Congress, the communist insurgency started with only 500 armed soldiers when martial law was declared in 1972. It had grown to over 16,000 when the Marcos regime ended in February.

No president of the Philippines before her has accomplished these daring personal feats in the first 200 days of his term. At another time before hers, these things would only be attempted by a man in a man's world.

Now she has come to the United States to solve the most difficult problem of her government: the revival of the Philippine economy. There is no need to belabor here how much devastation has been inflicted by Imelda and Ferdinand Marcos upon the Filipino nation; much has been written about it.

Not only have they stolen a major chunk of whatever there was to steal from the

country, they have also plunged the land hopelessly into debt. As Aquino has said, it is a $26 billion obligation of a people who never received the benefits of the debt.

President Aquino came to appeal to the United States for three forms of assistance:

To increase the level of U.S. aid to the Philippines so that the democracy that her people have valiantly regained in a phenomenal revolution may be preserved.

She was right in her speech to Congress when she pointed out that the Philippine revolution was the cheapest revolution ever. For in how many places have Americans been embroiled in conflicts to promote democracy and have failed at tremendous cost of American lives and financial resources?

To urge American investors to resume their business activities in the Phillippines and to encourage new business ventures.

To make the burden lighter for the impoverished Filipino who must honor a huge foreign debt from which "he never benefitted."

The bottom line is: To what extent is America willing to help the Aquino government? How much is America willing to pay to help keep the Philippines on the side of freedom?

Doubts about Aquino's personal competence and ability to govern the Philippines should be erased by the time her plane lands in Manila to the rousing welcome of her proud people. She will return to her country finding it very much intact and well under her full control. Indeed, her visit will have been a definite diplomatic and substantive success.

She will also leave the United States with the strong support of the Filipino-American community throughout the country. Everywhere she went—Washington, D.C., New York, Boston and San Francisco, Filipinos welcomed her as their new heroine, a person full of sincerity, decency and talent. She has become the personification of the Filipinos' love and commitment to the immutable ideals of freedom and patriotism.

This is the real Corazon C. Aquino that I know: intelligent, strong-minded, sincere. No one can manipulate her. No one can dictate to her. While she needs advice from experts, she is clearly the Boss. There is no doubt that she can lead the Philippines to the greatness that it deserves.

How much must we help to make her succeed? I say enough to make her win the battle to preserve democracy in the Philippines!

I am an American by adoption, a Filipino by birth. I have seen how the United States has failed the Filipinos at certain crucial moments in the long history of Philippine-American friendship.

Democrats and Republicans alike, gave the Marcoses free rein, enabling them to destroy the moral and material well-being of the Filipino people.

I believe it is time for America to do justice and make amends to their Filipino friends who love Americans more than any other people in the world.

What is an equitable price, then, for maintaining democracy in the Philippines?

If the primary interest in the Philippines is the maintenance of U.S. strategic military bases there, then let the U.S. pay the price to maintain them. Assuming that the biggest threat to U.S. bases are the Communists, then let us spend now what it takes to defeat the Communists in the Philippines. How?

As President Aquino eloquently stressed, communism cannot be defeated by sheer military power. There must be an alleviation of the poverty of the people to remove their cause for rebellion.

Recently, Washington sent experts to the Philippines to determine how much it would cost to transfer the military bases in the Philippines to other areas, like the Marianas Islands. The figure was $10 billion and the resultant facility would not be even half as effective as the present facilities.

In response to the appeal of President Aquino, I submit that the United States adopt a Marshall Plan-type of commitment to the Philippines. The amount shall be equal to what would be spent to transfer the military bases elsewhere programmed over five years. The $2 billion annual budget may be placed in the Defense budget as "rental" for the military bases in the Philippines or for the maintenance thereof. The amount shall then be considerably reduced after the five-year period.

The fund should not be termed "foreign aid." This fund would enable President Aquino to effectively implement social amelioration projects to enhance the economic life of the Filipinos. The Communists then will lose their mass base and will eventually be defeated, thus the threat to the military bases will disappear.

And when the military bases issue is brought before the Filipino people for decision in a plebiscite in 1991 when the current treaty expires, I am certain that an overwhelming majority will vote for their retention.

We must help Aquino's government succeed. The $2 billion annual budget which I propose is only at parity with Egypt. It is very much less than our present support to Israel of over $3 billion. The Reagan administration is reported to be considering an aid package for Pakistan at the level of $900 million. I say, in the scale of strategic importance and commitment to democracy, the survival of Philippine democracy should be ranked as equally important to America as the survivial of democracy in Egypt, Israel or Pakistan.

If the United States cannot help democracy survive in the Philippines where all conditions are favorable how can she be expected to win a battle for Democracy anywhere else in the world? Is there a better country to invest in democracy and freedom?●

FREIDA MAE DAWKINS

● Mr. LUGAR. Mr. President, today I ask my colleagues in the Senate to join me in honoring the former executive director of the East Chicago, IN, Civil Rights Commission who passed away on November 2, 1985.

Freida Mae Dawkins, a native Hoosier from Mount Vernon, IN, was born July 23, 1917. She moved to East Chicago, IN, upon her marriage to Henry A. Dawkins. Her energy was immediately seized upon by the Zion Missionary Baptist Church. Her work in the church was outstanding. She was also involved in many other church organizations, such as: past president of the Matron's Department with the Indiana State Baptist Convention, past president of the Zion Baptist Missionary Church Society, past president and director of the Gospel Chorus of the Zion Baptist Church and past president of the East Chicago Singing Convention which included churches in Hammond and East Chicago, IN.

This remarkable, woman, after raising her two daughters, Henretta and Patricia, decided to return to school herself and complete a program in practical nursing. She graduated from the Purdue University Calumet College of Practical Nursing and went on to serve for 12 years at the Methodist Hospital in Gary, IN.

The strength and solid character of this great lady could be seen in her civic and social activities. She was a charter member of Club Reginas which provided scholarships to needy college students; chairperson of the board of directors of the Project Area Committee; she organized and incorporated the Unity for H.E.L.P. which allowed the Food Fair to remain open; was a chairperson for city employees to the Lake County area United Way Campaign 1976-77; was on the board of directors for the Tri-City Mental Health Program; served on the first board for the St. Catherine Credit Union; was the president of the Indiana State Consortium of Local/State Civil Rights Agencies from 1981-82; served as a board member to the East Chicago NAACP; and was a member of the Lily of the Valley Chapter 41 of the Twin City Lodge also located in East Chicago.

This untiring Hoosier is typical of many who give freely of themselves so that the lives of others may be enhanced.●

ABORTION AND INFORMED CONSENT: MASSACHUSETTS

● Mr. HUMPHREY. Mr. President, I urge all my colleagues to read Debbie's letter describing her experience with two abortions. Abortion is one of the, if not the, most serious violations of human rights that one person can inflict on another. It is the deliberate destruction of the offspring of a human being—which is without a doubt a human being.

But to literally add insult to injury, abortionists are degrading women and endangering the health of the mothers by not adequately informing them of the risks and nature of abortion. Pregnant women, 4,100 of them each day, are procuring abortions, and most of them will not know the basic facts regarding the gestation of their infant, or the type of abortion procedure to be used.

It is imperative that S. 2791, my bill requiring informed consent before abortion, be enacted into law in order to protect the emotional and physical health of this Nation's women. I ask, in particular, my colleagues from Massachusetts to heed the plea of Debbie, their constituent, and support informed consent before abortion.

I ask that Debbie's letter be printed in the RECORD.

The letter follows:

AUGUST 15, 1986.

DEAR SENATOR HUMPHREY: My first abortion was illegal at the age of 18. That didn't stop the doctor from asking me if I wanted an abortion. That was all the counseling I received.

It is tragic that the counseling most woman considering abortion receive is so near-sighted. Those who counsel women at abortion clinics are simply interested in rushing scared women and girls into abortions which many will regret later. It may take months, even years, but once the realization of what abortion is and does sets in, women suffer devastating emotional crises and find it very hard to forgive themselves for the role which they had in killing their own children.

The tragedy of killing an unborn child by abortion is compounded by the physical harm done by abortion to many women who undergo the procedure. I myself suffered from a very bad infection after my abortion, an infection which spread throughout my body. Other women I know have been forced to have total hysterectomies or simply rendered barren as the result of extensive scarring—all because of an abortion to which they never gave informed consent. Abortion is a very dangerous procedure for the mother and child, both physically and psychologically.

I, along with many others, became hateful, angry, bitter and resentful after the abortion. I dwelled on the baby's due day for years. My next abortion later was legal and the counselling wasn't any better. I wanted to make up for the first baby I killed. In turn I killed this one also. It saddens me to see how tough and "pro-choice" I became after the second abortion. The first one devastated me and, in order to handle my feelings, I had to become hard and put up a wall. I didn't know how to deal with murder.

Can you imagine how it feels years later to see pictures of aborted babies? I thought I would die, seeing what I'd done! I am 100% pro-life now. Women should be told all the facts about abortion. "What you don't know can hurt you!" It kills babies physically and women spiritually.

We, the women who have had abortions, know the physical and emotional pain left in abortion's wake. It is and has been our struggle to deal with abortion's aftermath, now it is our struggle to tell others the truth about abortion. Please help us in this effort.

Sincerely,

DEBBIE SOTIRKYS,
Massachusetts.●

SOVIET PRISONERS OF CONSCIENCE

● Mr. D'AMATO. Mr. President, we are grateful for the recent release of Dr. Yuri Orlov, founder of the Moscow Helsinki Group, from internal exile. A renowned Soviet scientist. Dr. Orlov was a member of the Armenian Academy of Sciences and conducted research at some of the finest institutes. During the early 1970's Orlov began to speak out on behalf of Soviet political prisoners. In 1973 he wrote a statement in defense of fellow scientist and human rights advocate Dr. Andrei Sakharov. Orlov was a founding member of the Moscow chapter of Amnesty International and became the driving force behind the Moscow Helsinki Group. The group, whose members included Dr. Elena Bonner, Sakharov's wife, and Anatoly Shcharansky, was organized following the signing of the Helsinki Final Act to document Soviet human rights violations. Orlov was arrested, charged with anti-Soviet agitation and propaganda, and sentenced to 7 years in strict regimen camp plus 5 years internal exile. During his term of imprisonment, Orlov was subjected to long periods of solitary confinement. While in internal exile, he was harassed repeatedly by the authorities, denied the right to correspond with his wife, Irina, and even attacked by thugs in the remote Siberian village of Kobyai.

Orlov's release serves to remind us that there are many other Soviet prisoners of conscience who languish in the gulag. Earlier this year, Dr. Andrei Sakharov, a Nobel Peace laureate, sent a special appeal to Soviet General Secretary Gorbachev asking for the release of prisoners of conscience in the U.S.S.R. Sakharov, an outspoken advocate of human rights, was banished to the closed city of Gorky by Soviet authorities in 1980. In 1984, Dr. Bonner, a founding member of the Moscow Helsinki Group, was arrested, charged with anti-Soviet slander, and sentenced to 5 years internal exile. Together, they live in isolation, cutoff from contact with the West and under constant surveillance by the KGB.

Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I urge my colleagues to voice their concern over Soviet human rights violations. It is particularly important that, on the eve of the Reykjavik meeting and the opening of the Vienna CSCE followup meeting in early November, we demonstrate our continued concern for Soviet prisoners conscience and others denied basic human rights.

Mr. President, I ask that a copy of Dr. Sakharov's appeal and a list of imprisoned Helsinki monitors be included in the RECORD at this time.

The appeal follows:

ANDREI SAKHAROV'S APPEAL FOR PRISONERS OF CONSCIENCE

PREFACE

On February 20, 1986, I sent a letter to General Secretary Mikhail Gorbachev urging the release of prisoners of conscience. The return receipt indicates that it was received by the General Department of the Central Committee on March 3rd.

When I wrote the letter, I did not know that Anatoly Schcharansky had been freed. I was extremely glad to receive news of this humanitarian act. It shows that the worldwide release of prisoners of conscience is necessary and feasible.

Prisoners of conscience have, however, been excluded from all amnesties in the USSR, placing them on a par with criminals convicted for especially grave felonies. The recent amnesty, celebrating the 40th anniversary of the victory over Nazi Germany passed over prisoners of conscience who would otherwise have qualified as veterans or invalids of World War II. This illustrates the magnitude of the ideological barriers blocking the release of prisoners of conscience. But I still believe in the ultimate triumph of reason and justice!

I attach exceptional importance to the fate of political prisoners. Taking into account my earlier appeals to Mikhail Gorbachev, to the Chairman of the Supreme Soviet Andrei Gromyko, and to the Chairman of the KGB Vitaly Chebrikov, I consider it my right and duty to make my letter public and ask the press to print it, but not before September 3, 1986.[1]

ANDREI SAKHAROV,
Nobel Peace Laureate.
GORKY, *March 1986.*

FEBRUARY 19, 1986.

DEAR MIKHAIL SERGEYEVICH: First of all, let me express my appreciation that my wife, Elena Bonner, received permission to travel abroad to visit her mother, children and grandchildren, and to obtain medical treatment. I assume that this permission, so important for us, was made possible by your personal intervention.

I hope that your intervention may help to resolve another problem which deeply concerns me. It is also humanitarian in nature, but it is more complicated, and it has broader, national significance.

I am referring to the fate of prisoners of conscience, the term adopted by Amnesty International to describe persons detained for their beliefs or for actions motivated by their beliefs, provided that they have not used or advocated violence. The term "prisoner of conscience" is thus more narrowly defined than the term "political prisoner."

In your interview published in L'Humanite on February 8, 1986, you asserted: "Now, about political prisoners, we don't have any. Likewise, our citizens are not prosecuted for their beliefs. We don't try people for their beliefs."

Mikhail Sergeyevich, it is true that the Criminal Codes of the Russian and other republics do not use the term "political prisoner". Articles 190-1, 70 and 142 of the RSFSR Criminal Code and the corresponding articles in the Codes of the other Soviet republics are not called political.[2] This may provide formal justification for saying that we don't have political prisoners, and that no one is prosecuted for his beliefs, but your advisors have misled you as to the real state of affairs. They may have done so unintentionally, influenced by their preconceptions. It is for you to decide whether this makes things any better.

Article 190-1 makes it an offense to circulate fabrications known to be false which defame the Soviet state or social system. A commentary on the criminal Code published by Yuridicheskaya literatura states that

[1] In a letter to Gorbachev written on June 29, 1985, Sakharov stated his "wish to cease public activities (apart, of course, from exceptional cases) and to concentrate on scientific work." Sakharov was then on an extended hunger strike seeking permission for his wife to go abroad for medical treatment.

[2] Article 190-1: The circulation of fabrications known to be false which defame the Soviet state or social system. Article 70: Anti-Soviet agitation and propaganda. Article 142: Violation of laws on separation of church and state and church and school.

"the circulation of fabrications . . . is not a crime under Article 190-1 if the person circulating them does not know them to be false." In all the cases with which I am familiar, however, the courts have completely ignored this issue posed by legal experts and common sense; they have avoided any discussion as to whether the defendant had knowingly circulated lies or had been expressing his or her sincere beliefs. In fact, the latter has been true. The absence of any proof of conscious intent is crucial under the law. It means that people have in reality been convicted in court for their beliefs.

My wife Elena Bonner is one victim of this illegitimate practice; I have written you in detail about her case.

The interpretion by the courts of Article 70 of the RSFSR Criminal Code is equally unjust. (This article is taken almost word-for-word from Stalin's Criminal Code. It was one of the points in the notorious article 58. . .)

In all the cases known to me, honest, selfless people have been convicted under Articles 70 and 190-1 for the circulation of information which they firmly believed to be true and which in most instances was in fact true. (The information included objective news about, unjust trials, psychiatric abuse and other repressions; the important right to choose freely one's place and country of residence, to leave any country and to return to one's own country; the persecution of religious believers; and—of particular importance—conditions in places of detention, which are often incompatible with human dignity.) Despite the diatribes in our press, their motives in the overwhelming majority of cases were honorable—they were striving for justice, for openness and for the rule of law. People do not sacrifice themselves because of greed or vanity, for base or insignificant aims!

Article 70 speaks of "agitation or propaganda carried on for the purpose of subverting or weakening the Soviet regime or of committing particular, especially dangerous crimes against the state, or the circulation for the same purpose of slanderous fabrications. . ." In the cases known to me no one convicted under Article 70 had or could have had the purpose of subverting or weakening the Soviet regime or of committing a crime against the state. The courts have never attempted to prove that Article 70 defendants had such intentions. In both Article 70 and Article 190-1 cases, the courts substitute the endless repetition of empty, ritualistic formulas for a discussion of real issues, and sometimes, as in my wife's case, they resort to outright forgery. That may be the reason that the defendant's right to an open trial has been violated in every single case known to me of prosecutions under these articles. The courts have been packed with specially selected audiences; friends and sometimes relatives of the defendants were kept out by police cordons, even when the judge pronounced the verdict. Wrongdoing shuns the light of day.

Trials under Articles 70 and 190-1 clearly constitute prosecution because of the defendants' beliefs.

That is also true of many prosecutions under Article 142. It is formally concerned with the separation of church and state, but it is often used to punish nonviolent religious activity.

I am greatly disturbed by the revival of the cruel and unjust practice of trying prisoners again and again while they are serving their sentences. Prisoners of conscience "resisting reeducation"—which means those who remain unbroken and defend their beliefs—can be tried using summary procedures and sentenced to new terms of imprisoment on the basis of inspired denunciations by their fellow convicts or charge directly initiated by the camp authorities.

I shall name a few of the prisoners of conscience known to me.

My friend, Anatoly Marchenko, has been sentenced under Article 70 to 10 years imprisonment and 5 years internal exile. (He was the victim of several prior unjust trials.) The main charge at his most recent trial involved his letter to the late Academician Petr Kapitsa asking him to protest my illegal exile to Gorky.[3]

(In regard to myself, let me simply repeat here that I consider the measures taken against me to be unjust and unlawful. I am ready to answer for my actions, like other prisoners of conscience, but I alone should bear the responsibility. It must not be shifted onto my wife or anyone else.)

Ivan Kovalev and his wife Tatiana Osipova, were convicted under Article 70 for public statements they made as members of the Moscow Helsinki Watch Group and as private individuals. The plight of this young couple, separated for many years, illustrates the illegality and cruelty of the persecution of prisoners of conscience. An affidavit about Kovalev issued by the camp authorities states that he was repeatedly confined in a punishment cell and subjected to other penalties because he did not change his beliefs. What idiots the camp overseers are! During Tanya Osipova's pretrial investigation, her interrogator threatened that she would not receive needed medical care and thus would never be able to bear children unless she cooperated and altered her beliefs. A year ago, Osipova was sentenced to an additonal two-year term after a camp trial.

Yuri Orlov, a corresponding member of the Armenian Academy of Sciences, Victor Nekipelov, a poet, and Anatoly Shcharansky are other convicted Helsinki Group members. Nekipelov had been previously sentenced for his poetry; a court ruled that it contained slanderous philosophical ideas. Nekipelov is an exceptionally decent, intelligent and compassionate person. Now he is seriously ill.

I want to make a particular point about the Shcharansky case. No one should object to the exposure and prosecution of spies—that is the job of the state security organs. However, the charge against Shcharansky that he gathered information about refuseniks for publication (!) in an American newspaper has nothing in common with espionage.

Tatiana Velikanova, Alexei Smirnov, and Yuri Shikhanovich were convicted for editing "A Chronicle of Current Events." (My friend Sergi Kovalev, a distinguished biologist and the father of Ivan Kovalev, served a ten-year sentence on the same charge.) Tatiana Velikanova exemplifies the best traits of prisoners of conscience: absolute integrity, a desire to act openly and devotion to justice. From 1968 until 1982 "A Chronicle of Current Events" published objective information on the human rights situation in the USSR without editorial comment. Its history is the embodiment of the ideals of many self-sacrificing individuals.

Sergei Khodorovich was tried for administering a fund which assists political prisoners and their families. The fund is supported by contributions of Soviet citizens and by royalties from Alexander Solzhenitsyn's books.

Smirnov and Khodorovich were severely battered during pretrial detention by prisoners who were assigned to their cells for that purpose. The beating continued for many days. I do not know if other prisoners of conscience have suffered similar torture.

Mustafa Dzhemilev has repeatedly been tried for his defense of the Crimean Tatars' right to return to their homeland.

Mart Niklus was sentenced to ten years labor camp and five years internal exile for Helsinki Watch Group activity in Estonia and for signing a collective letter demanding the repudiation of the secret articles of the Molotov-Ribbentrop Pact. (Juri Kukk, who also signed the letter, died in a labor camp.) One has to meet Niklus, an ornithologist and a true scientist, an absolutely honest and sensitive person, to appreciate the full cruelty and injustice of his sentence.

Merab Kostava was sentenced to exile in 1978 for his attempts to preserve the cultural and historical heritage of the Georgian people. In contrast to his codefendant, Kostava refused to repent and was tried again on trumped up charges. I sent a telegram about this to Eduard Shevardnadze at the time. I do not want to condemn Kostava's codefendant; Shevardnadze disparaged him in a speech by saying that he was "not a chevalier." Every individual has his own problems and code of behavior in extreme situations. But Kostava, to borrow Shevardnadze's phrase, is certainly a chevalier and a true son of Georgia.

I know everyone on this list except for two individuals, and absolutely trustworthy friends know those two well. Even if there is no general amnesty for prisoners of conscience, I ask you to release all those named above. I vouch for the good character, civic responsibility, integrity and altruism of every one of them.

I do not have recent information on these cases. One or two may have been released by now, but I rather doubt it.[4]

Unquestionably, prosecution for one's beliefs or for actions motivated by them is a relatively rare occurrence now. There is no comparison with the deplorable Stalin era. I believe that the existence of prisoners of conscience in our country is a legacy of the intolerant, dogmatic ideas of those years, ideas that still affect the thinking and actions of some government officials.

I know personally some thirty prisoners of conscience. The figure of 200 prisoners, which you cited in another connection, probably is a significant portion of the total number. Additional prisoners of conscience are confined in prison psychiatric hospitals. Others have been convicted on fabricated criminal charges, such as hooliganism, re-

[3] Marchenko is the author of "My Testimony," an account of the post-Stalin labor camps. On August 4, 1986, in a letter smuggled out of Chistopol Prison to the Vienna Conference, Marchenko announced a hunger strike demanding an end to the abuse of prisoners, punishment of the guards who banged his head on the cement floor of his cell, a visit with his wife, and an amnesty for all political prisoners. . His "Open Letter to Academician P. L. Kapitsa" was printed in On Sakharov, Knopf, New York, 1982, pp. 31-37.

[4] Anatoly Shcharansky was released in Berlin on February 11, 1986, in connection with an East-West spy swap. On September 30, 1986, Secretary of State Shultz announced that Yuri Orlov would be released from internal exile and allowed to depart the USSR by October 7; the release was arranged during discussions between Soviet Foreign Minister Shevardnadze and Shultz about the case of Gennadi Zakharov.

sisting arrest, parasitism, and attempted rape. I suppose, however, that even with these additions, the number of prisoners of conscience is not very great, although I cannot supply exact figures.

There should not be any prisoners of conscience at all in a just society.

We can do little to affect the fate of prisoners of conscience in other countries, except through the example we set. We can, however, free our own prisoners of conscience. (Amnesty International works with some success on this problem in all countries.)

Release them and get rid of this painful issue. There are so few prisoners of conscience in relation to our population, but their release would have real humanitarian, moral, political and, I dare say, historical significance. It would substantially increase our country's prestige. It would make all international contacts easier. It would advance the openness of our society, international confidence and the cause of peace. It would gain the support of a significant part of the Soviet intelligentsia. It could change the psychological atmosphere in our country, and thereby open the way for a solution of the problems facing us. It would bring happiness at last to the prisoners' families after many years of undeserved suffering. And this wise, humanitarian act would certainly evoke a positive response throughout the world.

I ask you to take steps to secure the release from prisons, labor camps, and exile of all prisoners of conscience convicted under Articles 901-1, 70 and 142 of the RSFSR Criminal Code and the corresponding articles of other republics, as well as those confined in special psychiatric hospitals (their release would not depend on the complete absence of mental illness) and those convicted on trumped up criminal charges.

Mikhail Sergeyevich! I hope you will ask your assistants to acknowledge receipt of this letter and, if possible, let me know your reaction to my request. I assign exceptional importance to the fate of prisoners of conscience.

With respect and hope,

ANDREI SAKHAROV.

In a telephone conversation with his relatives in Newton on September 1, Dr. Sakharov stated that he had not received a reply to his letter. He asked that Viktoras Petkus, who was sentenced in July 1978 to ten years imprisonment and five years exile for his participation in the Lithuanian Helsinki Group, be added to his list of Article 70 prisoners of conscience.

Additional information on the prisoners mentioned in this letter is available from Cronid Lubarsky (Wolfratshauser Str. 68/III, Munich), who publishes the biweekly USSR News Brief and the annual List of Political Prisoners in the USSR.

THIRTY-NINE IMPRISONED MEMBERS OF THE HELSINKI MONITORING GROUPS IN THE USSR AND LITHUANIA (UPDATE: OCT. 1986)

MOSCOW HELSINKI GROUP

Sentenced

1. Elena Bonner—sentenced on August 17, 1984 to five years of internal exile for "anti-Soviet slander."—currently living in Gorky, RSFSR, with husband, Dr. Andrei Sakharov.

2. Ivan Kovalev—sentenced on April 2, 1982 to five years of strict regimen camp plus five years internal exile for "anti-Soviet agitation and propaganda."

3. Anatoly Marchenko—sentenced on September 4, 1981 to ten years of special regimen camp plus five years of internal exile for "anti-Soviet agitation and propaganda."

4. Viktor Nekipelov—sentenced on June 13, 1980 to seven years in labor camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Sentenced in October 1982 to prison for three years.)

5. Tatiana Osipova—Sentenced on April 2, 1981 to five years general regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." Re-sentenced in camp to five years strict regimen camp in May 1985 for "habitual disobedience to the demands of camp authorities".

6. Feliks Serebrov—sentenced on July 21, 1981 to four years strict regimen camp plus five years exile for "anti-Soviet agitation and propaganda." Also a member of the Psychiatric Working Group. (Sentenced in 1977 to one year in camp).

UKRAINIAN HELSINKI GROUP

7. Mykola Horbal—sentenced April 10, 1985 to eight years strict regimen camp plus three years exile for "anti-Soviet agitation and propaganda." (Sentenced on January 21, 1980 to five years of camp for "resisting a representative of authority" and attempted rape).

8. Iosif Zisels—sentenced on April 10, 1985 to three years strict regimen camp for "anti-Soviet slander." (Sentenced in 1979 to three years camp for "anti-Soviet slander.")

9. Vitaly Kalynychenko—sentenced on May 18, 1980 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

10. Ivan Kandyba—sentenced on July 24, 1981 to 10 years special regimen camp plus five years exile for "anti-Soviet agitation and propaganda."

11. Yaroslav Lesiv—sentenced on November 15, 1981 to five years of strict regimen camp for "possession of narcotics." (In 1980, he got two-years term for "possession of narcotics.")

12. Levko Lukyanenko—sentenced on July 20, 1978 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

13. Myroslav Marynovych—sentenced on March 29, 1978 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

14. Mykola Matusevych—sentenced on March 29, 1978 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Sentenced in October 1980 to prison).

15. Mykola Rudenko—sentenced on July 1, 1977 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

16. Vasyl Striltsiv—sentenced in October 1981 to six years in camp on unknown charges. (In 1979, he got two year term for "violation of internal passport laws.")

Died in Camp

Oleksy Tykhy—sentenced on July 1, 1977 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda" and illegal possession of firearms. (Died in camp from malnutrition on May 6, 1984).

Yuri Lytvyn—sentenced in April 1982 to 10 years of special regimen camp plus five years of exile for "anti-Soviet agitation and propaganda." (In 1979, he got three year term for "resisting a representative of authority.") (Died in camp, probably suicide, in late August 1984).

Vasyl Stus—sentenced on October 14, 1980 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Died in camp September 4, 1985, from stomach and kidney ailments).

LITHUANIAN HELSINKI GROUP

Died

Rev. Bronius Laurinavicius—killed (by truck) on November 24, 1981 in Vilnius. (On November 21, 1981, was subject of accusatory article in Tiesa, official Lithuanian newspaper).

Sentenced

17. Viktoras Petkus—sentenced on July 13, 1978 to three years in prison, seven years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Petkus also joined the Ukrainian Helsinki Group in 1983).

18. Vytautas Skuodys—sentenced on December 22, 1980 to seven years strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (U.S. citizen. Also member of the Catholic Committee.)

19. Algirdas Statkevicius—sentenced on August 11, 1980 to forcible psychiatric treatment after being arrested on February 14, 1980, reportedly for "anti-Soviet activities." (U.S. citizen).

GEORGIAN HELSINKI GROUP

Sentenced

20. Merab Kostava—sentenced in June 1985 to two years in camp for "malicious disobedience of the demands of the camp administration". (Before completion of previous term of five years camp).

21. Eduard Gudava—sentenced in November 1985 to four years strict regimen camp for "holliganism".

22. Tenghiz Gudava—sentenced in June 1986 to seven years strict regimen camp plus three years internal exile for "anti-Soviet agitation and propaganda".

23. Valentina Pailodze—sentenced on May 25, 1983 to eight years strict regimen camp plus three years exile for "giving bribes" and for "giving false testimony." (In 1978, she got a three year term for "anti-Soviet slander.")

24. Emmanuel Tvaladze—sentenced in June 1986 to five years strict regimen camp plus three years internal exile for "anti-Soviet agitation and propaganda".

ARMENIAN HELSINKI GROUP

Died

Eduard Arutunyan—died of natural causes in late November or early December 1984. Arrested in November 1982, he was sentenced to three years strict regimen camp for "anti-Soviet slander." (In 1979 received three-year camp term on these charges.)

CHRISTIAN COMMITTEE FOR THE DEFENSE OF BELIEVERS

Sentenced

25. Father Gleb Yakunin—sentenced on August 20, 1980 to five years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

WORKING COMMISSION ON PSYCHIATRIC ABUSE

Sentenced

26. Anatoly Koryagin—sentenced on June 5, 1981 to seven years strict regimen camp plus five years of internal exile for "anti-Soviet agitation and propaganda" and for "illegal possession of a firearm." Sentenced to two additional years for "resisting camp authorities" in February 1986.

Feliks Serebrov—(See Moscow Helsinki Group).

GROUP FOR THE LEGAL STRUGGLE OF THE FAITHFUL AND FREE SEVENTH-DAY ADVENTISTS

Sentenced

27. Rostislav Galetsky—sentenced on March 25, 1981 to five years in camp plus five years in internal exile for "anti-Soviet slander" and violation of laws separating church and state.

CATHOLIC COMMITTEE FOR THE DEFENSE OF BELIEVERS

Sentenced

28. Alfonsas Svarinskas—sentenced on May 6, 1983 to seven years labor camp and three years internal exile for "anti-state activities," "slandering the Soviet state," and "encouraging believers to violate laws and defy authority."

29. Sigitas Tamkevicius—sentenced on December 2, 1983 to six years strict regimen camp and four years exile for "anti-Soviet agitation and propaganda."

Vytautas Skuodys—(See Lithuanian Group).

Died

Father Juozas Zdebskis—died on February 6, 1986 in a car accident under suspicous circumstances.

INITIATIVE GROUP FOR UKRAINIAN CATHOLIC RIGHTS

30. Vasyl Kobryn—sentenced on March 22, 1985 for "anti-Soviet slander" to three years standard regimen camp.

31. Yosyp Terelya—sentenced on August 20, 1985 for "anti-Soviet agitation and propaganda" to seven years camp plus five years exile.

INITIATIVE GROUP FOR THE RIGHTS OF THE DISABLED

32. Nikolai Pavlov—sentenced on September 22, 1981 for "anti-Soviet agitation and propaganda" to five years exile.

33. Vasily Pervushin—sentenced on November 11, 1983 to an indefinite term of psychiatric detention.

MEMBERS SENTENCED BEFORE JOINING

Ukrainian Group

34. Vasyl Ovsienko—sentenced in August 1981 to 10 years strict regimen camp plus five years exile for "anti-Soviet agitation and propaganda." (In 1979, he got a three years term for "resisting a representative of authority.")

35. Oksana Popovych—sentenced in 1974 to eight years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

36. Yuri Shukhevych—sentenced in September 1972 to five years in prison, five years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

37. Danylo Shumuk—sentenced on July 7, 1972 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

38. Mart Niklus—sentenced in January 1981 to 10 years in special regimen camp and five years internal exile for "anti-Soviet agitation and propaganda." Transferred from camp to prison in July 1983. (Niklus, an Estonian human rights activist, joined the Ukrainian Helsinki Group in 1983).

Lithuanian Helsinki Group

39. Balys Gajauskas—sentenced on April 14, 1978, to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."●

ICELAND INTERIM SUMMIT

● Mr. DOMENICI. Mr. President, President Reagan and General Secretary Gorbachev will meet this weekend in Reykjavik, Iceland, to plan for their second summit. Some have written off this meeting as simply a political ploy to show that the President is serious about improving relations with the Soviets and making progress on arms control. I think this is neither a fair nor accurate characterization, particularly since it was Mr. Gorbachev who proposed this presummit session in the first place. The President accepted Mr. Gorbachev's invitation, noting that with so many grave and complex matters to be discussed, there is no such thing as too much preparation. I agree.

The Iceland meeting will serve to lay the groundwork for the second full summit scheduled for later this year or the early part of 1987. It will enable the two leaders to continue the process of dialog which was initiated at the Geneva Summit last November, and go into the second summit with a clearer idea of the issues we need to focus on. I sincerely believe these informal discussions will contribute to a more productive summit. If nothing else, getting the "niceties" out of the way this weekend will allow the President and the General Secretary to get down to business as soon as possible when they next meet.

The Soviet-American relationship is, by far, the most important and complex of the world's bilateral relationships. Today, it is at a turning point in history, for while there obviously remain many areas of serious conflict between the two superpowers, there are important areas in which negotiated agreements are imminent. For example, United States and Soviet arms negotiators are already very close to an agreement on intermediate range nuclear forces in Europe. We are on the brink of drastically reducing an entire class of modern nuclear weapons. There is also some promise for progress on issues such as chemical weapons and nuclear testing.

The Iceland meeting, therefore, comes at a critical time in negotiations on several key issues of vital concern to our Nation. While no agreements are anticipated at the Iceland meeting, the discussions that will take place can lead the way for agreements at the second summit, and I support any effort that will give this process an extra push. I wish the President well on his trip.●

ROY WILKENS

● Mr. LUGAR. Mr. President, one of the great leaders of our time will be honored by the establishment of a community hall in East Chicago, IN, that will be named the Roy Wilkens/Freida Hawkins Center. The impetus behind this building is Eunice Roper-Allen who wanted the city of East Chicago to honor one of the Nation's finest citizens.

Roy Wilkens was born in St. Louis, MO, in 1901. He attended the University of Minnesota where he worked as the night editor of the school paper, editor of the local black newspaper and participated in both the NAACP and Urban League in St. Paul. He moved to Kansas City, MO, where he worked for the Kansas City Call. His outspoken campaigns against Jim Crow brought his efforts to the attention of Walter White, then Director of the National NAACP.

Roy Wilkens accepted a position with the national chapter of the NAACP and moved to New York in 1931. He served as assistant secretary, editor of the Crisis, and finally as executive director of the NAACP. He advocated progressive change through legal action and participated in every major civil rights achievement: working for the integration of the U.S. Army, organizing the historic march on Washington, lobbying for the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 open housing legislation. Wilkens was among the first to comment on the need for action by the United States for the abolition of apartheid in South Africa.

Above all, Roy Wilkens believed in the United States, the Constitution and the effort to allow freedom and equality to exist for all Americans. He died on September 8, 1981. C. Delores Tucker, former secretary of state for Pennsylvania, stated it correctly, "Roy Wilkens, you have been our Rock of Ages—Our Rock of Roy."

INTERNATIONALISM—IS IT A FOREIGN POLICY ISSUE?

● Mr. SIMON. Mr. President, last summer, the Johnson Foundation sponsored a conference entitled "The United States and the United Nations." The U.S. role within the United Nations has been the subject of extensive debate in the Congress. I continue to believe that the United Nations offers an opportunity for international cooperation that would simply not exist without this organization. While we should continue to debate the U.S. role within the U.N. we should not be considering in any way leaving the U.N. or reducing our role within that body.

At the Johnson Foundation conference, one of the papers was presented by Prof. Lawrence S. Finkelstein of Northern Illinois University. Professor Finkelstein addresses the fundamental link between foreign policy and international cooperation, activity and participation in organizations like the U.N. His ideas are strong and persuasive.

I hope my colleagues will take the time to read this article and I ask that it be printed in full in the RECORD.

The article follows:

INTERNATIONALISM—IS IT A FOREIGN POLICY ISSUE?

(By Lawrence S. Finkelstein, Professor of Political Science, Northern Illinois University)

(Based on Final Address at Conference on The "United States and the United Nations" sponsored by the Johnson Foundation, the Wisconsin Universities Summer Seminar on the United Nations, the Wisconsin UN Association and Wisconsin Governor's Commission on the UN, Wingspread, Racine, Wisconsin, June 26, 1986.)

The important recent article by Thomas Hughes, (The Twilight of Internationalism Foreign Policy, Number 61, Winter 1985/86) illuminates a number of paradoxes in the evolution of American internationalism. The chief one is that the internationalism that carried the United States into cooperation with other countries across a broad front of issues and organizations after World War II differs diametrically from today's internationalism.

The old internationalism was optimistic about progress toward the American goals of peace through collective security (we had tamed the frontier—why not the world?), freedom and self-determination through the spread of the American dream, justice under the rule of law, prosperity driven by American genius and free enterprise, dignity and respect for human rights for all.

Today's internationalism is pessimistic on all those counts. Collective security has given way to reliance on national strength—not the posse but the Lone Ranger. Pursuit of justice under law has given way to self-serving certainty that we are the law. Human rights have been subordinated to short term tactical objectives of foreign policy. We are frightened about the results of our own success in pursuing the earlier goals. The generous vision of Harry Truman's Point Four has given way to aid predominantly geared to the aims of national security policy.

The deepest insight of Hughes' article though has to do with our maturity. The early internationalism was real enough. Joining the United Nations was a serious break with the isolationism which had dominated American belief until World War II. But it rested on the unreliable assumption that we could afford to join the world because the world was ours for the shaping. American internationalism was at root American. The world would be safe for America because we would make it over in our image. When that proved wrong, we found it difficult to adjust to the complexity which displaced our simplicities. Hughes says it this way: "internationalism practices the sin of complexity, i.e., the truth." He implies, and I agree, that we do not face the truth.

That is the international setting for our pursuit of American purposes is inescapably complex. In part, our environment responds to us. In part, it is hostile, although it is perhaps more neutral than we acknowledge. The United Nations mirrors the complexity. Emphasizing the complexity does not intend to obscure the fact that there are dangers. There are forces inimical to American interests. But we sometimes exaggerate them. And we prefer to ignore the extent to which our own behavior affects our environment.

The key question is whether we decide to "engage" with others—notice that I do not say "remain engaged"—or whether we pursue our separate path. That path is not "isolationist." Isolationism is not the issue. The issue is unilateral internationalism.

Before considering that issue as it affects our future, there are three points I wish to make about the past. Too often we forget that the past is part of our present and of our future too.

The first point emphasizes what I have already said—that in thinking we could shape the world we expected to dominate it. That was an unstated condition of our joining the world in 1945. For a while, we did in fact shape our world. We tend to think that was because we were militarily strong and economically powerful. We were strong and powerful. We like to forget though that we were also morally attractive. We led in directions most of the world could follow—toward peace, justice under a rule of law, prosperity, self-determination and human rights. Eleanor Roosevelt contributed as much to our leadership as did our armies, fleets, airforces and atomic bombs or, for that matter, our money. There was indeed an "American difference" during the era of our leadership.

Second, we believed too uncritically that what we thought right would prevail because we believed it right. We had trouble adjusting to adversity. The United States, we believed, had always prevailed and must continue to do so. (One reason the Vietnam experience hit us so hard was the difficulty we had reconciling the unmistakable evidence of defeat with our erroneous belief that we had always been victorious in war.)

We had trouble with compromise too. Obviously, if we were right, no compromise was possible. So, we would not suffer the constraints of multilateralism. From early in the postwar period, we chose unilateral alternatives. Some examples: the overturning of Mossadegh in 1952, support of the Guatemalan invasion in 1954, the insertion of American troops in Lebanon in 1957, involvement in a revolutionary plot in Indonesia in 1958, the Bay of Pigs invasion in 1961, the invasion of the Dominican Republic in 1965, the Vietnam War, the Mayaguez affair, and, now Grenada, Nicaragua, and Libya.

The strategic objective of a world order gave way to short term tactics of loss-avoidance.

The third point about the past is that we quit trying to lead relatively early because we would not risk contending with the adversity engendered by our success. We hoped for colonial revolution. When it came, we were frightened by the number of votes we could not control. I date this shift in the overall United States stance from the government decision in 1964—that long ago—that we could not afford to win the argument over compulsory financing of UN peacekeeping. Tom Hughes has this right. That was when the United States quit trying to lead. Thereafter, it concentrated on defending our bastion of beliefs, security, and material wealth.

Now, looking ahead, I have to synthesize in a few guidelines I offer hesitantly.

The first point is implicit in what I've already said. As a people, we tend to think there is a fresh dawn every day. In itself, that seems to me a desirable trait. All the same, it is arrogant to believe we can ignore the past. We believe there is discontinuity between the past and the future and that we can shape it. But the past counts, particularly our own. Part of our present and future dilemmas is of our own creation. We got ourselves into Vietnam, for example, and that is a good part of the burden we carry into the future. We'd do better to recognize that, though there are motes in many eyes, there's a beam in ours too. In a word, a touch of humility would help.

Second, we must recognize that our participation in multilateral organizations, the UN for example, is not a separate item on the foreign policy agenda. It is imbedded in our overall foreign policy. We cannot expect to succeed in organizing and maintaining support our purposes need if they are to prevail in the UN if, outside the UN, we behave in a fashion inconsistent with its norms and standards. We cannot have it both ways. We cannot both claim to be the most ardent champion of the Charter which, we correctly assert, we helped shape because it represented us, and simultaneously behave in ways which give the lie to our claims of virtue. Actions, our national leaders are wont to remind us when they refer to other countries, speak louder than words. The maxim applies to us too.

Third, there is also a close relation between what we seek internationally and what we are at home. I'll give one example, in some ways a minor one. United States policy about UN agency funding of population programs is a direct product of essentially religious fundamentalist convictions held at home. More broadly, what we are influences, perhaps determines, how we act internationally. It certainly affects how others view us. It matters in the world, in short, whether we are generous, humane and committed to letting government work for people at home or, to the contrary, driven by an ideological resentment of government. The latter inescapably puts us in a minority in the world. That others do not agree with us does not necessarily prove them wrong.

Fourth, even now, our government says it still sees many benefits in multilateralism. At the same time, however, it tends to reject what may be multilateralism's most important role. That is to serve as the forum in which shared problems are explored with the serious purpose of developing "consensual knowledge" as the basis for common action in pursuit of agreed solutions under accepted rules. The UN Charter calls on it to be "a center for harmonizing the actions of nations." That is a function to which the United States should pay more than lip service. We should welcome that role and seek to exploit it in the development of the "consensual knowledge" we need to deal with the problems that are not merely the world's but ours as well. There is no lack of evidence that the United States still has enormous leadership opportunities when it knows what it wants, develops sound policies and pursues effective tactics, above all showing "a decent respect to the opinion of mankind."

Fifth, we should recognize that intergovernmental organizations like the UN are political institutions. There are important differences, of course, between them and national governments. In many ways, however, they behave in ways which can be compared with how we conduct our political business at home. Who understands that business or can do better at it than we? International organizations, in other words, are not alien. Constitutionally, and in how they work, they mirror us.

Sixth, I want to emphasize one implication of what has preceded. Compromise, re-

spect for the views and interests of others, is the indispensable oil of politics. Bargaining is its means. Let me give one very speculative example of what I mean. I tend to agree that, because international organizations consist of states which are not the same as the people on which national governments are based, the one member one vote system of many international organizations sometimes works badly. It is, I think, desirable to consider improving it. All agree that is a formidably difficult task to accomplish. Achieving change will require compromise to accommodate the varied interests that have to be satisfied. That is why the most promising idea for constitutional improvement involves a complex system for voting on budgets and perhaps other specified issues.

That system would require three concurrent majorities for passage of specified types of measures. One majority would respect the interest of the many smaller countries in preserving the system of sovereign equality of states. It would require a majority of the states voting. The second required majority would acknowledge the democratic principle and would count by populations. The third would accede to the demand of large, rich countries that they be protected against the "tyranny of the majority." It would require a majority weighted by financial measures. To complete the compromise package, the United States would have to commit itself to be "engaged" and play by the rules if the change should take effect.

Summing up is not difficult. These remarks reflect the conviction that we've entered a crucible period in America, comparable in many ways with the gestation time that produced the move of the United States from isolation to international commitment after World War II. As I've implied, the issues penetrate to the heart of the American being. What kind of country is this?

My plea is that we pay attention to restoring that "American difference" President Reagan refers to often but, as Hughes says, is succeeding in destroying. I hope, but do not predict, that candidates for national leadership in this country will be measured by that standard.●

BROADCAST JOURNALISM

● Mr. SIMON. Mr. President, broadcast journalism was born 66 years ago, on November 2, 1920, when radio station KDKA in Pittsburgh broadcast the Harding-Cox election returns.

Since that day, the contributions of broadcast journalists have become an integral part of our culture. Every day, millions of Americans learn of local, national, and world events through radio and television. Broadcast journalism allows us to hear news as it is being made. Broadcasting informs us of tragedy, warns of imminent dangers, and lets us share in great triumphs.

I ask my colleagues to join me in officially commending the men and women who, through their dedication and commitment to fair and accurate reporting of the news, permit the citizens of this country to live in a free and informed society.●

ORDERS FOR FRIDAY

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10 a.m., on Friday, October 10, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, following the two leaders under the standing order, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, and BAUCUS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

PROGRAM

Mr. DOLE. Mr. President, at the conclusion of routine morning business tomorrow, we will turn either to the House message on the drug bill, H.R. 5484, or the reconciliation conference report. As I have said earlier, I am not certain there will be votes. Well, I am almost certain there will be votes, put it that way. There will be no votes prior to noon. We will not be on any bill until about sometime after 11 o'clock.

It is the hope of the distinguished chairman of the Budget Committee, Senator DOMENICI, and the ranking member, Senator CHILES, that they will have that bill before us by noon. So I think there will be some rollcall activity tomorrow.

Does the distinguished minority leader have anything else?

Mr. BYRD. I can think of nothing.

Mr. DOLE. I thank the distinguished minority leader for his cooperation.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 10 a.m. on Friday, October 10, 1986.

The motion was agreed to; and at 7:50 p.m., the Senate recessed until Friday, October 10, 1986, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1986:

DEPARTMENT OF STATE

Paul A. Russo, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of Dominica, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Lucia, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Vincent and the Grenadines, Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Christopher and Nevis.

DEPARTMENT OF DEFENSE

Robert B. Barker, of California, to be chairman of the Military Liaison Committee to the Department of Energy.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, October 9, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, may our loyalties and commitments be for those values that support all people and not just those actions that are beneficial to us. We look to You, gracious God, to speak through Your Word and remind us of our responsibility to nurture life for all people everywhere. As Your message of hope rises above the din of self-interest, so may our lives reflect Your high purpose for us in all we do. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. NIELSON of Utah. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. NIELSON of Utah. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 117, answered "present" 1, not voting 58, as follows:

[Roll No. 445]

YEAS—256

Abercrombie	Boland	Cooper
Ackerman	Boner (TN)	Coyne
Akaka	Bonior (MI)	Crockett
Alexander	Bonker	Daniel
Anderson	Borski	Darden
Andrews	Bosco	Daschle
Annunzio	Boucher	Davis
Anthony	Boulter	de la Garza
Applegate	Boxer	Dellums
Archer	Broomfield	Derrick
Aspin	Brown (CA)	Dicks
Atkins	Bruce	DioGuardi
AuCoin	Bryant	Donnelly
Barnes	Bustamante	Dorgan (ND)
Bates	Callahan	Dornan (CA)
Bedell	Carr	Dowdy
Beilenson	Chapman	Duncan
Bennett	Chappell	Durbin
Berman	Coelho	Dwyer
Bevill	Coleman (TX)	Dymally
Biaggi	Collins	Dyson
Boggs	Combest	Early
Eckart (OH)	Levine (CA)	Roybal
Eckert (NY)	Lipinski	Russo
Edwards (CA)	Long	Sabo
Edwards (OK)	Lujan	Scheuer
English	Luken	Schneider
Erdreich	MacKay	Schroeder
Evans (IL)	Manton	Schulze
Fascell	Markey	Schumer
Fazio	Martinez	Sharp
Feighan	Matsui	Shelby
Fish	Mazzoli	Shumway
Florio	McCain	Siljander
Foglietta	McCloskey	Sisisky
Foley	McCollum	Skelton
Frank	McCurdy	Slattery
Frenzel	McDade	Smith (FL)
Frost	McEwen	Smith (IA)
Fuqua	McHugh	Smith (NE)
Garcia	McKinney	Smith (NJ)
Gaydos	Mica	Snyder
Gejdenson	Mikulski	Solarz
Gibbons	Miller (CA)	Spence
Gilman	Miller (WA)	Spratt
Glickman	Mineta	St Germain
Goodling	Moakley	Staggers
Gordon	Mollohan	Stallings
Gradison	Montgomery	Stenholm
Gray (PA)	Moody	Stokes
Green	Morrison (CT)	Stratton
Guarini	Morrison (WA)	Studds
Hall (OH)	Mrazek	Sweeney
Hall, Ralph	Murphy	Synar
Hamilton	Murtha	Tallon
Hatcher	Myers	Tauzin
Hefner	Natcher	Taylor
Hertel	Nelson	Thomas (GA)
Horton	Nichols	Torres
Howard	Nowak	Torricelli
Hoyer	Oakar	Traficant
Hubbard	Oberstar	Traxler
Huckaby	Obey	Valentine
Hughes	Olin	Vento
Hutto	Ortiz	Visclosky
Hyde	Panetta	Volkmer
Jeffords	Pease	Waldon
Jenkins	Pepper	Walgren
Johnson	Perkins	Watkins
Jones (NC)	Petri	Waxman
Jones (TN)	Pickle	Weaver
Kaptur	Price	Wheat
Kastenmeier	Pursell	Whitley
Kemp	Quillen	Whitten
Kennelly	Rahall	Wirth
Kildee	Rangel	Wise
Kleczka	Ray	Wolpe
Kolter	Regula	Wortley
Kostmayer	Reid	Wright
LaFalce	Richardson	Wyden
Lantos	Rinaldo	Wylie
Leath (TX)	Robinson	Yates
Lehman (CA)	Rodino	Yatron
Lehman (FL)	Roe	Young (MO)
Leland	Rostenkowski	
Levin (MI)	Rowland (GA)	

NAYS—117

Armey	Conte	Hansen
Badham	Courter	Hawkins
Bartlett	Craig	Hayes
Barton	Dannemeyer	Hendon
Bentley	Daub	Henry
Bereuter	DeWine	Hiler
Bilirakis	Dickinson	Hopkins
Bliley	Dreier	Hunter
Boehlert	Emerson	Ireland
Brown (CO)	Fawell	Jacobs
Burton (IN)	Fields	Kolbe
Chandler	Franklin	Kramer
Chappie	Gallo	Lagomarsino
Cheney	Gekas	Latta
Clinger	Gingrich	Leach (IA)
Coats	Gonzalez	Lent
Cobey	Gregg	Lewis (CA)
Coble	Gunderson	Lewis (FL)
Coleman (MO)	Hammerschmidt	Lightfoot
Livingston	Packard	Smith, Robert (NH)
Lloyd	Parris	Smith, Robert (OR)
Loeffler	Pashayan	Snowe
Lott	Penny	Solomon
Lowry (WA)	Porter	Strang
Lungren	Ridge	Stump
Madigan	Roberts	Sundquist
Martin (IL)	Rogers	Swindall
Martin (NY)	Roth	Thomas (CA)
McCandless	Roukema	Vander Jagt
McGrath	Rowland (CT)	Vucanovich
McMillan	Saxton	Walker
Meyers	Schaefer	Weber
Michel	Schuette	Whittaker
Miller (OH)	Sensenbrenner	Wolf
Mitchell	Shaw	Young (AK)
Molinari	Shuster	Young (FL)
Monson	Sikorski	Zschau
Moorhead	Skeen	
Nielson	Slaughter	
Oxley	Smith, Denny (OR)	

ANSWERED "PRESENT"—1

Clay

NOT VOTING—58

Barnard	Ford (MI)	Neal
Bateman	Ford (TN)	Owens
Breaux	Fowler	Ritter
Brooks	Gephardt	Roemer
Burton (CA)	Gray (IL)	Rose
Byron	Grotberg	Rudd
Campbell	Hartnett	Savage
Carney	Hillis	Seiberling
Carper	Holt	Stangeland
Conyers	Jones (OK)	Stark
Coughlin	Kanjorski	Swift
Crane	Kasich	Tauke
DeLay	Kindness	Towns
Dingell	Lowery (CA)	Udall
Dixon	Lundine	Weiss
Downey	Mack	Whitehurst
Edgar	Marlenee	Williams
Evans (IA)	Mavroules	Wilson
Fiedler	McKernan	
Flippo	Moore	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 1598. An act for the relief of Steven McKenna;

H.R. 2092. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1986 and 1987, and for other purposes;

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, MT;

H.R. 3168. An act to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribu-

tion of Federal funds, and for other purposes;

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes;

H.R. 4492. An act to permit the transfer of certain airport property in Algona, IA;

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng Il Jang;

H.R. 5626. An act to make technical corrections in the Federal Employees' Retirement System Act of 1986, and for other purposes;

H.J. Res. 17. Joint resolution to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920;

H.J. Res. 438. Joint resolution to designate October 31, 1986, as "National Child Identification and Safety Information Day";

H.J. Res. 517. Joint resolution providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1426. An act to authorize and amend the Indian Health Care Improvement Act, and for other purposes;

H.R. 2574. An act for the relief of the survivors of Christopher Eney;

H.R. 1593. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, AZ;

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; and

H.R. 5595. An act to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program (including the work incentive provisions in section 1619 of such Act) will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4116) "An act to extend and improve the Domestic Volunteer Service Act of 1973."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 209) "An act to amend chapter 37 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 475) "An act to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1124) "An act to amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1895) "An act for the relief of Marlboro County General Hospital Charity, of Bennettsville, South Carolina."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 5299) "An act to amend title 38, United States Code, to provide a 2.0-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 308) "Joint resolution designating March 25, 1986, as 'Greek Independence Day: A National Day of Celebration of Greek and American Democracy'."

The message also announced that the Senate has passed bills of the following titles, in which the concurrence of the House is required:

S. 334. An act for the relief of Bobby Lochan;

S. 521. An act for the relief of Suzy Huf Hui Chang and Lee Lo Lin and Lee Juo Jui;

S. 567. An act to convey Forest Service Land to Flagstaff, AZ;

S. 767. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes;

S. 977. An act to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes;

S. 1026. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program;

S. 1076. An act for the relief of Denise Glenn;

S. 1212. An act for the relief of Olga Sellares Barney and her children Christian Sellares Barney, Kevin Sellares Barney, and Charles Sellares Barney;

S. 1374. An act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island;

S. 1534. An act for the relief of Masayoshi Goda, his wife Nobuko Goda, and their children Maki Goda and Eri Goda;

S. 1620. An act to establish a National Council on Access to Health Care;

S. 2004. An act to require the President to submit to the Congress an annual report on the management of the executive branch of the Government;

S. 2055. An act to establish the Columbia Gorge National Scenic Area, and for other purposes;

S. 2216. An act to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day", and to make such day a legal public holiday;

S. 2536. An act to provide for block grants to States to pay the costs of immunosuppressive drugs for organ transplant patients; and

S. 2723. An act to amend title 39 of the United States Code to restore limited circulation second-class rates of postage for copies of a publication mailed to counties adjacent to the county of publication, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bill and joint resolution on Wednesday, October 8, 1986:

H.R. 2005. An act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; and

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

APPOINTMENT AS MEMBERS OF COMMISSION ON EDUCATION OF THE DEAF

The SPEAKER. Pursuant to section 301 of Public Law 99-371, the Chair appoints as members of the Commission on Education of the Deaf, the following members from private life on the part of the House:

Ms. Patricia A. Hughes of Seattle, WA;

Mr. David J. Nelson of Washington, DC;

Mr. William Page Johnson of Jacksonville, IL; and

Ms. Nanette Fabray of Pacific Palisades, CA.

DESIGNATING ROOM H-324 IN THE CAPITOL AS THE THOMAS P. O'NEILL, JR. ROOM

Mr. WRIGHT. Mr. Speaker, I send to the desk a resolution (H. Res. 582) designating Room H-324, in the Capitol, as the Thomas P. O'Neill, Jr. Room, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. MOAKLEY). The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 582

Resolved, That room H-324 on the third floor of the House part of Capitol is hereby designated the Thomas P. O'Neill, Jr. Room.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BOLAND. Mr. Speaker, I strongly support House Resolution 582, designating room

324 in the Capitol as the Thomas P. "Tip" O'Neill Room.

For nearly 34 years TIP O'NEILL has represented the Eighth Congressional District of Massachusetts. For the past 10 years he has served this Nation with distinction as the Speaker of the House. TIP has devoted 50 years of his life to public service, and all Americans recognize the many contributions and accomplishments he has made in that time. He has been, and he continues to be, a tireless champion for the voiceless in our society.

As he prepares to leave Washington and return to Massachusetts we hope that the coming years give him the time he deserves to enjoy the companionship of his family. I can think of no better way of honoring our beloved Speaker than by naming a room in this great Capitol Building after him, a room close to the Chamber he loved. Mr. Speaker, we will miss you, and we honor you today for all you have done, not only as Speaker of the House, but for your tireless work as a public servant.

Today's edition of the Washington Post contains a timely analysis of the 10 years that TIP O'NEILL has served as Speaker of the House. I would like to share with my colleagues the Post's editorial by inserting it at this point in the RECORD:

LEADER OF THE HOUSE

Ten years ago, when Tip O'Neill was about to become speaker of the House, little was expected from him. The House, conventional wisdom had it, was a collection of committee chairmen's baronies, the backwater of American government, stymied by division and incapable of action. Assorted theories asserted that no House could make a significant difference and no speaker could be an effective leader.

Tip O'Neill and the House he has led have proved that convention wisdom wrong. Mr. O'Neill benefited from institutional changes, particularly the reform that made committee chairmen electable by and therefore accountable to the Democratic Caucus. But Mr. O'Neill's achievement owes much as well to intangible factors of character and political skill.

He began and he ends in politics as a man with convictions—not expressed in the abstractions of the academy or the acronyms of the policy analyst, and not always supported by detailed recitals of facts and figures. But no one now doubts the strength of his conviction that government has a duty to make the ordinary person's life better and to defend the United States without unnecessary bloodshed.

To those convictions he added the energy to put them into effect. For some years the position of speaker had been a reward to elderly House leaders, conferred well after their prime years. Mr. O'Neill, installed at age 63, kept in constant touch with other members, was available at daily press conferences, and presided from the podium and spoke from the floor of the House with a zest that has yet to wane. Always a partisan, he worked to weld the disparate Democratic Caucus together, and today House Democrats are more united on a wide range of issues—domestic issues, anyway—than they have been since the early days of Franklin Roosevelt's New Deal.

Finally, Tip O'Neill has had superb political intuition. He has sensed when it is time to compromise in order to get half a loaf, and when it is better to hold out for the whole thing. That is not always a short-term calculation. Mr. O'Neill has been willing to risk defeat, and the public has seen him—after the 1981 budget fight, for example—bloodied and battered but ready to fight another day. He staked out the Social Security issue for House Democrats long before the 1982 election and left them free to run on their own in 1984. It is no accident that the number of House Democrats has gone up, not down, during the Reagan presidency.

Nor is it an accident that Tip O'Neill's rating in the polls has gone way up. He is known for saying "All politics is local," and his roots in North Cambridge, Mass., are deep. But partly because he stands for something and comes from a real place, he has been an effective national leader.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DESIGNATION OF THE THOMAS P. O'NEILL, JR. ROOM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, little needs be said. A very few rooms in the Capitol on the House side have been officially designated by the House to honor individuals who are so much a part of our institution that their names will forever epitomize the heart and soul of the United States House of Representatives.

One of those people, clearly, is THOMAS P. "TIP" O'NEILL, JR. As long as free men and women live and serve in this Chamber—the most democratic, in the sense of a little "d," of all institutions of Government—the memory of THOMAS P. O'NEILL, JR., will live and thrive and survive to inspire us and future generations of public servants.

Therefore, it seems appropriate to me, and I know all of our colleagues on both sides of the aisle will surely agree, that it is a fitting tribute for us this day to designate officially the room on the third floor of the House side of the Capitol as the Thomas P. O'Neill, Jr. Room.

THE THOMAS P. O'NEILL, JR., ROOM IN PERPETUITY

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, may I simply associate myself with the very appropriate remarks of the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

But not being privy to where the recesses of this Capitol all are, cubbyholes or ornate rooms and all the rest, might I inquire of the distinguished majority leader if this room, so appropriately named for THOMAS P. O'NEILL, is sufficiently large enough in size and befitting to accommodate what we normally expect for the Speaker of the House?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, it is a spacious and gracious room, ample in its proportions, warm in its hospitality. It is on the third floor, just opposite the Visitors' Gallery, where the public may see it, and where a sign may forever proclaim it as the THOMAS P. O'NEILL, Jr. Room.

Mr. MICHEL. I definitely thank the gentleman for that explanation.

Might I assure the gentleman from Texas, and of course, the Speaker himself, that when that great day comes when we on the Republican side have a majority in this House, it shall remain the THOMAS P. O'NEILL, Jr. Room.

□ 1030

EXPRESSION OF GRATITUDE FROM THE SPEAKER

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I want to tell all of you how grateful I am for having a room named after me in this building.

I have been one who through my years have always been opposed to people in public life naming anything after them until they are 10 years out of public office. My own city and various cities and towns in my district have often wanted to name a housing project or a playground or something of that nature, which I have opposed, but being here for 34 years I am extremely grateful.

As JIM offered the resolution, I thought of a story that we hear in politics at so many banquets when we are honoring some friends. You would say, "The city council of Cambridge today sent a telegram of congratulations, and it passed 14 to 13."

Looking at the gentleman from Georgia, I am very grateful the gentleman did not ask for a rollcall vote.

The room where the Democratic Whips meet is part of the whip organizational room. It is where on a Thursday morning I try to talk about a bipartisan spirit.

It is nice to have a room named after you in the Capitol. One of the most beautiful men I ever met in my life has a room named after him, Ernie Petinaud. Ernie was the maitre d' down at the restaurant and it is nice to join fine people like that. He is a beautiful individual.

To all of you, you know, it has been about 10 days that I have been trying to say goodbye. The party the other night was something I will always remember.

I know that when I bang the gavel for the last time I am going to have a few words to say, but this is the greatest body in the greatest Nation that God ever sent to the Earth.

Thank you.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

INSTRUCTING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5445, CIVIL RICO (RACKETEER INFLUENCED CORRUPT ORGANIZATIONS)

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the Clerk be instructed to make corrections in the engrossment of the bill (H.R. 5445) to amend chapter 96 of title 18, United States Code.

The SPEAKER pro tempore (Mr. MOAKLEY). The Clerk will report the corrections.

The Clerk read as follows:

CORRECTIONS TO H.R. 5445

(1) In subsection (c)(1) proposed to be inserted in section 1964 of title 18, United States Code, by section 2 of the bill, redesignate subparagraphs (I) through (VII) as subparagraphs (A) through (G) respectively.

(2) In subsection (c)(1) proposed to be inserted in section 1964 of title 18, United States Code, by section 2 of the bill, strike out the subparagraph (II) which was redesignated as subparagraph (B) by the previous correction and insert in lieu thereof:

"(B) the degree of disparity in the bargaining positions of the plaintiff and defendant;

(3) At the end of paragraph (6) of subsection (c) proposed to be inserted in section 1964 of title 18, United States Code, by section 2 of the bill, inset a closing quotation mark followed by a period.

(4) Strike out paragraph (7) of subsection (c) proposed to be inserted in section 1964 of title 18, United States Code, by section 2 of the bill.

(5) In subsection (c)(1) proposed to be inserted in section 1964 of title 18, United States Code, by section 2 of the bill, strike out "to recover" and insert "and shall recover" in lieu thereof.

(6) In section 4(b), strike out "(2)(B)(ii)" each place it appears and insert "(2)(B)(i)" in lieu thereof.

Mr. BOUCHER [during the reading]. Mr. Speaker, I ask unanimous consent that the corrections be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. GEKAS. Reserving the right to object, Mr. Speaker, I believe it is important that the gentleman from Virginia outline briefly for the record the sense of the technical corrections made to the bill that we recently passed in this Chamber.

Mr. BOUCHER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. GEKAS. I yield to the gentleman from Virginia.

Mr. BOUCHER. Mr. Speaker, I thank the gentleman for yielding.

I would advise the gentleman and the Chair that these corrections are technically entirely. They merely conform the bill to the understanding of the parties at interest at the time that the bill was being considered. Most of them are merely changing references to paragraphs that were inappropriately referenced.

One does affect the question of provision of attorney's fees to prevailing counsel. It retains the current law that provides that attorney's fees to prevailing parties will be provided and retains the current language, which was the understanding of the parties at the time the bill was considered and passed.

Mr. GEKAS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I have reviewed the contents of the proposed changes, the technical amendments, and find them to be acceptable as part and parcel of what we intended to do in the original bill.

I have talked with our respected leader, the gentleman from Illinois, who accedes to the technical amendments, so that this side is willing to cooperate in the unanimous-consent passage of these technical amendments.

Mr. Speaker, with that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Virginia?

There was no objection.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 406, EXPRESSING SUPPORT FOR THE PRESIDENT IN HIS MEETING IN ICELAND

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 406) expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I reserve the right to object not because what the committee is attempting to do is not a proper thing. Obviously this House does want to wish the President the best in his trip to Iceland to meet with Secretary Gorbachev; but I am somewhat concerned about language that has been put into the resolution, because it seems to me that it is language that specifies certain things and conditions, while leaving out other things that many of us feel should be addressed in such a resolution.

If, for example, we are going to specify that the President should talk about grain agreements with the Soviets, we also, many of us, think that it might also be specified that he ought to talk about Afghanistan.

If we are going to talk about Helsinki, we think it might be specified that we ought to talk about captive nations.

We think it might be specified that we ought to talk about Soviet adventurism in our hemisphere and Soviet adventurism in Africa; and yet none of those things are specifically in this resolution. Most of the references of that type are indirect.

By specifying the grain agreements——

Mr. JACOBS. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman from Indiana demands regular order.

Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, Mr. Speaker, by specifying the grain agreements, I do have a couple questions for the gentleman.

The SPEAKER pro tempore. Does the gentleman from Indiana insist on regular order?

Mr. JACOBS. Mr. Speaker, regular order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, Mr. Speaker, is the gentleman from Indiana preventing a discussion from taking place about a bill that is being brought to the floor by unanimous consent?

Mr. JACOBS. Mr. Speaker, regular order.

Mr. WALKER. The gentleman does not want to have a discussion of the important provisions of this bill?

The SPEAKER pro tempore. Does the gentleman from Indiana insist on regular order?

Mr. JACOBS. Mr. Speaker, regular order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EXPLANATION OF HOUSE CONCURRENT RESOLUTION 406, EXPRESSING SUPPORT FOR PRESIDENT IN HIS MEETING IN ICELAND

(Mr. FASCELL asked and was given permission to address the House for 1 minute.)

Mr. FASCELL. Mr. Speaker, the resolution that we were discussing a moment ago passed the Committee on Foreign Affairs unanimously. It is a very timely resolution, because it demonstrates the concern of Congress on all the issues that the gentleman from Pennsylvania was talking about, either directly or indirectly, It also shows the unanimity of Congress in expressing its support for the President as he goes to Reykjavik, Iceland for his meeting with General Secretary Gorbachev.

It does emphasize some of the problems brought up by the gentleman from Pennsylvania earlier and it does so by saying that we would hope that there would be concrete progress reached at the meeting in the areas of human rights, trade, bilateral relations, regional issues, and arms control.

I agree with the gentleman from Pennsylvania that we made a special effort on the request of Members on both sides to emphasize the importance of the Soviets fulfilling their commitment to buy grain from the United States, which they have refused to do. The committee felt it was important to emphasize the concern of Members on both sides of the aisle on that issue.

Mr. WALKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENTS TO S. 2129, RISK RETENTION AMENDMENTS OF 1986

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. REFERENCES IN THE ACT.

Whenever in this Act an amendment is expressed in terms of an amendment to a section, the reference shall be deemed to be a reference to the Product Liability Risk Retention Act of 1981 (15 U.S.C 3901 et seq), unless otherwise provided.

SEC. 3. COVERAGE OFFERED BY RISK RETENTION GROUPS.

(a) EXPANSION OF COVERAGE.—Section 2(a) (15 U.S.C. 3901(a)) is amended—

(1) by striking paragraphs (1) and (3);

(2) by redesignating paragraph (2) as paragraph (1); and

(3) by inserting after paragraph (1), as so redesignated, the following new paragraphs:

"(2) liability—

"(A) means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of—

"(i) any business (whether profit or nonprofit), trade, product, services (including professional services), premises, or operations; or

"(ii) any activity of any State or local government, or any agency or political subdivision thereof; and

"(B) does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers Liability Act (45 U.S.C. 51 et seq.);

"(3) 'personal risk liability' means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in paragraphs (2)(A) and (2)(B);".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a risk retention group is unlikely to be able—

"(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

"(B) to pay other obligations in the normal course of business.".

SEC. 4. REQUIREMENTS RELATING TO RISK RETENTION GROUPS AND PURCHASING GROUPS.

(a) CHARACTERISTICS OF RISK RETENTION GROUPS AND THEIR MEMBERS.—(1) Section 2(a)(4) (15 U.S.C. 3901(a)(4)) is amended by striking "taxable as a corporation, or as an insurance company, formed under the laws of any State, Bermuda, or the Cayman Islands".

(2) Subparagraph (A) of such section is amended by striking "product liability or completed operations liability risk exposure" and inserting "liability exposure".

(3) Subparagraph (C) of such section is amended to read as follows:

"(C) which—

"(i) is chartered and licensed as a liability insurance company under the laws of a State and authorized to engage in the business of insurance under the laws of such State; or

"(ii) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the insurance commissioner of at least one State that it satisfied the capitalization requirements of such State, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability (as such terms were defined in this section before the date of the enactment of the Risk Retention Amendments of 1986);".

(4) Such section is further amended—

(A) by striking "and" at the end of subparagraph (D); and

(B) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) which—

"(i) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or

"(ii) has as its sole owner an organization which has as—

"(I) its members only persons who comprise the membership of the risk retention group; and

"(II) its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;

"(F) whose members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;

"(G) whose activities do not include the provision of insurance other than—

"(i) liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its group members; and

"(ii) reinsurance with respect to the similar or related liability exposure of any other risk retention group (or any member of such other group) which is engaged in businesses or activities so that such group (or member) meets the requirement described in subparagraph (F) for membership in the risk retention group which provides such reinsurance; and

"(H) the name of which includes the phrase 'Risk Retention Group'.".

(b) CHARACTERISTICS OF PURCHASING GROUPS.—Section 2(a)(5) (15 U.S.C. 3901(a)(5)) is amended to read as follows:

"(5) 'purchasing group' means any group which—

"(A) has as one of its purposes the purchase of liability insurance on a group basis;

"(B) purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in subparagraph (C);

"(C) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

"(D) is domiciled in any State;".

SEC. 5. CONCERNING SCOPE OF EXEMPTIONS RELATING TO RISK RETENTION GROUPS.

(a) IN GENERAL.—Section 3(b) (15 U.S.C. 3902(b)) is amended to read as follows:

"(b) The exemptions specified in subsection (a) apply to laws governing the insurance business pertaining to—

"(1) liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of liability insurance coverage for a risk retention group; and

"(3) the provision of—

"(A) insurance related services;

"(B) management, operations, and investment activities; or

"(C) loss control and claims administration (including loss control and claims administration services for uninsured risks retained by any member of such group);

for a risk retention group or any member of such group with respect to liability for which the group provides insurance.".

(b) PLANS OF OPERATION, FEASIBILITY STUDIES, AND FINANCIAL STATEMENTS.—Section 3 (15 U.S.C. 3902) is further amended—

(1) in subsection (a)(1)—

(A) by striking subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), accordingly; and

(B) by striking all that follows after "documents or process" in subparagraph (D) (as redesignated) and inserting a semicolon; and

(2) by adding at the end of such section the following new subsection:

"(d) Each risk retention group shall submit—

"(1) to the insurance commissioner of the State in which it is chartered—

"(A) before it may offer insurance in any State, a plan of operation or a feasibility study which includes the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer; and

"(B) revisions of such plan or study if the group intends to offer any additional lines of liability insurance;

"(2) to the insurance commissioner of each State in which it intends to do business, before it may offer insurance in such State—

"(A) a copy of such plan or study (which shall include the name of the State in which it is chartered and its principal place of business); and

"(B) a copy of any revisions to such plan or study, as provided in paragraph (1)(B) (which shall include any change in the designation of the State in which it is chartered); and

"(3) to the insurance commissioner of each State in which it is doing business, a copy of the group's annual financial statement submitted to the State in which the group is chartered as an insurance company, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

"(A) a member of the American Academy of Actuaries, or

"(B) a qualified loss reserve specialist.".

(c) EXAMINATION OF FINANCIAL CONDITION.—Section 3(a)(1)(E) (as redesignated by subsection (b)) is amended—

(1) by striking clause (i);

(2) by redesignating clause (ii) as clause (i); and

(3) by adding at the end the following new clause:

"(ii) any such examination shall be coordinated to avoid unjustified duplication and unjustified repetition.".

(d) COMPLIANCE WITH DELINQUENCY PROCEEDING ORDERS.—Section 3(a)(1)(F) (as redesignated by subsection (b)) is amended to read as follows:

"(F) comply with a lawful order issued—

"(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (E); or

"(ii) in a voluntary dissolution proceeding;".

(e) ADDITIONAL STATE LAW REQUIREMENTS.—Section 3(a)(1) (15 U.S.C. 3902(a)(1)) is further amended by adding at the end the following new subparagraphs:

"(G) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction;

"(H) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the group is in hazardous financial condition or is financially impaired; and

"(I) provide the following notice, in 10-point type, in any insurance policy issued by such group:

"'NOTICE

"'This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.'".

SEC. 6. ADDITIONAL REQUIREMENTS RELATING TO PURCHASING GROUPS.

Section 4 (15 U.S.C. 3903) is amended by adding at the end the following new subsections:

"(d)(1) A purchasing group which intends to do business in any State shall furnish notice of such intention to the insurance commissioner of such State. Such notice—

"(A) shall identify the State in which such group is domiciled;

"(B) shall specify the lines and classifications of liability insurance which the purchasing group intends to purchase;

"(C) shall identify the insurance company from which the group intends to purchase insurance and the domicile of such company; and

"(D) shall identify the principal place of business of the group.

"(2) Such purchasing group shall notify the commissioner of any such State as to any subsequent changes in any of the items provided in such notice.

"(e) A purchasing group shall register with and designate the State insurance commissioner of each State in which it does business as its agent solely for the purpose of receiving service of legal documents or process, except that such requirement shall not apply in the case of a purchasing group—

"(1) which—

"(A) was domiciled before April 1, 1986; and

"(B) is domiciled on and after the date of the enactment of this Act;

in any State of the United States;

"(2) which—

"(A) before the date of the enactment of this Act, purchased insurance from an insurance carrier licensed in any State; and

"(B) since such date of enactment, purchases its insurance from an insurance carrier licensed in any State;

"(3) which was a purchasing group under the requirements of this Act before the date of enactment of the Risk Retention Amendments of 1986; and

"(4) as long as such group does not purchase insurance that was not authorized for purposes of an exemption under this Act as in effect before the date of the enactment of the Risk Retention Amendments of 1986.

"(f) A purchasing group may not purchase insurance from a risk-retention group that is not chartered in a State or from an insurer not admitted in the State in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such State.".

SEC. 7. CONCERNING AUTHORITY OF STATES TO ENJOIN CERTAIN CONDUCT.

Section 3 (15 U.S.C. 3902), as amended by section 5(b) of this Act, is further amended by adding at the end the following new subsection:

"(e) Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; or

"(2) the solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or is financially impaired.".

SEC. 8. ADDITIONAL CLARIFICATION OF PERMISSIBLE STATE AUTHORITY.

(a) CLARIFICATION OF STATE AUTHORITY RESPECTING RISK RETENTION GROUPS.—Section 3 (15 U.S.C. 3902), as amended by sections 5(b) and 7 of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) Subject to the provisions of subsection (a)(1)(G) (relating to injunctions) and paragraph (2), nothing in this Act shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a risk retention group is not exempt under this Act.

"(2) If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (e), such injunction must be obtained from a Federal or State court of competent jurisdiction.

"(g) Nothing in this Act shall affect the authority of any State to bring action in any Federal or State court.

"(h) Nothing in this Act shall be construed to affect the authority of any State to regulate or prohibit the ownership interest in a risk retention group by an insurance company in that State, other than in the case of ownership interest in a risk retention group whose members are insurance companies.".

(b) CLARIFICATION OF STATE AUTHORITY RESPECTING PURCHASING GROUPS.—Section 4 (15 U.S.C. 3903), as amended by section 6 of this Act, is further amended—

(1) in subsection (a), by inserting "and section 6" after "section"; and

(2) by adding at the end the following new subsections:

"(g) Nothing in this Act shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a purchasing group is not exempt under this Act.

"(h) Nothing in this Act shall affect the authority of any State to bring an action in any Federal or State court.".

(c) OTHER CLARIFICATION.—The Act is further amended by adding at the end the following new section:

"CLARIFICATION CONCERNING PERMISSIBLE STATE AUTHORITY

"SEC. 6. (a) Nothing in this Act shall be construed to exempt a risk retention group or purchasing group authorized under this Act from the policy form or coverage requirements of any State motor vehicle no-fault or motor vehicle financial responsibility insurance law.

"(b) The exemptions provided under this Act shall apply only to the provision of liability insurance by a risk retention group or the purchase or liability insurance by a purchasing group, and nothing in this Act shall be construed to permit the provision or purchase of any other line of insurance by any such group.

"(c) The terms of any insurance policy provided by a risk retention group or purchased by a purchasing group shall not provide or be construed to provide insurance policy coverage prohibited generally by State statute or declared unlawful by the highest court of the State whose law applies to such policy.

"(d) Subject to the provisions of section 3(a)(4) relating to discrimination, nothing in this Act shall be construed to preempt the authority of a State to specify acceptable means of demonstrating financial responsibility where the State has required a demonstration of financial responsibility as a condition for obtaining a license or permit to undertake specified activities. Such means may include or exclude insurance coverage obtained from an admitted insurance company, an excess lines company, a risk retention group, or any other source regardless of whether coverage is obtained directly from an insurance company or through a broker, agent, purchasing group, or any other person.".

SEC. 9. INJUNCTIVE POWERS OF FEDERAL COURTS.

The Act, as amended by section 8(c) of this Act, is further amended by adding at the end the following new section:

"INJUNCTIVE ORDERS ISSUED BY UNITED STATES DISTRICT COURTS

"SEC. 7. Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or operating, in any State (or in all States) or in any territory or possession of the United States upon a finding of such court that such group is in hazardous financial condition. Such order shall be binding on such group, its officers, agents, and employees, and on any other person acting in active concert with any such officer, agent, or employee, if such other person has actual notice of such order.".

SEC. 10. OVERSIGHT OF IMPLEMENTATION; REPORT TO CONGRESS

(a) IN GENERAL.—(1) Not later than September 1, 1987, and not later than September 1, 1989, the Secretary of Commerce shall submit reports to the Congress concerning implementation of this Act.

(2) Such report shall be based on—

(A) the Secretary's consultation with State insurance commissioners, risk retention groups, purchasing groups, and other interested parties; and

(B) the Secretary's analysis of other information available to the Secretary.

(b) CONTENTS OF THE REPORT.—The report shall describe the Secretary's views concerning—

(1) the contribution of this Act toward resolution of problems relating to the unavailability and unaffordability of liability insurance;

(2) the extent to which the structure of regulation and preemption established by this Act is satisfactory;

(3) the extent to which, in the implementation of this Act, the public is protected from unsound financial practices and other commercial abuses involving risk retention groups and purchasing groups;

(4) the causes of any financial difficulties of risk retention groups and purchasing groups;

(5) the extent to which risk retention groups and purchasing groups have been discriminated against under State laws, practices, and procedures contrary to the provisions and underlying policy of this Act and the Product Liability Risk Retention Act (as amended by this Act); and

(6) such other comments and conclusions as the Secretary deems relevant to assessment of the implementation of this Act.

SEC. 11. EFFECTIVE DATE; APPLICABILITY.

(a) GENERAL RULE.—Subject to subsection (b), this Act shall take effect on the date of its enactment.

(b) SPECIAL RULE REGARDING FEASIBILITY STUDY.—The provisions of section 3(d) of the Liability Risk Retention Act of 1986 (as added by section 5(b) of this Act), relating to the submission of a feasibility study, shall not apply with respect to any line or classification of liability insurance which—

(1) was defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of this Act; and

(2) was offered before such date of enactment by any risk retention group which has been chartered and operating for not less than 3 years before such date of enactment.

(c) RULE REGARDING POLLUTION LIABILITY.—

(1) Section 210 of the Superfund Amendments and Reauthorization Act of 1986 is amended by inserting "(a)" following "Pollution Liability Insurance" and adding at the end thereof the following:

"(b) For purposes of subsection (a) of this section, the powers and authorities of States addressed by the Risk Retention Amendments of 1986 are in addition to those of this Act.".

(2) Nothing in this Act shall be construed, interpreted or applied to diminish the obligations of any person to establish or maintain evidence of financial responsibility or otherwise comply with any of the requirements of Federal environmental laws, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Solid Waste Disposal Act.

SEC. 12. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN THE SHORT TITLE.—Section 1 (15 U.S.C. 3901, note) is amended to read as follows:

SHORT TITLE

"SECTION 1. This Act may be cited as the 'Liability Risk Retention Act of 1986'."

(b) IN SECTION 2(b).—Section 2(b) (15 U.S.C. 3901(b)) is amended by striking "product liability and product liability insurance" and inserting "liability, personal risk liability, and insurance".

(c) IN SECTION 3(a)(1)(C).—Section 3(a)(1)(C) (15 U.S.C. 3902(a)(1)(C)) is amended by striking "product liability or completed operations".

(d) IN SECTION 4(b).—Section 4(b) (15 U.S.C. 3903(b)) is amended—

(1) in paragraph (1), by striking "product liability or completed operations liability insurance, and comprehensive general liability insurance which includes either of these coverages," and inserting "liability insurance"; and

(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

Mr. FLORIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so in order to discuss the issue that the gentleman from Florida was given a chance to discuss.

I had hoped that we could have a discussion about the resolution that was being brought to us by the gentleman from Florida, so that I could at least clarify some points. It was rushed through the committee——

The SPEAKER pro tempore. The Chair intends to take 1-minute speeches, so the gentleman will have his opportunity.

Mr. WALKER. Mr. Speaker, the Chair would not recognize me for a 1-minute speech immediately following the gentleman from Florida, so that we could have a discussion kind of in context about this thing.

The SPEAKER pro tempore. The Chair was honoring the Speaker's commitment to the gentleman from New Jersey [Mr. FLORIO].

We will come back to 1-minutes after this.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Chair will receive 1-minute speeches.

A PEACE SCARE

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, I have no objection to people making 1-minute speeches here, but people who waited in line for an hour or so it seems to me are entitled to go in the order in which they were waiting.

I simply wanted to say that the taxpayers of this country may be somewhat puzzled that at this late date our national administration still is doing all it can to prevent a mutually verifiable arms agreement with Russia. If you are puzzled about that, let me give you a hint. It is a peace scare. There is no money in arms control.

YUGOSLAVIA TURNS ITS BACK ON JUSTICE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, Yugoslavia just made a mockery of justice in that country. Yesterday a Yugoslav judge sentenced a Michigan resident to 7 years in prison. Congressional appeals were ignored. Today Congressman FASCELL, Congressman YATRON, Congressman SOLOMON, and Congressman HERTEL and myself are introducing legislation which would suspend the most-favored-nation status of Yugoslavia.

After illegally detaining Mr. Pjeter Ivezaj, a naturalized American citizen, Yugoslav authorities put him in jail. While denying U.S. Embassy officers access to him, that young man was sentenced to a long prison term.

If that country continues to violate the rights of Mr. Ivezaj, and two other American citizens, why should that Government enjoy a special trade relationship with America?

Our bill would suspend most-favored-nation [MFN] status for that country. That special status would again be granted only if Yugoslavia releases Mr. Ivezaj and two other Americans.

Now is clearly the time to take a firm stand against the illegal imprisonment of innocent Americans. While I regret that this legislation is needed, Yugoslav officials appear not to understand America's concern about the violations of the rights of these innocent men. Now is the time for action.

Anyone interested in cosponsoring this bill should contact my office.

EXTOLLING ACHIEVEMENTS OF 1986 NEW YORK METS

(Mr. WALDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDON. Mr. Speaker, I rise today to extol the achievements of the 1986 New York Mets.

We in New York have waited 13 long years for the opportunity to fly another championship pennant over Shea Stadium in Queens, and finally our time has come.

This season's record of 108 victories and only 54 losses tied an 11-year-old National League record of victories held by the 1975 Cincinnati Reds. This phenomenal statistic is a tribute to the entire Met organization. We must acknowledge the fine job that Frank Cashen has done in rebuilding this team since 1980 when he took over the helm as general manager.

We applaud Davey Johnson and the entire Met coaching staff for their outstanding leadership this season.

It is impossible to single out individual players for their accomplishment this season due to the depth and aggressive play of the entire team.

I commend the 1986 New York Mets on their memorable season and look forward to the return of the world championship to its rightful home, the Big Apple, New York.

Furthermore, to show my faith in the New York Mets in the National League championship series against the Houston Astros, I have wagered with my dear friend, Congressman MICKEY LELAND, from down Houston way, the best seafood dinner available in my district if the Astros should win. However, when the Mets win, he has promised me the best barbecue dinner in all of Houston, TX.

□ 1045

CHOPPING OFF THE TAIL OF THE DRAGON PIECEMEAL

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the fundamental weakness of the Gramm-Rudman therapy for curing budget deficits is to be found in its failure to realize that you can't cut off the tail of the dragon by bits and pieces, because the dragon will destroy you between two such tail-trimming sessions. We are offered the choice between a huge budget deficit and a slightly trimmed budget deficit. The average citizen may perhaps be forgiven if he asks why in the name of heaven we don't have a choice between deficit and surplus.

The political economists in our Government—Keynesians and other supporters of a governmentally managed economy—are able to further the political and social revolution in behalf of such an economy chiefly because of the powers which the Government gained over the people when irredeemable fiat currency was thrust upon them in 1971.

Support by some or many of our so-called leaders of the use of irredeemable currency, of a governmentally managed economy, of continuing debasement of our dollar, of continuing budget deficits on a more moderate scale, and monetization of the national debt invovled the risk of ruining our money and this Nation, long before the Gramm-Rudman timetable runs out.

The great majority of influential leaders in this country, who profess to be advocates of private enterprise and human freedom and sound procedures by our Government, either do not understand this fact or do not face up to it. Instead, they utter futile words in opposition to big Government and either ride with the tide running toward a governmentally managed economy or unwittingly further this movement.

Keynes in his best days—before he became an advocate of a governmentally managed economy—made a penetrating statement in his book, The Economic Consequences of the Peace (Harcourt, Brace and Howe, New York, 1920), p. 236:

> The process of debauching the curreny engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose.
>
> Perhaps it is historically true that no order of society ever perishes, save by its own hand. (Ibid., p. 238.)

Instead of trying to chop off the tail of the dragon piecemeal, we should go for its head, and chop it off with one stroke. This can be accomplished by fixing the gold content of the dollar, which would immediately eliminate the huge depreciation premium in the interest payments. It takes courage to attack the dragon head on, but we cannot shrink from the task of saving what Keynes called the order of society.

STAY IN SESSION TO OVERRIDE THREATENED VETO

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, yesterday the House passed the conference report reauthorizing Superfund, surely the environmental vote of 1986. A Presidential veto, however, threatens the program.

If we go home now, we may soon have to explain to our constituents not how we ensured their protection, but why we left the job undone.

If we go home now, the Superfund reauthorization may not become law.

If we go home now, Superfund may fall victim to Presidential neglect, halting hundreds of cleanups nationwide.

If we go home now, we may come back in January to a new Congress, an unwilling victim of a pocket veto which would destroy 3 years of hard work by two Chambers and half a dozen committees.

If we go home now, we may find ourselves not proud of what we have done, but ashamed of what we have left undone.

Despite two short-term funding measures, the failure to reauthorize the program has delayed planning or cleanup at more than 200 sites across the country. EPA has already notified Superfund contractors that they could be laid off in 30 days. This must not happen, Mr. Speaker. Stay in session, and when the Reagan veto comes, override it.

DO NOT USE CONTINUING RESOLUTION TO DIRECT FOREIGN POLICY

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, this is the ninth day of the 1987 fiscal year. We still have no appropriation bill or appropriation bills to run this Government. Oh, yes, we have passed two temporary continuing resolutions, one for 8 days, another for 2 days, and we are about to take up another one to run us for another 4 days.

Mr. Speaker, this is no way to run a railroad. This is no way to run the Government of the most powerful nation of the free world. We as an institution have failed dismally in our responsibility of passing appropriation bills, of adhering to the budget process and meeting the deadlines we establish for ourselves. We have failed to give fiscal direction to this Government.

If we cannot follow the established appropriation and budget process, at the very least I urge the leadership of this body and of this Congress to give us a continuing resolution to run this Government for the coming year, a continuing resolution that does not attempt to direct the foreign policy of the United States at this critical juncture of United States-Soviet relations. Let us not send our President off to Reykjavik with this cloud, this doubt, over our Nation's foreign policy.

Let us pass a continuing resolution that does what it is supposed to do—fund Government operations for this Nation for the coming year. Then let us leave this city; let us leave the 99th Congress; but let us leave with our head held high.

KEEPING SALT II CONSTRAINTS MAKES SENSE

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, President Reagan has said this week that the House of Representatives is trying to tie his hands on arms control issues before his dialog with Soviet Leader Gorbachev this weekend. This must be another vestige of the administration's disinformation campaign, because nothing could be further from the truth. The House is not tying his hands. We have made a series of proposals to the other body and to the administration that they have simply stonewalled. Rather, we are trying to send him over to Iceland and then on to the next Summit meeting in the best possible negotiation position. We are insisting that the policy the administration has followed since 1981—preserving the restraint of the SALT II treaty—should be maintained as we seek new and more substantial arms reduction agreements with the Soviet Union. Keeping SALT II constraints makes sense, both from a military perspective and because our allies and the American people believe that the United States should go the extra mile on exercising restraint on the arms race. The House has gone the extra mile. We are ready to compromise, Mr. President, but we are not ready to surrender our constitutional responsibilities.

HONEST ELECTIONS ARE A CIVIL RIGHT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, for years political humorists have joked about Democratic Party vote stealing. From Tammany Hall to the Cook County, IL, machine to the Lyndon Johnson Senate race in Texas, voting theft by Democrats provided jokes for comedians. In Georgia, the Atlanta Journal won a Pulitzer Prize for articles on Democratic vote theft.

In recent years it has been estimated that 100,000 votes were stolen in Chicago in 1982. In Indiana a number of Democratic election officials have been indicted. In the last decade, two Democatic Congressmen from Louisiana have resigned under indictment, and one went to jail for stealing elections.

Recently, some Democrats have been defending the right of dead people to vote and of vacant lots to participate in elections.

Purging dead voters and departed voters is a key to honest elections. Some precincts in America are as dishonest as those we condemned Marcos for in the Philippines. Honest elections are a civil right, and the American people should demand honest elections.

NEW HOPE FOR DEMOCRACY IN TAIWAN

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, behind the headlines, virtually out of sight, an old friend of America, a friend of new importance to America, is undergoing change. I speak of Taiwan, the Republic of China.

Last week a new political party, the Democratic Progressive Party, was formed. The ruling KMT responded with genuine restraint. On Wednesday, 37 years after its imposition, martial law was lifted. So, without violence, as we have seen in Korea, without the trauma of the Philippines, change is coming to Taiwan.

It is welcome. Taiwan, the people of China, deserve a democracy as great as the economic miracle that they represent. Now there is new hope that it will be realized.

SIGN THE PLEDGE TO OPPOSE A TAX INCREASE

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, I have joined many of my colleagues in pledging to the taxpayers of this Nation that I will oppose any effort to increase marginal tax rates for individuals and businesses from the rates established in the recently passed tax bill.

I am afraid that if we do not make this pledge, taxpayers will notice a rate creep and wonder whatever happened to that tax reform bill. If the positive effects of the tax bill are going to have any impact, the rates must be maintained at a constant level. If we want to reap the promise of economic growth and job creation from tax reform we must give it a chance to work.

Some Members of Congress are espousing the need for a tax increase. That is one reason I am signing this pledge. The one area that should not see a tax increase is the marginal tax rate for individuals. I cannot think of a more counterproductive move for our economy. With passage of the tax reform bill, taxpayers lost deductions and credits in exchange for lower rates. To increase the rates now would be a breach of faith.

I urge all my colleagues to sign this pledge so that taxpayers do not have to fear a tax increase.

□ 1055

TARGETING AREAS OF HIGH UNEMPLOYMENT FOR GOVERNMENT WORK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, one of America's great injustices is that we have not targeted areas of high unemployment for Government work. I know there is some language in the rule such as labor surplus areas, but basically we never apply that particular language when it comes to awarding these contracts.

One of the companies in my district, General Fireproofing, is in line for a GSA award. They deal with metal furnishings. No one in America can produce these particular products any better, and if we are overlooked at this

particular time it would be a shame for the people of my valley.

During World War II we met the surge of the industrial need, and now we are forgotten. General Fireproofing did not forget Youngstown, they did not move to the high tech areas. They stayed and they weathered the storm, and now Congress should be taking every measure to give these particular types of contracts to areas of high skill and high unemployment.

I am asking Congress to look at our labor surplus laws and put some teeth into them.

TOO MANY PRESIDENTS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we have witnessed many strange things during this Congress. Perhaps the strangest is the failure to do the job the Constitution assigns to the Congress and the attempt to do the job assigned to the President.

Given that the House leadership has not been able or willing to conclude appropriation legislation, it is outrageous that it seeks to run the foreign affairs of the Nation. We have a continuing resolution pending which legislates executive actions in arms control negotiations.

If these negotiations were so easy and straightforward, we wouldn't really need a President to set and execute foreign policy. The success of Congress in doing what it is required to do leaves no room for confidence in its ability to set policy in arms control or in other areas of foreign policy.

It is time to recognize that this Nation is badly served by having Congress assume the role of a foreign policy board. We owe it to the country to give the President some room to do his job in arms control and international affairs in general. Let us get a clean continuing resolution on the floor, do our job and let the President do his.

The safety and well being of the Nation must come before partisan politics. The President deserves the chance to negotiate in the dangerous waters of international arms control without the heckling of 435 little presidents. Give us a clean continuing resolution.

A BILL TO BAN SMOKING ON ALL DOMESTIC AIRLINE FLIGHTS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, in an effort to improve the environment on board domestic airline flights, and protect the health and safety of the passengers and crew, today I am introducing legislation to ban smoking on all domestic airline flights.

The National Research Council of the National Academy of Sciences recently completed an 18-month study at the request of Congress on the issue of air quality and safety in commercial airliner cabins.

The Council has called for a Federal ban on smoking on all domestic commercial airline flights to improve the health and safety of airline passengers and cabin crews.

The scientific panel concluded that both passengers and crew members were harmed by drifting smoke in aircraft cabins and that cigarette smoking posed a significant fire hazard on board as well.

Dr. C. Everett Koop, the Surgeon General of the United States, has repeatedly and forcefully pointed out the health hazards of passive smoking.

This bill will lessen irritation and discomfort to passengers, reduce potential health hazards to cabin crews, bring cabin air quality into line with standards established for other closed environments, and remove the possibility of fires caused by cigarettes.

With 28 percent of the American public taking at least one trip a year, and with some 70,000 flight attendants working long hours inside smoke-filled planes, the time has come to do away with smoke on board.

I ask my colleagues to join me in this comfort improving, health enhancing, and life-saving effort.

MANAGING FOREIGN POLICY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, noboby in this body will quarrel with the proposition that we should and indeed must address questions of foreign affairs and international relations. There are serious questions that must be addressed, and certainly questions that will be addressed by the President in Iceland, and we certainly are interested.

But the fact that we have elected to address these issues not through our constituted Foreign Affairs Committees where the research and the study and the hearings can be held, but through the continuing resolution, makes it very, very difficult not only for the President to negotiate in Iceland, but for us to complete our work here.

The American people are watching us go through a series of short-term 1- and 2-day continuing resolutions because we do not seem to be able to fund the 1987 budget. The reason we cannot do that is we have tried to legislate foreign affairs in appropriation bills and in continuing resolutions.

Our inability to adhere to our own rules in that regard has made it difficult not only for us to complete our business, but for the President to complete his.

INTEREST ON PASSBOOK SAVINGS ACCOUNTS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, I find it particularly disturbing that many banks across the country have begun to lower the fixed 5.5-percent interest rate they pay on passbook savings accounts. This is not what the Congress intended when it passed legislation designed to remove this interest rate cap and thus ensure that small savers be paid a market rate on their money.

For years, Federal law prevented banks from offering more than 5.5-percent interest on passbook savings accounts. In 1980, I was successful in pushing through a change in the law to authorize the phaseout of the unfair limitations on what consumers could be paid on their savings. This April, the phaseout became complete. Despite this, banks have been choosing to pay less than 5.5-percent interest. Indeed, some banks are offering as little as 4 percent.

Peanuts may be fine for elephants, but not for the consumer. The small saver deserves a fair return on his or her money. Recent figures show that Super-NOW accounts are offering 6.41 percent interest and U.S. savings bonds 7.02.

The Congress voted to phase out the ceilings on passbook savings accounts at the urging of small savers who could not meet the then stiff minimum balance requirements for higher yielding money market accounts.

Yet here we are in 1986 and small savers are no better off than they were in 1980.

There are a few bright spots, however. In my home State of Rhode Island, People's Trust Co. is offering 5.8 percent on its savings accounts, while Marquette Credit Union in Woonsocket is offering 6.8 percent. Across the country, others are following suit.

But more needs to be done. I urge all federally insured financial institutions to give consumers the best break possible on their passbook savings accounts. Otherwise, I have no qualms about urging these same consumers to move their estimated $327 billion in passbook savings accounts to other higher yielding accounts, no matter how much the banking industry "doth protest."

ON THE ROAD TO FREEDOM IN TAIWAN

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the President of the Republic of China, Chiang Ching-kuo announced yesterday that his government will soon end martial law on Taiwan. Earlier this year, the first opposition party, the Democratic Progressive Party, was granted permission to operate in Taiwan.

The end of martial law will mean the end of trials of civilians in military courts and the removal of some restrictions on personal freedoms.

Mr. Speaker, the fear of Communists and invasion by mainland China has evoked certain repressive practices in Taiwan over the last 40 years. President Chiang's decision to fight communism through greater freedom and democracy will prove to be the most powerful weapon available.

I applaud the judgment of the Taiwanese Government. Their decision is an example to other regimes to observe. Taiwan, and United States-Taiwan relations, will be the stronger for it.

DREIER AMENDMENT TO IMMIGRATION REFORM BILL

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, today we are going to begin consideration of the immigration reform bill. There is a very important amendment which I am going to be joining my colleague from California, Mr. MOORHEAD, in offering which makes this not only an immigration reform bill, but also an anti-drug bill and an anti-terrorism bill.

The amendment the gentleman from California [Mr. MOORHEAD] and I are going to be offering will bring about a 50-percent increase in the border patrol. Never before have we had a higher number of people flowing across our southern borders into the United States, and I believe, Mr. Speaker, it is very important that we pass this amendment, and I urge my colleagues to join us.

NEW RESEARCH ON CHRISTOPHER COLUMBUS' FIRST LANDING

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, who has ever heard of Samana Cay—and what does it mean anyway?

To understand the remarkable feat of Christopher Columbus almost 500 years ago—it may mean a great deal.

Yesterday, on the eve of our Nation's annual observance and celebration of Columbus Day—the results of a 5-year investigation into Columbus' trip was released.

The main conclusion—Columbus did not land on Watling Island—later named San Salvador.

Instead he landed 65 miles to the south at Samana Cay.

This new research does not put into dispute that Columbus was the first person to discover the New World.

If anything, it serves to enhance Columbus and his 30-day, 3,000-mile mission of destiny.

In fact, the New York Times today said the new study serves as further proof that Columbus was an incredible seaman.

As we prepare to celebrate Columbus Day, 1986, let us ponder the extraordinary nature of Columbus' undertaking.

As we approach the 500th anniversary of this historic mission, let us reflect on the significance of Columbus to our Nation's history.

When we do—we will conclude that the issue is not so much where Columbus landed—as the fact that he did, and from the time he touched his foot on New World soil, the world was never the same.

□ 1105

PLEDGE NO TAX INCREASES ON AMERICAN'S SMALL BUSINESSES AND FAMILIES

(Mr. SWINDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWINDALL. Mr. Speaker, on behalf of the American family and the small businesses in America, and the budgets of the American family and those small businesses, I call on my colleagues to sign the no tax increase pledge.

Until the current administration took office, for nearly two decades the American family and small businesses were asked to yield to the Federal budget. For the last several years we have given those businesses and the American family renewed hope. We have told them that they can begin to spend more of their disposable income for their families, and to assure them the type of opportunities that America has always stood for.

Already, however, there is a clamor for a tax increase. What they are really saying is, "It's time for the Federal budget to take precedent once again over the family budget."

We have seen the President of the United States make a pledge of no tax increase, and in 1984, over 60 percent of the American people signed that no tax increase pledge with him.

I ask my colleagues to please give consideration to the fact that it was America's families and America's small businesses that made this country great. We cannot afford to penalize them by raising their taxes once again.

THE NO TAX INCREASE PLEDGE

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I am pleased to inform my curious colleagues on the other side of the aisle that the administration's October surprise is under your noses. Yes; the President has managed to confound and surprise the skeptics, to the delight of the American people, by making good on his pledge in last year's State of the Union Address to work with Congress on a bipartisan tax reform bill that would be marked by fairness, growth, and lower rates. That historic and sweeping measure will be signed into law this month.

But, I would point out that the President also pledged in that message that "tax reform will not be * * * a tax increase in disguise." The tax bill keeps that pledge; but we will be violating it if we turn around next year, as some on the other side have proposed, and enact a tax increase. That would turn October's pleasant surprise into next year's big chill and future shock for American taxpayers. I urge my colleagues to sign the no tax increase pledge now and keep faith with your constituents.

WE SHOULD NOT TIE THE PRESIDENT'S HANDS IN ARMS CONTROL PRIOR TO THE MINI-SUMMIT

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, my colleagues, as we meet here this morning, the President is on his way to Iceland to meet with Secretary Gorbachev. I would urge that this House and the other body present a full continuing resolution with no arms control restrictions attached thereto. We should not tie the President's hands before the summit, and we should not, my colleagues, surrender the U.S. arms control bargaining position before the bargaining even begins.

OPPOSE ANY EFFORT TO INCREASE TAX RATES

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I am glad to join CONNIE MACK and other colleagues in opposing any effort to increase tax rates.

On the surface, this is an economic issue. But it goes deeper than that. It is, in my view, a promise we in Congress have made to the American people, a promise we ought to keep.

Tax reform and tax rate reduction are not academic exercises—they are the very heart of a movement toward expanded freedom for all Americans, especially the most disadvantaged and the poor.

When we passed the tax reform bill, the Speaker, in remarks before the House, said that this tax reform bill was one of the most effective means of fighting poverty he had seen in a half dozen years.

With all respect, I would say it is the best antipoverty bill we have passed in a generation. So, we agree on the basic idea.

There was once a time when you could divide the economic issues from the social issues. But that time has long since passed.

Tax rate reduction and tax reform are indeed social issues as much as they are economic issues because they have an impact on every individual, every family.

That is why they are so important and we should do all we can to keep tax rates low.

HOUSE LEGISLATION GIVES SOVIETS MUCH OF WHAT THEY WISH TO ACHIEVE AT REYKJAVIK

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute.)

Mr. SHUMWAY. Mr. Speaker, I find it difficult to understand what the House hopes to accomplish by legislating to the benefit of the Soviet Union. Our version of the controversial and much heralded omnibus spending bill contains provisions which quite literally bestow upon the U.S.S.R. much of what that nation hopes to achieve at the negotiating table. We are proposing bans on nuclear testing, antisatellite weapons testing, and chemical weapons production, as well as SALT II compliance and a freeze on SDI funding. We are unilaterally granting to the U.S.S.R. concessions that they would be unlikely to win without giving something in return. What can we be thinking about? Our actions do nothing to serve the cause of national security; they do nothing to promote our image as a unified and strong nation in the Soviets' eyes, and they do nothing to secure mutual, verifiable, and equitable arms reduction.

The House is taking irresponsible action, action which has grave implications. Moreover, it is action which this body has absolutely no constitutional right to pursue. Now is the time for this Congress to present a unified front, standing squarely behind the President as he travels to meet with his Soviet counterpart.

TYING THE PRESIDENT'S HANDS?

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. President, you announced your summit while the House and Senate were trying to resolve our differences on arms control policy. Our reaction has been to say, "Yes, we want a summit. We will not tie your hands. We will postpone our meetings and wave to you in unison from the water's edge; but, Mr. President, we will not abandon our principles."

We have offered to put resolution of these arms control issues until after the summit, but the President has been unwilling to accept our offer. Why? Because this President does not really want a consensus on arms control. He wants a showdown. He wants to show the right wing of the Republican Party that he is still rough and tough in the aftermath of the Daniloff case.

That is why the President is playing partisan politics with the summit. That is why he is making no effort to forge a consensus in Washington before he gets on the plane for Iceland.

The Democrats would like to stand at the water's edge waving and wishing the President luck as he leaves for Iceland. The problem is, the Republicans are not waving; they are trying to push the Democratic heads under the water.

Mr. President, Democrats are not looking for a confrontation. It is you and your advisers. You are leaving us no other choice but to fight. We will not surrender our principles.

JUST WHO IS ENGAGING IN PARTISAN POLITICS HERE?

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, we just heard an exercise in some of the most partisan politics we have had on the floor. To come to the floor and suggest that the President is engaged in partisan politics when he attempts to have a firm negotiating position when he goes to face Secretary Gorbachev I think is somewhat disingenuous.

I think that what we need to have is a united country behind the President as he goes to negotiate and not the suggestion that at some point in the future that this House is going to demand that certain portions of the Soviet negotiating position be adopted unilaterally here rather than negotiated at summit conferences.

I would hope that the President of the United States would be given the backing of this House and to be given the backing of the American people as a whole to do what he thinks is in the best interests of the country as he negotiates with General Secretary Gorbachev.

To suggest that that is partisan politics I think is to suggest what should never be.

INSISTING ON ARMS CONTROL

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, it is proper and indeed our duty as members of the Democratic Party to ask the President to continue to abide by the SALT II arms control treaty.

We do not seek to tie his hands at the upcoming summit in Iceland; in fact, we even offer to put off all consideration of any arms control issue until next March. Our request to adhere to SALT II should only be seen as a reminder to the President that continued adherence has been his own policy for the last 6 years.

SALT II is verifiable, and we do indeed possess the national technical means by which to monitor Soviet compliance with the treaty. It is this verification upon which the administration bases its statements that the Soviets are adhering to the numerical limits of the SALT II Treaty but possibly violating some of its subsections.

Mr. Speaker, we wish our President well. We as a nation can only have one voice to represent us at the Iceland summit, and I find myself in disagreement with those on the far right who complain that the President should not even be discussing arms control with the Soviet Union. We do not wish to tie his hands. We wish him well, we wish him success, and we wish him Godspeed in the effort to end the spiraling nuclear arms race.

CONSIDERING A NEW RULE ON THE IMMIGRATION BILL

(Mr. SHAW asked and was given permission to address the House for 1 minute.)

Mr. SHAW. Mr. Speaker, in a few moments we will begin debate again on a rule which will bring the immigration bill here to the floor of the House. I, along with a majority of the Members of this House opposed the last rule, the last time it came out because it was a, what we considered an unfair rule; it was a gag rule, and one

that did not deserve the majority support of this House.

However, there have been a great deal of negotiations going on between members of the Rules Committee, the gentleman from California [Mr. LUNGREN], the gentleman from Kentucky [Mr. MAZZOLI], the gentleman from New Jersey [Mr. RODINO] and other Members of the House; and for the first time, they have brought together a rule that I think is acceptable and one that we should go forward with.

I urge all Members to look hard at what we have. The alternative is to do nothing. Pass the rule so we can get on with some meaningful immigration reform in this country.

□ 1115

LET'S UNTIE THE PRESIDENT'S HANDS

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from Texas [Mr. COLEMAN] has stated that we should do what we have already negotiated and abide by the SALT II Treaty. I would remind the gentleman from Texas that the SALT II Treaty was never ratified by the U.S. Senate, in 1980, a U.S. Senate that was controlled by the party of the gentleman from Texas rather than the party of President Reagan.

Furthermore, the provisions of the SALT II Treaty had expiration times, and the entire SALT II Treaty, even if it had been ratified, would have expired by now.

There is no reason on Earth why the President of the United States, who represents everyone in this country, Republicans, Democrats, and independents alike, should have to negotiate with the House of Representatives at the same time he is negotiating with General Secretary Gorbachev.

Let us untie the President's hands, let him do the right thing. He has been supported by the people of this country and he should be given a chance to fulfill that trust.

THE PLIGHT OF CUBAN POLITICAL PRISONERS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today we are once again scheduled to take up consideration of H.R. 3810, the immigration bill. I believe that immigration reform is essential—as we all know, it is also very controversial. Negotiations on the more controversial aspects of this bill have been successfully completed, and we will see action on this bill. As an active participant in the ongoing debate over immigration reform, I have consistently attempted to focus attention on several aspects of illegal immigration which have been consistently overlooked. Two of my amendments have been incorporated into the text of the bill which we are considering today. Both of these amendments address important issues in immigration reform.

The first amendment exempts Cuban political prisoners from certain visa restrictions. Presently the INS will not give visas to individuals who are trying to enter this country from a third country. Thus Cuban political prisoners who have successfully left Cuba and made it to another country such as Panama or Mexico are denied visas to enter this country. This action effectively turns these individuals back over to Castro—they have left Cuba with the goal of achieving freedom in this country—and then they are denied that freedom. The policy of this administration, designed purportedly to punish Castro backfires and the people who suffer are the Cuban political prisoners who so desperately need our help. My amendment, as part of the text of this bill, will no longer allow the INS to deny these Cuban political prisoners entrance into the United States from third countries. I believe that this measure is a clear signal to this administration that they must take clear and decisive action to assist Cuban political prisoners obtain the freedom they so desire.

My second amendment incorporated into the text of this bill is designed to stimulate border revitalization. It authorizes the President to negotiate with the Government of Mexico for the establishment of a free trade and coproduction zone in the United States-Mexico borderlands. A major reason we have such a problem with illegal immigration into this country is because of the dire economic circumstances being experienced in other countries. The problem is particularly acute in the United Statesd-Mexico border region, with adverse consequences for residents of both sides of the border. The purpose of this amendment is to stimulate production in the region on both sides of the border. A revitalized border zone would have several benefits—by stimulating the economy in the region it would provide jobs for Americans on the American side of the border—at the same time, by giving the economy on the Mexican side of the border a boost, it would help to halt the tide of illegal immigrants coming across the border in search of economic opportunity.

I believe that immigration reform is of the utmost importance—stemming the tide of illegal immigrants into this country is vital. My amendments address several important aspects of this bill—I urge my colleagues' support for them.

REMOVE ARMS CONTROL LANGUAGE FROM THE CONTINUING RESOLUTION

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute.)

Mr. BILIRAKIS. Mr. Speaker, I know we have all slept soundly knowing that the management of the arms control negotiations was in the hands of the right people: All 435 of them!

It occurs to me that the President, upon successful completion of his meetings with Secretary Gorbachev in Iceland, should then arrange a summit with those Members of the House who seek to tie his hands as he sits at the negotiating table.

There is no place in the continuing resolution for arms control language. The majority should realize this and allow the President and his negotiators to continue the business of effective arms control. The House of Representatives does nothing more than present an appearance of discord before the Soviets, who naturally will have no need to concede in negotiations what we, the U.S. House of Representatives, will give to them. Remove the arms control language from the continuing resolution and restore a united front when the President meets with the Soviets.

LET PRESIDENT REAGAN NEGOTIATE FROM A POSITION OF STRENGTH

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, some who have been watching the 1-minutes may wonder now just what is everybody talking about? I think it might be wise to spread upon the RECORD the five principal positions of the Democratic Party with respect to negotiating arms reduction.

The argument today in the 1-minutes is all about a nuclear testing moratorium, adherence to a nonratified SALT II Treaty on the sublimits, which is selective, fiscal restrictions on SDI, a moratorium on antisatellite testing systems, and a ban on chemical weapons.

I think it is very clear that this President, neither in Iceland nor when the summit comes to the United States in March or April of next year, should not be in a position to have announced in the newspapers unilateral concessions and therefore be unable to negotiate an arms control package by getting a quid pro quo, getting concessions from the Soviets.

The Democrats would ask us to negotiate after we have made the concessions. I think the American people want us to negotiate from a position of strength and get concessions from the Soviets in return for ours at the bargaining table.

AMERICAN FOREIGN POLICY SHOULD LEAVE OUR SHORES WITH ONE VOICE

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, I think my colleagues who preceded me have made it clear that American foreign policy should leave our shores with one voice, and this House has passed a resolution to the effect that we should abide by SALT II even though we agree that the Soviets are substantially violating SALT II in encrypting telemetry and building the SS-25.

I would say simply that the attempt by Democrats to inject themselves into the arms control process as adversaries to the President of the United States is unprecedented in American history and it does a disservice to national defense.

EXPRESSING SUPPORT FOR PRESIDENT REAGAN IN HIS MEETING IN ICELAND

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 406) expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I offer my support of the resolution before us which encourages the President's efforts in meeting with the Soviet leader in Iceland. By any standard, this upcoming meeting is a step in the right direction.

As we all know, the President and Mr. Gorbachev will meet this weekend in Iceland for discussions that have been called a "base camp meeting" on the way to the summit.

While numerous issues will be discussed at the meeting, I strongly believe that significant progress must be made in the area of human rights. I am convinced that our President wants concrete progress to be made in this vital area.

Improving relations between the United States and the Soviet Union can only be undertaken if a broad spectrum of issues are addressed. The Iceland discussions must not focus solely on arms control.

Human rights is important. They matter to all of us. This country was founded on the principle that the individual human being does count. We cannot ignore this basic American value during the upcoming talks.

I wish the President well in his meeting in Iceland and commend him for his efforts to move forward along the road to improving relations with the Soviet Union.

I urge my colleagues to support this resolution.

Mr. Speaker, I have reserved the right to object in order to afford an opportunity for a colloquy between the gentleman from Pennsylvania [Mr. WALKER] and the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. FASCELL. I say to the gentleman if he would yield, I would be happy to respond.

Mr. WALKER. Mr. Speaker, now that we have some of the impatient people off the floor, maybe we can get a discussion as to what is in the resolution and see whether we can resolve some of my problems with the language as I see it. As I stated earlier, I am concerned about the fact that we do not specifically reference the problems in Afghanistan, the problems in Central America, the problems in Africa.

Is it my understanding that by raising the point about regional issues, it was the intent of the committee to include such matters as that in the resolution?

Mr. FASCELL. Mr. Speaker, will the gentleman from Michigan yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Absolutely. In paragraph A, where we talk about all of the matters, including regional issues, we are talking specifically about Afghanistan, Ethiopia, Angola, Nicaragua, all of the regional issues that are of importance between our bilateral relations, which is what the President is going to raise anyway. What we are saying here is, "Mr. President, we are behind that concept, absolutely."

Mr. WALKER. If the gentleman will remember, I also raised the question specifically of the captive nations of eastern Europe, which is not specifically referenced in the resolution. Is it my understanding that the language that suggests fulfilling the obligations undertaken in the signing of the Helsinki Final Act is meant to refer specifically to the captive nations problem?

Mr. FASCELL. Very definitely, of course, the whole Helsinki process. We are concerned with keeping the heat on all of those countries to abide by those commitments.

Mr. WALKER. I am also concerned, as I stated earlier, about the language in it that seems to specify or to make specific a request with regard to grain agreements. I would just like to clarify, if I could, that we are not in some way begging or groveling to the Soviets here to buy our grain but, rather, we are seeking to implement agreements already reached with them and that, indeed, this does not anticipate a grain sale at a cost to the taxpayers and contemplates that such grain sales would be for hard currency; is that the intent of the resolution?

Mr. FASCELL. The gentleman is absolutely right.

Mr. WALKER. So, we are talking about unsubsidized sales and we are also talking about sales for hard currencies under the agreement specified in the resolution.

Mr. FASCELL. Well, what we are talking about is insisting with the Soviets that they live up to the 1983 long-term agreement on the purchase of grain and that it be for hard currency, which is what the agreement provides.

I will say to the gentleman the question of price is negotiated by the administration and the Soviet Union.

I certainly would hope that the one offer that we made will never be made again, and that is to deal at a subsidized level because the world price is certainly good enough.

Mr. WALKER. I thank the gentleman for that statement because I certainly agree with him on that. I think that was a mistake on the part of this Nation, and it was in hopes of clarifying that point that I raised the question.

With that legislative history with regard to the resolution, I see no problem with it.

I thank the gentleman very much for yielding.

Mr. FASCELL. I thank the gentleman.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the House resolution endorsing President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland. I want to thank the chairman of the Committee on Foreign Affairs, the distinguished gentle-

man from Florida [Mr. FASCELL], and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], for bringing this resolution to the floor in such a timely manner.

Mr. Speaker, frank communication between the United States and the Soviet Union is vital as the United States seeks to advance the cause of human rights, to achieve human rights, to achieve mutual and verifiable arms control agreements, and to promote freedom and democracy throughout the world.

The prayers and hopes of millions of Americans go with the President as he leaves for Iceland. We want him to be open to all new suggestions, yet firm in his defense of our values and interests. We support President Reagan in his efforts to achieve meaningful progress in the areas of human rights, trade, bilateral relations, regional issues, and mutual and verifiable arms control agreements.

Among other issues, it is essential that the President insist that the Soviet Union fulfill certain vital commitments that it has made. In this resolution, we urge the President to enforce the Soviet Union's pledge to purchase 9 to 12 million metric tons of wheat from the United States annually in accordance with the 1983 long-term grain agreement. Even more importantly, we urge the President to insist that the Soviet Union fulfill the commitment made in Geneva by General Secretary Gorbachev to come to the United States for a full-scale summit meeting.

The most important thing for all of us to bear in mind is that the United States truly wants peace and will make every effort to achieve peace at the meeting in Reykjavik and thereafter.

Accordingly, I urge my colleagues to join me in support of the House resolution endorsing President Reagan in the October 11–12 meeting with General Secretary Gorbachev in Iceland.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I rise under this reservation to point out that we are endorsing a resolution felicitating and wishing well a President that up until yesterday is telling the Nation and the world that he is going to this conference with his hands tied behind him by the Democratic Members of the Congress. I have heard no withdrawal of that attack on those of us that happen to be Democratic Members of the House. So, I want to ask the gentleman, the very distinguished chairman of the Committee on Foreign Affairs, if he has any knowledge that the President has retracted this statement? Sunday on the front page of the Washington Post we had our distinguished majority leader telling the President that the Democrats were certainly not tying his hands, offering the olive branch, only to have the President use the olive branch as a club over every one of our collective Democratic heads in the Congress. I cannot see how I can in good faith wish the President well under those circumstances on the eve of a November election in which he knows he is doing his best to have every Democratic candidate defeated. I do not think it is fair to those of us who proudly proclaim our membership as standard bearers of the Democratic Party.

Mr. FASCELL. Mr. Speaker, will the gentleman from Texas yield?

Mr. GONZALEZ. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I can understand the gentleman's frustration. I cannot do much about what time of the year it is. We go through this all the time. The gentleman and I know that the President's hands are not tied. We also know that the legislation that is pending has so many loopholes in it with respect to the President's ability that even if it became law, which it is not now, it is just a matter of discussion in the Congress between the parties and between the other body and this body. We have not concluded anything. And even that would not tie hands. So, I will say to the gentleman that as one of those people who is really the salt of the Earth and has great faith in the American people that I would continue, if I were him, to rely on the common sense of the American people to make the right decisions in November. I am certain they will in the gentleman's case, I know that for sure, and I am sure they will do that in other cases.

Puffery, or a slight amount of exaggeration or the use of fear, hyperbole, is not to be unexpected. I will fight, along with the gentleman, for our Democratic principles as hard as anybody else and as hard as the gentleman does, but I see nothing wrong in congratulating or extending our best wishes, if you will, to the President of the United States as he goes off to a very important meeting. He may resolve some of these issues that we are talking about on which he says his hands are tied. We know his hands are not tied. I wish him well. I know you do. And if he comes back with an agreement, we will have an opportunity to examine it. But that is the purpose of the presummit.

And I do not see anything wrong with urging the President to insist on raising all of these issues which we have here with our adversary.

I thank the gentleman for yielding.

Mr. GONZALEZ. Let me say I believe in SALT, whether it is the salt of the Earth, but what I do not believe in accepting is sulfuric acid poured over my head in the name of negotiations.

Mr. FASCELL. If the gentleman will yield, I do not blame him. It is politics. The place to resolve that is——

Mr. GONZALEZ. I ask the gentleman again, does he have any knowledge?

Mr. FASCELL. No.

Mr. GONZALEZ. That the President has ameliorated?

Mr. FASCELL. No; I do not.

Mr. GONZALEZ. What I am telling the gentleman is that we have a Commander-in-Chief who has the tendency to blame everybody else for his failures. If he comes back and is denounced or exposed in the world press as having failed, he will say, "Well, I went there with my hands tied back by the congressional Democrats."

Mr. FASCELL. Will the gentleman yield at that point?

Mr. GONZALEZ. I am saying I do not think we ought to accept that. I do not think we ought to sit here and with impugnity, abjectly say, "Mr. President, even though you are vituperating all over our heads, we wish you well." You know, the gentleman really ought to know that some of us do have a little bit of dignity and pride based on the fact that we proudly proclaim ourselves Democratic Party Members of the House of Representatives.

□ 1130

And I do not think that we ought to take these charges from the Chief Executive of the Nation without some kind of protest. I do not see myself having any good will in subscribing to this resolution. And since I do not have a chance to vote on it. I must object.

The SPEAKER pro tempore (Mr. KILDEE). Objection is heard.

Mr. WRIGHT. Mr. Speaker, will the gentleman reserve the right to object?

Mr. GONZALEZ. Mr. Speaker, I do so at the request and in obedience to the majority leader.

Mr. Speaker, under my reservation of objection, I yield to the distinguished majority leader, Mr. WRIGHT.

Mr. WRIGHT. Mr. Speaker, I fully understand the feeling expressed by my friend from Texas. It is a feeling shared by a great many people here.

Obviously; it is unfair for any President to seek to characterize members of the other political party as tying his hands or as giving to the Soviet Union that which they could not gain through bargaining. Obviously, that is not an accurate description under any circumstances of what has happened.

Let me suggest to my dear friend, the gentleman from Texas, that there come certain times in the history of a country when those of us who may feel that we have been grieviously wronged, nevertheless in the transcendent interest of peace on Earth and in our national interest will rise above those otherwise legitimate considerations. In an effort to demonstrate to the world that we are one Nation and, under this Constitution, only one person can speak for us in the councils of the world, may we

show that we go the second mile, that we turn the other cheek, and that we wish him well in his efforts to bring about a reduction in the tensions that beset this Earth of ours. If that means that we swallow hard and accept a certain amount of unfair criticism, then let us demonstrate a willingness to do that in the interest that transcends any petty partisan consideration, so that we give support in this overriding effort to this man who does represent our hopes for reducing the tensions of the world and our hopes for creating some opportunity to reduce these terrible burdens that both countries bear in trying to pay for an ever-increasing arms race.

Let us say, "Mr. President, we wish you well." It does not cost us anything to say that, and we do wish him success in these negotiations. I know the gentleman from San Antonio wishes him success in the negotiations, even notwithstanding the harshly partisan things Mr. Reagan may have unfairly said that would reflect unkindly upon the gentleman's party and my political party.

Mr. GONZALEZ. Mr. Speaker, I have always resented very much somebody coming over and pouring a bucketful of manure, and then trying to tell me that it is talcum powder. And this is what we have let our illustrious President get away with time and time again with absolutely no comment on the part of those who are being accused falsely, maliciously, predeterminately, calculatingly, coldly, and with malice of forethought.

But out of reluctant obedience to the distinguished fellow Texan, I will withdraw my objection.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman. I think the gentleman has demonstrated the greatness of his spirit and the real bigness of his heart.

Mr. GONZALEZ. Mr. Speaker, if I might continue, I do not plead guilty to that amount of graciousness.

Mr. Speaker, I withdraw my reservation of objection.

Mr. FASCELL. Mr. Speaker, I rise in support of the resolution.

This resolution was adopted unanimously this morning by the Committee on Foreign Affairs. It expresses the Congress' support for President Reagan in his Reykjavik summit this weekend with General Secretary Gorbachev and the hope that the meeting will result in concrete progress in the areas of human rights, trade, bilateral relations, regional issues and arms control.

Mr. Speaker, it is important that the Soviet leader be aware of the Congress' continuing concern about the Soviet refusal to abide by its international human rights commitments such as the 1975 Helsinki Final Act. President Reagan has announced his intention to raise this issue with General Secretary Gorbachev in Iceland. This resolution bolsters the President's efforts in that regard and puts the Soviet Union on notice that the Congress and the American people want and expect concrete results in this crucial area.

Similarly, this resolution expresses the Congress' concern about the Soviet Union's failure to honor its obligations under the 1983 Long-term Grain Agreement by purchasing 9 to 12 million metric tons of grain from the United States annually. Between September 30, 1985 and September 30, 1986, the U.S.S.R. purchased only 4 percent of the wheat it was obligated to purchase. The Soviet failure to purchase this grain has contributed to the 29-percent decrease in the volume of U.S. wheat exports over the last year. This resolution urges the President to insist that the U.S.S.R. honor its bilateral agreements in this important field.

Last, the resolution urges President Reagan to insist that General Secretary Gorbachev fulfill his pledge to come to the United States for a summit later this year or early next. It is important that the Soviet leader know that the American people are expecting him to live up to the commitment he made in Geneva to visit the United States in the near future.

Mr. Speaker, it appears to me that at least some agreements are possible, even at the so-called presummit summit.

I hope we will see something on INF and nuclear testing, even if they are only interim agreements. Certainly some steps—like an agreement to establish risk reduction centers—could be taken at Reykjavik.

In the trade area, perhaps we will see an agreement for the Soviets to purchase the grain they had already promised to buy. While I am concerned about the whole idea of providing American taxpayer subsidies to Soviet housewives, we ought to at least insist—and expect—that the Soviets live up to their agreements. Lord knows, our farmers expect it and they badly need help.

On human rights, I hope we will see more than rhetoric or tokenism. No one was happier than I was to see Helsinki Monitors Anatoly Shcharansky and Yuri Orlov allowed to go free. We must remember, however, that Andrei Sakharov and his wife are still in internal exile, that there are hundreds of thousands of Jews who wish to emigrate, Christians who want to practice their faith, Americans who want only to live together with their Soviet spouses and relatives, human rights activists who want simply to have the Soviet Union live up to its commitments under principle seven and basket three of the Helsinki accords. Promises are not enough—we've had promises since 1975 when we all signed the Helsinki Final Act. What we need now are deeds—like for instance, several thousand rather than several hundred Jews allowed to emigrate during the months ahead, the release of the other imprisoned Helsinki monitors, the reunification of families and the restoration of Dr. Sakharov's and Ms. Bonner's civil and political rights.

There are some who believe that Mr. Gorbachev didn't want to come to America because he didn't want the world to see the demonstrations for human rights that were planned during his visit. I hope that Reykjavik is not a substitute for a summit meeting in the United States. Once again, Mr. Gorbachev made a commitment to come to the United States before the end of 1986. I hope we aren't letting him get out of that commitment. I'm sure we won't see any large demonstrations in Iceland. There will be very few dissidents—or demonstrators—or, for that matter, democrats—in Iceland. The least we can expect is to see a fixed date for an American summit—either this year, as originally promised, or early next year.

And, of course, we hope we won't see an agreement that allows certain highlevel KGB operatives to stay in New York at the Soviet Mission to the United Nations. The President should make it clear that the KGB is not welcome and will be dealt with firmly and swiftly when they spy in America.

We all hope that we will see some progress on the main issues of arms control. At least we should expect to see a conceptual framework and firm instructions for our negotiators to move toward success in Geneva.

I would hope that the same kind of conceptual framework for the resolution of regional issues like Afghanistan, Angola, and Nicaragua might be worked out.

What this resolution says—basically—is "stick to your guns, Mr. President, and we will all support you."

I urge the unanimous adoption of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 406

Whereas a stable relationship between the United States and the Soviet Union is vital to world peace and the security of the United States and its allies; and

Whereas frank communication between the United States and the Soviet Union is essential as the United States seeks to advance the cause of human rights, to promote freedom and democracy throughout the world, and to achieve mutual and verifiable arms control agreements: Now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), That

(a) The Congress supports President Reagan in his efforts to achieve meaningful results in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and expresses the hope that concrete progress in the areas of human rights, trade, bilateral relations, regional issues and mutual and verifiable arms control agreements will result from this meeting.

(b) The House of Representatives urges the President to insist that the Soviet Union fulfill the obligations it undertook in signing the Helsinki Final Act, particularly the provisions on human rights and humanitarian cooperation.

(c) The House of Representatives urges the President to insist that the Soviet Union fulfill its commitment to purchase 9-12 million metric tons of grain, including 4 million tons of wheat, from the United States annually in accordance with the 1983 long-term grain agreement.

(d) The House of Representatives urges the President to insist that the Soviet Union fulfill the pledge General Secretary Gorbachev made in Geneva to come to the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT THE SOVIET UNION SHOULD IMMEDIATELY PROVIDE FOR EMIGRATION OF NAUM MEIMAN AND INNA KITROSSKAYA-MEIMAN

Mr. YATRON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 404) expressing the sense of the Congress that the Soviet Union should immediately provide for the emigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, for too long the Soviet Union has flaunted its noncompliance with its international commitments on human rights. I support this resolution which expresses the sense of the Congress that the Soviet Union should live up to these solemn obligations, and in particular, in several serious and specifically enumerated cases.

This legislation calls for immediate approval by the Soviet Government of the exit visa applications of Dr. and Mrs. Meiman. There is no justification for the continued harrassment of this respected couple.

Moreover, I am very familiar with the serious problem of divided spouses. I have personally worked with representatives of the divided spouses coalition in their efforts to be reunited with spouses who have been refused permission to emigrate from the Soviet Union. This resolution emphasizes our strong desire to see the Soviet Union cease its inhumane threatment and separation of a number of spouses.

Therefore, I strongly urge my colleagues to approve this resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of the resolution before the House, and would especially like to commend the distinguished chairman of our Foreign Affairs Committee, the gentleman from Florida, [Mr. FASCELL] and our ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD] and the district chairman of the Subcommittee on Human Rights, the gentleman from Pennsylvania [Mr. YATRON] for their leadership in moving this bill to the floor just prior to President Reagan and Secretary of State Shultz' departure for Iceland tomorrow.

House Concurrent Resolution 404 expresses the sense of Congress that the Soviet Union should immediately provide for the emigration of Dr. Naum Meiman and his extremely ill wife, Dr. Irina Kitrosskaya-Meiman. This measure also reiterates its strong faith and support of the Helsinki Final Act and the International Covenant on Civil and Political Rights, as well as the precepts of the Universal Declaration on Human Rights. Additionally, this bill urges the resolution of the many divided family and emigration cases which have been the subject of so many efforts by Members of Congress.

Dr. Naum Meiman and his wife Inna, have been refuseniks for many years. In the past few years, however, their situation has worsened dramatically. Mrs. Meiman continues to suffer from a particular type of cancer that is nontreatable in the Soviet Union. She has undergone several operations to remove the tumors at the back of her neck, and so much tissue has been removed that she can barely hold her head up. Soviet doctors do not have any other treatment they can give her, yet emigration officials refuse to allow her and her husband to leave in order to obtain the necessary care that could save her life.

Dr. Meiman, in ill health himself, was a member of the Moscow Helsinki Monitoring Group founded by Dr. Yuri Orlov, Natan Shcharansky, and Dr. Andrei Sakharov. He is a leader in the Soviet Jewish refusenik community, and has worked tirelessly to obtain proper medical care for his wife. The Meiman family, and so many others, are languishing without hope unless we continue to actively appeal on their behalf.

The past year has seen the release of a number of well-known Prisoners of Conscience and Helsinki Monitors. The Soviet Union has made several gestures, one of which was the release of Dr. Yelena Bonner from exile in Gorky to obtain a sextuple heart bypass in the West. Yet, with the few overtures that have been made in the areas of family reunification and the freedom of a number of activists, the plight of those who remain behind is only heightened that much more.

As President Reagan and Soviet leader Mikhail Gorbachev prepare to meet in Iceland this weekend, Congress and the American people reiterate our deep commitment to individual human rights, freedom for Soviet Jews, and other minorities behind this Iron Curtain and indeed, the underscoring of our desire to see the Soviet Union comply with the international human rights precepts to which they are signatory. House Concurrent Resolution 404 is an important expression of that commitment. Accordingly, I urge our colleagues to support the bill.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, we all rejoice in the release from captivity of Yuri Orlov and his wife. Dr. Orlov endured 9 years of harassment, imprisonment, torture, and exile. His crime: Trying to hold the leaders of the Soviet Union accountable to the pledges they made when they signed the Helsinki Final Act.

But as this resolution makes clear, there are others still in the Soviet Union—there are others yet behind whose only crime is to assert their rights that the Soviet Union pledged to uphold at Helsinki. It is to them that this resolution is addressed. And coming on the eve of the summit in Iceland this coming weekend, this resolution will serve to reinforce President Reagan's promise to place the issue of human rights firmly on the Agenda for discussion.

In the final analysis, Mr. Speaker, there can be no true peace—and there can be no reason to believe Soviet agreements on arms control—as long as the Soviet regime is bent on violating the Helsinki accords and continues to crush any and all vestiges of free expression.

We must continually pass resolutions of this kind—and at the appropriate times we must focus, as this resolution does, on specific individuals whose cases are so compelling that they come to symbolize the oppression of an entire people, an entire religion.

And so I urge adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FLORIO. Mr. Speaker, reserving the right to object, and I will not object, I just want to say that I went to the Soviet Union during the summer, met these particular people and many of the others. What the gentleman does is a work of mercy, and I think this should be supported by all the Members of the Congress.

Mr. Speaker, I rise in support of the House Concurrent Resolution 404 expressing the sense of the Congress that the Soviet Union should permit Nahum Meiman and his wife Inna Kitrosskaya-Meiman to emigrate and cooperate in resolving the numerous outstanding divided families cases. I would like to commend my colleague, Congressman TIM WIRTH for his leadership in introducing this legislation and I am pleased that it is being considered in such a timely fashion.

Mr. Speaker, on my recent trip to the Soviet Union, I had the unforgettable opportunity to

meet with the Meimans, as well as a number of individuals in similar situations. The Meimans are not unique in their long-term efforts to obtain visas from the Soviet Government in order to emigrate and join families and friends in the West. Their tragedy, however, has been compounded by the fact that Inna Meiman, a 53-year-old English teacher, is dying of cancer diagnosed in 1983.

I also had the opportunity to meet a number of individuals who have married American citizens but are being denied the right to be reunited with their families in the West. I spoke with Svetlana Braun, wife of Keith Braun, Sonya Melnikova-Eichenvald, wife of Michael N. Lavigne, and Dimitriy Vlasenkov, husband of Siobhan Darrow. Their plight is disheartening in that not only are they unable to live with their spouses, but they are also harassed, beaten, and followed.

The case of Inna Meiman deserves special attention. After four hazardous operations, Soviet doctors have informed her that they cannot do anything more for her and have abandoned her to her fate. It is both tragic and ironic that Inna has been accepted by the Sloan-Kettering Experimental Program in New York and invited by other oncological clinics in Sweden, France, and Israel. She is being denied the right to treatment because her husband, Prof. Nahum Meiman was involved in some work for the Soviet Academy of Sciences at the dawn of the atomic age. This work has since lost its importance and professor Meiman's knowledge poses no threat to Soviet authorities.

I would like to quote from a open letter to General Secretary Gorbachev which Professor Meiman wrote and shared with me. He writes:

My wife's life is being sacrificed in the name of imaginary security for the Soviet Union which would supposedly be threatened if this piteously sick woman were allowed to take advantage of invitations to go abroad for treatment. It is in your power to prevent such a crime against humanity. If not, what is all your pathos worth?

Last week, 66 of my colleagues joined me in sending a letter to General Secretary Gorbachev on behalf of Inna Meiman and several other cancer victims. I wanted to share with my colleagues the text of this letter and urge their support for this worthwhile resolution. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 1, 1986.

Hon. MIKHAIL GORBACHEV,
General Secretary, The Kremlin, Moscow, RFS, U.S.S.R.

DEAR MR. GENERAL SECRETARY: We are writing on behalf of a group of individuals who desperately need to emigrate from the Soviet Union to seek further treatment for their disease and join their families during this difficult period. We appeal to you on behalf of Inna Meiman, Benjamin Charny, Rimma Bravve, Leah Mariasin, and Edward Erlikh.

These five individuals share a common tragedy in that they all suffer from serious forms of cancer and have received unsuccessful treatments and operations in the Soviet Union. A number of them have been invited to participate in experimental treatment programs in the West and there remains some hope for treatment. The nature of their illness requires the presence and emotional support of their families. Unfortunately, although these individuals have applied for visas on numerous occasions, they have been refused and they are numered among the thousands of Soviet Jewish refuseniks who wish to leave the Soviet Union and be reunited with their families.

A number of us have visited with these individuals on visits to the Soviet Union and others have monitored reports of their cases. But all of us have been touched by their bravery and their pleas, and have been impressed with the need for urgency in favorably resolving these emigration cases and permitting these individuals to seek further treatment in the United States and nations where this treatment is available as soon as possible.

We join in urging you to allow Inna Meiman, Benjamin Charny, Rimma Bravve, Leah Mariasin, and Edward Erlikh to leave the Soviet Union and join their relatives in the West where they can consider alternative treatments in the supportive environment of their families.

Sincerely,

Dante B. Fascell, James J. Florio, Timothy E. Wirth, Lawrence J. Smith, Dave McCurdy, Albert G. Bustamante, Dean A. Gallo, James L. Oberstar, Bill Green, Edolphus Towns, Vic Fazio, Lane Evans, Jim Courter, Barney Frank, Tommy F. Robinson, Sander M. Levin, Joe Moakley, George C. Wortley, Robert G. Torricelli, Don Ritter, Matthew G. Martinez, Bill Richardson, John M. Spratt, Jr., Major R. Owens, Ken Kramer, Barbara A. Mikulski, Bill Archer, Charles E. Schumer, Mel Levine, Richard J. Durbin, Patricia Schroeder, Mike Synar, Raymond J. McGrath, Claude Pepper, James J. Howard.

Philip R. Sharp, Bill Nelson, Ted Weiss, Edward F. Feighan, Sidney R. Yates, Peter H. Kostmayer, Jim Kolbe, John McCain, Norman F. Lent, Joseph M. McDade, Les AuCoin, John Edward Porter, Alton R. Waldon, Jr., Robert J. Lagomarsino, Chester G. Atkins, Bruce A. Morrison, Thomas R. Carper, William J. Hughes, Howard Wolpe, Marge Roukema, Vin Weber, Robert A. Roe, John Bryant, Robert J. Mrazek, Don Edwards, Frank R. Wolf, David E. Bonior, Charles A. Hayes, William O. Lipinski, Jim Saxton, Neal Abercrombie, Dan Glickman, and Bernard J. Dwyer.

Mr. FLORIO. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I would like to thank the chairman of the Foreign Affairs Committee, DANTE FASCELL, for bringing House Concurrent Resolution 404 to the House floor. Along with Chairman YATRON of the Human Rights Subcommittee, Chairman FASCELL has made it possible for the House to endorse this important statement for human rights on the eve of the Iceland summit meeting.

House Concurrent Resolution 404 is an updated version of House Concurrent Resolution 317, which I introduced last spring with my distinguished colleagues, Mr. GILMAN and Mr. SIKORSKI. That resolution now carries the bipartisan cosponsorship of 218 other Members of the House.

House Concurrent Resolution 404 calls on the Soviet Union to approve immediately the exit visas for Dr. Naum Meiman and his wife, Inna Kitrosskaya-Meiman. It also calls on the Soviets to resolve all outstanding divided spouses and separated family cases between the United States and the Soviet Union and to guarantee to all Soviet citizens the right to emigrate to the country of their choice. Passage of this resolution would signal President Reagan and Secretary Gorbachev that these concerns should be of the highest priority on the Iceland agenda.

It is indeed a shame that we need to consider this resolution here today. One would have expected that, in the aftermath of Tolya Shcharansky's release, we could have greeted the future of Soviet Jewry with greater hopes and expectations. But we cannot do that. As Dr. Meiman recently wrote, Tolya's "release is not a victory for us, because we are now further away from reaching the goals Tolya fought for when we struggled together."

Dr. Meiman grimly reminds us that nothing has changed:

Fewer than 1,000 Jews will likely be allowed to emigrate this year (as compared with 51,000 in 1979).

Contrast that with the number of Jews who seek to emigrate from the Soviet Union: 400,000. 400,000 free people in waiting.

Dr. Meiman and his wife are two of those 400,000 suffering people. Both have sought emigration visas so that they may get the medical attention they urgently need and so they may reunite with their daughter, Olga, who lives in the district I represent.

Dr. Meiman applied in 1974 for permission to leave the country but was denied, and has been turned down ever since, because the Soviets allege that his work as a physicist is of a secret nature.

Mr. Speaker, what a spurious claim! Since 1955, Dr. Meiman's work has been openly published in Soviet scientific journals. A signed statement from the director of a key Soviet institute for the study of physics confirmed that Dr. Meiman's work has not been classified.

Bravely, despite these lies, despite KGB harassment and their deteriorating health, the Meimans continue to press for their right to emigrate. And they have worked for other Jews' right to emigrate, as well. Dr. Meiman, along with Tolya and Dr. Andrei Sakharov, has been a leader in the Helsinki Monitoring Committee in the Soviet Union, which monitors the implementation of the Helsinki human rights accords. Accompanied by his wife, he

has been a determined fighter for human rights in the Soviet Union.

By passing House Concurrent Resolution 404 today, we continue our efforts in support of their battle—and in support of the countless battles being waged by all victims of the brutal Soviet system. It is our way of letting the Soviets know that we will not tolerate their relentless campaign to snuff out freedom. It is our signal to the Soviets that they have not won our favor by releasing Tolya Shcharansky or Yuri Orlov. We will not relent until Naum and Inna and their compatriots can emigrate to the lands of their choice, until they can join their loved ones abroad.

I urge my colleagues to vote for this important resolution, and again want to thank Chairman FASCELL and Chairman YATRON for their help in bringing House Concurrent Resolution 404 to the floor today.

Mr. FASCELL. Mr. Speaker, I rise in support of the resolution.

House Concurrent Resolution 404, introduced by my distinguished colleague Mr. WIRTH, expresses the Congress' concern about the Soviet Union's continuing disregard for their international human rights commitments and focuses particular attention on the tragic plight of Dr. Naum Meiman and his wife, Inna Kitrosskaya-Meiman.

I had the pleasure of meeting Dr. Naum Meiman, a member of the Moscow Helsinki Monitoring Group and a leader in the Soviet Jewish refusenik community, in Moscow in April. Dr. Meiman has been trying to emigrate since 1974; his wife since 1979. They seek to be reunited with his daughter, Olga Plam, a naturalized American citizen who lives in Boulder, CO.

The 75-year-old scientist spoke to me about his wife, who is terminally ill with cancer and is in desperate need of medical treatment that is unavailable in the Soviet Union. Mrs. Meiman's life literally depends on the Soviet Government's willingness to abide by its international commitment in the Helsinki Final Act to "deal in a positive and humanitarian spirit with applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old." I regret to note that the Soviet authorities have, thus far, been little moved by either their international obligations or the many humanitarian appeals in Mr. Meiman's behalf.

Unfortunately, the Meiman family is not alone in this plight. At least 300 other Soviet citizens, some of whom are old or ill, have repeatedly been denied by the Soviet Government permission to rejoin their family members in the United States. Some 20 Soviet spouses have been refused the right to live with their American spouses in this country, including one family that has been separated for over 30 years. At least 400,000 other Soviet Jews have indicated their desire to emigrate and, to date, have been prevented from doing so. Other Soviet Jewish refuseniks in dire need of immediate treatment for cancer include Benjamin Charny, Rimma Bravve, Leah Mariasin, and Edward Erlikh. Over 100 American cancer specialists recently have appealed to General Secretary Gorbachev in their behalf, urging that these refuseniks, including Mr. Meiman, and their families be given permission to leave the Soviet Union for treatment.

News reached the West last week that another Soviet Jewish cancer victim and long-term refusenik, Tatiana Bogomolny, and her husband, Benjamin, had finally been granted permission to emigrate from the Soviet Union. We are hopeful that the welcome news of the Bogomolny family's emigration will be followed by the resolution of these other cases, including Dr. and Mrs. Meiman.

Mr. Speaker, I'd like to commend the distinguished chairman of our Subcommittee on Human Rights and International Organizations, Mr. YATRON, for his continuing leadership on this important issue and for bringing this timely resolution to the attention of the House before the meeting this weekend in Iceland between President Reagan and General Secretary Gorbachev. I urge its unanimous adoption.

Mr. YATRON. Mr. Speaker, I rise in strong support of House Concurrent Resolution 404, legislation calling on the Soviet Union to permit Naum Meiman and Inna Kitrosskaya-Meiman to emigrate, and to resolve all divided family and emigration cases. Dr. Neiman, a leading Soviet Jewish refusenik, and his wife have attempted to emigrate from the Soviet Union for over 10 years. They want to be reunited with their daughter in the United States. But the time for this reunion is growing short since Mrs. Neiman is terminally ill with cancer.

The plight of the Neimans serves as a painful reminder of the thousands of Soviet citizens who are held captive by their government—a government unwilling to honor its commitment to the Helsinki Final Act, a government having no regard for individual liberty and justice. And a government emphasizing repression rather than reunification. Once again, we call on that same authority to release two of their prisoners, two very needy, very brave individuals.

As chairman of the Subcommittee on Human Rights and International Organizations, I am convinced that we must continue to put pressure on the Soviet Union. For this reason, the subcommittee has held numerous hearings and numerous markups on the Soviet Union during my tenure as chairman. We must not ignore one offensive act, whether it is a denial of emigration, a denial of intellectual, religious, or political freedoms, or the denial of dignity so necessary for the human spirit.

Today, we in the U.S. Congress intercede on behalf of the Meimans and all other unresolved emigration cases. Tomorrow, today's demands of the Soviet Union on behalf of its citizenry will not be forgotten. We must continue our fight until not even one person is barred from leaving the Soviet Union, or from living a life free from oppression within this East bloc country.

I would like to commend the gentleman from Colorado [Mr. TIM WIRTH] for this very worthwhile resolution. Its passage will signify our dedication and sincerity to the Meimans and countless others who look to our country for support.

Mr. MOLINARI. Mr. Speaker, I rise in support of the resolution and applaud my colleagues for bringing to the floor House Concurrent Resolution 404 expressing the sense of Congress that the Soviet Union should immediately provide for the emigration of Noam Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases.

I commend the President for his resolve to raise the issue of human rights and specifically that of Soviet Jewry, at the upcoming presummit with General Secretary Mikhail Gorbachev. I believe that this presummit allows the opportunity to focus upon one of the major differences between our two countries—that of human rights. In our attempt to come to an agreement on arms control we must again be firm on our commitment to the release of those who wish to leave the Soviet Union.

Sovietologists have said that General Secretary Gorbachev is in stark contrast to his predecessors in that he is willing to open up the Soviet society. Yet we have not seen this with regard to human rights. Many hundreds of thousands of Soviet Jews want to emigrate and are unable to. These refuseniks are being persecuted by the KGB and Soviet police for the crime of wanting to emigrate and take up residence in a free country. I can only hope that these experts are right about the General Secretary and that he will now allow free emigration.

One might think with such well-known refuseniks such as Anatoly (Natan) Scharansky, Ilya Essas, Vladmir Brodsky, Yakov Gorodetsky, Grigory, and Isai Goldstein being allowed to emigrate this year that overall Soviet Jewry emigration has increased. Just the opposite is true. Soviet Jewry emigration has reached an all-time low. If the figures continue at the present rate, less Soviet Jews will leave the U.S.S.R. this year than in any other year. Through September only 631 Soviet Jews have been allowed to emigrate. This figure includes all the well-known refuseniks. So, despite all the fanfare on the release of these well-known refuseniks, emigration has actually worsened.

My own adopted refusenik Aleksandr Paritsky was reported in early September to be in a Moscow hospital for serious heart ailments. He is physically fragile and weak. I call upon the General Secretary to allow Aleksandr to emigrate to Israel where he can receive some of the best medical attention in the world. It is bad enough to be kept in a country against ones will. It is even worse when ones medical condition is fragile. A positive action by the General Secretary will not only be a humanitarian gesture but will indicate to us all that the General Secretary is acting in good faith in an attempt to relieve the human rights problems that exist in his country.

I am hopeful that at the presummit President Reagan can persuade Gorbachev that we will not compromise on his country's human rights violations. The success of the presummit will surely be judged in part based upon Gorbachev's actions on human rights.

Mr. FLORIO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The clerk read the concurrent resolution, as follows:

H. CON. RES. 404

Whereas the Helsinki Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the signatory countries to the Final Act have declared their responsibility to "deal in a positive and humanitarian spirit with applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill and old";

Whereas the Concluding Document of the Madrid Meeting of the Conference on Security and Cooperation in Europe provides for the signatories to "favorably deal with" and "decide upon" applications for family reunification and to decide on such applications "within six months";

Whereas the Universal Declaration of Human Rights affirms that "the family is the natural and fundamental group unit in society" and guarantees to everyone "the right to leave any country, including our own";

Whereas the International Covenant on Civil and Political Rights guarantees that "everyone shall be free to leave any country, including his own";

Whereas the Soviet Union signed the Helsinki Final Act and the Concluding document of the Madrid Meeting, is obligated to respect the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Naum Meiman, member of the Moscow Helsinki Monitoring Group and a leader in the Soviet Jewish refusenik community, and his wife Inna Kitrosskaya-Meiman have sought since 1974 and 1979, respectively, to emigrate from the Soviet Union;

Whereas Doctor Meiman and Mrs. Inna Kitrosskaya-Meiman seek to join their daughter, Mrs. Olga Plam, an American citizen, who currently resides in Boulder, Colorado;

Whereas Mrs. Inna Kitrosskaya-Meiman is terminally ill with cancer and both she and her husband, who is seventy-five years old, are in urgent need of medical treatment unavailable in the Soviet Union;

Whereas at least three hundred Soviet citizens, some of whom are old or ill, repeatedly have been denied permission to rejoin their spouses or other family members in the United States; and

Whereas four hundred thousand other Soviet Jews seek to emigrate from the Soviet Union: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Soviet Union should abide by its international commitments in the Helsinki Final Act, the Concluding document of the Madrid Meeting of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights and the International Covenent on Civil and Political Rights and—

(1) immediately approve the exit visa applications of Dr. Naum Meiman and Inna Kitrosskaya-Meiman;

(2) resolve immediately the outstanding divided spouses and separated family cases between the United States and the Soviet Union;

(3) consider favorably and expeditiously the pending exit visa applications of all Soviet citizens who seek to rejoin their relatives or be reunited to their historic or national homeland; and

(4) guarantee to all Soviet citizens the right to emigrate to the country of their choice.

SEC. 2. The Congress calls upon the President to—

(1) take every opportunity, including at the upcoming meeting with General Secretary Gorbachev in Iceland, to press the Soviet Union to abide by its international commitments and allow the emigration of Doctor Meiman and Mrs. Inna Kitrosskaya-Meiman as well as the resolution of all other outstanding divided family and emigration cases; and

(2) instruct the United States delegation to the Vienna Meeting of the Conference on Security and Cooperation in Europe, scheduled to open on November 4, 1986, to pursue vigorously the case of Doctor Meiman and Mrs. Inna Kitrosskaya-Meiman and all outstanding divided family and emigration cases.

SEC. 3. The Clerk of the House shall transmit copies of this resolution to the Soviet Ambassador to the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 406 and House Concurrent Resolution 404, the two concurrent resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RISK RETENTION AMENDMENTS OF 1986

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendments

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments.

(For text of the Senate amendment to the House amendments, see proceedings of the House had earlier today.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I will not object, but just to say that we have conceded on this side to bring this matter under a unanimous-consent order. It would then be expected that we would get to the immigration and naturalization measure.

I have made an announcement on our side at least that Members wishing to bring up pieces of legislation we are getting these last 2 days at least give the leader here 20 minutes notice and to have capsuled what they intend to bring up. Whether or not that is a good suggestion for the majority side or not, I think that is the way we are going to follow procedure on this side to expedite the business of the House with some order so that we know where we are coming from and not be caught unawares.

Mr. FLORIO. Mr. Speaker, we are about to take final action on the Liability Risk Retention Act of 1986. This is a very important measure which can help address the liability insurance crisis. I want to congratulate Mr. WYDEN and Mr. LENT for the successful completion of this legislation to which they have devoted so much effort.

The bill under consideration is one on which we in the House worked for many weeks in order to ensure a carefully balanced bill. By facilitating the formation of self-insurance groups and purchasing groups, the bill can help provide much-needed additional insurance capacity and alternatives to traditional insurance. At the same time, we have sought to provide protection for the public against potential commercial abuses.

To facilitate formation of risk retention groups and purchasing groups, the bill preempts certain State laws. Such preemption constitutes a somewhat novel role for the Federal Government regarding insurance regulation, an area of traditional State responsibility.

Due to the novelty of this approach, it is important that we follow the implementation of the new law very closely. To assist in that effort, the bill requires two reports to Congress by the Secretary of Commerce on implementation of the act. We in Congress will be watching closely to see whether the balance we tried to strike in the bill is maintained in implementation.

I hope that this bill will help many businesses and organizations that have been unable to obtain affordable insurance. The insurance crisis poses a complex challenge to all of us. With enactment of the present bill we will have taken an important first step toward addressing the crisis.

Let me add the following point:

On September 23, the House passed H.R. 5225 without objection. Immediately following passage the House took up S. 2129 and amended it with the text of H.R. 5225. Since passage of the House bill, the other body has

agreed to accept the House bill with several clarifications and the omission of the part of section 8(c) of the House bill relating to governmental units. This section would have added a new subsection 6(e) to the Product Liability Risk Retention Act of 1981, as amended. I wish to clarify why that provision has been deleted from the bill we are considering today.

It has been decided that the provision is unnecessary since there is nothing in the Product Liabiliity Risk Retention Act or the amendments under consideration that prevents States from doing what the deleted provision said they could do.

I would like to make one other clarification. To paraphrase the bill, liability is generally defined to mean legal liability for damages because of injuries to other persons or damage to their property, resulting from any business or operations. I want to make clear that the term operations includes commerical fishing operations or other maritime operations.

Mr. LENT. Mr. Speaker, during this Congress, we have all heard from our constituents about the liability insurance crisis. A liability horror story has made the news nearly every day. Many businesses are going bare and, thereby, risking financial disaster if severe losses should occur. With the passage of the legislation we are considering today, we will be able to tell our constituent that relief from the crisis is on the way.

S. 2129, the Risk Retention Act of 1986, will provide individuals and businesses a means of self help. They will no longer be totally dependent on the traditional liability insurance market. The legislation will also allow individuals and businesses to pool together to form their own insurance cooperatives. It will allow commercial liability insurance to be purchased on a group basis. The legislation stipulates that members of risk retention and purchasing groups must have similar liability. This will protect members from unintentionally assuming unknown and potentially costly insurance risks. To safeguard against potential abuse, each State insurance commissioner is provided authority to protect policyholders from any fly-by-night operations.

On September 23, the House passed H.R. 5225 without objection. Immediately following passage the House took up S. 2129 and amended it with the text of H.R. 5225. Since passage of the House bill, the other body has agreed to accept the House bill with several clarifications and the omission of the part of section 8(c) of the House bill relating to governmental units. This section would have added a new subsection 6(e) to the Product Liability Risk Retention Act of 1981, as amended.

It has been decided that the provision is unnecessary since there is nothing in the Product Liability Risk Retention Act or the amendments under consideration that prevents States from doing what the deleted provision said they could do. Does the gentleman agree?

I would like to make one other clarification. To paraphrase the bill, liability is generally defined to mean legal liability for damages because of injuries to other persons or damage to their property, resulting from any business or operations. I want to make clear that the term operations includes commercial fishing operations or other maritime operations.

Mr. Speaker, I believe that this bill will provide the relief our constituents so desperately need from the liability insurance crisis, and I urge my colleagues to support it. I would like to commend both Congressman WYDEN and Chairman FLORIO, as well as the Members of the other body, for their efforts on this bill. Without Congressman WYDEN's persistence, diligence, and willingness to compromise, it is unlikely this bill would be on its way to the President now. Without Chairman FLORIO's interest and hard work this bill would not be the excellent legislation it is. Finally, I would like to thank Chairman DINGELL for his cooporation and support in the craftings of this legislation.

Finallly, Mr. Speaker, no one pretends that risk retention and purchasing groups are a panacea. S. 2129 will not solve all the problems facing the liability insurance market. However, it will provide an alternative to the traditional insurance market. In this troubled time, it may be the most and the least we can do.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

□ 1140

PROVIDING FOR CONSIDERATION OF H.R. 3810, IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1985

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 580 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 580

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3810) to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of sections 302(f) and 303(a) of the Congressional Budget Act of 1974, as amended, are hereby waived. After general debate, which shall continue not to exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of each of the Committees on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by said committees now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5665 as an original bill for the purpose of amendment. The substitute shall be considered as having been read, and all points of order against the substitute for failure to comply with the provisions of clause 5(a) of rule XXI, and with the provisions of sections 302(f) and 303(a) of the Congressional Budget Act of 1974, as amended, are hereby waived. No amendment to the bill or to said substitute shall be in order except the amendments contained in the report of the Committee on Rules on this resolution. Such amendments shall be considered only in the order in which they appear in said report and may only be offered by the sponsor designated in said report, or by the chairman of the appropriate committee, or his designee, where a committee is designated. Said amendments shall be considered as having been read and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, but shall each be debatable for the time specified in the report of the Committee on Rules on this resolution, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto, and all points of order against said amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may not contain instructions. After the passage of H.R. 3810, it shall be in order to take from the Speaker's table the bill S. 1200 and to consider said bill in the House, and all points of order against the consideration of said bill for failure to comply with the provisions of sections 302(f) and 303(a) of the Congressional Budget Act of 1974, as amended, are hereby waived. It shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3810 as passed by the House, and all points of order against said motion for failure to comply with the provisions of sections 302(f) and 303(a) of the Congressional Budget Act of 1974, as amended, and with the provisions of clause 5(a) of rule XXI are hereby waived. It shall then be in order to move that the House insist on its amendment to the bill S. 1200 and request a conference with the Senate thereon. It shall then be in order to consider in the House, any rule of the House to the contrary notwithstanding, a bill containing the text specified in section two of this resolution, if offered by the chairman of the Committee on Ways and Means or his designee, debate on said bill shall continue not to exceed ten minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, or their designees, and the previous question shall be considered as ordered on said bill to final passage without intervening motion except one motion to recommit, which may not contain instructions.

SEC. 2. The text of the second House bill made in order for consideration by this resolution is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3306(c)(1)(B) of the Internal Revenue Code of 1954 is amended by striking out 'before January 1, 1988,' and inserting in lieu thereof 'before January 1, 1993,'."

The SPEAKER. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

MOTION OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves to postpone consideration of House Resolution 580 to Tuesday, October 14, 1986.

The SPEAKER. Under rule XI, the Chair cannot entertain that motion at this time.

In the opinion of the Chair, the motion to postpone consideration of House Resolution 580 is a dilatory motion within the meaning of clause 4b of rule XI, just as questions of consideration and motions to commit have been held dilatory under that rule.

Mr. SENSENBRENNER. Mr. Speaker, if I may be heard on this.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin to speak to the propriety of his motion.

Mr. SENSENBRENNER. Mr. Speaker, I come to a different conclusion.

Mr. Speaker, there are two precedents in the House of Representatives, both dating from 1980 that state that—

A motion to postpone further consideration of a privileged resolution may be offered before the manager of the resolution has been recognized for debate and is debatable for 1 hour controlled by the Member offering the motion.

On May 29, 1980, the House was considering a privileged report and privileged resolution from the Committee on Standards of Official Conduct. A motion similar to the one which I have offered was entertained by the Chair and a point of order against consideration was overruled by the House.

During the consideration of that privileged resolution, after the House rejected the motion to postpone further consideration to a day certain, that action was reconsidered and based upon newly discovered evidence, upon reconsideration, the motion was passed.

Rule XI, clause 4(a) defines privileged reports in amendments, and it puts on a level of the privilege attaching to a report of the Committee on Standards of Official Conduct reports of the Committee on Rules.

□ 1150

Clause 4(a) of rule XI must be read in conjunction with clause 4(b), which the Speaker previously cited.

Section 727 of the Rules of the House of Representatives defines questions of privilege, and it states, in part, "Therefore, 'questions of privilege' take precedence over these matters which are privileged under the rules," citing Cannon's Precedents III, 2426-2530; V, 6454; and VIII, 3465.

Second, it appears that a motion to postpone to a day certain of a report of the Committee on Rules making in order a bill is a question of first impression, and while other types of motions have been ruled out of order as dilatory, a motion for postponement to a day certain has not been decided by the Chair.

I would submit that the question of postponement to a day certain is not dilatory because it refers to a specific date when the House will consider the bill; whereas other motions, such as motions to commit, motions to table, and motions to indefinitely postpone are dilatory because they do not refer to a day certain.

All that this Member is asking the Chair to rule on is to give the House the opportunity to decide by majority vote whether this resolution should be considered today or should be considered next Tuesday.

I believe that the House should have that opportunity, and based upon the precedents, the rules, and the interpretation cited, I would ask the Speaker to rule my motion in order.

The SPEAKER. Is the gentleman from California [Mr. BEILENSON] standing to be heard on the motion?

Mr. BEILENSON. If I may, Mr. Speaker, very briefly. As the Speaker obviously recalls, the Speaker recognized this gentleman for 1 hour, and at that point, it seems to this gentleman, that the clause 4(b) clearly takes effect. It is clear on its face that the gentleman's objection does not pertain at this point.

Mr. SENSENBRENNER. Mr. Speaker, I was on my feet seeking recognition at the time that the Speaker made that statement.

The SPEAKER. The gentleman was on his feet in a timely manner seeking recognition. Does any other Member desire to be heard on the Chair's ruling?

Mr. GONZALEZ. Mr. Speaker, I would like to be heard in support of the contention that has just been so comprehensively presented by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The precedents, both under Cannon's in the rules embodied in Cannon's Precedents, 333, and as codified later, or what we consider codified in Deschler's Precedents and Rules, I hold that the House is entitled, under the circumstances of the presentation of this rule, which did not satisfy compliance with the rules that must give a Member an opportunity to read the printed version of the rule, as well as the bill certified for House consideration under that rule.

I maintain, after checking with the Public Printer, that no 435 copies of this rule or bill have been printed in sufficient time to have it in the hands of us, the regular hoi polloi Members of the House.

Therefore, I strongly endorse the request of the gentleman and seek that the Chair rule in such a way that the majority of this House shall have a chance to vote on whether or not we should postpone further consideration to a time when we can have a chance to look at this dispassionately, leisurely, and carefully.

Mr. DAUB. Mr. Speaker, may I be recognized on the point of order?

The SPEAKER. The gentleman from Nebraska [Mr. DAUB] is recognized.

Mr. DAUB. Mr. Speaker, I want to add to what has been said with respect to the point of order, that the purpose, since it is one of first impression, it would appear, with respect to a motion to postpone to a date certain, and not too far into the future, at least from this gentleman's point of view, is offered for the purpose stated by the gentleman from Texas [Mr. GONZALEZ], that is, that all the amendments that were considered in the rule defeated 1 week ago, some have been wrapped into the new rule and will be a part of the principal bill if the rule is adopted; others are set aside for debate specifically and new amendments not previously considered will now be a part of this rule.

Since the Committee on Rules has not printed the content of each one of the amendments, and especially the new amendments not previously considered before by this House, nor by the Committee on Rules, it seems that every Member of the House ought to have at least the weekend and a few days to get that print and study the content, because under the modified closed rule that could pass this House, debate is limited.

It is for that reason that I think the Chair should rule that the point of order is well-founded.

The SPEAKER. The Chair is prepared to rule.

Under clause 4(b), rule XI, the Speaker may entertain one motion that the House adjourn, but after the result is announced, the Speaker shall not entertain any other dilatory motion until the report from the Committee on Rules shall have been fully disposed of. This has been construed to require rejection of the previous question before such motion may be offered.

The gentleman's argument is not well taken.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make a point of order against consideration of the resolution.

Mr. Speaker, rule XI, clause 2(6) requires a 3-day layover of reported measures, with the exception of matters that are in reports of the Committee on Rules. That exception is contained in rule XI, clause 4(b). The report of the Committee on Rules, both the resolution that was just reported by the Clerk, as well as the written report of the Committee on Rules, did not contain the text of the amendment in the nature of a substitute, which is some 215 pages long.

That measure was introduced as an original bill yesterday by the gentleman from New Jersey [Mr. RODINO] and the gentleman from New York [Mr. FISH], but the Committee on Rules did not include the text of this within any of the documents that it filed last night pursuant to the rule.

When the Committee on Rule's report was filed, I had a colloquy with the Speaker pro tempore, the gentleman from North Carolina [Mr. VALENTINE], and it was very clearly stated that this document, which is made in order as the amendment in the nature of a substitute, was not included in any of the papers that were filed by the Committee on Rules.

I believe that that omission, particularly in light of the fact that the text of the Committee on Ways and Means bill was set forth in full in the resolution means that this document does fall under the 3-day rule and it cannot be made in order under rule XI, clause 2(6).

The SPEAKER. The Chair will rule against the gentleman.

The Committee on Rules has the authority to make in order the text of an introduced bill as an amendment merely by referencing the bill number on the rule, and there has been a copy made available on the floor. That bill is not a reported bill which is being separately considered and so clause 2(l)(6) of rule XI does not apply.

The point of order is not well taken.

MOTION TO ADJOURN

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ].

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. GONZALEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 18, nays 387, not voting 27, as follows:

[Roll No. 446]

YEAS—18

Bartlett	Loeffler	Roybal
Chappie	Lujan	Sensenbrenner
Coleman (TX)	McEwen	Siljander
Conyers	Murphy	Skeen
Crane	Perkins	Stump
Gonzalez	Rangel	Traficant

NAYS—387

Abercrombie	Donnelly	Jenkins
Ackerman	Dorgan (ND)	Johnson
Akaka	Dornan (CA)	Jones (NC)
Alexander	Dowdy	Jones (OK)
Anderson	Downey	Jones (TN)
Andrews	Dreier	Kanjorski
Annunzio	Duncan	Kaptur
Anthony	Durbin	Kasich
Applegate	Dwyer	Kastenmeier
Archer	Dymally	Kemp
Armey	Dyson	Kennelly
Aspin	Early	Kildee
Atkins	Eckart (OH)	Kleczka
AuCoin	Eckert (NY)	Kolbe
Badham	Edwards (CA)	Kolter
Barton	Edwards (OK)	Kostmayer
Bates	Emerson	Kramer
Bedell	English	LaFalce
Beilenson	Erdreich	Lagomarsino
Bennett	Evans (IA)	Lantos
Bentley	Evans (IL)	Latta
Bereuter	Fascell	Leach (IA)
Berman	Fawell	Leath (TX)
Bevill	Fazio	Lehman (CA)
Biaggi	Feighan	Lehman (FL)
Bilirakis	Fiedler	Leland
Boehlert	Fields	Lent
Boggs	Fish	Levin (MI)
Boland	Florio	Levine (CA)
Boner (TN)	Foglietta	Lewis (CA)
Bonior (MI)	Foley	Lewis (FL)
Bonker	Ford (MI)	Lightfoot
Borski	Ford (TN)	Lipinski
Bosco	Frank	Livingston
Boucher	Franklin	Lloyd
Boulter	Frenzel	Long
Boxer	Frost	Lott
Broomfield	Fuqua	Lowery (CA)
Brown (CA)	Gallo	Lowry (WA)
Brown (CO)	Garcia	Luken
Bruce	Gaydos	Lundine
Bryant	Gejdenson	Lungren
Burton (IN)	Gekas	Mack
Bustamante	Gibbons	Madigan
Byron	Gilman	Manton
Callahan	Gingrich	Markey
Carney	Glickman	Marlenee
Carper	Goodling	Martin (IL)
Carr	Gordon	Martinez
Chandler	Gradison	Matsui
Chapman	Gray (IL)	Mavroules
Chappell	Gray (PA)	Mazzoli
Cheney	Green	McCain
Clay	Gregg	McCandless
Coats	Guarini	McCloskey
Cobey	Gunderson	McCollum
Coble	Hall (OH)	McCurdy
Coelho	Hall, Ralph	McDade
Coleman (MO)	Hamilton	McGrath
Collins	Hammerschmidt	McHugh
Combest	Hansen	McKernan
Conte	Hatcher	McKinney
Cooper	Hawkins	McMillan
Coughlin	Hayes	Meyers
Courter	Hefner	Mica
Coyne	Hendon	Michel
Craig	Henry	Mikulski
Crockett	Hertel	Miller (CA)
Daniel	Hiler	Miller (OH)
Dannemeyer	Hillis	Miller (WA)
Darden	Holt	Mineta
Daschle	Hopkins	Mitchell
Daub	Horton	Moakley
Davis	Howard	Molinari
de la Garza	Hoyer	Mollohan
DeLay	Hubbard	Monson
Dellums	Huckaby	Montgomery
Derrick	Hughes	Moody
DeWine	Hunter	Moorhead
Dickinson	Hutto	Morrison (CT)
Dicks	Hyde	Morrison (WA)
Dingell	Ireland	Mrazek
DioGuardi	Jacobs	Murtha
Dixon	Jeffords	Myers
Natcher	Saxton	Swift
Neal	Schaefer	Swindall
Nelson	Scheuer	Synar
Nichols	Schneider	Tallon
Nielson	Schroeder	Tauzin
Nowak	Schuette	Taylor
Oakar	Schulze	Thomas (CA)
Oberstar	Schumer	Thomas (GA)
Obey	Seiberling	Torres
Olin	Sharp	Torricelli
Ortiz	Shaw	Towns
Oxley	Shelby	Traxler
Packard	Shumway	Udall
Panetta	Shuster	Valentine
Parris	Sikorski	Vander Jagt
Pashayan	Sisisky	Vento
Pease	Skelton	Visclosky
Penny	Slattery	Volkmer
Pepper	Slaughter	Vucanovich
Petri	Smith (FL)	Waldon
Pickle	Smith (IA)	Walgren
Porter	Smith (NJ)	Walker
Price	Smith, Denny (OR)	Watkins
Pursell		Waxman
Quillen	Smith, Robert (NH)	Weaver
Rahall		Weber
Ray	Smith, Robert (OR)	Wheat
Regula		Whitehurst
Reid	Snowe	Whittaker
Richardson	Snyder	Whitten
Ridge	Solarz	Williams
Rinaldo	Solomon	Wilson
Ritter	Spence	Wirth
Roberts	Spratt	Wise
Robinson	St Germain	Wolf
Rodino	Staggers	Wolpe
Roe	Stallings	Wortley
Rogers	Stangeland	Wright
Rostenkowski	Stark	Wyden
Roth	Stenholm	Wylie
Roukema	Stokes	Yates
Rowland (CT)	Strang	Yatron
Rowland (GA)	Stratton	Young (AK)
Russo	Studds	Young (FL)
Sabo	Sundquist	Young (MO)
Savage	Sweeney	Zschau

NOT VOTING—27

Barnard	Edgar	Moore
Barnes	Flippo	Owens
Bateman	Fowler	Roemer
Bliley	Gephardt	Rose
Breaux	Grotberg	Rudd
Brooks	Hartnett	Smith (NE)
Burton (CA)	Kindness	Tauke
Campbell	MacKay	Weiss
Clinger	Martin (NY)	Whitley

□ 1215

Messrs. WALDON, ENGLISH, SEIBERLING, and MARLENEE changed their votes from "yea" to "nay."

Mr. STUMP changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 3810, IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1985

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 580 is a modified open rule providing for the consideration of H.R. 3810, the Im-

migration Control and Legalization Amendments of 1986.

The rule provides 2 hours of general debate, with 1 hour allocated to the Committee on the Judiciary and 15 minutes each to the Committees on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means. In each case, the committee's time will be equally divided and controlled by the chairman and ranking minority member of the committee.

Mr. Speaker, the rule provides that the text of H.R. 5665 will be considered as original text for the purpose of amendment. H.R. 5665 incorporates many committee and individual amendments that were presented to the Rules Committee when it first began consideration of a rule in immigration reform.

The rule waives sections 302(f) and 303(a) of the Budget Act against consideration of the bill and against the substitute. It also waives clause 5(a) of rule XXI against consideration of the substitute.

Clause 5(a) of rule XXI prohibits appropriations in a legislative bill. The bill provides for 100-percent reimbursement to States for costs associated with the implementation of the systematic alien verification for entitlement program which would become effective immediately upon enactment. That provision constitutes an appropriation in a legislative bill.

Section 302(f) of the Budget Act prohibits consideration of legislation which provides new discretionary budget authority, new entitlement authority, or new credit authority which exceeds the allocation of budget authority under section 302(b) of the Budget Act allotted to the subcommittee having jurisdiction over the legislation. H.R. 3810 includes a number of provisions that make budget authority available immediately upon enactment. These include compensation for the appointment of a special counsel to investigate immigration-related unfair employment practices and a requirement that the Federal Government reimburse States and localities for the costs of incarcerating illegal aliens and certain Cuban nationals. Since no allocation of new discretionary budget authority was made to the Judiciary Committee for fiscal year 1986, no measure would be in order within the jurisdiction of the Immigration Subcommittee which provides new budget authority for the current fiscal year.

Section 303(a) of the Budget Act prohibits consideration of legislation which contains new entitlement authority for a fiscal year until the budget resolution for that year has been adopted. One provision of the bill provides new entitlement authority for education assistance for institutional reimbursements which will first take effect in fiscal year 1988. The bill also provides that individuals who are legalized under its provisions are to be ineligible to receive most forms of public assistance for the 5-year period starting from the date of legalization. Entitlement to benefits for such individuals will first occur in fiscal year 1991. Since both of these provisions constitute entitlement authority which first becomes effective in a fiscal year for which, quite obviously, no budget resolution has been adopted, they violate the provisions of section 303(a) of the Budget Act.

Mr. Speaker, the Rules Committee hesitates to grant waivers of the Congressional Budget Act. In this situation, however, the committee felt that the waivers included in the rule were justified in order to allow the House to work its will on the product of our committees who have found these entitlement programs to be necessary elements of a complete and responsible immigration reform package.

Under the provisions of the rule, no amendments are to be in order to the substitute except for 14 amendments which are printed in the report which accompanies the rule. The amendments are not amendable nor shall they be subject to a demand for a division of the question. Debate time for each amendment is specified in the report and in each case is to be divided equally between the proponent of the amendment and an opponent. Pro forma amendments are not allowed under the rule. The amendments must be offered in the order specified in the report and only by the designated Member, or in the case of a committee amendment, by the chairman or his designee. The rule also waives all points of order against the amendments made in order under the rule.

The rule also provides for one motion to recommit the bill. The motion to recommit may not contain instructions.

Mr. Speaker, to allow the House to go to conference, the rule makes it in order to take S. 1200 from the Speaker's table and to consider the bill in the House. The rule waives sections 302(f) and 303(a) of the Budget Act against consideration of the Senate bill. The rule makes in order a motion to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 3810 as passed by the House. Clause 5(a) of rule XXI and sections 302(f) and 303(a) of the Budget Act are waived against that motion.

The rule makes in order a motion that the House insist upon its amendment to S. 1200 and request a conference with the Senate thereon.

The rule provides for consideration in the House of a House bill consisting of the text contained in section 2 of this resolution. This bill will extend until January 1, 1993, the exemption from the Federal unemployment tax for H-2 workers. All points of order are waived against consideration of the bill. The bill will be offered by the chairman of the Committee on Ways and Means or his designee. Debate on the bill is limited to 10 minutes, which will be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means or their designees. And finally, the rule provides for one motion to recommit which may not contain instructions.

□ 1225

Mr. Speaker, as Members will recall, 2 weeks ago the House defeated the rule which would have provided for consideration of this issue. Some Members felt at that time, not entirely without reason, that that rule was not as fair as it could have been because it did not allow amendments to the particularly difficult and complex solution contained in the bill to the agricultural worker problem.

That issue has now been resolved to the satisfaction of the principal Members on both sides of that issue and on both sides of the aisle, and these Republicans and Democrats alike who have been most involved and active on this legislation believe they have now drafted a bill that will meet with the approval of the majority of the Members of this House. They deserve our thanks and commendation for staying with this most important issue and for reconciling their differences and coming back to us with a bill that will, if passed and signed by the President, go a long way toward solving the vast and growing problem of illegal immigration in the United States. We should allow them the opportunity to bring that bill before the House.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. Before yielding to the gentleman from Mississippi [Mr. LOTT] I am happy to yield to my friend, the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding. I would sure like to understand the fairness of the rule that you are proposing. I fail to see any fairness in it, but perhaps I am mistaken. Maybe you can explain the fairness of the rule by answering the following question:

It is my undertanding that in the first hour the Committee on Agriculture will have 7½ minutes on one side and 7½ minutes on the other side. Is that correct?

Mr. BEILENSON. The first hour under general debate, as the Members recall, will be devoted to the Committee on the Judiciary which has 1 full hour. Thereafter, as the gentleman points out, each of the other four committees of jurisdiction will have 15 minutes to be equally divided between the majority and minority.

Mr. ROYBAL. Fifteen minutes for each of the committees of jurisdiction, which will take the full hour; is that not correct?

Mr. BEILENSON. That is correct.

Mr. ROYBAL. In other words, 1 full hour will be devoted to the Committee on Agriculture, to the Committee on Education and Labor, to the Committee on Energy and Commerce, and to the Committee on Ways and Means?

Mr. BEILENSON. That is correct. Those four committees together have 1 hour of general debate.

Mr. ROYBAL. There is an hour left, and there are 435 Members of this House. I do not know whether my arithmetic is correct, but if each one were to speak on this subject matter we would have .0015 of a second, of 1 second, to speak on this subject matter. I see no fairness in this.

Now does the gentleman really believe that Members of this House would not be interested in participating in this debate?

Mr. BEILENSON. As the gentleman well knows, we always limit to some extent or another the amount of time for general debate. People who are most focused in and concerned about amendments will later have the opportunity to address the House.

Mr. ROYBAL. Will the gentleman continue to yield?

Mr. BEILENSON. If the gentleman will allow me to respond further for a moment——

Mr. ROYBAL. First of all——

Mr. BEILENSON. If this gentleman may respond for just another moment, may I say to my friend, and then I will be happy to yield further, the ranking minority member and the chairman of each of these committees agreed to that amount of time for general debate. The major committee of jurisdiction, the Committee on the Judiciary, has a full hour, and it was agreeable to all of the Members involved from the four other committees that they would share 1 hour.

Mr. ROYBAL. That agreement, of course, was an unfortunate thing to have taken place. But that is not the point at this part of the debate.

I still want to be sure that I understand the fairness of the rule. The gentleman probably remembers that 6 years ago we had an open rule. He also probably remembers that 2 years ago we had 10 hours of debate. Now it is cut down to 2 hours of debate with 1 hour given to members of the committee, and then the rest of the House has 1 hour to participate in a debate that is going to affect millions of people in the United States.

I do not find that to be very fair. Do you?

Mr. BEILENSON. This gentleman never said anything about fairness with respect to this rule. This gentleman, in fact, said that some Members felt the rule defeated a couple of weeks ago was not so fair as it could have been, and this gentleman agreed. But we are faced by certain constraints, as the gentleman from California well knows, and if we had some help from certain Members on this floor at an earlier time, there obviously would have been a great deal more time for both general debate and debate on amendments on this particular bill.

A lot of Members, including myself, have been urging that we get the bill to the floor earlier so that we could have had full and complete time for debate. A lot of folks, including people this gentleman will not name, have been opposed to that, and it has made it very difficult for us with a couple of days left in this session to have adequate time for this or any other legislation.

Mr. ROYBAL. Will the gentleman continue to yield?

Mr. BEILENSON. Of course, I yield to the gentleman from California.

Mr. ROYBAL. I think the gentleman is incorrect in the statement he has made if he is making reference to any one of us here on the floor. The truth of the matter is that all these deliberations and all of these deals took place in a closed session when even after we offered to be of assistance in any way that we possibly could we were not permitted in the room.

Let me finish the statement. So no one can say that there was no one that maybe opposed this piece of legislation that did not try in some way to bring about some semblance of fairness in bringing a proper rule to this House.

Now there is a great deal of difference between 10 hours of debate 2 years ago and 2 hours now and then reducing that to only 1 hour for the Members of this House to debate. When you have fifteen-hundredths of 1 second for each Member to debate this rule, I think that that is somewhat ridiculous.

Mr. BEILENSON. The Rules Committee, I would say to the gentleman from California, was hopeful that not every Member would speak for that one fraction of a second.

The gentleman is consuming all of my time, and perhaps the gentleman who apparently may not be in support of the rule could request additional time from the folks on the other side.

Mr. ROYBAL. If I may remind the gentleman, when this was on the floor before I could not get time from this side, I had to go to the other side.

Now whatever the situation is, it seems to me that the rights of the Members of this House are being violated in this rule. These secret meetings, these deals that were made with the other side, the sessions that have been held to the point where a conference that is supposed to take place after the legislation has passed, that conference has already taken place, and now you put into this piece of legislation 32 additional amendments that no one knows anything about. Then you expect the Members of this House to say yes, we agree.

Mr. BEILENSON. Including some amendments the gentleman himself requested.

I take back my time. I must take back my time in order to yield to the gentleman from Mississippi [Mr. LOTT], because we have virtually run out of time.

The SPEAKER pro tempore. (Mr. KILDEE). The gentleman from California [Mr. BEILENSON] has consumed 13 minutes.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to inform my colleagues that the immigration reform bill has risen phoenix-like from the ashes and that it may actually take wing and soar to passage this time around. And it's all due in large part to the persistent and bipartisan efforts of the chairmen and ranking minority members on the Committee on Judiciary and its Subcommittee on Immigration—namely, Representatives RODINO, FISH, MAZZOLI, and LUNGREN; and to the efforts of those Members involved with the farmworker issue—Representatives SCHUMER, PANETTA, MORRISON, and BERMAN.

I am especially pleased that we are here today crediting these Members with the rebirth of the phoenix instead of trying to affix blame for the death of Cock Robin. I think it's testament to how the spirit of bipartisanship, working in the national interest, can triumph, even in the chaotic and contentious final days of a Congress.

Mr. Speaker, House Resolution 580 is a modified open rule providing for the consideration of H.R. 3810, the immigration bill. The rule provides for 2 hours of general debate, with 1-hour allocated to the Judiciary Committee, and 15-minutes each to the Committee on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means.

The rule makes in order an amendment in the nature of a substitute which is the text of the new bill, H.R. 5665, introduced by Representatives RODINO and FISH. Appropriate points of order are waived against both the reported bill and the substitute.

I would point out that new substitute folds in some 32 amendments, whereas the substitute made in order by the previous rule had folded in some 23 amendments as part of the original text. Each of the 14 amendments made in order by this rule are subject to specified time limits of 10 or 20 minutes each, for a total of 4 hours.

So, what we have in this new rule is an abbreviated process that will consume 6 hours in general debate and amendment time, compared to 13

hours under the old rule. This is made possible because 11 of the amendments made in order for separate votes under the previous rule are now incorporated in the original text; 8 amendments have been dropped, mostly with the concurrence of their sponsors; and debate time has been further curtailed on some amendments.

Mr. Speaker, I realize that this slimmed-down rule does not allow us as much debate or as many votes as we might want. Ideally, I would prefer a wide-open amendment process. But time constraints just don't permit that. Moreover, we have a bipartisan procedural agreement here that helps to ensure that most major issues will be debated and voted. So I think this is a reasonably fair and workable process.

Mr. Speaker, the main hangup under the previous rule was the farmworker provision and the fact that a major alternative, the Lungren amendment, was not allowed to be offered.

I am pleased to report that the new bill includes in its text a compromise on the agricultural worker issue that has been worked out between all the principals involved, including Senators SIMPSON and WILSON and both grower and labor interests. It is essentially a hybrid of the Schumer and Lungren alternatives and establishes a two-tier system for admission as special agricultural workers. I will let the sponsors explain the compromise in greater detail later. I simply want to commend them on staying with this and resolving their interests to the acceptance, if not complete satisfaction, of all concerned.

Mr. Speaker, another bone of contention in the previous rule was the incorporation of the Moakley provision granting extended voluntary departure status to illegal immigrants from El Salvador and Nicaragua. Under the previous rule that provision was made part of the substitute, without a separate vote. Under this rule, a motion to strike it is in order

Finally, Mr. Speaker, you may recall that one of the objections we had to the previous rule was that it denied the majority its traditional right to recommit the bill with instructions. I tried once again to restore that provision and again failed in the Rules Committee caucus. And while I am upset that we have been denied that opportunity, I think its exclusion is less objectionable under this new, bipartisan procedure.

Mr. Speaker, I think it is fair to say that neither the rule nor bill does everything I would like to see; and I am sure that is true for most Members on the other side of the aisle as well. But, I think we have to step back and look at the big picture; and, on the whole, I think you will see that this is about the fairest and most practicable procedure and bill that we are ever going to get. I fear that if we let this opportunity pass today, it may not come our way again in the next Congress, even though the immigration problem will be bigger and more intractable next year than it is now.

Mr. Speaker, it's easy for us on the sidelines to second guess those responsible for this legislation and dismiss or criticize their efforts because we aren't pleased with one aspect or another of this legislation. But, as imperfect as this bill may be, and I'm hopeful we can improve it by amendment and in conference, the fact remains that this is an issue whose time has come, and which we must deal with now. This legislation has been worked and reworked over three Congresses involving thousands of hours on the part of Members and staff from both Houses and both parties. This is truly one of those issues which cries out for a national consensus and action. We have that within our grasp today. Let's not let it slip through our fingers.

I urge adoption of this rule so that we can proceed to the consideration of this most critical piece of legislation.

□ 1235

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished minority whip for yielding to me.

I am enthralled by the gentleman's argumentation. I sat here and listened the last time when he was straining the rules to object vociferously to the rather authoritarian procedures that had resulted in what he considered to be an unfair rule.

The same gentleman he is praising this time was the one that the gentleman was complaining of for attempting to foist an unfair rule.

Mr. LOTT. Well, Mr. Speaker, if I may reclaim my time, I commended the gentleman from California [Mr. BEILENSON] even at that point for his efforts. He came close, but no lollipop. I certainly was not critical of him even at that point.

Mr. GONZALEZ. I will correct the interpretations of my memory of that set of circumstances; but the gentleman now says that, "It's all right to have 'Star Chamber' proceedings."

The gentleman knows as well as I that the Rules Committee met in secret: Star Chamber. It denied anyone of us any access to its proceedings. We wrote the chairman of the Committee on Rules a long time ago, after the defeat of the last one. We conversed personally; asked to be heard; asked to have access.

The gentleman cannot say that this rule did not come out of "Star Chamber environmental protection." So that the gentleman is saying to us that as long as he, the minority, give their imprimatur to this tactic and have a party to it, it is OK. But when they feel they are shunted out of it, well, then, it is not OK.

What I am telling the gentleman is, that we agreed with you the last time; we are still a minority on this issue. Under the rule we will be denied any time, if we are in opposition to this bill and this rule.

I just wanted to point out the inconsistencies in the gentleman's argumentation.

Mr. LOTT. Mr. Speaker, I think that the gentleman is certainly justified in doing that; I do think that this is a fair rule. It was reported out in an open meeting of the Rules Committee, but I want to make this point:

There are those here in this Chamber that want no immigration bill, period. I am not one of those.

Mr. GONZALEZ. Neither am I.

Mr. LOTT. Well, there are others that have allowed this process to drag on and on and on with the hopes that it would die in the end just because we could not move it through the House or through the conference, and this is our last gasp.

The gentleman from California was summarily unfairly treated last time; he has met with those on that controversial issue, the Schumer amendment, they have worked out something as best they could, and I think that, all things considered, it is the best we are going to be able to do.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I do not think the Rules Committee got the lollipop on this rule, either. They got a can of castor oil and they are trying to have all of us gulp it down and get this bill passed.

I support immigration reform. I do not think this bill is immigration reform. This bill is really the triple amnesty bill. First we have regular amnesty for illegal aliens who have been here since January 1983; much more generous than the Hessberg Commission recommended.

Second, the bill has Moakley-DiConcini amnesty for Salvadorians and Nicaraguans; and third, the bill has Schumer amnesty for temporary agricultural workers who have been here, working for some time during the last 3 years.

Now I would like to see an immigration bill come up, but I think that since this is our one opportunity, we had better do it right, and this rule does not allow the membership of the House of Representatives to do it right.

I am going to ask the membership to vote down the previous question so that I can offer an amendment to the rule which first will allow a motion to strike the Schumer provisions. There

is no motion to strike allowed in this rule; so that way, if you vote for immigration reform, you vote for legalizing all of these people who have come into our country to temporarily serve as agricultural workers, and granting them permanent residence eventually means that they will be able to petition in their relatives and Lord knows how many more aliens will come into the country.

Second, I think that certain issues that are made in order by the Committee on Rules, such as my amendment to strike the Frank antidiscrimination provisions and the amendment of the gentleman from Florida [Mr. McCOLLUM] to strike the legalization program, really deserve more than 20 minutes debate, because they are very serious changes in policy.

My purpose is not to filibuster; I think that 30 or 40 or 60 minutes of total debate will allow everybody who wants to be heard on these questions to be able to speak their peace, and for the House to vote thoroughly informed; but the 20-minute restriction on these types of amendments certainly is not going to allow the debate to take place that really ought to.

So I would hope that the membership would vote down the previous question so we can get a proper rule to pass true immigration reform rather than the triple amnesty bill which this rule practically forces us to vote on.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished, knowledgeable gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me the time, and I hope I am as knowledgeable as the gentleman says I am.

Mr. Speaker, I rise in support of the rule and I urge its adoption by the House so that we can get on to the long-awaited task of voting on immigration reform.

Let me salute briefly three people who had a lot to do with the fact we are here today. One is my friend from California [Mr. BEILENSON] who from the start has been a stalwart supporter of ours on the Rules Committee, to get that job done.

□ 1245

Our chairman, Chairman PEPPER, and the gentleman from Mississippi, Mr. LOTT, who while he has had some disagreement here, has always been willing to talk with us about the issue and try to bring it up. The gentleman from Mississippi said something about this is the last gasp. In my notes I have here the term eleventh hour. We have heard always that this is the eleventh hour, meaning that we are on the borderline of not getting something done. Actually, this is the eleventh-and-a-half hour, we are even beyond the eleventh hour. Therefore, if—and I join my friends from Texas and California saying I wish we had a different procedure here—the fact is we are where we are and we will not even debate the bill unless we take this procedure.

Two weeks ago when we had the earlier rule with some reluctance and lack of enthusiasm, I supported the committee's rule. It was a decent rule. This is a much better rule. Two weeks ago we had 32 amendments that would have been somehow debated on. Now we have, I believe it is, 14 that are made in order which means we have a much narrower focus, which is the way we should.

Second, 2 weeks ago my biggest problem was with the Schumer-Berman-Panetta compromise, and that was modestly attended to by the Rules Committee having made five areas of change in that bill as it was reported by the Judiciary Committee. This rule before us today has very substantively changed the Judiciary version of the Schumer-Berman-Panetta compromise.

As you will remember, the original Schumer proposal called for immediate green cards, immediate permanent residency for these temporary agricultural workers.

This is not the case anymore. No agricultural worker gets an immediate green card.

Second, I argued at the committee unsuccessfully about the question of disabilities, disability from various forms of public welfare which we disable with respect to the underlying group of legalization applicants.

In this committee version these people are disabled from most forms of public assistance, which is proper.

The committee continues the recruitment provision which says, at my instance, that domestic workers will be recruited first before you go to a pool of undocumented foreign workers.

Furthermore, the man-day which could have been originally as few as 1 hour a day and was as little as 60 man-days, is now at least 4 hours and at least 90 man-days before an individual can qualify for this temporary residency.

The sunset which was in the committee something like 20 years was reduced to 12 years at my request by the original rule, is now down to 7 years in this rule, only 3 years of which is going to be in the area of replenishment.

I am frankly still not totally comfortable with the Schumer proposal. I think the premises, the dual premises of immediate residency whether temporary or permanent, and then a very long-range abundant supply of labor for the agricultural interests is, I think, a little unbalanced. But given the situation where we are today and given the good-faith negotiations which took place ardently over the last couple of weeks since the defeat of the earlier rule, I think the House without question support the efforts of the committee today. I think the House can at the end of the day, whenever that is, support the committee bill, and I think we will go on to a better day for true immigration reform.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding me this time to discuss this. The rule before us today is a lousy rule. And the agricultural provisions that are in this bill that would be adopted if we adopted this rule are lousy provisions, and I do not blame anybody for voting against this rule, but I do plan to vote for it nonetheless myself.

Now, after I have said all of that, you wonder what is so terrible, and why am I doing that? I think this is a terrible rule, frankly, because it is still a gag rule, it is still a closed rule as to these agriculture provisions. There are no opportunities to offer amendments, and those agriculture provisions are bad, bad provisions. First of all, there is no opportunity to offer amendments even to the H2 section to strike out such things as the, first time in the history of our program, granting Legal Services Corporation lawyers to the temporary workers who have come into this country under contract and who have already the opportunity for legal counsel under those contracts. But most of all, it is not just the minor amendments that concern me, it is the so-called Schumer, modified Schumer compromise that has been worked out that is still bad.

The Schumer provision as modified is still bad because it is unconditional, because it is open-ended and because it is unfair. It is unconditional no matter what hoops have to be gone through, as you will hear described throughout this debate today; it is unconditional because only a period of time has to pass once you have been granted status and been in this country for 90 days and come forward and be shown that you have in the last year to be eligible to get into the pipeline to be a citizen; it is unconditional only because a period of time has to pass before you get that permanent resident status and before you are eligible to become a citizen. There is no requirement that you have to work in the fields anymore, or whatever.

It is unconditional for anyone who is in the replenishment area for all practical purposes. They are in the hoops, too. It is open-ended in the sense that there is no cap on the number of workers who can be let in under the 90-day provisions. That is, if anybody worked in agriculture within 90 days within the year specified, May 1, 1985, to May

1, 1986, and they can prove it under the documentation required in this bill, they can come in. There is no cap, there is no limit on the numbers of people involved. And of course there is no limit on the number of people who will be able to come in as their relatives as they gain status that makes them eligible to bring relatives into this country. It is unfair because we are talking about separating out the agricultural workers industry while the dishwashers and the factory workers who are illegal aliens that we are going to grant amnesty to, that I do not agree to doing but would be under other portions of this bill, do not get the same treatment. They have to have been here since January 1, 1982.

But I am voting for this rule nonetheless. I am voting for it partly out of deference to my good friend and colleague, Mr. LUNGREN, who has worked so hard to get a compromise, and this is somewhat of a compromise. I am voting for it partly because I think we should debate this whole matter. But mainly I am voting for this rule because, despite all of the reservations I have about this, I am most concerned about the numbers of people illegally coming into this country, about the need to close our borders, about the absolute necessity to have employer sanctions. And I do not know any other opportunity we are going to have in this Congress to address those matters if we do not vote for this rule.

So despite all my reservations, I am voting for the rule.

Mr. GONZALEZ. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER pro tempore (Mr. KILDEE). The Chair does not entertain the gentleman's point of order at this time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. I thank my colleague from California for yielding these 2 minutes to me.

This is like Rasputin; immigration refuses to die. It comes up again and again and again. There is a great deal of frustration on this side in this Chamber, both for those who favor immigration and for those who are opposed to immigration.

Just let me say one thing to the Committee on Rules: I would like them to know that I am appreciative that the sunset for sanctions has become part of this legislation. I also thank them for making certain that the Bureau of the Census is taken out of the provisions of the confidentiality of the upcoming census of 1990, will not be jeopardized by this legislation.

I say that because I think there were two meaningful entries into the rule.

Now, having said all of that, I want to make it very clear I think that the debate on immigration has to take place. I think it is essential. I think there are people in this Chamber who have consistently been criticized editorially, and groups, racial groups in this country criticized for saying that they are against immigration. We are not against immigration, we are against discrimination. It is back to employer sanctions where I lead myself, I want to make it very clear that sanctions as written into this bill will be detrimental to those people of color, those people who speak with an accent. I am going to vote for the rule because the debate must take place, but I am not going to vote for final passage of the immigration bill for those reasons.

Now, having said that, I want to make it very clear that the employers who are watching this show today will end up being the judges and juries of people who come to their offices for employment. It is a heck of a burden to put on American industry.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in support of the rule today. We must simply do something to stem the tide of illegal immigration. I take this time to remind my colleagues that in 1982 we brought this measure to the floor at 10 p.m. one Thursday night, and again at 10 p.m. on Friday night shortly before Christmas. It failed of passage. In 1984, we debated this measure for a full week, 8 to 10 hours a day, then had 10 days of conference. Then it floundered and died.

Now the gentleman from California, who I greatly respect, opposes this measure, and that is his perfect right. But he now says that we have inadequate time for debate under this rule. In 1984, the same gentleman put over 100 amendments into the RECORD in an attempt to kill this bill. We debated those amendment with no time limitation whatever and succeded in frustrating the legislative process.

I submit, speaking of frustration, to those gentlemen who are Members of the majority party, who almost always support closed rules, you now understand the frustration and time limitations that those of us in the minority suffer under almost every day around here. I sincerely hope the gentleman will remember that at other times in the future.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I will yield if time permits.

The SPEAKER pro tempore. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

Mr. GONZALEZ. Since my name was mentioned, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman has expired.

The gentleman from California [Mr. BEILENSON] has 11 minutes remaining.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. I thank the gentleman for yielding.

Mr. Speaker, this is, well I say to my colleagues it could be slicker than the great train robbery.

This rule is a new face on an old dog, but it will not hunt.

The gentleman from Wisconsin [Mr. SENSENBRENNER] is going to offer a motion or will require that we have a chance to vote down the previous question. I intend to support the gentleman's request. I do so with a heavy heart for a number of reasons. I do think it is time that we voted, I do think there will be a rule granted and I do think we ought to have our debate and much of what has been said I find myself in agreement with.

But we do not change what we had in the previous rule too much from what we have in this rule. There have been some compromises that I favor, the adding of the motion to strike, the amendment on extended voluntary departure, I think, is an improvement in the rule. The question of allowing a motion to recommit is an improvement but it does not offer a motion to recommit with instructions. But we were denied the very thing that my friend from California, Mr. LUNGREN, sought in the beginning, the one significant intellectual improvement in the bill was an opportunity to strike the rolling legalization provisions contained in the Schumer-Berman amendment.

There can be no doubt about it that this rule allows us the opportunity to say "no" to the question of granting people who have been here for even less time than would be granted amnesty under the general provisions of the bill, 3 years under bucket No. 1 and 2 years under bucket No. 2, if they worked in agriculture, the opportunity to become citizens of this country within a 6-year period of time.

If you voted against the previous question last time and if you voted against the rule last time, and if you voted against the bill, you would be casting three "no" votes that in my opinion are justified today.

There is no logical reason of substance to distinguish your "no" votes on the motion with regard to the previous question or the motion with regard to the rule the last time, from the same two opportunities you will have today to vote "yes" or "no."

The rule today is more restrictive. It folds into the bill itself upon the adoption of the rule a number of things that ought to have been debated that were made in order under the previous rule: the Bryant amendment to restore language that would allow debate on a Social Security validation system; the

Richardson amendment on the reduction of penalties for first-time offenders who hire illegal aliens and excepting small business from sanctions; the Lungren amendment on two-tiered legalization; the Richardson amendment on the mandate that State education agencies include English; the Dymally amendment on naturalization for certain Filipino war vets. A number of things are not going to be able to be debated that ought to be debated under this rule. So the rule is indeed more restrictive, not only in time but in terms of substance, the content of what we would have had the opportunity to debate.

What was the rule, is not now in the rule; new things are included and some things are folded into the bill automatically that will not be debated.

But I wanted to spend the rest of the time on my most serious objection to the way in which we proceed. That is the question of amnesty; 20 minutes are provided under the Lungren amendment, 10 minutes on a side. Within 3 to 5 years each alien who has been given amnesty will be eligible for citizenship. At that point in time under the legal immigration rules in th country every mother, father, sister, spouse of each and offspring thereof will be eligible for immigration into this country.

□ 1300

That has been referred to in a number of articles by a number of scholars as the impacting problem of chain migration. Michael Teitelbaum has referred to it as the "echo effect." The echo effect, the chain migration, the function of taking 10 million of those undocumented persons who are in this country, 65 percent of whom will come forward when a legalization program is offered, and then allow them to get their green card, then to become a citizen, then to bring in all of their other relatives, puts an explosion into the population control problem we face in this country of somewhere between 30 and 70 million new citizens within a 10-year period of time if this bill becomes law.

I think that costs of that to local governments will be severe and strain them indeed for education, for welfare and for other benefits that those folks would need. I think that because our economy is moving through such a rapid technological change, we are going to have to require greater amounts of education, and we cannot get that done.

So for those reasons, I am going to have to support the gentleman from Wisconsin and urge a "no" vote on the rule, and ask that you consider voting "no" on the bill itself.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the rule for two reasons: First, because the time has come to bite the bullet on immigration reform, and, second, this rule will permit 5 million, 8 million people to come out of servitude, out of the shadows, and this may be the last chance we have to do that.

Some of us Hispanic Americans have found it necessary to oppose passage of the immigration bill in the last Congress, while others chose to support it. But we are united in our concern about discrimination that could result from employer sanctions and the enactment of an abusive guest-worker program.

We think that the legalization provisions are sound in this bill. The elements of acceptable immigration reform, some believe are at hand. I hope we can support an immigration reform bill after this debate.

However, such a bill must contain the following provisions, virtually all of which have already been approved by the House Judiciary Committee and the Rules Committee.

First, the Frank amendment; this redress system for victims of discrimination passed the House by a vote of 404 to 9 in the last Congress. This provision is currently in the bill and reflects a compromise agreed to by the Senate in the last session of Congress. Further compromise cannot be permitted.

Second, sunset on employer sanctions; I share the concern about employer sanctions, that they might bring discrimination, that they might not work, that they might be burdensome on employers. Any legislation adopted by the House should contain a sunset provision. This is in the bill under the rule, the Garcia amendment. This measure is absolutely critical to ensure that Congress review the potential discriminatory effects of this program before permanently mandating a sweeping and untested new law.

Third, judiciary legalization. The legalization program approved by the committee contains a 1982 eligibility date. It is the only legalization program currently under discussion that is sufficiently generous and workable. It will free 5 million people from the shadows, from bondage. They deserve this treatment of earning their citizenship. It is time somebody stood up for them.

Fourth, foreign agricultural workers. Foreign agricultural workers should not be admitted to the United States without the following guarantees: First, that there be no adverse effects on American workers; that foreign agricultural workers may remain in the United States with guaranteed legal status; that agricultural workers will be afforded full protection under Federal and State constitution and laws. I believe that as flawed as it is, the Schumer compromise is the best we can get, and we should give it a try.

Fifth, Salvadoran and Nicaraguan refugees. The rule allows for a shot at this issue. Continued violence in El Salvador and Nicaragua illustrates the urgent necessity for enactment of this provision. Let us treat Salvadoran and Nicaraguan refugees the same way we treat everybody. And we need a new definition of political refugees.

This rule also contains in the enrolled bill a provision that is fair and just to Cuban political prisoners.

The bill also contains a provision that deals with border revitalization. The biggest problem we have is not having had a dialog with Mexico. Economic development at the border must take place to stem immigration. This provision in this rule allows for substantive legislation that deals with a better dialog with Mexico.

I urge support of this rule.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the rule is not all we might desire, but the opportunity to deal with the immigration even this late in the session overcomes the negatives.

My major concerns are with the farmworker provisions. The gentleman from California [Mr. PANETTA] and I feel a distinct obligation to all of you who supported us in 1984 to bring you an agricultural program that meets both the needs of farmworkers and farmers.

This rule provides for and protects a compromise to be supported by the chairmen from both bodies all the way through conference. This seems to be the answer to one of the major arguments over immigration reform.

So I urge my colleagues to support the rule, and let us proudly, if not perfectly, get this immigration behind us.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in opposition to the proposed rule controlling debate of H.R. 3810, the immigration reform legislation.

While I generally object to the use of House parliamentary procedure to defeat a piece of legislation, I must object to the rule in its present form as being too restrictive of debate on the issues and not being available in a timely fashion to Members for careful analysis.

The rule before us today was crafted late last night behind closed doors after virtually no testimony or input from many of us in this body which may have proven quite constructive in nature. On a major piece of legislation such as immigration reform, it is inconceivable that Congress would be forced to pass judgment on this measure under such severe time

restrictions and in such a hurried manner. This is no way to conduct business and it is certainly no way to intelligently evaluate the variety of issues inherently raised by this bill.

Mr. Speaker, I must also object to the fact that although debate on this measure has already begun, Members have still not yet been provided copies of the legislation or the amendments we are supposed to be voting on. Thirty-two amendments, the contents of which many of us have not seen, are made part of the original text of the bill. This highly unusual procedure is in violation of the 3-day rule as well as the printing rule. These are not rules for the sake of having rules, but are instead designed to prevent situations exactly like this one in which legislation that no one has read gets pushed through at the expense of the public's right to a free and full debate.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I would simply like to make one point, and that is immigration reform is easy to kill, hard to keep alive.

It will be very easy to vote "no" on a whole number of measures today and end our last chance to get fair, humane, decent, and real immigration reform. We can kill it one way, we can kill it another way, and we can kill it a third way.

But what I have seen in the last 2 weeks has been nothing short of utterly remarkable. I have seen people on both sides of the aisle, people from different parts of the country, people of different ideologies, age groups, and persuasions, pulling together because they did not want to let this bill die. The easy route would have been to just let things fall by the wayside as they were falling 2 weeks ago and then 1 week ago again. The easy thing to do would have been to say, I did not like paragraph 37(b), I am out.

That did not happen. The members of the Rules Committee, the members of the Immigration Subcommittee, the courage of my colleagues, Mr. BERMAN and Mr. PANETTA, the decency and desire for a bill of the gentleman from California, Mr. LUNGREN, and of course the leadership of the chairmen of the committee and the subcommittee, Mr. RODINO and Mr. MAZZOLI, kept this thing going.

We may not win today. There are a lot of pitfalls still left before us. But we have given it our best shot. And if we cannot do it, we can at least say that, in good faith, everyone tried.

To use the phrase of the gentleman from Kentucky, I truly salute all my colleagues. What they have done in the last 2 weeks and in the last year strengthens my faith in this country, in this Congress and in the American people.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

□ 1310

Mr. LUNGREN. I thank the gentleman for yielding me this time.

Mr. Speaker, this is truly a joyous occasion for those of us who work for immigration reform. It has been kind of a rocky road to get here; some people have wondered whether the bill was really a corpse. I guess I described it to somebody as a corpse going to the morgue and on the way to the morgue the toe began to twitch and we started CPR again.

We are here, it is not the best way to be here, but let me just say what I have said on this floor 4 years ago and 2 years ago: As long as we attempt to achieve perfection on this floor we are never going to address immigration reform.

RON MAZZOLI and I have said many, many times that this is not a great bill but it is the best bill we can have. This is not a great rule, but it is the best rule we can possibly have.

I do not happen to think the agricultural approach is the best approach. But I do know that I cannot get the best approach up from my perspective. I know that for any number of reasons. I think the Wilson amendment is preferable, but I know I cannot get the Wilson amendment up here. We have discussed why many, many times.

So the question comes now: Can we do it in the last days of this Congress? In the last two Congresses immmigration reform has been defeated because of time. In a very paradoxical sense, immigration reform may come forward this time because of time. That is, we are in a pressure cooker now. People understand we need immigration reform. More and more Members talk to those of us on the committees involved and say to us, "We need immigration reform. People are talking about it back home." So now folks are in the mood to do it. Since we have a little bit of time, maybe we are not going to be dilatory. Maybe we are not going to be evasive. Maybe we are not going to put it off to some other time, some other day, some other Congress, some other administration.

Remember, what Congress often does is create a commission to study things and then we are going to act on those commission recommendations. That happened in the last administration. I made some partisan remarks about the Carter administration taking this tough issue and doing what Congresses and administrations do, creating a commission and making sure the commission reports after the next election. They did it. But what happened? This commission did good work. This administration took those recommendations and refined them and sent them here. But that commission submitted its report in 1981. Do we want to wait another 5 years?

I asked Members to go down to the border and see what is happening. We are having more violence on the border, we are having more Border Patrol officers assaulted, shot at. We are having more illegal aliens shot at, hurt. Illegal aliens hurting illegal aliens. American nationals hurting illegal aliens. Illegal aliens hurting American nationals and American citizens.

We have got to deal with the problem. The point is we can talk about it, and this is a talking body, there is no doubt about it. But at some point in time we need action.

This is not a perfect bill; this is not a perfect rule. I think we have most of the major amendments allowed here for debate. There are others I would have wished to be allowed; others I wished we could have had an individual debate. I did not get everything that I thought was best; I did the best I could.

I am asking Members on my side to join with the President in his quest to get immigration reform. He has asked us to have immigration reform. No President in the last 20 years has done more to have immigration reform than this President.

This is not precisely what he would draft; it is not precisely what I would draft; it is not precisely what the gentleman from Kentucky or the gentleman from New Jersey would draft, but it is what we have got before us. If we continue in our pursuit of perfection for a rule or a bill, we will defeat the best we can do.

All we are asking the Members for now is give us a "yes" vote on this rule. Do not vote down the previous question. Give us a vote on the rule so we can do the best that is available to us, so we can deal with a bill that is the best that is available to us. That is what I think folks back home expect of us.

We have gotten a reprieve because of other things that are keeping us here in this House. We have got time; let us use this time wisely. Let us deal with this bill.

I happen to think that we have done what is necessary to make the compromise in the area of agriculture workers acceptable. I have to swallow hard for a lot of it, and I will swallow hard, but it is necessary.

For those of you who want legalization I say this is the train. There is no guarantee we will have legalization next time. For those of you who do not like legalization let me just tell you, if we postpone it this time, we will be here 2 years from now and 4 years from now and we all know we will move the date up for legalization if we have it. So if you do not want more legalized, vote for the rule. If you want some legalized, vote for the rule. Let us get on with the business. We need a "yes" vote.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. I thank the gentleman for yielding me this time.

Mr. Speaker, I am an optimist by nature. I hope sometime it will become possible for the Rules Committee to craft a rule that will please, on every occasion, every Member of this House; that would be very gratifying, I can assure you, to the members of the Rules Committee.

We have already, I thought, achieved in respect to this bill, a remarkable unanimity. A little while ago we had the rule up on the floor which was defeated because of the bitter feeling there was over the Schumer amendment between Members of the House on both sides of the aisle.

We also had a bitter disagreement between the minority and the majority; they wanted some things that we were not able to give them, we thought, in the rule. The rule was defeated. Later on, due to the heroic and magnificient efforts of the distinguished chairman of the Judiciary Committee and many of his colleagues, the gentleman from Mississippi [Mr. LOTT] and the gentleman from New York [Mr. FISH] and many others, the distinguished gentleman from Kentucky [Mr. MAZZOLI] and many others, they came to the Rules Committee and said, "We have been able to work out these differences; modification of the Schumer amendment. We brought the two parties together." So the Members of both parties of the Rules Committee met in the chairman's office before our formal meeting. We heard from Mr. LUNGREN, who has made a magnificient contribution. We heard from the chairman of the Judiciary Committee and finally the members of the Rules Committee agreed to go along with this agreement that had been worked out.

Now, it pained me when I came to discovery a little bit later I read the letter from Mr. GONZALEZ to the committee while we were in session. He wanted to be heard. We decided that since the essential agreement had been worked out we were pressed for time in the late afternoon, yesterday afternoon, early evening, that we did not think it was necessary to hear witnesses, but we went on and voted the rule out.

When I learned that my two beloved friends from California, Mr. ROYBAL, and from Texas, Mr. GONZALEZ, felt strongly about this matter, opposed to this rule, I felt very badly about it. I am sorry that they do not agree. But what a remarkable unanimity we do have between the parties and between the factions that have had differences over this matter.

With all my regrets to my distinguished friends, I hope there will be another opportunity when they can be fully heard. Maybe the changes can be made in the statute that will be agreeable to them, but we do need an immigration bill, I believe the majority of this House wants and immigration bill, this country wants an immigration bill. We have got a wonderful opportunity to have it now.

I hope this rule will be adopted and we can enact this measure.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding to me.

Mr. Speaker, the gentleman from Mississippi said it eloquently: If not now, when?

We are in a crisis; we have been in a crisis. In 1972 when this problem first began to fester, 200,000 undocumented aliens were apprehended trying to enter the country. Today, 1986, 14 years later, after having failed to address the problem, nearly 2 million undocumented aliens have been apprehended during this past year coming into the country.

□ 1320

The number who are not apprehended is unknown, though many believe that only one out of every three attempted undocumented entries are detected.

It is estimated, though there is no exact figure, that there may be as many as 8 to 12 million undocumented persons in the country. How can we live with this problem? How can we not address it? If we do not address it now, when?

The bill before us addresses the problem in two ways: One, by providing sanctions so that the employer who, up until now, has acted with impunity, will no longer be able to knowingly hire the undocumented person; two legalization, so that the millions who now live in servitude, as my friend, the gentleman from New Mexico, has described, will be given the opportunity to be eligible for lawful residency, and, if they choose, eventually citizenship.

It is a miracle that we have been able to bring diverse forces together to craft an agricultural compromise worthy of everyone's support. I hope that the previous question is not voted down, and I hope that the rule is adopted, and I hope that we have passage of this very critical measure today.

Mr. Speaker, all of us who have worked so hard for immigration reform were greatly disappointed when our recent efforts to get the bill to the House floor proved unsuccessful.

Rather than resign ourselves to letting the 99th Congress expire without a House vote on the immigration reform bill, I decided to convene a series of meetings to determine whether anything could be done to resolve the problems that prevented us from bringing this urgently needed legislation to the floor.

We have held a number of meetings, including discussions with Members of the other body. These were truly bipartisan meetings, and I was greatly encouraged by the spirit of compromise that characterized them. The key issue, of course, during these meetings was the agricultural worker issue. My colleagues will recall that the controversial nature of the guestworker program adopted by the House last year and the manner in which that program was treated in the previous rule was of deep concern to many of us. I had stated often that I could not support a bill with a guestworker program and for this reason, several of my colleagues attempted to work out an alternative approach which would ensure that those invited into this country to provide agricultural labor would be placed on the "road to citizenship."

However, it was apparent that the previous compromise worked out was not supported by this body because it granted immediate permanent residence to many of these workers.

As a result, last week we began to craft a new agricultural worker proposal which would continue to protect agricultural labor and at the same time accommodate the needs of western growers. The result is a modified agricultural program that I believe is worthy of the support of my colleagues not only in this body but in the other body.

Basically, while this new compromise postpones the acquisition of permanent residency, it still places these workers on the road to citizenship by granting a period of temporary residence followed by permanent residence. At the same time, these workers would be provided with the necessary rights to prevent against their exploitation.

Now, of course, the problem is one of time. With few days left in this term, we recognized that we cannot afford to consume inordinate amounts of floor time. Accordingly, I believe that only those amendments that are truly controversial should be debated and voted on. The rule now before us reflects that same philosophy and folds into the base bill additional noncontroversial amendments that were not folded in under the previous rule.

Mr. Speaker, there is no more time for delay. We have before us a fair and equitable rule that reflects the input of majority and minority Members alike.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from Mississippi [Mr. LOTT] has 4 minutes remaining and the time of the gentleman from California [Mr. BEILENSON] has expired.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the distinguished ranking member of the Committee on the Judiciary, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me this time, and I do want to associate myself with

the remarks of the gentleman from California [Mr. LUNGREN] a few moments ago when he called for a "yes" vote on the previous question and a yes vote on the rule.

Since the House, on September 26, failed to agree on a rule providing for consideration of H.R. 3810, a lot of water has gone over the dam and we come before you today with the result of hours and hours of discussion, a bipartisan rule and bill that is being supported by the minority, as well as the majority.

I urge a yes vote on the previous question and a "yes" vote on the rule.

Mr. LOTT. Mr. Speaker, I would like to one last time urge my colleagues to vote for this rule, and I yield 1 minute to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Mississippi for yielding me this time.

Mr. Speaker, I, too, want to urge support for the rule and for the previous question and to join with the comments my friend from Mississippi [Mr. LOTT] made sometime earlier in commending some of the Members around here for having brought this to us.

Especially, if I may say so, I commend the senior Members who wrestled with this problem for a good many years, in many instances: The gentleman from New Jersey [Mr. RODINO], the chairman of the committee; the gentleman from Kentucky [Mr. MAZZOLI]; the gentleman from New York [Mr. FISH], and if I may also say so, the gentleman from the other body from Wyoming, [Mr. SIMPSON].

Mr. Speaker, illegal immigration is a large and growing problem. It deserves our attention and our positive action this year. It can only be solved through the actions of the Congress and the longer we leave it unaddressed, the larger and more difficult the problem becomes.

Our response to the problem will be both less effective and less successful and less decent and less humane the longer we wait. So let us pass this rule, get on with the business of confronting in a serious and determined way, this most serious and pressing domestic issue.

Mr. HUGHES. Mr. Speaker, I rise in opposition to the rule on the Immigration Control and Legalization Act, and urge my colleagues to defeat the resolution so we can bring the bill back to the floor with a rule which allows the Members of this House to address the key issues surrounding the immigration reform legislation.

Although there is general support for reforming our immigration laws, the legislation before us today fails to resolve the major problems which have led to the need for immigration reform—our porous borders and inadequate resources dedicated to alien interdiction programs. In addition, the legislation provides for the legalization of thousands of alien farm workers who have no ties to this country whatsoever, except for the fact that they have worked illegally in the U.S. agricultural sector for a limited period. Although the modified Schumer proposal is far better than the original, I cannot support a rule which does not allow amendments to this aspect of the legislation. I believe the Members of Congress deserve the opportunity to strike this provision which essentially creates a new amnesty program for farmworkers.

During Rules Committee consideration of H.R. 3810, I urged the committee to adopt a rule allowing me to offer a "triggered amnesty" amendment to delay legalization until a Presidential Commission determines that our borders are secure. The provision, similar to one included in the Senate bill, would adopt the Select Commission on Immigration and Refugee Policy's recommendation that legalization not proceed until appropriate enforcement mechanisms have been instituted. Despite the fact that the amendment would address many of the concerns which have been raised with regard to the bill, the rule does not provide for its consideration.

As you know, I am greatly concerned over the fact we are still a long way from bringing the border situation under control. Last year, the INS located 1,348,749 aliens in this country who were deportable under the Immigration and Nationality Act—millions more escaped detection. The Agency has an average of only one agent on duty for every 9.8 miles along the southern border. Only one out of every two or three illegal aliens who come across the border are apprehended, while one-third of the total apprehensions are repeat offenders.

No one knows for certain how many illegal aliens are already in this country, but estimates range between 3.5 and 10 million with more coming in every day. Indeed, we arrested our 1 millionth alien on May 25. In San Diego alone, we are averaging 1 arrest every 35 seconds. The INS estimates it will apprehend 1.8 million illegal aliens this year almost 5,000 per day—a 50-percent increase over last year's record level. During some periods, we have to stop the arrests because our holding areas are full.

It is clear that the INS and the border patrol have not been given the resources to address this serious problem. To fail to adopt the select commission's recommendations as part of the immigration reform package will only result in millions of more illegal aliens flooding across our borders and require Congress to confront the need for a second legalization program in the near future. I do not believe that the American people would support another blanket amnesty under these circumstances.

Mr. Speaker, it is not too late to send this measure back to committee and to bring the bill to the floor with a rule which will allow us to address these major issues.

Mr. BEILENSON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 103, not voting 30, as follows:

[Roll No. 447]

YEAS—299

Abercrombie	Eckert (NY)	Levine (CA)
Ackerman	Edwards (CA)	Lewis (CA)
Akaka	Edwards (OK)	Lipinski
Alexander	English	Livingston
Andrews	Erdreich	Long
Annunzio	Evans (IA)	Lott
Anthony	Evans (IL)	Lowery (CA)
Aspin	Fascell	Lowry (WA)
Atkins	Fazio	Luken
AuCoin	Feighan	Lungren
Badham	Fish	MacKay
Barnes	Florio	Madigan
Bates	Foglietta	Manton
Bedell	Foley	Markey
Beilenson	Ford (MI)	Martin (IL)
Bennett	Ford (TN)	Martin (NY)
Bentley	Frank	Matsui
Berman	Frenzel	Mazzoli
Bevill	Frost	McCandless
Biaggi	Fuqua	McCloskey
Boehlert	Garcia	McCurdy
Boggs	Gaydos	McDade
Boner (TN)	Gejdenson	McHugh
Bonior (MI)	Gekas	McKernan
Bonker	Gibbons	McKinney
Borski	Gilman	McMillan
Bosco	Gingrich	Michel
Boucher	Glickman	Mikulski
Boxer	Goodling	Miller (CA)
Brown (CA)	Gordon	Miller (WA)
Bruce	Gradison	Mineta
Bryant	Gray (IL)	Moakley
Bustamante	Gray (PA)	Mollohan
Byron	Green	Montgomery
Carney	Guarini	Moody
Carper	Gunderson	Moorhead
Carr	Hall (OH)	Morrison (CT)
Chandler	Hall, Ralph	Morrison (WA)
Chapman	Hamilton	Mrazek
Chappell	Hammerschmidt	Murphy
Chappie	Hansen	Murtha
Clay	Hatcher	Myers
Clinger	Henry	Natcher
Coats	Hertel	Neal
Coelho	Hillis	Nelson
Collins	Holt	Nichols
Conte	Howard	Nielson
Cooper	Hoyer	Nowak
Coughlin	Huckaby	Oakar
Coyne	Hughes	Oberstar
Daniel	Hutto	Obey
Dannemeyer	Ireland	Olin
Darden	Jeffords	Ortiz
Daschle	Jenkins	Oxley
Davis	Johnson	Packard
de la Garza	Jones (NC)	Panetta
Derrick	Jones (TN)	Parris
Dickinson	Kaptur	Pashayan
Dicks	Kasich	Pease
Dingell	Kastenmeier	Penny
DioGuardi	Kennelly	Pepper
Donnelly	Kildee	Perkins
Dorgan (ND)	Kleczka	Price
Dornan (CA)	Kolter	Pursell
Dowdy	Kostmayer	Quillen
Downey	LaFalce	Rahall
Dreier	Lagomarsino	Rangel
Duncan	Lantos	Ray
Durbin	Leach (IA)	Regula
Dwyer	Leath (TX)	Reid
Dyson	Lehman (CA)	Richardson
Early	Lehman (FL)	Rinaldo
Eckart (OH)	Levin (MI)	Rodino

Roe
Rogers
Rostenkowski
Rowland (CT)
Rowland (GA)
Russo
Sabo
Schaefer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sharp
Shaw
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Waldon
Walgren
Watkins
Waxman
Weaver
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zschau

NAYS—103

Anderson
Applegate
Archer
Armey
Bartlett
Barton
Bereuter
Bilirakis
Broomfield
Brown (CO)
Burton (IN)
Callahan
Cheney
Cobey
Coble
Coleman (TX)
Combest
Conyers
Courter
Craig
Crane
Crockett
Daub
DeLay
Dellums
DeWine
Dixon
Dymally
Emerson
Fawell
Fiedler
Fields
Franklin
Gallo
Gonzalez
Gregg
Hawkins
Hayes
Hendon
Hiler
Hopkins
Horton
Hubbard
Hunter
Hyde
Jacobs
Jones (OK)
Kanjorski
Kemp
Kolbe
Kramer
Latta
Leland
Lent
Lewis (FL)
Lightfoot
Lloyd
Loeffler
Lujan
Mack
Marlenee
McCain
McCollum
McEwen
McGrath
Meyers
Miller (OH)
Molinari
Monson
Owens
Petri
Pickle
Porter
Ridge
Ritter
Roberts
Robinson
Roth
Roukema
Roybal
Savage
Saxton
Schroeder
Schuette
Sensenbrenner
Shelby
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Strang
Stump
Sundquist
Sweeney
Swindall
Towns
Traficant
Vander Jagt
Walker
Weber
Wirth
Young (FL)

NOT VOTING—30

Barnard
Bateman
Bliley
Boland
Boulter
Breaux
Brooks
Burton (CA)
Campbell
Coleman (MO)
Edgar
Flippo
Fowler
Gephardt
Grotberg
Hartnett
Hefner
Kindness
Lundine
Martinez
Mavroules
Mica
Mitchell
Moore
Roemer
Rose
Rudd
Smith (NE)
Tauke
Weiss

□ 1330

Messrs. McEWEN, DENNY SMITH, DIXON, SUNDQUIST, and TOWNS changed their votes from "yea" to "nay."

Mr. HUGHES changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KILDEE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. GONZALEZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 278, nays 129, not voting 25, as follows:

[Roll No. 448]

YEAS—278

Abercrombie
Ackerman
Alexander
Annunzio
Anthony
Aspin
Atkins
AuCoin
Badham
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Bilirakis
Boehlert
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Carney
Carper
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Coelho
Coleman (MO)
Collins
Conte
Cooper
Coughlin
Coyne
Daniel
Dannemeyer
Darden
Daschle
Davis
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (OK)
Erdreich
Evans (IA)
Fascell
Fawell
Fazio
Feighan
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Henry
Hertel
Hiler
Hillis
Holt
Horton
Howard
Hoyer
Huckaby
Hutto
Jeffords
Jenkins
Johnson
Jones (NC)
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lipinski
Livingston
Long
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McHugh
McKinney
Michel
Mikulski
Miller (CA)
Miller (WA)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Rinaldo
Rodino
Roe
Rogers
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Russo
Sabo
Schaefer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snyder
Solarz
Solomon
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Waldon
Waxman
Weaver
Wheat
Whitehurst
Whitley
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Young (MO)
Zschau

NAYS—129

Akaka
Andrews
Applegate
Archer
Armey
Bartlett
Barton
Bentley
Bereuter
Biaggi
Bliley
Boulter
Brown (CO)
Burton (IN)
Callahan
Carr
Chappie
Cobey
Coble
Coleman (TX)
Combest
Conyers
Courter
Craig
Crane
Crockett
Daub
de la Garza
DeLay
Dellums
DeWine
Dixon
Dymally
Edwards (CA)
Emerson
English
Evans (IL)
Fiedler
Fields
Franklin
Gallo
Gaydos
Gonzalez
Gregg
Hansen
Hawkins
Hayes
Hendon
Hopkins
Hubbard
Hughes
Hunter
Hyde
Ireland
Jacobs
Jones (OK)
Jones (TN)
Kanjorski
Kemp
Kleczka
Kolbe
Kolter
Kramer
Latta
Leland
Lent
Lewis (CA)
Lightfoot
Lloyd
Loeffler
Lujan
Mack
Madigan
Marlenee
Martinez
McCain
McEwen
McGrath
McKernan
McMillan
Meyers
Mica
Molinari
Monson
Murphy
Nowak
Owens
Petri
Pickle
Porter
Ridge
Roberts
Robinson
Roth
Roukema
Roybal
Savage
Saxton
Schroeder
Schuette
Sensenbrenner
Shelby
Shumway
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Spence
Staggers
Strang
Stump
Sundquist
Sweeney
Swindall
Taylor
Towns
Traficant
Walgren
Walker
Watkins
Weber
Whittaker
Wirth
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—25

Anderson
Barnard
Bateman
Boland
Breaux
Brooks
Burton (CA)
Campbell
Downey
Flippo
Fowler
Gephardt
Grotberg
Hartnett
Hefner
Kindness
Miller (OH)
Moore
Ritter
Roemer
Rudd
Smith (NE)
Stark
Tauke
Weiss

□ 1355

The Clerk announced the following pair:

On this vote:

Mr. Weiss for, with Mr. Campbell against.

Mr. McKERNAN and Mr. WATKINS changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks during the debate on House Resolution 580.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

There was no objection.

IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS OF 1985

The SPEAKER pro tempore. Pursuant to House Resolution 580 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3810.

□ 1401

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3810) to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. RODINO] will be recognized for 30 minutes, the gentleman from California [Mr. LUNGREN] will be recognized for 30 minutes, and the following Members will be recognized for 7½ minutes each: The gentleman from California [Mr. PANETTA]; the gentleman from Washington, [Mr. MORRISON]; the gentleman from Michigan [Mr. FORD]; the gentleman from Vermont [Mr. JEFFORDS]; the gentleman from California [Mr. WAXMAN]; the gentleman from California [Mr. DANNEMEYER]; the gentleman from Illinois [Mr. ROSTENKOWSKI]; and the gentleman from Tennessee [Mr. DUNCAN].

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent, in view of the fact that the time allotted to both sides is all given to those proponents and the spokesmen in behalf, that those of us in opposition be permitted to be heard for equal time.

The CHAIRMAN. The Chair would like to advise the gentleman from Texas at this time that the Committee of the Whole cannot entertain that request. The House has adopted the rule with respect to allocation of general debate.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, can the Chair advise what precise time it would be in order to make such request?

The CHAIRMAN. The Chair would like to advise the gentleman from Texas that that request should be made in the House and not in the Committee of the Whole. The Committee of the Whole is unable and cannot change the rule recommended by the Rules Committee that has been adopted by the House.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support the measure before us.

Mr. Chairman, during each of the past two Congresses the Judiciary Committee has brought to the House floor legislation to reform our Nation's immigration laws. Over the past 5 years, in the Judiciary Committee alone, immigration reform legislation has been the focus of 23 days of hearings, during which we have heard testimony from over 250 witnesses. In addition, during that period, we have had 18 days of subcommittee and full committee markup, and during the 98th Congress, the House considered the bill for 7 days. Following that, House/Senate conferees met for 10 days in efforts to craft a compromise bill.

The bill before us today was favorably reported by the Judiciary Committee by a record vote of 25 to 10. The bill was then sequentially referred to six other standing committees, all of which considered it, and none of which adopted amendments fundamentally altering it.

Mr. Chairman, my purpose in reciting this brief history is to remind my colleagues that the legislation now before the House has been extensively analyzed and debated not only by the Judiciary Committee but by many other committees, and not only in this Congress but in five previous Congresses.

Despite this extensive analysis and debate, this bill, even with the non-Judiciary Committee amendments incorporated into it, remains essentially the same bill as the one approved by the House last Congress, as the one considered on the House floor in the 97th Congress, and, in fact, as the one approved by the Judiciary Committee way back in 1975. It is testimony, I think, to the reasonableness, the persuasiveness, and the urgency of the twin concepts of employer sanctions and legalization that despite the intense scrutiny given to the myriad immigration reform bills over these many years those twin concepts are still the cornerstones of the legislation we will be considering today.

In my opinion, there can be no true reform of our immigration policy unless those conceptually interlinked concepts are enacted, and should this bill at any time fail to include an effective sanctions program and a generous legalization program I will withdraw my support and actively oppose the bill's passage.

The arguments in support of employer sanctions are well known and I will not repeat them now. The concept of employer sanctions, which I devised in 1971, has received the wholehearted support of the past five administrations and was overwhelmingly endorsed by the bipartisan Presidential Commission on Immigration and Refugee Policy. Quite simply, until the magnet that draws people here—jobs—is removed, we will never be able to effectively control our borders.

As I have said before, I do not believe that the passage of employer sanctions will result in discrimination against minority members. Nonetheless, I recognize that there is a genuine and sincere difference of opinion on this matter with some arguing that some employers who do not understand fully the requirements of our sanctions proposal will prefer to play it safe by simply not hiring anyone who they believe may not be here legally. For this reason, when the Frank amendment was separately voted on in this body 2 years ago, it was approved by a vote of 404 to 9. Accordingly, I am now convinced that just as employer sanctions is an essential element of immigration reform the Frank amendment is an essential element of employer sanctions.

With respect to legalization, I think it would be worthwhile to explain the policy judgments and concerns upon which our legalization program is based.

Best estimates place the number of undocumented aliens in the United States in the millions. Consider what it must be like to live in an undocumented status. Because every contact with a government official could result in the discovery of the individual's immigration status and since that discovery culd result in deportation, undocumented persons must keep all contacts with governmental authorities to an absolute minimum. This means that when their homes are burglarized they will think twice about calling the police. When their employer short changes them or doesn't pay them for overtime, or pays them less than minimum wage, they will complain to no one. When their landlords refuse to fix the plumbing or refuse to provide heat, they will feel helpless to rectify the situation.

I submit that having within our borders millions of people living under this dark cloud of constant fear is not in the best interests of the United States. Once it is known that an individual is incapable of asserting his rights, there will always be those who are all too ready to exploit their advantage over that individual. In short, we are talking about made-to-order victims, and until these individuals are either removed from the United States or legalized, this utterly unacceptable situation will continue to exist. The options, then, are deportation or legalization.

The first option, deportation, is really no option at all. First, any effort designed to even attempt to locate, provide hearings to, and then physically deport millions of individuals would cost billions of dollars. To understand just how extraordinarily expensive such an effort would be one must realize that in a typical year INS now is able to deport only about 20,000 individuals at a cost of several million dollars.

Second, and more important, any effort to implement such a massive deportation program would necessarily involve sending out thousands upon thousands of INS investigators to scour the country in search of undocumented aliens. Hundreds of thousands of business premises would be raided. Any individual on the street who "looks or sounds foreign" would be stopped and interrogated. It is inconceivable to me that an investigative effort of this magnitude could be conducted without violating the rights not only of undocumented aliens, but also legal aliens and U.S. citizens as well.

The third reason why deportation is not an option is that, in the case of longtime residents, deportation is unfair, and would be perceived as such by the public. The Legalization Program contained in the bill before us covers only undocumented aliens who have resided continuously in the United States since before 1982 or before. Many of these individuals have U.S. citizen children. Many work with U.S. citizens. Many have U.S. citizen friends who, as we often see in the context of private immigration bills, would be appalled to learn that their hardworking friend or neighbor is slated for expulsion from the United States. I therefore do not think it surprising that in a poll conducted by CBS News earlier this year fewer than one-third of the respondents said that the law-abiding, undocumented persons who have lived here several years should be deported from the United States.

It is no secret that the great obstacle to the enactment of immigration reform, in recent years, has been the foreign agricultural worker issue. As I have said many times before, in my judgment this issue has no relevance to the problem confronting us—the problem of undocumented persons coming to and remaining in the United States.

I am strenuously and irrevocably opposed to any massive guestworker program. Aware of my feelings on this issue the gentleman from New York [Mr. SCHUMER], the gentleman from California [Mr. BERMAN], and again, the gentleman from California [Mr. PANETTA] set about, over a year ago, to craft an agricultural program that would satisfy the requirements of the large western growers without sacrificing in any way the rights or hard-won gains of either foreign or domestic farmworkers. The solution they crafted was to allow the farmworkers needed to become immigrants, rather than bring them in as nonimmigrants.

Some viewed this proposal as overly generous and could not support it. As a result, we recommended our discussions and negotiations, taking into account the views of a variety of Members, majority and minority alike. Of invaluable assistance in this process were not only the gentlemen already mentioned but also the gentleman from California [Mr. LUNGREN], the gentleman from New York [Mr. FISH], the gentleman from Washington [Mr. MORRISON], the gentleman from Texas [Mr. BRYANT], the gentleman from California [Mr. TORRES], the gentleman from Massachusetts [Mr. FRANK] and, of course, the gentleman from Kentucky [Mr. MAZZOLI]. We discussed that revised proposal with our Senate counterparts, and on the basis of their contributions revised the proposal once again. As before us today, this final proposal fully protects all farmworkers, provides the growers with the labor they may need, and should offend no one's sense of fairness or equity. It is a proposal I wholeheartedly support.

Mr. Chairman, before the year ends, INS will have apprehended a record number 2 million undocumented persons attempting to enter the United States. That is why it is absolutely essential that we act favorably on this most important legislation.

I am deeply concerned that if Congress does not meet its responsibility to put our immigration law and policy in order, we will soon see—as we are now witnessing in some areas of the country—increasing resentment against legal immigrants and refugees. I am fearful that unless action is taken to address the undocumented alien problem, the American people will forget their immigrant heritage and restrictionist pressures will grow.

Illegal immigration is not a problem that will simply go away. If we do not address it now, if we simply put our heads in the sand, we will allow a pressing problem to become an overwhelming problem. The American public is demanding action now. I hope this Congress does not let them down.

Mr. Chairman, I yield back the balance of my time.

□ 1405

PARLIAMENTARY INQUIRY

Mr. MAZZOLI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MAZZOLI. Mr. Chairman, momentarily I was on my feet just to be sure that when the gentleman from New Jersey [Mr. RODINO] our distinguished chairman, said he yielded back his time, not having yielded himself a specific sum, that he did not yield back the entirety of the Judiciary Committee time.

Mr. CHAIRMAN. The Chair understands the gentleman from Kentucky [Mr. MAZZOLI] is the designee of the committee, and serves in that capacity at this time.

Mr. MAZZOLI. I thank the Chair. And I will be then recognized for the remainder of our time?

The CHAIRMAN. The gentleman is correct.

The Chair now recognizes the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as many know, I have long advocated that it is critical we complete action on this immigration legislation before the end of this Congress. Our subcommittee completed action on the bill long ago; the Committee on the Judiciary completed its markup on this bill in June; the Senate finished its bill last year.

As was mentioned in the debate on the rule, we considered a measure much like this 4 years ago in the late hours of the lameduck session; we had a virtually complete open rule; as many as 300 amendments were filed; no limitation of time, and we ran out of time.

Two years ago, we dealt with this bill on this floor with a very fair rule. We had 69 amendments in order. We spent 10 days over 2 weeks working that out. We went into conference; we spent many days in 1 month trying to work out a conference, and we were unsuccessful.

In both of those previous Congresses, the Senate acted far before the House did. So it seems to me that the focus is on the House. If we are going to get a bill out, the House must act; we cannot wait any longer.

The administration has repeatedly expressed its support for immigration reform legislation, particularly the President has. He has made statements in past years and early this year met with Chairman RODINO of the Judiciary Committee, with Mr. FISH, with Mr. MAZZOLI, and myself, giving his support for immigration reform legislation, including support, I might add, for funding.

Many share my own view that already we have a crisis on our southern border. We have huge numbers of undocumented aliens crossing our borders daily. What we witnessed in the last years is a deterioration of any semblance of control over who may enter into our country.

Last year we had 1.2 million apprehensions of people who were here illegally. This year, apprehensions are

running somewhere between 43 and 50 percent above last year.

By simple mathematical calculation, anyone can determine that we are going to have somewhere between 1.8 and 2 million apprehensions of illegal aliens this year. For every one apprehension that is made, Border Patrol officers will tell you somewhere between two and four successful illegal entries are made.

For Members who have been on the border recently, they can see how it deteriorates on a daily basis. Some members of my own delegation from California have been there more recently; as late as last week, and have told me about how it has even deteriorated from the last time I was down there.

The fact of the matter is, we have a crisis. It seems to have been recognized everywhere in the United States except in Washington, DC, on Capitol Hill, at least if you judge by the success of our attempts to have meaningful new legislation.

When you add up the numbers of people that come into this country illegally every year, on the low side this would amount to around 2 million people, or the equivalent of 4 new congressional districts on a yearly basis.

According to the San Diego Border Patrol—and they control only 66 miles out of the almost 2,000-mile border we have on the South; their apprehensions over the last 6 months, October to March, have risen by an incredible 48 percent over the same period a year ago.

More than 270,000 illegal entrants were arrested in just the 66-mile section that is under the control of the border control unit in San Diego. Of those illegal aliens, 6,500 were not from Mexico; were not Mexican nationals; but rather came from 55 different countries.

They not only are now coming from Central and South America; they are coming from Africa; they are coming from Asia; they are coming from Europe, both East and West; they are coming from every continent on the face of the Earth, but they find that coming through Mexico and through our southern border is a fairly easy transit today.

In the first 17 days of April we were averaging 2,451 arrests a day, a rate that led to more than 70,000 arrests for the month. That is just in that 66-mile section that is under the control of the Border Patrol for San Diego.

During this month, in the San Diego area, we are encountering an average of one undocumented worker, one undocumented worker picked up by the Border Patrol every 35 seconds. We know that we are locating at best only about half of the flow of illegal entrants.

The rest are making it past them, soon to join their compatriots throughout California and the rest of the country.

The numbers speak for themselves. They say more than any Member can say. The question is, what are we going to do about it? How bad does it have to get before we do something?

Elements that make up an immigration reform bill must be crafted to work in concert with one another. If we are going to demagnetize the attraction of unlawful entrance into the United States, we must have sanctions with respect to employers who knowingly—I underscore the word knowingly—hire those who are here illegally.

At the same time, if we have sanctions, we must not put those who have developed a dependency on undocumented labor in the position of either intensely violating the law or going out of business if they are unable to find a sufficient level of domestic labor.

It seems to me that is the reason we have to have some compromise in the area of agricultural workers. I do not particularly like what we have here; but it is the best we can get. I happen to think the Wilson amendment is a better, cleaner way to do it. I cannot get it. No one else can get it here. We have tried for 8 years. Are we going to try again? We can try for another 8 years, and we are still not going to solve the problem.

So yes, I have had to swallow hard, but I hope others will swallow hard in recognizing that it is necessary, as a result of the votes we have had on the floor, to do something in the area of agriculture.

The centerpiece of any comprehensive immigration reform bill, as I say, has to be sanctions against the employers who knowingly hire, refer, or recruit undocumented aliens for jobs.

But in addition to the control of our borders and in fact complementing that type of direct action on the control of our borders, in addition to having increased border patrol, there are humanitarian considerations supporting immigration reform that cannot be overlooked.

At present, undocumented workers are beyond the protection of our labor laws, or are afraid to report crimes. Many of us are undoubtedly familiar with the underground existence of the undocumented alien, and are not just using the term "underground" in a figurative sense.

Many of you have gone through areas of California, areas of Texas, areas of other parts of the Southwest of the Nation; you will find spider holes where people live in literally dug out dirt hovels, in which they may have an entrance that is no more than 3 feet. They get in there, they are about 1 to 3 feet below the ground; they actually are about where people are when they are buried, and they live there. They live in communities of thousands in southern California, with no water, with no amenities, using whatever is necessary; washing and drinking, using water that flows off the fields.

We have got to do something about that. If anybody believes, and I know some sincerely do, that we can round up every illegal alien that is here and send them home, I think they are sadly mistaken. We have to reach an accommodation with respect to those who have been here for a long time, and have roots in our community, and that means we have legalization.

There will be a motion to strike; I certainly respect the sincerity of the Member who is offering it and those who will support him, but I say please look at that carefully. I think you need a legalization of those folks who have been here for a long period of time.

The strange thing is, most people are against illegal aliens; most people will tell you to round them all up and send them home; but those same people will say: "By the way, Congressman LUNGREN, can your immigration subcommittee pass a private bill for this person I know down the street, for the woman who works in my house, for the children who go to school with my children, for the person in the church choir that I sing with; they don't happen to have papers. Will you do something for them?"

That is not schizophrenia; I think it is a recognization that most of the illegal aliens who are here are good people. They are humane people. They have come here to work, and when we know them, we in most cases like them and we will go out for them. But we know we have to do something overall about illegal immigration.

Let us reform the laws; let us have this bill brought forward; let us have the connection that I think is necessary between employer sanctions and legalization, and let us get on with doing the job we have to do.

Mr. ROYBAL. Mr. Speaker, would the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California [Mr. ROYBAL].

□ 1415

Mr. ROYBAL. I would like to get some information with regard to the contents of the bill. Can the gentleman tell us how much money is earmarked for the sole purpose of so-called protecting the borders, that is earmarked, not the overall amount but earmarked for the purpose?

Mr. LUNGREN. There will be an amendment that is in order to be offered by the gentleman from California [Mr. MOORHEAD] to authorize a 50-percent increase for 3 consecutive years.

Mr. ROYBAL. But in the bill you do not have anything.

Mr. LUNGREN. As the gentleman knows, last year, and certainly being on the Appropriations Committee, he is one of the people who has helped us, last year we had the largest single increase in the Border Patrol in history. We did that as a showing of good faith that we were going to go forward and help bolster the Border Patrol. The administration went along with us. We had 1,000 positions. But talking with the people in the Border Patrol, they said, "That is fine, give us more people, give us more manpower, but if you do not give us employer sanctions, you're not giving us what we need."

Mr. ROYBAL. Again, the question is how much money is earmarked to remedy the situation that the gentleman is talking about? If he does not know the answer, I can give it to him.

Mr. LUNGREN. Well, I thank the gentleman. If the gentleman has the answer, then he does not need to know, does not need an answer.

Mr. ROYBAL. No, no, I would like to have the figures.

Mr. LUNGREN. I do not have the figures at my fingertips, and my time is limited. If I have more time, I will yield, and we can go into that.

Mr. LUNGREN. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman very much, and I thank the Chairman.

Mr. Chairman, I welcome the opportunity to join with a number of my colleagues in speaking in support of this legislation—H.R. 3810, the immigration reform bill.

Since the House on September 26, failed to agree to the rule providing for the consideration of H.R. 3810, the immigration reform bill, several of my colleagues and I have continued to meet in hopes of reconciling the controversial issues surrounding the agricultural labor provisions contained in the bill. Majority and minority Members in both the House and Senate have been meeting in close consultation to produce the agriculture agreement in the bill we have before us today. This agreement is the result of many hours of discussion on this issue with the hope of developing a compromise which would meet the major concerns of interested Members necessary for bipartisan support. As you can imagine, this has been no easy task. However, we continued to spend what little time we have still remaining in this Congress in these negotiations with one common objective in mind—that we complete immigration reform legislation this year before we adjourn.

We are at a time of crisis in the enforcement of our immigration laws. The public perception that immigration is out of control is, unfortunately, a correct perception. No legislation before this Congress is of higher priority. An immigration reform bill has been pending before Congress, in some form, for nearly 6 years since the select commission reported its findings and made its recommendations to the Congress. The Senate in three successive Congresses passed this legislation. If we fail to enact reform in this Congress, I fear that when a later Congress considers immigration reform, it will produce a bill which will be narrow and restrictive. It will be driven toward passage by what then will be the pent-up frustration of the American people.

I believe, then, that it is essential that we regain control of our borders if we are to have any hope whatsoever of avoiding a repressive public reaction that will fail to distinguish lawful immigrants and refugees from illegal aliens. At stake may be nothing less than a compassionate immigration policy. The American people in the face of an illegal immigration crisis should not lose sight of the fact that immigrants have been a great source of this country's strength, and refugees have made an immense contribution to our society. But huge numbers of illegal aliens rushing past our borders may have already started to blur that understanding.

I believe this legislation we have before us today contains the essential provisions needed to cope with illegal immigration. Most of us who have been intimately involved in the debate are firmly convinced that employer sanctions and legalization are necessarily intertwined, and that no bill can pass without a marriage of the two concepts.

Historically, the concept of employer sanctions has received the support of a number of administrations, has received favorable votes time and again in both Houses of Congress, and it is a view which was endorsed overwhelmingly by the diverse membership of the Select Commission on Immigration and Refugee Policy. In my opinion, it is the only effective option available to demagnetize the lure of jobs in the United States.

This legalization, finally, recognizes that substantial numbers of illegal aliens are here to stay and responds realistically and humanely to their plight. At the same time that we act with firmness to deter future illegal entry, we must display compassion in our treatment of those aliens who have become a part of our society. The conferral of legal status on undocumented aliens with years of U.S. residence will permit this population to come out of the shadows and contribute more to our country.

The select commission, by a 16-to-0 vote, favored a legalization program as part of its enforcement package. Precedents in U.S. law for legalizing the status of undocumented aliens can be found in the registry date—which serves as a statute of limitations on illegal entry—and the discretionary remedy of suspension of deportation.

In approaching legalization, we must attempt to strike an appropriate compromise between the views of those who would eliminate the legalization provisions entirely—and those who would provide lawful permanent resident status to those who only recently entered. A failure to provide a substantial legalization ignores the equities of persons who have lived in the United States for a number of years. A legalization that is excessively generous, on the other hand, may serve as too strong a magnet to further illegal flows.

Ultimately, without comprehensive immigration reform, we run the risk of losing political support for our historic humanitarian commitment to facilitating family reunification and offering haven to those fleeing persecution. When we bring family members together, and when we assist the victims of oppression to reconstruct shattered lives, we reaffirm our regard for basic human rights. This is the principle for which the United States has stood for many generations.

Chairman RODINO, along with Senator ALAN SIMPSON, Congressman MAZZOLI, Congressman LUNGREN and I, met with the President at the White House on the subject of immigration reform earlier this year. It was a very fruitful meeting and the President unequivocably lent his support to the adoption of immigration reform legislation. The Attorney General of the United States echoed this position when he appeared before the full Judiciary Committee in March.

Many of us who have worked long and hard to enact comprehensive immigration reform legislation, welcome the President's endorsement and applaud him and the Attorney General for assuming a leadership role.

Time is of the essence. Apprehensions along our southern borders have shot up dramatically in the first several months of 1986, as compared to 1985. As of September 30 of this year, the Immigration Service has apprehended 1.7 million undocumented aliens. This is almost double the amount apprehended in all of 1980, when the number of apprehensions was approximately 900,000 undocumented aliens. We are seeing aliens from many countries, not just from Mexico. In addition, as our maritime interdictions of drug trafficking continue to increase, more and more drugs are brought by land routes particularly across our southern border. Violence is also on the upswing. It is essential that we have immigration reform legislation enacted into law before it's too late—therefore, I am hopeful that we can give the President

a bill to sign on immigration reform before the end of this year.

Mr. Chairman, I plan to offer an amendment to strike a provision in the bill which grants extended voluntary departure to Salvadorans and Nicaraguans.

This provision requires the General Accounting Office [GAO] to conduct an investigation, beginning within 60 days of enactment, concerning the number, conditions, and impact of displaced persons within El Salvador and Nicaragua, particularly those returned to these countries from the United States. In addition, this provision prohibits detention and deportation to El Salvador, Salvadoran and Nicaraguan nationals continuously present in the United States from the date of enactment until 270 days after GAO transmits its report.

I oppose this provision because I believe that granting such status is inappropriate for illegal aliens from El Salvador and Nicaragua. Repeated studies of the treatment and condition of deported Salvadorans have disclosed no persecution upon their return to El Salvador. The Intergovernmental Committee for Migration [ICM], meets every Salvadoran who has been sent home by the United States, and offers resettlement and counseling assistance. Since December 1983, ICM has assisted over 7,000 returnees and has not reported a single case of political persecution. In addition, we already have all the information requested by the GAO report.

Congress passed the Refugee Act of 1980, to supplant the piecemeal and nation-specific legislation for refugees, for example, legislation for Cubans, and so on. Prior to 1981, refugees were paroled into the United States following consultation with Congress. But, this provision that has now been added to the immigration reform bill circumvents this system by creating a special system for handling Salvadorans and Nicaraguans in the next 2 years while waiting for the GAO report. In addition, it raises the prospect that a stream of Salvadorans and Nicaraguans will illicitly enter the United States. Exactly what this immigration bill is trying to stop. I urge my colleagues to support me in striking this amendment.

Mr. Chairman, there are a number of other controversial issues which must be resolved so as to achieve meaningful immigration reform. Any one of these issues could stall this important legislation. However, it is my hope that as we begin debate, Members will put the public interest above regional or special interests. This may be our last opportunity for comprehensive immigration reform before the problems at our borders preclude compassionate solutions rather than radical actions.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. FISH] yields back 1 minute.

Mr. MAZZOLI. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, let me take note of the gentleman who is in the chair today, my distinguished colleague from Kentucky, who also presided 2 years ago and earlier than that on this bill.

I want to thank the gentleman for his willingness to take on this bill, this very difficult task, and to discharge it with the aplomb and skill I am sure he will discharge it with at this time.

Mr. Chairman, legislative action, in the form of H.R. 3810, the Immigration Reform and Control Act, must be taken for three very fundamental reasons:

First, to prevent the uncontrolled influx of undocumented aliens into the United States;

Second, to end the current exploitation of millions of aliens who live in a twilight subrosa society, afraid to come forward, because of their illegal status; and

Third, to preserve the humanitarian traditions and generous ideals of this country regarding the admission of legal immigrants and refugees.

Regarding the first objective, it should be noted that during the last 2 fiscal years over 1 million undocumented aliens were apprehended and expelled from this country—the highest number ever. During the current fiscal year, even that record level is being outstripped. In one night alone over 3,000 undocumented aliens were apprehended along the border in the Chula Vista area. No one knows how many passed through undetected.

The authority of Congress—indeed its responsibility—to regulate immigration derives from a source even higher than the Constitution. In fact, the Supreme Court has stated on numerous occasions that the control of immigration is an inherent power arising out of national sovereignty and existing without regard to any constitutional grant.

For Congress to ignore its responsibility in this area by failing to consider and enact immigration reform and control legislation is to ignore the very sovereignty upon which our Nation is based.

We cannot turn away from this monumental problem, simply because it is difficult to solve, simply because it is politically sensitive to deal with or simply because 1986 is an election year.

This Nation must exercise its sovereign right—and its sovereign responsibility—to control its borders and it must do so now.

If we fail to act, I am fearful that the continued existence in the statute books of our Nation's fair, humane, and generous programs for admitting legal migrants—immigrants and refugees—may be in jeopardy. The patience of a people—already strained—could end abruptly toward all entrants, not only those who enter illegally.

In addition to the uncontrolled influx of undocumented aliens nightly, millions are already in this country. These persons live in a subrosa, twilight society. They are vulnerable to exploitation because of their illegal status. Unscrupulous employers prey on their fear of discovery and use threats of deportation to quell complaints about treatment, working conditions, and pay.

That is why we need immigration reform. Now I will turn to why we need H.R. 3810.

H.R. 3810 seeks to solve our Nations' immigration problems through a package approach. I assert that enforcement and interdiction efforts alone cannot control U.S. borders. Employer sanction provisions alone cannot. Legalization alone cannot. The solution can only come through a combination of these elements. H.R. 3810 contains just such a combination which could—and I think will—bring order and control out of the present chaos.

The critical elements of H.R. 3810 are these:

First, the bill imposes penalties on employers who knowingly hire undocumented aliens. This provision will terminate the lure—money and jobs—which attracts undocumented aliens from across the border by the billions.

These people do not come to the United States for our spectacular vistas, our climate, or our clean air. They come to work and to improve their lot in life. As long as work is available, they will continue to come, and, as many have pointed out in hearings before my subcommittee, even an army along our border will not stop the flow if jobs await them in the United States.

Contrary to what opponents of the bill have suggested, employer sanctions in H.R. 3810 are not discriminatory. Employers must verify the employment eligibility of all applicants not just those who wear ethnic attire or who speak accented English or the like.

In addition, the bill contains a specific provision aimed at preventing any unintended discrimination and at remedying any which might occur.

Also contrary to what opponents of the bill have said, nothing in the bill establishes a national identification card.

To ensure that a person is authorized to work, the employer, under H.R. 3810, would simply ask the job applicant to present a commonly possessed identification document such as a

Social Security card, driver's license or alien registration card. And, such identification can only be requested at the time of hiring and only by an employer—never by any other officials. Without a verification procedure, sanctions cannot be implemented nor will they be effective.

Another integral part of this immigration control package is a program to deal with the millions of undocumented aliens now living in the United States, some of whom have been here for many years. Devising such a program has been one of the most difficult challenges faced in crafting this bill.

It became clear to our subcommittee early in the development of a reform bill that the United States had neither the personnel nor the resources—nor probably the national will—to conduct a massive deportation of all persons here without proper papers.

For my part, even were there the personnel, resources and will, I do not feel a deportation of every undocumented person would be humane, generous or in keeping with the tradition and spirit of our land.

Well, if we don't deport them, what do we do with them? We establish—as H.R. 3810 does—a carefully controlled, case-by-case legalization program for those undocumented aliens who can prove they have been in the United States since January 1, 1982.

This is not a wave of the hand blanket amnesty, as some have suggested, but a case by case carefully controlled legalization program.

Each applicant for legalization will have to establish that he or she has been a positive contributor to society, and has not violated any major criminal laws. Each individual seeking to be legalized must meet the same standards and pass the general grounds for exclusion as those who today legally enter the United States.

It should be noted that individuals applying under this legalization section, if successful, will become temporary resident aliens only, not U.S. citizens. They can adjust their status to permanent residence only after living 1 year in the United States in good character and after demonstrating basic citizenship skills.

Even then, each permanent resident alien will have to wait at least 5 years before applying for citizenship, during which time the applicant must live a blameless life. Under H.R. 3810 the newly legalized resident aliens would be ineligible for welfare benefits for 5 years except in case of emergency medical care and aid to the blind, aged, or disabled.

Third, the bill contains provisions concerning agricultural labor. Despite all the hoopla and attention given these provisions of late, the Agricultural Labor Program is merely one aspect of the bill, a small aspect at that, in my opinion. It certainly is not a critical element in solving our illegal alien program.

I opposed the Schumer-Berman-Panetta compromise at the Judiciary Committee markup—we were urged to accept the compromise without so much as the change of a jot or title because to alter the compromise was to destroy it and the bill itself.

Once, however, the compromise left the committee and was subjected to public scrutiny and careful study, the multitudinous and serious flaws, which I tried to point out to the committee, came to light and produced a veritable firestorm of opposition and concern.

I am still uncomfortable with the dual premises of the compromise to grant temporary or permanent residence to agricultural workers, to benefit the workers, and to guarantee growers a ready supply of nondomestic replenishment agricultural workers, to benefit the growers.

However, the Rules Committee, pursuant to my request, and in response to the firestorm of concern over the agricultural labor compromise, folded into the bill five separate amendments I authored which cure—or at least open to fuller cure in conference—the most egregious flaws in the Schumer-Berman-Panetta compromise. These brought the compromise more into line with the underlying premises of our original bill.

In several discussions over the past few days the agricultural labor provisions have been even further modified and altered and made more realistic.

I still am not totally comfortable with this, but it is infinitely more workable and less preferential than what the Judiciary Committee reported.

Finally, H.R. 3810 strengthens INS enforcement and service to the public efforts by authorizing supplemental resources and makes several other changes to strengthen the existing Immigrant and Nationality Act.

These then, are the main provisions of H.R. 3810.

This bill did not originally spring full blown from the fevered brows of RON MAZZOLI and AL SIMPSON—it, from the start, has reflected the insight and recommendation of hundreds of experts and lay people.

It specially reflects the work and wisdom of Rev. Theodore Hesburgh, CSC, president of my alma mater Notre Dame University, who headed the Special Commission on Immigration Reform and whose 1981 magnum opus on the subject forms the outlines of the bill before this body today.

To its everlasting credit and its remarkable resiliency, the Simpson-Mazzoli bill today—6 years after its drafting—contains the exact same major components as it did at the start. They have been modified but they retain their original form. This is added reason to adopt this measure. It has stayed the course.

As I have said often and repeat in concluding my remarks today: The Simpson-Mazzoli bill may not be a perfect bill, but it is the least imperfect bill extant. It deserves to become law.

Mr. LUNGREN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, it grieves me to rise in opposition to the bill that is presently before us because I have spent a considerable amount of time laboring in the vineyards of the Immigration Subcommittee to try to craft a bill that is true immigration reform. Unfortunately, this bill is not immigration reform. It is amnesty for literally millions of illegal aliens masked in the cloak of protecting the borders of the United States.

As I pointed out in my debate on the rule, there are three types of amnesty offered in this bill. There is the regular legalization program, which has been around since the bill was first introduced in 1981; there is the Moakley-DeConcini amnesty for Salvadorans and Nicaraguans. There is the Schumer amnesty for agricultural workers.

Now, this is a far cry from the original Hesburgh Commission report that tied employer sanctions with a tightly drawn legalization program, a two-tier program where people who have not been in the United States a long period of time received temporary residency status, and those who have been in for a much longer period of time received permanent status which led to citizenship. Furthermore, with the adoption of the Garcia amendment by the Rules Committee, the employer sanctions which I support and which I feel are a necessary ingredient to shutting off the magnet, are sunsetted. So what we have, when this bill passes and plays out in 5 years, are no employer sanctions left but millions of people who are on the road to citizenship and will be eligible for public assistance and free public education because they are here under color of law.

Now, that is going to be very costly not only to Federal Government taxpayers but also to State and local government taxpayers, and we really have not solved the problem once the employer sanctions disappear.

So contrast the bill that is before us with the original Hesburgh provision recommendations, the employer sanctions have been weakened and sunsetted, but the amnesty has become more generous by turning the two-tier amnesty into a one-tier amnesty and then adding the two additonal classes of illegal aliens that would be amnestied in under the Moakley-DeConcini provisions as well as under the Schumer agricultural labor provisions.

□ 1430

Honestly speaking, I think that we would far better serve the public by going back to the very beginning, by dealing with the bill that controls our borders and deals with legal as well as illegal immigration, rather than having this bill turned into an agricultural labor bill which is the way it has evolved in the last 2½ to 3 years.

I think that the bill is not going to close off our borders to illegal aliens. It is a very expensive ticking timebomb which will increase the hostility toward aliens among many parts of the public, which I believe would be unfortunate.

Mr. MAZZOLI. Mr. Chairman, I yield, for purposes of debate only, 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I would simply say that this is a very difficult bill. I would not support this direction that we are taking today except for one thing, and that is it is clear to me that the risk of discrimination acclaimed by the opponents of this bill pale against the existing and growing discrimination against Hispanic Americans resulting from unbridled, illegal immigration into this country. That will not stop unless we stop illegal immigration.

I only have time to mention two segments of the bill. An amendment will be offered to strike the very limited criminal penalties that are in the bill at the present time.

I want to make this point. This bill allows three bites at the apple for one who continues to hire people who are not citizens of this country, and penalizes them civilly only. Only a person who is convicted of a pattern of practice could be found criminally liable under this bill and sentenced to 6 months in jail, and that does not apply to paperwork. It should be made very clear that those provisions do not apply to paperwork. I urge the Members to reject any effort to eliminate the very limited criminal penalties that are in this bill.

Second, an amendment will be offered to exempt people from the employer sanctions who hire three or fewer employees. It is called the Beverly Hills amendment. I strongly urge the Members to reject that amendment as well.

The purpose of this bill is to announce a single and clear message to the world that you should not come here expecting to find a job because, when you get here, you will find that it is illegal to hire you. Do not come here expecting to find a job because, when you get here, you will find that it is illegal to hire you.

The Beverly Hills amendment says, "Come on in anyway. Come live in the shadows, and maybe you can get one of those very rare jobs in which the employer only hires three or fewer people." That is a cruel invitation that is wrong for the United States of America to offer. We should not invite people to come here and live illegally so we can have maids and so we can have servants. We ought to send a consistent message to the world, "We have established a policy that only those people who are here legally will be allowed to have a job in the United States."

Mr. McCOLLUM. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I think that every one of us who have debated this issue realizes that the guts of this legislation, the critical point behind it all, is that in order to control our borders, we simply have to make it illegal for an employer to knowingly hire an illegal alien. We have got to end the magnet of coming to this country to get a job. The economies of other parts of the world, particularly some of our neighboring countries, are such that it is just too inviting to come over here and be able to get a job and work in the United States and stay here illegally, for us to be able to control our borders and to stop people coming in here illegally with the normal procedures for patrol and guarding, and so forth, that have been going on over the years. I strongly support that provision.

The only question, the only real issue to be debated, is one of whether we have to put other baggage on to that provision in order to get it passed and into law.

Some say we have to. But it particularly concerns me and grieves me that we would legalize millions of those here illegally, and I think quite unnecessarily, in the name of some kind of balance and necessity to get the law passed. It is called employer sanctions to make it illegal to hire people who are here illegally.

I am going to offer an amendment when the opportunity presents itself, as I have done in previous Congresses, to strike from this legislation the so-called amnesty or legalization provisions. It seems to me it is very unfair, unfair particularly to have legalization in this bill, unfair particularly to those who stand in line and have stood in line for years and years by the thousands to come into this country in a legal fashion, whatever country they are from, in Europe or any other part of the world. Therefore, the legalization that we are putting in this bill for the illegals is dead wrong on a fairness ground.

Second, it is wrong to have legalization and reward lawbreakers, and that is exactly what those illegals here today are. As much compassion as we may have for individual cases, they are breaking our laws, laws that say you have to go through certain particular procedures to come here.

Last, but I think the most important reason why we should not have legalization, why my amendment to strike it should be voted for, is that by passing a legalization provision, a date like January 1, 1982, where you grant the equivalent of blanket amnesty—we can fudge about the term, but that is basically what it is—to everybody who has been here for any time since that date, by doing that, we are in effect sending a signal to those across the border to come over here and try to get the fraudulent documents necessary to get to stay here. And to others who might not be willing to try the fraudulent route, we are saying we have done it once now, we will probably do it again. I think that is a horrible magnet message to be sending out.

We have in this country today—what?—20 million illegal immigrants? I do not know the number. A lot of people say it is less. But we have been talking about lesser figures for years, and we have been talking about 2 million coming in 1 year and, by my arithmetic, there are at least 20 million. If, as somebody has estimated, 64 percent of those who are here illegally come forward for legalization and there are seven relatives for every one who comes forward who will be legalized in the next 10 years after this program starts, we are talking about adding 90 million new Americans to the rolls of citizenship in this country in the next 10 years—90 million. That is too many for us to absorb and assimilate in the timeframe when we have a country of 240 million right now.

What happens if the people are denied this legalization and we put in employer sanctions? What happens to the illegals? Most of them are going to go back when they cannot get a job. Not everybody is cut off. If you have a job right now illegally, you get to stay in that job. But most of them will go back. Nothing is going to happen to them.

But for those who have been here since since January 1, 1976, even by adopting my amendment to strike legalization, they will be able to stay if the Attorney General says so under his discretion, because we have moved up the registry date from 1948 to 1976. I think that is appropriate.

For the rest of this bill, I am as concerned as anyone else about the Salvadoran question. I do not think we have any business granting extended voluntary departure. I hope that the Fish amendment is adopted. It is wrong to give that. The people who are here illegally now from El Salvador can return peacefully to that country. I think the debate will show it.

The Schumer amendment that we discussed at some length earlier, I think it is a very bad provision on agri-

culture in this bill, because it is a second amnesty. But I am not going to go into the details of why that is so bad.

Last, but not least, I am disappointed not to have the opportunity to strike from the bill—and I hope the other body will take care of it in conference—the provisions that grant for the first time the opportunity for Legal Service Corporation lawyers to get into the business of aiding H-2 temporary workers who really already have all the contract legal services that they need. It disappoints me that the Rules Committee and some of my colleagues did not permit this body to work its will on that issue to debate the question of what Legal Services' taxpayer-paid lawyers have, what business they have, in providing free legal assistance to those who are here under that H-2 temporary worker program, when we have so many of our own citizens today in this country who cannot afford the lawyer that they need.

I hope my colleagues deliberate seriously this legislation. We need the employer sanctions.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Chairman, I rise in support of immigration reform legislation, and I want to commend my colleagues on the Judiciary Committee, both on the majority and minority side, for bringing this compromise before the House.

Mr. Chairman, I would like to spend the few minutes I have detailing one section of the bill which is noncontroversial—the reforms of the H-2 program.

I was pleased to work actively with the gentleman from California [Mr. BERMAN] in crafting these provisions. In cooperation with the interested parties, we reached a useful agreement.

The H-2 compromise balances the competing interests of growers of nonperishable crops, domestic farmworkers and foreign H-2 workers.

The compromise protects the priority for domestic workers in temporary agricultural jobs.

It streamlines and codifies much of the existing H-2 program which has existed largely in regulation since its inception, thereby making it more workable for H-2 growers.

And, perhaps most importantly, I believe it helps move immigration law reform forward by removing what may have been a contentious issue and giving Members a reason to vote for the bill.

I urge my colleagues to support H.R. 3810 as amended, and I am including in the RECORD with my remarks a brief summary of the H-2 compromise:

HIGHLIGHTS OF THE H-2 PROVISIONS OF THE IMMIGRATION BILL

A. Foreign workers will not be brought into the country unless U.S. workers are not available to take the jobs.

B. Workers who are hired through the program cannot depress the wages and working conditions of U.S. workers.

1. This means H-2 workers get certain benefits—reimbursement for transportation costs, a meal allowance, a guaranteed contract, protection under workers' compensation, and housing.

2. With specific respect to housing, the compromise requires employers either to provide their own housing or to rent housing for the workers on the open market.

C. The compromise requires that a notice be circulated throughout the country about availability of jobs, and that employers do additional recruitment when the Secretary of Labor finds there are able, willing, and qualified workers in a traditional area of labor supply.

D. The compromise makes clear that growers can join associations to use the program, and that there are penalties for abusing the program, including being barred from it. It also clarifies where liability lies for various forms of association.

E. The compromise sets a more reasonable time before the harvest when growers should apply—no more than 60 days before the date of need—and encourages the Secretary of Labor to act on all applications promptly so that recruitment can be carried out fully.

F. The compromise contains a modified form of the so-called 50-percent rule, which is currently in regulations, which requires employers to continue to hire domestic workers after the harvest is started and the H-2 employees have already entered the country. The amendment language provides that after 3½ years, Congress can either take appropriate action to continue, end, or modify the 50-percent rule, or else the Secretary of Labor shall promulgate regulations in this area balancing both the preference for domestic workers and the costs to employers of the 50-percent rule.

G. The amendment authorizes money for the Department of Labor to step up recruiting of domestic workers and to monitor compliance with the program.

H. The compromise contains the language agreed to in conference 2 years ago that gives overall regulatory approval to the Attorney General and supporting roles to the Secretary of Labor and the Secretary of Agriculture.

□ 1440

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding me this time.

Mr. Chairman, the House has an historic opportunity today to do something which really should have been done years ago. We did pass an immigration bill previously in 1984, unfortunately, the conference broke up over the administration's desire to impose a cap for reimbursement costs and for States like Florida, California, and others that would have been terrible, inappropriate thing to do.

We have now been granted an additional chance to do the right thing for this country. Let me take a slightly different tack in the short period of time that I have.

You have heard and will hear from all the other speakers what is right and what is wrong about this bill. But what is something that will very rarely be told is the truth about what it is costing America by having all these illegal aliens here not paying taxes, drawing Federal services, drawing State and local services which the taxpayers of America are paying for.

The program of legalization, and it is not amnesty; nobody gets blanket amnesty, nobody has a magic wand waved over them; they have to apply, they have to qualify, they cannot be automatically excludable under the laws that exist even now. They must affirmatively come forward. They are today taking the jobs of Americans and getting paid off the books.

They have no protection under the law. They do not get protection by the employers who are exploiting them. They do not pay taxes to the United States. They do not have payroll taxes paid for them. In the end, that is draining every year over $100 billion in revenue at the State, local, and Federal level from the tax money which could be used to do other things, including reducing the deficit.

By making these people come forward out of the shadows, out of that subrosa economy, we are going to help the United States.

The second thing this bill does is give us the ability to enforce our laws once and for all, to take them out of a melange of laws that are inappropriate, ineffectual and not being enforced correctly, the dedication to start doing the right thing for this country. To seal our borders and protect this country from illegal aliens.

We must pass this bill in this form.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. I thank the gentleman for yielding me this time.

Mr. Chairman, first I wish to commend the gentleman from Kentucky [Mr. MAZZOLI], and the gentleman from California [Mr. LUNGREN] for their tireless efforts in putting forth terribly, terribly necessary legislation for the furtherance of this country and its society.

Mr. Chairman, today, I rise in support of this bill only because it is at least one step toward the day when we as a Congress take seriously the problem of illegal immigration. However, I hasten to add that this piece of important legislation has been watered down and softened by the amendment process to the point that it is a bit crippled.

The situation along our border with Mexico at present is almost completely out of control. It must be dealt with aggressively, directly, and very soon

before it is too late to reverse. Unfortunately, a majority of this body either does not share my views or refuses for political reasons to address it as a high priority.

My own position on this issue was stongly reinforced during a recent visit to the San Ysidro/San Diego border sector with Harold Ezell, regional commissioner of the Immigration and Naturalization Service, along with the Chief of the Border Patrol, Alan Eliason. I saw first hand thousands of illegal aliens crossing into the United States virtually unimpeded by the threat of arrest, or fear of the ruthless bandit gangs that roam the border areas to murder, rob, and assault them.

I watched from the ground and from a helicopter as scores of men, women, and children gathered in open fields on our side of the border to meet the guides who would take them north. I spoke with a large group of illegals and learned from them how easy it is to come into our country without documentation. As I looked through night vision binoculars, I saw dozens of people dart through our porous border fence, across a darkened riverbed into a suburban San Diego County residential area.

Senior Border Patrol officers readily concede that they do not have nearly enough manpower or enforcement technology to cope with the annual influx of more than 1 million illegal immigrants in the San Diego sector alone. For every one apprehended, another makes it safely into the United States. Most of those arrested and sent back to Mexico are back across the border within a matter of hours.

One guest on my recent border tour was a second generation Hispanic city councilman from Santa Ana whose parents entered this country illegally many years ago. He strongly supports quick and decisive action to control the present flood of illegals into this country because he and I know that eventually, our economic structure will not be able to support them. We already are dangerously close to the saturation point with regard to the types of nonagricultural employment generally sought by illegal immigrants.

Mr. Chairman, the real keys to worthwhile, effective immigration reform fall into two basic categories—economics and enforcement.

The economic issues are varied and complex. Most of those coming here illegally are merely seeking a better life for themselves and their families, fleeing the struggling economies south of the border. Ironically, many of those now entering illegally would have crossed the border routinely and legally only two decades ago to work during peak agricultural seasons under the now-defunct "bracero" program.

Solutions to such economic problems are not easy. We must redouble our efforts as a nation to help revitalize the economies of our southern neighbors to encourage their citizens to stay at home to earn their livings. To provide a disincentive for those who do continue to enter illegally to seek employment in the United States, any solution must at least involve stiff and prohibitive sanctions on those who knowingly hire illegals. At the same time, however, we must provide a stable work force to sustain our vital agricultural industry by instituting a new and carefully monitored guest-worker program.

In the area of enforcement, our Border Patrol needs new resources to perform its job more effectively and to eliminate the threat posed by those who bring drugs and other crime into our country. New law enforcement technologies must be applied and additional manpower must be provided, particularly if we institute new employer sanctions and a controlled guest-worker program. Any amnesty provision for illegals who already are in this country must be strictly limited, with eligibility based upon demonstration of a working knowledge or the English language and desire to become a productive contributor to the economy.

Each year for the past 5 years, I have cosponsored legislation to undertake a major reform of our present inadequate immigration system. Each year, my colleagues in the other body have acted quickly and decisively on reform bills but each year, this House has moved to block meaningful and effective reforms. Obstacles have been thrust in our path that have, unfortunately, annually prevented us from taking meaningful action to address this crisis.

This year, we have made another attempt but again, steps have been taken to soften the reforms by the introduction of amendments that will render some of the tougher provisions of the bill almost ineffectual. While I will support this bill as the only reform vehicle before us, I will continue to press hard for real reforms that address the kind of problems I have seen personally at our border with Mexico.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise, since I was not able to interject my remarks during the time the two immediate predecessor speakers spoke, I want to remind the gentleman and my colleagues that the President's Economic Report says that the presence of these aliens is beneficial economically to the United States. I think the Members ought to bother to read the President's Economic Report that he handed to us a few months ago.

The CHAIRMAN. The Chair will inform the Members that the gentleman from Kentucky [Mr. MAZZOLI] has 16½ minutes remaining; the gentleman from California [Mr. LUNGREN] has 5 minutes remaining.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GARCIA].

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GARCIA] out of the time allotted to the Committee on Education and Labor.

The CHAIRMAN. The gentleman from New York [Mr. GARCIA] is recognized for 4 minutes.

Mr. GARCIA. I thank both gentlemen for yielding me this time.

Mr. Chairman, we are debating the Rasputin of legislation today. It will not die, no matter the circumstances or changes made, and while I, again, have reservations concerning this legislation, I cannot be anything but amazed by the continuing saga of immigration reform in this body.

I would be remiss, if I did not take a moment to commend the distinguished chairman of the Immigration Committee for his efforts to accommodate all of us who have concerns regarding the legislation before us.

What makes this particular bill so vital is not only its impact on the flow of immigrants to this country, but how we as a nation perceive that flow, whether or not we consider it to be beneficial to the building of the United States or whether or not we believe that the flow must be stopped—at all costs.

I have thought long and hard about this issue and about this bill. I want to emphasize from the start that I am in agreement with the framers of this legislation on one crucial point: We need immigration reform. Yet, that reform cannot come at the expense of any group, community, or branch of Government; whether or not it is Hispanics, blacks, or Asians; whether or not it is small or large businesses; whether or not it is State or local governments. Reform must be fair, as well as realistic.

I have several problems with this bill, but, again, my primary concern centers around employer sanctions—that provision in the bill which would fine employers for hiring an undocumented person. At face value, one might ask: What's wrong with sanctions? Shouldn't it be illegal to hire persons who are here without proper documents? In a word, No. I say no. Because in our zeal to slap the hands of those who would hire undocumented persons, we are also setting up a situation where employers would rather not hire a person of color because of the risk of a fine.

It's not the bigots that concern me; they will always find a way to discriminate. No; it's the ordinary small businessperson who isn't going to take any chances. They can't afford to. That is why we must, at all costs, maintain, the antidiscrimination provisions in this bill. We must fight back any attempt to eliminate or alter those provisions.

Another aspect of this bill troubles me. This legislation does not take into consideration foreign policy concerns. It attempts to deal with immigration reform, not at the border, or before the border, where the problem begins, but over the border, where enforcement is much more difficult and much less permanent.

There is a provision in this bill, however, which at least recognizes the effect that our foreign policy has on the flow of refugees to this country. It is that section that would extend extended voluntary departure status to Nicaraguan and Salvadoran refugees until such time as the turmoil in their nations has quieted. Again, any attempt to strike this provision from the bill would greatly weaken the overall legislation.

Finally, Mr. Chairman, as I and so many others before me have said, this is a nation of immigrants. There is not one of us in this Chamber who cannot trace their ancestry, at least part of it, to another part of the world.

We are the product of adventurers, reformers, castoffs, and slaves. Yet, we have beaten the odds and defied those who turned their backs on our ancestors by creating this, the greatest Nation in the world, a nation not built on royalty or aristocracy but on pride and heart. We have been able to create such a great Nation because our Nation, as symbolized by the Statue of Liberty, has been receptive to the flow of immigrants. We have not been afraid to open our doors.

We are not a homogenous nation, thank God. When I go back to New York City, my home, I can go around the world just by moving from neighborhood to neighborhood. I can hear the music of my heritage playing on the streets of the South Bronx—the Salsa beat makes me feel at home in my barrio, my neighborhood. I can go across the bridge and hear a different but just as energetic music, American jazz, and if I listen closely enough, I can feel the music's African roots. Or, I can go downtown and to Little Italy or Chinatown and have some of the best Chinese or Italian food to be found anywhere in the world.

I can get a corned beef sandwich at any of the thousands of Jewish delis in the city. I can also have a great conversation about the state of world affairs with a Russian, West Indian, or Israeli cabdriver—all immigrants to this land of promise. New York City has a Jewish mayor; the State has an Italian Governor. I personally think that's what makes the city and State so great, the fact that we are so culturally rich.

I don't want us to become smug or insular in our attitude toward the infinite variety of cultures and people who want nothing more than to come here to contribute the building of our great Nation.

We must remain in control of our borders, but I believe that in order for this Nation to continue to be dynamic and first among the world's democracies, we must not forget our humble roots. We must not fear the next generation of immigrants. We must, instead, embrace them. If we give in to our fears and pass a bill that is discriminatory or nativist. Then it's the Nation that will finally lose.

□ 1450

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to remind the gentleman that the recent orgy that we had over at the Statue of Liberty should emphasize that that Statue never looks south. We do not have that Statue of Liberty to greet the humble masses. It is over here, and I want to remind the gentleman that the issue has to do with that.

Mr. GARCIA. Mr. Chairman, in closing, I would like to again thank the chairman of the Judiciary Committee for getting the sunset provision into this legislation. I think this is important because there is no question in my mind that we are going to find that sanctions will prove to be discriminatory against people of color and of race.

That is why I want to thank all those concerned for putting the sunset provision in the bill because at least in 6½ years we can come back and review the amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I assure the gentleman that it will not be that long before we will have oversight of those very provisions, and I invite the gentleman to join with us.

Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. BERMAN].

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes of the time alloted to the Committee on Education and Labor to the gentleman from California [Mr. BERMAN].

The CHAIRMAN. The gentleman is recognized for a total of 5 minutes.

Mr. BERMAN. Mr. Chairman, I thank very much both the chairman of my subcommittee and the gentleman from Michigan [Mr. FORD] for yielding me the time to go through some of my reasons for changing my position from 2 years ago and supporting the bill that is before us now.

I say that with apprehensions and concern, for some of the criticisms of this legislation before us now must be given attention by this body. The fact is that the gentleman from Texas [Mr. GONZALEZ] is correct. A mythology has developed about the harm to our country's economy because of the presence of undocumented workers. The fact is, that with respect to taxation, work and productivity, many of these undocumented workers are contributing a great deal in a great many places to the strength of our economy, not to the detriment of it.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I did not say that; the President's Economic Report says that.

Mr. BERMAN. Notwithstanding the loss of credibility in the source of the argument, I still think it has a great deal of merit.

Second, the gentleman from New York and the gentleman from California [Mr. ROYBAL] speak of the problems inherent in the employer-sanctions concept. The employer, sanctions concept is a good concept, if we want to regulate and rationalize illegal immigration. The present system has not done it. Perhaps, at least in concept, hopefully in reality, the existence of employer sanctions taking away the magnet will work to do that.

But we have to deal with two separate questions involved in employer sanctions, the effectiveness of those sanctions. We are, in some fashion, turning over the enforcement of our immigration laws to the hundreds of thousands, even millions, of employers in this country. Second, when an employer, particularly one who does not have elaborate personnel and legal departments, is faced with the potential of civil and criminal penalties, that employer, for totally nonracist reasons, may, when in doubt with respect to the legal status of an applicant, decide to protect himself by excluding that applicant.

But the bill attempts, hopefully very effectively, to deal with that in two ways: First, a meaningful and strong antidiscrimination remedy, which I suggest perhaps will be stronger and more effective than the ones that now exist under title VII for discrimination based on race, religious, and national origin; and second, by the inclusion of the sunset which forces us to look at the effectiveness of employer sanctions, and the questions of whether or not discrimination is a byproduct of employer sanctions and compels us to revisit that issue.

Those two provisions in the bill, I think, on balance, with all of the other provisions of this bill which make it such better legislation than it was 2 years ago, justify taking action that I think the American people do want.

Many feared that the legalization program was going to be an empty promise, that people would be drawn into applying for legalization and then an attorney general or an INS director who did not really want to go through that legalization process would exercise his discretion to deny legalization status.

The gentleman from Kentucky, through his own amendment in subcommittee, has dealt with that concern by taking away that discretion. If an individual meets the criteria set forth in the statute, that person would be legalized. The ability to entrap someone into revealing his or her identity in order to then be excluded because that discretion was abused and exercised arbitrarily has been vastly reduced by the amendment of the gentleman from Kentucky.

On the agricultural issue, the fact is that if this Congress is going to accede to the very extraordinary and special request of western agriculture for treatment unlike any other employer or industry in this country, at the very least, let their workers have a legal status which allows them to bargain collectively, to grieve against abuses, to exercise the ultimate leverage in the marketplace, which is to leave that marketplace and that industry if the employer is violating his promises, his contract, providing conditions which are miserable.

Finally, the legislation includes something which I think is very important. It is a slightly tangential issue, but compelling nonetheless. By its inclusion of the Moakley-DeConcini language, we are keeping faith with this country's very sacred trust that when there is doubt, we will err on the side of making sure that people who are fleeing from political persecution will not be summarily deported to what they might face.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROYBAL].

Mr. FORD of Michigan. Mr. Chairman, I yield 1½ minutes out of the time allotted to the Committee on Education and Labor to the gentleman from California [Mr. ROYBAL].

The CHAIRMAN. The gentleman from California is recognized for 3½ minutes.

Mr. ROYBAL. Mr. Chairman, I thank the gentlemen from Michigan and California who just yielded the time to me.

It seems that this is the only opportunity we will have, at least in this debate, to tell the Members of the House just exactly where we stand with regard to what is now being passed as immigration reform.

We are in favor of immigration reform, but we know for a fact that this bill is not immigration reform. This bill is designed to provide a steady flow of cheap labor to the farmers and growers of the United States and, to boot, those farmers and growers are exempt from sanctions.

All other employers in the United States, however will be sanctioned or subject to sanctions provisions if they make some kind of a mistake and hire someone who may be here illegally. Then they can be fined and even suffer the consequences of a provision that will even send them to jail.

□ 1500

Now, if anyone can show me where I can find immigration reform in this bill I will have to reexamine the words immigration and reform.

To me immigration reform means that we must reform the present system, that we must do something about a Department that is the most discourteous Department in the Federal bureaucracy.

In this bill we find that we have a new appropriation of $400 million to reform what they consider to be a situation where we have lost control of the borders. Well, $400 million additional for the Department of Immigration is like spitting in the ocean. That will not remedy the situation, with spending the necessary amount to reform the Department. More personnel is needed so that they can again become a service department.

But we are against the bill for the reason that it does have sanctions for all employers except the farmers and grower and because among other things it provides for an amendment, the Beverly Hills amendment which will exempt an additional group, all those who have three or less employees.

We are fearfull that sanctions will definitely result in discrimination against the Hispanics and the Asians in this Nation. Those employers who would not want to get involved in any way will just not interview anyone who may appear to be Hispanic and quite obviously Asian. That will result in discrimination. Silent perhaps, but damaging just as well.

There are Members of this House who believe that we already have some protection against discrimination or that we are going to establish a group that will look into it. The truth of the matter is that we don't.

Well, we have the Civil Rights Commission but not too long ago that was defunded, because the Civil Rights Commission in the last 6 years has done absolutely nothing about discrimination.

The truth of the matter is that thousands and thousands of Hispanics in this country and Asians as well will suffer the consequences of discrimination simply because of sanctions.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to H.R. 5665. I will focus my remarks on two principal concerns.

First, the heart of the bill remains employer sanctions, a fatally flawed concept which will put an onerous burden on every employer in America and raise the specter of discrimination against our own citizens. Yet, employer sanctions have proven ineffective wherever and whenever tried, whether in other countries or at the State and Federal level of our own.

For the most recent evidence of this failure, we can look to the 1985 GAO study on employer sanctions laws in foreign countries. As the study reports, from 1981 through September 1985, the estimated number of aliens working illegally increased in four of the surveyed countries, remained about the same in three countries, and only decreased in Hong Kong and one country.

The country most like ours, Canada, reported that its enactment of employer sanctions laws has had virtually no effect. And, despite an overall decline in the number of visitors to Canada, the number of illegal aliens working there has increased slightly since 1981.

In our own country, the Federal Farm Labor Contractor Registration Act of 1963 gives evidence that employer sanctions have been ineffective in the United States at the national level. In addition, employer sanctions have been proven ineffective at the State level in the many States with such laws on the books. The most these laws have produced was one $250 fine.

As Wayne Cornelius of the Center for United States-Mexican Studies at the University of California at San Diego said: "There is not a single documented case of successfully using employer-sanctions laws to reduce the population of illegal immigrants anywhere in the world."

My second principal concern is that the legislation does not deal with the root problem of illegal immigration. Instead of sending hundreds of millions of dollars to Central America to overturn governments, that money would surely be more wisely spent in being a better neighbor to Mexico and other sending countries.

Helping the sending countries in their development is part of the real answer to curbing illegal immigration. Working hand in hand with these countries will have more effect than this unilateral move before us today. Indeed, Mexican officials have said that a successful solution to perceived

problems of migration between our two countries necessarily involves a bilateral search for answers.

And, here at home, providing the necessary resources to our agencies to enforce our immigration laws and our laws on fair labor standards and practices would be part of the solution as well.

For the reasons I've outlined, and others, I cannot support this legislation.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, we have witnessed two miracles in this 2d session of the 99th Congress. One was that we got a drug bill through this House with some teeth in it. I stood in this well and thanked both sides of the aisle, particularly the majority side, for passing this hard hitting antidrug legislation that was going to benefit my family and my five grandchildren.

Now the second miracle is that we have an immigration bill on the floor in a week when we were not even supposed to be here. We were supposed to be out by the 3d, tomorrow, and now it looks like we will be out Friday, the 17th. I won't bet on that.

We now have a chance to debate one of the most serious problems in America, although it is not of the level of the drug bill, in which we were talking about thousands of young kids and middle-aged kids and Yuppies and even some older citizens dying on drugs. This immigration problem though is ser'ous and painful.

The night before last, or rather, Monday night, I went down to the California-Mexico border. Two gentlemen from New York had already been down there, Mr. SCHUMER and Mr. SCHEUER. There have also been eight Californians down there, two Democrats, four of the five of us from Orange County, CA, both the San Diegans. The gentleman from California [Mr. LUNGREN] has been down there several times, and the gentleman from California [Mr. LUNGREN] is one of the people around here who has worked this miracle, and I honor the gentleman for it. Getting this bill before us is a miracle.

Now, down there at that border I saw American territory controlled by people who are not Americans, standing there, 1,000 of them. One of them turned around, he did not know there was a Congressman there, he probably would have laughed if he did. He just thought I was one of the border guards again. He turned around and dropped his pants and gave us the international—to use the western acronym, a B.A.

I knew you would love that, HENRY.

It kind of symbolized for me the whole situation there. They are controlling American territory.

Now, at night when I got into a helicopter with the pilot and controlled the spotlight down on these guys, you know we are all good with spotlights on cars in southern California—I was pretty good and in a few minutes I was able to track all these people running around, some of them like scared people, others just giving other international signs to the helicopter.

When you have 1,000 people against a handful of border guards, a lot of people are going to make it to my district, and they have.

My friends in this House know that I treat them with the dignity that human beings deserve, and you guys know that.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield for just a question?

Mr. DORNAN of California. Well, the gentleman from California [Mr. LUNGREN] is running a tight ship here. He is not going to give me any more time. I just want to make a point about illegal aliens—not Mexicans, our brothers to the south that we should embrace with the same love and respect that we embrace Canadians.

I want to talk about OTM's, another acronym.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. LUNGREN. Mr. Chairman, I yield another one-half minute to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, OTM means other than Mexicans.

How about Chinese? Not from Hong Kong, I do not want to get into the yellow peril. I am talking about people on the mainland. How about Yugoslavians?

How about when I walk into one of those nice clean holding pens where they are eating Ritz crackers and tomato soup and I say, "Anybody here from Guatemala?" Ten hands go up.

"How about Nicaragua?" There are about eight hands go up.

"How about El Salvador?" And another five or six hands go up.

We are being inundated, and there has got to be a humane way to close this border and not to give instant amnesty to over 580,000 Central Americans.

Let us have a good debate today.

Mr. MAZZOLI. Mr. Chairman, if the gentleman from Texas [Mr. GONZALEZ] would like a minute, I yield 1 minute to the gentleman.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding this time. Really, I will need only a half a minute. I was just curious to inquire of the gentleman from California if after he was with this rather motley assortment of Congressmen if any immigration officer stopped the gentleman for looking suspiciously alien?

Mr. DORNAN of California. Suspiciously Norwegian.

Mr. GONZALEZ. That is the only point I wanted to make.

Mr. PANETTA. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, I speak here on behalf of the Agriculture Committee and the agricultural portions of the immigration and reform bill that is before the House. It involves a new agricultural program that recognizes those who currently work in agriculture. It provides for a revised H-2 program and it also provides a search warrant requirement that will be the subject of an amendment later on during this debate.

Immigration reform if it is to happen has to be comprehensive. I think that has been something that everyone has acknowledged. It has to include sanctions. It has to include legalization. It has to include strong enforcement and it has to include a provision that deals with the needs of agriculture.

If we are going to have immigration reform, it has to be comprehensive. Why agriculture as part of that? Because agriculture I think has established unique and special problems that relate to that area. The perishable crop industry in this country is an industry that ranges somewhere between $35 billion to $60 billion in terms of value. It is labor intensive. That is acknowledged by all.

Today the reality is that 85 percent of many of those who work in agriculture are undocumented aliens. These workers, also acknowledged, are often abused, live in fear, or exploited and have no rights. That is a bitter reality, but it is a reality.

The farmers, those who try to raise the crops, are subject to random raids that disrupt their operations. It is a reality. It is a bitter reality, but it is true.

All of this is not pleasant. It is not good and it surely ought not to be acceptable to the farmers, to the workers and to the American people.

So for that reason we have struggled to come up with a compromise in this area. It is not easy. It is emotional. It is confrontational. All of us understand that who have worked with this issue.

Two years ago the House adopted the Panetta-Morrison amendment. The Senate adopted the Wilson amendment establishing guest worker programs.

Although it was adopted by the House, it is clear that that confrontation could jeopardize this bill, and so to avoid that confrontation several of us gathered to try to negotiate compromise in the agricultural area. For ten months we sat and negotiated, working with farm groups, with worker groups, with civil rights

groups, to try to develop a compromise that is part of this bill. The compromise developed, I think, responds to the needs that we tried to address. It protects rights by giving legal status to those who can establish that they have worked in agriculture. It meets the needs of agriculture, not only by providing rights to those who work in agriculture, but by providing for a replenishment program.

Third, it does provide for sanctions against farmers. The statement was made a few moments ago that the farm community is not subject to sanctions. That is wrong. They will be subject to sanctions involved in this bill.

So it is a compromise. It is not a perfect compromise. It has been tightened up significantly by the Lungren amendments.

We have established a cap on one portion of the bill of 350,000. We have extended the man-days from 60 to 90 days and we have put a sunset on the program itself of 7 years.

So today what is before you is an effort by a broad coalition to establish a compromise in this very important area.

□ 1515

What is before you today is supported not just by farm groups and the Farm Bureau and the various farm organizations, but it is supported by the farmworker groups, and by labor, and the AFL-CIO, and it is also supported by the civil rights groups and those groups that have fought to protect the rights of workers. So it is supported by a broad coalition that has worked on this effort. For that reason I urge support for this compromise, and I urge support for the bill.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding time to me.

Mr. Chairman, I guess that you could almost say, "Here we go again," but there is going to be, I think, a big difference this time. I think this time we are going to be successful, and we are going to be successful because a lot of deals have been made.

The document here, as many of the speakers have said, is far from perfect, but what could we possibly have that is worse than what we have in place right now? The problem that we have is growing at a proportion that was absolutely unbelievable when we started this voyage many years ago, when these bills came to the floor many years ago.

We recently passed a drug bill in this Chamber, and the pace at which the Members were bringing tough new amendments down and trying to make it tougher and tougher was described as a "frenzy." That frenzy was caused by the fact that the American people were fed up, and Congress finally got the word.

That word is coming down again, and it is coming down that the American people are fed up with illegal immigration into this country.

I hope that this works. I pray that it will work, because if it does not, I would say that this body will be back in a few years with the same type of frenzy that it had on the drug situation, and we might find ourselves in a situation of overreacting. And the problem of overreacting in that instance is that we are dealing with the lives of people of the world.

This bill does not overreact to the situation. It is very human in its treatment. There are amendments that are going to be offered to take away the legalization provisions, and I will support that amendment to take away the legalization provision. But if that amendment fails, and legalization stays part of this bill, I will say, "So what?" because those people are here, and we are not doing anything about getting rid of them anyway, so I would say that we can still support the bill.

The problems along the Texas border and the California border are absolutely incredible, and absolutely dwarf the problems that we have always thought were so great in the State of Florida.

The votes have been put together. This bill is going to pass, and I commend the gentlemen on both sides of the aisle for the tremendous work that they have done in making this bill and bringing it this far along.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just say that we will have time, I hope, to discuss the last amendment that has been made in order, which is the amendment or motion to strike the EVD—extended voluntary departure—for Salvadorans and Nicaraguans.

That is extremely important. I do not think that it belongs in this bill, I think that we ought to strike it, and the President has indicated that he will veto any EVD. In that sense I would suggest letting it remain in the bill as a killer amendment.

After we spend all our time dealing with this bill, when we come to that last question, let us hope that those of us in this House act to save the bill, and not to kill it.

The CHAIRMAN. The gentleman from Washington [Mr. MORRISON] is recognized for 7½ minutes.

Mr. MORRISON of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Yogi Berra supposedly once said, "This seem like deja vu all over again." It certainly is true in the case of this immigration bill, except this time I am proud to have been part of the team that we believe has put together a package that will give us some clearance over the hurdles that have stopped us before during the past several years in dealing with this most significant issue.

On behalf of the Committee on Agriculture on the minority side of the aisle, I can report that we have worked with this bill, that we are pleased to recommend to the full House the agricultural provisions, and let me mention them in passing.

First of all, the agricultural workers program—Mr. PANETTA has mentioned this most eloquently. Our concern, of course, is for the production of the perishable commodities that are so important in many of our States across the United States, and making sure that there is an adequate number of people to work, since we have absolutely no idea how many illegal workers have infiltrated the supply of workers who follow the migrant path to harvest these various commodities.

In order to make sure that there is an adequate number of these workers available, the compromise which we have in front of us in this bill uses the measurement of those who have worked in the past few years. That, after all, has to be the most accurate indication of what it takes to do the job. A 90-day commitment per year in these last several years in the measurement, and we think that that can be worked quite effectively.

Also, the agricultural provisions have a relatively short life, for those Members that are concerned about them, and the gentleman from California [Mr. LUNGREN] and others on the floor of the House when we defeated the rule just a few days ago made the point that this was a rolling amnesty provision for agriculture. That is no longer true. While there is a potential of some replenishment, I think that we will have a good opportunity in this Congress in these Halls to measure the actual number of people who are involved, how many workers are here, how many are needed, where are they, and get back with the opportunity to rework this before it actually sunsets.

I think that the reliance on that Commission can be an important point, because, very frankly, we are working without adequate numbers: 31 States, as I recall, do not allow employers to ask the nationality of workers when they come to their doors, and we are just guessing as far as the numbers are concerned. So let us rely on a Commission which is given 5 years to prepare an accurate report as to the numbers that we actually need and what program can be most effective for protecting agriculture.

I also would just like to comment that it has been a delight to work again with the gentleman from California [Mr. PANETTA], and this time, though, with an interesting combina-

tion of folks—some of whom admit that their closest ties to agriculture are when they put their cash out at the counter at the local grocery store. But together we have come up with a combination that I believe works for farmworkers—that is essential—and it also works for farm owners and operators, an unusual combination, and we are pleased to bring it to you today.

Also in the agricultural arena are the provisions related to H-2, a longstanding guestworker program reflected in this measure, the compromise worked out again with a number of people working together, and I am confident that we can work that on through conference and we can be proud of modifications that have been made, but modifications reflecting balance, again imparting the fact a number of people have been concerned about this.

From the Committee on Agriculture will come an amendment related to the requirement for warrants for field searches. We feel that it is absolutely essential that we have fair and equal treatment all the way across America's lands. This would ensure equal protection for unreasonable and warrantless searches for farmworkers and farmowners. The committee does present this amendment to you.

Farmers ask why their factories have no walls or perhaps only fences and they are treated differently from someone whose factories are enclosed in some other way. There are no constitutional protections for either workers or farmers on these lands.

Interestingly enough, the statistics show that only 15 percent of illegal workers employed in the United States work in agriculture, and yet 72 percent of the apprehensions of illegal workers are from the agricultural sector. So obviously the lack of the requirement in current law for a search warrant shifts the emphasis to those areas, and there is more enforcement, more apprehension from those areas, and I think that this should be straightened out, and that amendment will be forthcoming from the Agriculture Committee.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Vermont [Mr. JEFFORDS] is recognized for 7½ minutes.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, the legislation we are considering today may have a profound affect on many of the economic, social, and service delivery institutions in this Nation. This fact is acknowledged in that section of the legislation which deals with State legalization assistance.

The State legalization assistance section authorizes Federal funds for the purpose of assisting States and localities in the provision of public assistance and education services to legalized aliens. However, as originally reported by the Committee on the Judiciary, H.R. 3810 did not provide any direction as to how these funds should be administered nor provide a cap on how much of the educational costs the Federal Government was responsible for.

When H.R. 3810 was referred to the Committee on Education and Labor, I offered an amendment which provided a structure within which educational assistance could be provided to States and local agencies. First, my amendment placed a $500 cap on the Federal contribution for each child or adult eligible to receive educational services under the immigration bill. This is accomplished by applying the provisions of the Emergency Immigrant Education Act to the funds appropriated under H.R. 3810. In addition, the Emergency Immigrant Education Program would provide an already existing administrative structure through which the funds could flow.

My amendment has been included in the text of the bill which we are considering today, and I feel makes this legislation more educationally and fiscally responsible.

There are no good, hard figures on how many children and adults will come forward for educational services as a result of the legalization provisions in H.R. 3810. Certainly in some areas of the country it is likely to be significant. My amendment, which received unanimous support from the Education and Labor Committee, provides a reasonable level of Federal assistance for these services while avoiding the need for a new administrative structure to operate the program.

□ 1525

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] has 1 minute remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield my 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. PANETTA. Mr. Chairman, I yield my 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. MAZZOLI. Mr. Chairman, I yield my 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. CHAIRMAN. The gentleman from New Mexico [Mr. RICHARDSON] is recognized for 3 minutes.

Mr. RICHARDSON. Mr. Chairman, I thank my three colleagues for yielding me this time.

Mr. Chairman, an essential component of the immigration reform legislation is a positive economic relationship with Mexico, both nations working together to stem the flow of undocumented workers as well as to help our depressed border economies.

In the past, immigration reform bills have not contained any provisions to deal with this issue. For the first time, in my judgment, this immigration reform bill does contain positive economic partnership provisions with Mexico.

Mr. Chairman, the bill contains an amendment that I have offered that authorizes the President of the United States to negotiate with Mexico a free trade zone. The President is not obligated to do so by this amendment, but he simply has that option.

We have such an agreement with Israel, and are presently negotiating one with Canada.

Under this provision, products, not people, move duty free through this free trade zone, coproduction zone. The joint enterprises are formed and with the help of Members like the gentleman from Texas [Mr. GONZALEZ] it includes in this provision that I have authored the potential for creating a joint economic development bank with Mexico to jointly finance projects.

This is a very important and positive step. It has been endorsed by the U.S. Chamber of Commerce, the first time that the U.S. Chamber of Commerce has endorsed anything that I have ever done, so it is a landmark for me.

In addition to that, it has been positively received by the Mexican Government. They feel strongly that they do need economic development along the border worked on jointly. But let's face it, in the past they have shield away from it. Why should they help us get off the hook with a safety valve problem that they have?

But I believe for the first time they are ready to negotiate, although they have not said this publicly; it has mostly been privately.

So I believe that this bill contains the potential for economic development in the border regions, the depressed border economies. It is up to the President and the State Department and the Commerce Department working with our labor unions, working with many border economies and mayors in border States to come up with a plan that possibly will help the border economies.

For this reason, Mr. Chairman, I think this economic tie with Mexico that we have neglected so many times, the bilateral relationship with Mexico, that the Mexicans will respond positively, that they will say to us that they appreciate this economic initiative that the House of Representatives has put forth.

So I applaud the members of the Committee on Rules for having accepted this amendment which simply says the President is authorized to negotiate a free trade zone with Mexico. He does not have to do it. I think it is up to the executive branch to develop

a positive formula that will bring jobs to the border.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, October 7, 1986.

Members of the House of Representatives:

You soon will be considering H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985." The U.S. Chamber of Commerce supports immigration reform and urges you to consider this bill immediately so that legislation can be enacted before adjournment.

Although the Chamber urges you to consider H.R. 3810, this bill is seriously flawed. The Chamber prefers the approach to immigration reform taken in S. 1200, the bill adopted by the Senate last September.

First, H.R. 3810 creates unnecessarily a new private right-of-action for discrimination based on "alienage" and establishes a new civil rights bureaucracy separate from the existing agencies charged with enforcement of civil rights laws. Ostensibly, this approach is intended to prevent the possibility of increased discrimination resulting from the proposed employer sanctions. Unfortunately, this new requirement subjects employers to duplicative and potentially conflicting enforcement actions, provides aliens with greater legal and procedural rights than those afforded citizens under current law and prohibits an employer from giving a preference to a U.S. citizen over a noncitizen.

The Chamber favors the Senate resolution of this alleged problem. S. 1200 contains a provision, offered by Senator Kennedy, to "sunset" employer sanctions if there is evidence of widespread discrimination following enactment. Such an approach would be far preferable to the business community than the extravagant new rights and bureaucracy contained in H.R. 3810.

Second, H.R. 3810 requires all employers to comply with overly burdensome recordkeeping and verification requirements, whereby fines of up to $1000 per paperwork violation may be imposed, even if an employer does not hire an illegal alien. The Small Business Administrations' Office of Advocacy has estimated conservatively that the cost of compliance with these requirements would be more than $650 million per year. In contrast, S. 1200 penalizes an employer for hiring illegal aliens—not for mere paperwork violations—and grants employers an affirmative defense if they choose voluntarily to keep the paperwork on each employee.

The Chamber urges you to resolve these two issues and pass this important legislation.

Immigration reform is not just a domestic issue; it must be viewed in a broader context. For this reason, the Chamber supports the amendment to be offered by Representative Richardson. This amendment would authorize the President to negotiate with the government of Mexico, on a reciprocal and mutually beneficial basis, the establishment of a free trade and coproduction zone that would include our respective borderlands. Such a zone should serve as a first step toward achieving a free trade area between the U.S. and Mexico over the long run. Trade liberalization, as envisioned under the Richardson amendment, also should serve to increase economic growth and development in the borderland and, thereby, help to alleviate the social tensions associated with ongoing immigration problems.

Thank you for your consideration of the Chamber's views.

Sincerely,

ALBERT D. BOURLAND,
Vice President, Congressional Relations.

[From the CONGRESSIONAL RECORD, Aug. 1, 1985]

Mr. RICHARDSON. Mr. Speaker, today I am introducing a new positive approach to immigration, one that combines economic opportunity and jobs.

The issue of immigration has been considered as a domestic matter for too long. Last year's debate over the Simpson-Mazzoli immigration bill focused on the need for the United States to regain control of its borders by instituting employer sanctions or by increasing border enforcement.

What is evident to me is that immigration is a multilateral issue between the United States and other recipient nations and all nations whose lesser developed economies and/or internal political turmoil contribute to the flow of emigrants.

This view was confirmed by what members of the congressional Hispanic caucus saw and heard on their trip to Latin America last December. During out stop in Mexico, we found a willingness among Mexican officials to discuss important bilateral issues—including the problem of undocumented migration. The bill I am introducing today is in part a response to those talks.

The United States-Mexico Border Revitalization Act of 1985 would create a free trade land coproduction zone along the United States-Mexican border; establish a United States-Mexican Bilateral Commission; initiate a joint United States-Mexico Development Bank; and develop a Multilateral Commission on Immigration. I am pleased to announce that as of today four members of the congressional Hispanic caucus are original cosponsors of the bill Congressman HENRY B. GONZALEZ of Texas, Congressman ROBERT GARCIA of New York, Congressman ALBERT BUSTAMANTE, and Congressman SOLOMON ORTIZ of Texas.

I want to make this opportunity to outline the four major initiatives in the bill:

FREE TRADE ZONE

The recent peso devaluation in Mexico has created an economic crisis in the border region between our two countries. Most of the border region is economically depressed—it has one of the highest rates of unemployment; the lowest levels of income; health care services; educational attainment; and industrial development in the United States. Under my bill, the President is directed to enter into negotiations of the Government of Mexico a United States-Mexican free trade and coproduction zone within approximately 200 miles of each border.

The zone would provide for the duty-free treatment of products grown, produced or manufactured within the zone. United States and Mexican businesses located in the zone would be eligible to tax incentives, similar to those offered in enterprise zone legislation now pending before the Congress. Businesses that are at least 35 percent Mexican-owned or 35 percent United States-owned will be considered eligible ventures under this act.

UNITED STATES-MEXICAN BILATERAL COMMISSION

Under the act, the President would be directed to appoint a bilateral commission, composed of 15 members of the public and private sectors in the United States and an equal number of representatives from Mexico. It will meet quarterly with the goal of strengthening the political and economic ties between our two countries. Areas of discussion are, but not limited to: Immigration; the free trade and coproduction zone; tariff and trade issues; transportation; energy and pollution.

UNITED STATES-MEXICO JOINT DEVELOPMENT BANK

My bill will provide for the establishment of a United States-Mexico Joint Development Bank with the authority to make economic development loans in Mexico and in the border regions of the United States. Assistance provided by the bank would be directed at improving employment opportunities. The Government of the United States and Mexico would contribute equally to the capital of the bank with provisions for an initial U.S. contribution of $4 billion.

MULTILATERAL COMMISSION ON IMMIGRATION

Immigration is a multilateral issue. My bill recognizes that fact and creates a forum in the establishment of a commission where the United States and prime sending countries can discuss such immigration issues as: The economic, political, and social factors that encourage legal and illegal immigration, the problem of border enforcement; the protection of rights of legal immigrants; and refugee relocation and refugee rights. The purpose of the commission will be to work out international agreements on immigration issues.

CONCLUSION

All of the problems of illegal immigration will not be solved with the initiatives proposed in my bill. But, it is time we in the Congress recognize that economic strife, the opportunity for a better life and freedom from religious or political persecution are the underlying reasons for the flow of illegal immigrants into the United States. My bill sets forth some new ideas for discussion in the immigration debate.

SUMMARY OF UNITED STATES-MEXICO BORDER REVITALIZATION ACT

Title I—United States-Mexico Free Trade and Co-Production Zone:

Directs the President to enter into negotiations with the Government of Mexico for the purposes of developing and entering into a U.S.-Mexico Free Trade and Co-Production Zone Sector within 200 miles of each border;

Provides for duty-free treatment of products grown, produced or manufactured within a Zone Sector by a U.S.-Mexican business located in that Zone Sector and exported to a foreign country or introduced into the domestic commerce of the country in which the production or manufacture occurs:

Provides U.S. tax incentives to U.S. companies including: elimination of capital gains taxes on investment within the sector; an increase in investment tax credit for both personal and real property used in operation of eligible venture; income tax credits for employees; and continued availability of tax-exempt bond financing within the Sector beyond 1986 sunset;

Directs the President to submit the agreement to Congress and a bill implementing said agreement;

Directs the President to submit an annual report to Congress detailing the progress made during each period covered by the report in carrying out negotiations. If a bill implementing the Zone is enacted into law, directs the President to submit an annual

report to the Congress detailing the operation and effect of the Zone during the period covered by the report;

Directs the President to evaluate the feasibility of establishing duty-free trade between the U.S. and Mexico on a national basis and shall submit to Congress a report and legislative recommendations on that evaluation.

Title II—United States Mexico Bilateral Commission:

Establishes a fifteen-member commission (there are representatives each from the Senate, House and Executive Branch, academia and the private sector) that will meet quarterly with the goal of strengthening the political and economic ties between the U.S. and Mexico;

Areas of discussion include, but not limited to, immigration; Free Trade Zone; border region; tariff and trade; fishing rights; transportation; energy and pollution;

Directs the commission to submit an annual report to Congress.

Title III—United States-Mexico Joint Development Bank Act:

Authorizes the President to enter into an agreement with Mexico to establish a United States-Mexico Joint Development Bank to make economic development loans in Mexico and in the border region of the United States;

Requires that assistance provided by the bank shall be directed at improving employment opportunities and enhancing the economic development of the geographic and economic sectors of Mexico which are the major sources of undocumented Mexican nationals who enter the United States and the U.S. and Mexico contribute equally to the Bank;

Directs the President to appoint the U.S. Directors of the bank. Authorizes the Secretary of the Treasury to subscribe to the capital stock of the bank. Authorizes appropriations to pay for such subscription.

Title IV—Multilateral Commission on Immigration:

Establishes a commission (U.S. representatives appointed by the President) that will have equal representation from the U.S. and the prime sending nations. The Commission shall work toward international agreements addressing immigration issues;

Areas of discussion will include, but are not limited to; economic, political and social factors that encourage illegal immigration; border enforcement; protection of the rights of legal immigrants; refugee relocation; and refugee rights;

Directs the Commission to submit an annual progress report to Congress.

Crisis on the United States—Mexico Border: A Plan for Action

(By Abelardo L. Valdez)

Mexico's ongoing economic crisis and its impact on the United States confirm that bold initiatives are vital to the economic future of both nations. Instead of the limited vision exemplified by the Simpson immigration bill and protectionist measures against Mexican imports, the United States should be finding ways to look beyond current problems to developing future economic opportunities through a spirit of partnership with Mexico.

The current crisis, while affecting adversely the economies of both nations in general, has had an especially devastating effect on the region bordering the United States and Mexico. The borderlands contain some of the hardest-hit sectors of both the U.S. and Mexican economies. It is an area of very high unemployment and exceedingly low-income levels which badly needs the infusion of investment and industrial development.

Four years ago, I recommended through the U.S. Trade Advisory Committee, which was preparing President Reagan's Report to Congress on North American Trade Agreements, that the United States and Mexico establish a Free-Trade and Co-Production Zone along the 2,000-mile border they share. Now, Representative William Richardson (D-NM), Chairman of the Congressional Hispanic Caucus, and several members of Congress have taken the initiative to incorporate my proposed plan in a legislative package which was introduced this week in the House of Representatives as the "U.S.-Mexico Border Revitalization Act." The proposed Zone would serve as the foundation of a new partnership that could combine the best human, financial, technological, and marketing resources of both countries. It would increase investment opportunities, generate millions of new jobs, and increase exports for both countries through co-production by U.S.-Mexico joint ventures located within the Zone. Co-production would enable both countries to combine their comparative advantages in manufacturing and thereby increase the competitiveness of their exports in the international marketplace.

The unique commonalities in language, culture, geography, and entrepreneurial spirit shared by Mexico and the United States at the borderlands make this area the most advantageous location for this initial phase of this free-trade and co-production initiative. The proposed Zone would include the entirety of the borderlands extending 200 miles into each country's territory, and running parallel to the border from the Gulf of Mexico to the Pacific Ocean.

The favorable tariff and tax incentives provided by the proposed legislation would be made available only to eligible joint ventures located and operating within the Zone, and producing for export to third countries and to the United States and Mexico. The proposal also requires that such joint ventures must have a minimum U.S. and Mexican equity participation on both sides of the Zone. The bill provides that, after a trial period of ten years, the President may enter further negotiations with the Mexican Government for the purpose of expanding the Zone concept throughout the United States and Mexico on a mutually advantageous and reciprocal basis.

A fundamental purpose for establishing the proposed Zone along the U.S.-Mexico border is to support and accelerate, through reciprocal trade and tax incentives, the economic growth of a geographical area that is plagued, on both sides of the border, with chronic unemployment, underemployment, and a dearth of industrial development. The reduction of tariff barriers and concurrent increase in tax and financial incentives would encourage economic development and employment generation in the area.

The increase in employment on both sides of the border would, in turn, help to alleviate the undocumented immigration problem. The problem can be resolved only through mutual cooperation between the United States and Mexico to create new jobs and thereby address the root cause of immigration. This plan would achieve that goal, as well as create a true economic partnership between the two nations.

The feasibility and potential benefits of the proposed Zone are evidenced by the success of a more limited cooperative effort initiated in 1968. The Border-Industries, or "twin-plant," Program permits U.S. firms to locate along the border and to export unfinished products to the Mexican side, duty-free, for assembly and finishing work. Upon their return to the United States for marketing, these products are charged duty only on the value-added portion resulting from the work done in Mexico. The proposed Zone would build on the success of this program and vastly expand the opportunities for co-production and for a full economic partnership between the United States and Mexico.

Unlike past North American "common-market" proposals, which have been perceived in Mexico as being "one-way streets" with all of the benefits accruing to the United States, this proposal is designed to emphasize the potential mutual benefits that could accrue to both countries. Congress and the Administration should move promptly to consider and approve Representative Richardson's bill. The current economic crisis in Mexico and the U.S. stake in Mexico's future call for immediate action.

(Abelardo L. Valdez served as Ambassador and Chief of Protocol for The White House and Assistant Administrator of the U.S. Agency for International Development in the Carter Administration. He practices law in Washington, D.C.)

Statement of Representative Henry B. Gonzalez, Press Conference, August 1, 1985

I enthusiastically support Bill Richardson's proposal to deal with the causes of the illegal immigration problem.

The flow of immigration—legal or illegal—is a sure index of desperation. Just as the Irish potato famine set off a wave of immigration, just as the Viet Nam debacle threw the boat people to the sea, we have today a wave of immigrants fleeing from misery and desperation. The people we know as illegal immigrants do not want to become lawbreakers, but neither will they let mere laws stand between them and what may be their only chance to survive or attain some semblance of human dignity.

Immigration reform is needed, but that will not stop illegal entry or even discourage it very much. The only way to solve the problem is to start alleviating the misery that creates it. Only when people see hope at home, can they affort to stop looking for a chance somewhere else, like the United States. Addressing the human desperation behind illegal immigration is precisely what we are proposing to do.

I have long believed that a bilateral United States-Mexico development Bank would go far to create new opportunities in Mexico and thus reduce the overwhelming economic desperation that causes so many Mexicans to flee northward. My bill H.R. 593 would create such a bank, and it has attracted 15 cosponsors. I am honored that Bill Richardson agrees with this idea. It is a practical, realistic, effective way to address the cause of illegal immigration.

I also believe that a free trade zone would create enormous new opportunities on both sides of the U.S.-Mexico border. Such a zone can work, especially in light of recent moves by the Mexican government to encourage freer trade.

Both the development bank and trade zone offer badly needed opportunities on

the United States side of the border. With unemployment in the Texas border region running at better than 20 percent, and similar problems all across the border, a joint program is the ony way to make progress on either side of the border.

We must face the fact that the flow of illegal immigration from Mexico each year is roughly equivalent to the number of new entrants into the Mexican labor force who cannot find work. Each year, the Mexican labor force expands by about a half million workers more than the economy can absorb. This is the basic cause of illegal immigration. Our immigration lawbooks won't change that; what will change it is a program of economic development, and that is what we are proposing today.

Illegal immigrants have no choice: they can come here and have a chance, or they can stay home and starve. Our proposal will provide a chance and a choice. Unless a program like ours is adopted, there is no way to stem the tide of illegal immigration. It will rise, as long as misery and desperation rise; it will fall only when misery and desperation are alleviated.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from New York, [Mr. SCHUMER].

Mr. PANETTA. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from New York, [Mr. SCHUMER].

The CHAIRMAN. The gentleman from New York [Mr. SCHUMER] is recognized for 4 minutes.

Mr. SCHUMER. Mr. Chairman, I thank the good chairman of the subcommittee and the gentleman from California [Mr. PANETTA] for their gracious allocation of time.

Mr. Chairman, 2 years ago I sat on the floor and listened to the same debate on immigration reform. At that point, immigration reform to me was a hazy and fuzzy concept, as I imagine it is to so many people today. There are all sorts of words like EZD and green card and two-tiered legislation that I had not cracked through, and the whole debate seemed rather strange, particularly given the fact that in my district this was not one of the most burning issues facing my constituents.

But as I sat and listened to the debate, I saw and became convinced, was unsure parenthetically, about how I would vote on the bill as I sat and listened to that debate, and that is the reason I did it, but I became convinced that what the Senator from Wyoming and the gentleman from Kentucky had put together in Simpson-Mazzoli was vital to America's interests, because we have lost control of our borders.

We had had at that point maybe a million people a year coming across and with no system for dealing with them, ways of absorbing them and integrating them into American life. And I also saw that there were millions of those people who came here and lived unprotected, in limbo, exploited, and unable to advance and climb up the ladder as part of the American dream as millions of others before them had done through legal immigration.

As I studied the issue further and listened to my good colleagues debate. I became convinced that indeed immigration reform was a test of governance, in a way it is a metaphor for governance, if you will, that this Congress, this good Congress whose members I respect, the institution I love, could really rise and overcome all of the various special interest groups of all types, many of whom I agreed with—I support a lot of special interest groups—who were picking at the bill for one reason or another. And the bill failed in conference. I played something of a role there, but it struck me as strange that it should fail over the issue of agriculture. After all, agriculture only accounted for 8 to 15 percent of our immigration into America. And no matter what one felt about the agricultural issue, if one basically believed in the humane and dual concept of Simpson-Mazzoli, one would not let agriculture bring the bill down.

So 2 years ago I, along with my courageous, and I cannot underscore how courageous they have been, my courageous colleagues, the gentlemen from California [Mr. PANETTA and Mr. BERMAN] embarked on an idea that we could bring labor and agriculture together. I must tell my colleagues, frankly, that if someone came to me 2 years ago and said, or came to the three of us and said, you fellows are going to fashion a compromise that both growers and labor, farm labor, will enthusiastically support, I would have said go away, you are crazy. And if that same person would have said to me, after you fashion the compromise, you will create as many problems for the bill as you have solved, I would say you are equally crazy.

But immigration is strange, and that is indeed what has happened. We arrive here today with that compromise as modified by the Lungren proposals on the floor before us. I would say to my colleagues that they should look at it carefuly.

What is it not? It is not millions of people cascading across the borders. The best independent analysis we have, the Congresional Budget Office, estimated that even before it was tightened up, that it would mean maybe 250,000 people across the borders.

□ 1535

It is not welfare benefits for those folks immediately. In fact, it is in the bill right now that they cannot get AFDC benefits even though I might believe they should.

It is not, as was said before, immediately—the gentleman from Nebraska [Mr. DAUB] stated immediately—wives, husbands, children would come across. Not the case.

Yes, there is a preference, but there is a long waiting list on the preference lists; a Mexican as part of this program would have to wait 8 years before his spouse or her spouse or his or her children would be allowed into this country.

What is it? It is a humane way to deal with the problem of farm labor, recognizing first that the growers need agricultural labor. They have had it all along; whether it be legal or illegal to take it away from them now would do untold damage, not just to the Central Valley in California, but to the balance of trade of America and to my constituents who depend on them for food.

So it gives the growers their supply of labor, but what it also does is, it says: "Laborer, if that grower decides not to give you a toilet, not to give you running water, to pay you 90 cents an hour, you are no longer stuck. You no longer have to continue working on that farm or in that country or in agriculture."

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAZZOLI. Mr. Chairman, I would yield 1 additional minute to the gentleman from New York.

Mr. MORRISON of Washington. Mr. Chairman, I yield 2 minutes of my time to the gentleman from New York.

The CHAIRMAN. The gentleman is now recognized for 3 additional minutes.

Mr. SCHUMER. I thank the gentleman for their gracious offer of time.

Mr. Chairman, it would say that "You can, in a sense, vote with your feet. You can go look for a job somewhere else or return without fear of being turned in, without fear of being exploited." Only history will tell if this bill becomes law, whether that program will work. I do not know and you do not know, but it is certainly worth a shot, a fair and decent shot.

What I would say to my colleagues who it seems to them, agriculture; it is far away and it is a politically burdensome issue in this bill, again, agriculture is 8 to 15 percent of immigration reform. Whatever your feelings, it is not worth bringing down a bill over that.

We have 1.8 million people coming across the borders, as the good gentleman from California has outlined. We have millions more people living in limbo, unprotected, in our cities, in our towns, in the country; and if we do not do immigration reform, we are not going to solve either of those problems, both of which dwarf any problems that some might feel would be created by this proposal.

Thus, Mr. Chairman, it seems to me that we are back where we were almost 2 years ago. Are we going to let the problems of agriculture, which again are smaller than the problems of

immigration reform, sink this bill? I would hope not.

We have made a sincere effort, my colleagues, it may not be the best effort, but it is clearly worth a shot; and certainly this House agrees we need immigration reform.

I want to conclude by thanking all of my colleagues who have put up with me, who have put up with the vicissitudes of the bill, who have put up with the difficulties that a tough bill in the legislative process creates for us.

We in a sense are the shock absorbers of American politics. The car gets beaten up on all sides, but to make it ride smooth, we go up and down. We take the hits; but I am proud we take those hits, and we do it well and we do it with style and we do it with courage and we do it with concern; and whatever happens on this bill, I want to say once again that I think the saga of immigration reform in this House is one that this House can be proud of.

Mr. JEFFORDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, immigration reform is long overdue. Even though my own State is relatively unaffected by immigration compared to the States on the southern border, Vermonters know that we must act to control our borders. The drugs that have long been brought across our southern border are now entering from the north. The strain on national resources affects every one of us. And as we all know, the only way we are realistically going to be able to reduce the flow of illegal immigrants is by making it illegal to hire undocumented workers.

This bill is not perfect, and the procedure by which it comes before us is unfortunate. I have serious reservations about many provisions of this bill. But on balance, I have to put aside my personal preferences to move this bill to conference with the Senate and on to the President's desk.

The core of this bill, of course, is employer sanctions for the hiring of undocumented workers and the legalization program for illegal aliens who have established some roots in this country. I do not like legalization. I have constituents with relatives who are trying to enter this country legally who are still waiting. But I think it is a necessary component to this bill.

I am pleased that this bill addressed the continuing problem of Salvadoran and Nicaraguan refugees who are coming to this country in order to escape persecution. Our laws provide extended voluntary departure [EVD] status for just such situations. This status currently applies to Afghans, Poles, Ugandans, and Ethiopians. However, the Attorney General has refused to extend EVD status to Central Americans, forcing them to return to their countries. Contrary to INS assertions, the majority of these refugees are not coming here for economic reasons; they are coming here out of fear for their lives, and they hope to return to their homes as soon as political conditions permit. EVD is the appropriate status for such refugees, as it would allow them to remain in this country temporarily, but would not grant them permanent asylum. In addition, EVD would reduce the number of people forced to enter the country illegally.

H.R. 3810 prohibits two forms of employment discrimination: Discrimination on the basis of citizenship status and discrimination on the basis of national origin. Discrimination on the basis of national origin by employers of 15 or more is already proscribed by title VII of the Civil Rights Act of 1964; enforcement of this law is entrusted to the Equal Employment Opportunity Commission. No Federal law now prohibits employment discrimination on the basis of citizenship status. Under EEOC guidelines, however, citizenship requirements for job applicants are deemed violative of title VII when they have the purpose or effect of discriminating against persons on the basis of national origin.

This bill increases the scope of the protection of victims of national origin discrimination to workers in businesses with 4 to 14 employees. Enforcement of national origin discrimination claims by victims of these small employers would be entrusted to a new Special Counsel's Office in the Department of Justice. All citizenship discrimination claims would also be enforced by the Special Counsel.

It is difficult to see any practical distinction between citizenship discrimination and national origin discrimination. The facts needed to prove discrimination on the basis of citizenship would stem from the same source as those relied upon with respect to national origin discrimination claims. It is difficult, therefore, to understand why a new bureaucracy is needed to enforce these new provisions. Nor does it make any sense to have the enforcement of national origin discrimination claims split between two agencies, depending on the size of the employer. With the EEOC, we already have an agency with the expertise and personnel for enforcement of such claims. Citizenship discrimination claims are so similar to national origin claims that they, too, should be enforced by the EEOC. The new Office of Special Counsel is unnecessarily duplicative and expensive.

Another provision in the bill before us is one which creates a class of agricultural workers known as special agricultural workers [SAW's] and Replenishment Agricultural Workers [RAWS].

Much has been said by my colleagues on this provision, and I don't want to belabor the point, but we need to understand exactly what this provision contains.

As I understand this provision, and I have not had an opportunity to study the bill language, there is a two-tiered system for special agricultural workers with a 2-year application period. One tier of workers must have worked 90 man-days for the last 3 years in agriculture, with adjustment to permanent residence status 1 year after adjudication of their temporary status. The second tier of workers must have worked in agriculture for 90 man-days between May 1985 and May 1986, with adjustment to permanent resident status 2 years after adjudication of their temporary status. The significant difference among these two tiers is not the length of time they have worked in agriculture, but the fact that tier one is capped at 350,000 workers and the second tier has no cap.

Then there is provision for replenishment workers who are granted temporary status for 3 years with the same 90 man-day agricultural employment test.

I testified before the Rules Committee, asking that I be allowed to offer an amendment to the Schumer proposal which would have capped the number of workers at 350,000. The Rules Committee did not, however, make my amendment in order. I had hoped that during the negotiations with the Senate and Judiciary Committee members that a cap would be placed on the number of workers allowed in as special agricultural workers. To place a cap on only one half of the group does only one half of the job.

Mr. Chairman, this is a bad provision. I believe that we should have an opportunity to have a separate vote on it; however, I am also sensitive to the fact that the clock is running down and this country needs its immigration laws reformed.

I would urge my colleagues to set aside their political prejudices and support the efforts of the Judiciary Committee members who have worked so long and hard to bring us a compromise bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman has consumed 5 minutes.

The gentleman from Washington [Mr. MORRISON] has 30 seconds remaining.

Mr. MORRISON of Washington. Mr. Chairman, I yield back my 30 seconds.

Mr. GONZALEZ. Mr. Chairman, can the Chair tell us how much time remains totally on general debate?

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] has 4 minutes remaining, the gentleman from Vermont [Mr. JEFFORDS] has 30

seconds remaining, the gentleman from California [Mr. WAXMAN] has 7½ minutes, the gentleman from California [Mr. DANNEMEYER] has 7½ minutes, the gentleman from Illinois [Mr. ROSTENKOWSKI] has 7½ minutes, the gentleman from Tennessee [Mr. DUNCAN] has 7½ minutes, and that is the balance of the time.

The Chair would like to state to the gentleman from Texas, a total of 34 minutes remain.

Mr. GONZALEZ. I thank the distinguished Chair.

The CHAIRMAN. The Chair now recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI] for 7½ minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

□ 1545

Mr. Chairman, with one exception, the bill before the House reflects those amendments made by the Committee on Ways and Means to the bill H.R. 3810.

The committee was very careful to act only on those portions of the bill within its jurisdiction. After careful review, the committee adopted the following amendments:

The committee struck the provision in the bill that requires the Attorney General to establish a system to verify the social security numbers of all applicants for employment in the United States. The committee amendment instead requires the Social Security Administration, in conjunction with the Attorney General and the Department of Labor, to conduct a study of the feasibility, costs, and privacy implications of establishing a social security number validation system to help carry out the purposes of the Immigration and Nationality Act.

The committee strongly feels that this issue should be carefully studied before any system is put in place. The original provision would cost $130 million per year, and there is no evidence that the system would serve any useful purpose. After the Social Security Administration makes its report to the Congress on the feasibility and costs of a verification system, we will be in a much better position to judge the merits of the issue.

The committee made clarifying and technical changes to the provision in the bill that disqualifies certain newly legalized aliens from public assistance programs. For the purposes of Ways and Means programs, the changes make clear that the disqualification applies only to Aid to Families with Dependent Children [AFDC] and not to other public assistance programs within the Committee's jurisdiction.

The committee amended the SAVE provision to allow the respective Secretaries with administrative responsibilities over Public Assistance Programs to waive the verification requirement if the Secretary finds that such a program would not be cost effective or that an alternative system is in place which is as timely and effective. In addition, the Supplemental Security Income Program [SSI] would not be subject to the SAVE requirement. The committee's SAVE amendment is almost identical to the one adopted by the other committees to which the bill was referred.

Finally, the committee amended that provision of the bill that would have made permanent the current temporary exclusion from Federal Unemployment Tax [FUTA] of wages paid to certain foreign agricultural workers. Under the committee's amendment, the exclusion, which is due to expire on December 31, 1987, would be extended for 5 years. Such an extension will allow the committee to review the impact of the exclusion on the domestic work force under the expanded H-2 Program.

All of the committee amendments, with one exception, are now part of the original text of the bill. In addition, the text of the bill now accomplishes what the Daub amendment would have accomplished had it been adopted by the Committee on Ways and Means. That is, the special agricultural workers are disqualified from AFDC for 5 years.

The one change to what the comittee adopted concerns the exclusion from Federal unemployment tax of wages paid to H-2 workers. The Committee on Ways and Means extended the exclusion for 5 years. Because H.R. 5665 will be made an amendment in the nature of a substitute to S. 1200, I requested that the unemployment tax provision be stricken from the bill. Instead, I will call up a House bill immediately after the consideration of H.R. 5665, which will extend the exclusion for 5 years. This procedure is mandated by the constitutional requirement that revenue measures originate in the House. I appreciate the cooperation of both the Rules Committee and the Judiciary Committee with regard to this provision. This will allow us to deal with the tax aspects of this bill on a House originated vehicle and avoid an unnecessary procedural impediment of the passage of the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has consumed 5 minutes.

The gentleman from Tennessee [Mr. DUNCAN] is recognized for 7½ minutes.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot support the Ways and Means Committee amendment to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986.

The earlier version of this legislation gave unfair preferential treatment to a special group of aliens: special agricultural workers. One aspect of this unfair preferential treatment was that agricultural workers were not subject to any waiting period for AFDC eligibility, whereas nonagricultural aliens were subject to a 5-year disqualification period. It now appears that the sponsors of the bill are changing this provision so that both agricultural and nonagricultural aliens will be subject to a 5-year disqualification period for AFDC.

This change is a step in the right direction. But I believe it may be a case of "too little, too late." This change was made only begrudgingly and leaves a lot more which should have been addressed.

For example, the new version of the bill only restricts the eligibility of newly legalized aliens for AFDC. There are other welfare-assistance programs in our jurisdiction which the committee amendment does not address. The result is that both the amnesty group and special agricultural workers are eligible for these benefits without any disqualification period. The other welfare-assistance programs include SSI, foster care and adoption assistance, and child support enforcement. These programs should have been evaluated more closely to determine whether or not some disqualification period should have been imposed.

To its credit the committee amendment does simplify some of the enforcement and verification procedures in the original bill. The committee amendment allows more flexibility to the States in developing their own programs to verify the resident status of aliens applying for assistance programs. It also replaces an ambitious nationwide, Social Security Number Verification Program with a 2-year feasibility study of the issue.

Nevertheless, these programmatic improvements are overshadowed by the unfair special treatment of special agricultural workers and the failure to extend the disqualification period to other welfare programs beside AFDC. For this reason, I cannot support the amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] has consumed 3 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BERMAN].

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 2½ minutes.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I am happy to yield to the gentleman from Kentucky, chairman of the subcommittee.

Mr. MAZZOLI. I thank the gentleman for yielding at this point for the purpose of engaging in a colloquy with the gentleman which we had discussed earlier.

Mr. BERMAN. I thank the gentleman.

I would like to ask the chairman of our subcommittee, the gentleman from Kentucky [Mr. MAZZOLI] a question: Sections 302 and 303 of H.R. 3810 provide that except as otherwise provided, an alien who acquires the status of an alien lawfully admitted for temporary residence, such status not having changed, is considered to be an alien lawfully admitted for permanent residence, as described in section 101(a)(20), "other than under any provision of the immigration laws."

My understanding of this last clause in both subsections is that it refers to the limitation on the petitioning rights of persons lawfully admitted for temporary residence under sections 302 and 303 of the bill. Is that correct?

Mr. MAZZOLI. If the gentleman would yield, yes, it is my understanding. I further understand there are other disabilities and disqualifications in other sections of this bill, but the sections to which the gentleman just referred specifically deal with limitation of petitioning rights under the Immigration and Nationality Act.

Mr. BERMAN. That is my understanding as well, and I thank the gentleman.

Mr. BERMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back 2 minutes.

Mr. DUNCAN. Mr. Chairman, I am pleased to yield the balance of my time to the gentleman from Nebraska [Mr. DAUB].

The CHAIRMAN. The gentleman from Nebraska [Mr. DAUB] is recognized for 4½ minutes.

Mr. DAUB. I thank my distinguished leader, Mr. DUNCAN, for yielding me the balance of the time allocated to the Committee on Ways and Means.

I only want to dwell very briefly on that section of the bill that would be within our jurisdiction to indicate that the AFDC amendment which Chairman ROSTENKOWSKI spoke about, an amendment I authored, passed by the Committee on Ways and Means, is substantially incorporated.

I have to admit that is a slight improvement to the Schumer-Berman amendment. But the Schumer-Berman amendment has been one of my biggest obstacles to being able to support the bill.

I think it has gotten us all into the attitude of "it is a bad bill but" or "it is that time of the legislative season and I have to hold my nose in order to vote for it."

The fact of the matter is we have an opportunity on the McCollum amendment to strike general amnesty and under the Fish amendment we have the opportunity to strike extended voluntary departure. But we have no opportunity in this particular vote, when you vote for this bill, to strike the Schumer-Berman emphasis, the thrust of it, the heart of it, which is to give citizenship ultimately, permanent residence to legalized people who come here after 1981 and carve out a very special area of preference for the growers of California.

Now, we would not be here on the floor today even, I say to my colleagues, if a deal had not been cut. That deal was not just among Republicans and Democrats in the House, that deal was with the Senate to accept in the conference the Schumer-Berman compromise. There will not be any doubt about it. That part of the bill in conference is done. So if you vote for this bill, you are going to vote for the conference agreeing to bring back the Schumer-Berman language for agricultural workers. So that part of what will happen in conference is beyond dispute, I say to my colleagues. So if you vote for the bill, you will be voting for sure for that kind of amnesty for people who have not been in this country but for 2 or 3 years already, let alone those who will be able to come in and become permanent residents because they work temporarily in agriculture. I do not think that is fair.

There are five reasons why I think amnesty, generally, is wrong. You have an opportunity to take care of that by voting for the McCollum amendment which strikes general amnesty provisions and in its place leaves a provision that is in the bill called registry. Registry is a provision that allows case-by-case amnesty. It allows anybody here prior to 1976 to come forward to indicate they are married, that they have kids, that they go to school, they work, they are law abiding, they have not been in trouble, and they can become permanent residents and then become citizens. That is fair, and I think that is compassionate. So there is an amnesty section in the bill that survives if McCollum is successful. If Fish is successful in striking extended voluntary departure for Salvadorans and others in Central America, then indeed this bill just might be one that I, too, could hold my nose on and vote for the final passage and send it to conference.

If you look at the issue of population control, if you look at the fact, and everyone is in agreement that you are going to have between 10 and 20 million people legalized and if only half of those people come forward and take advantage of general amnesty and you multiply that times the chain of seven relatives who will be eligible for entry into this country, then you are looking at between 50 and 100 million new faces that will be added to the population flood to this country.

Amnesty is wrong because it sends the wrong signal to other nations. It tells people in other countries that if the United States grants amnesty once, it will do it again. Second, it is wrong because it will put severe strains on State and local governments which will find their costs for education and welfare and other benefits soaring as a result of this new load on the flood because of amnesty and the chain result that occurs from that.

Third, it is wrong, as I said before, because the U.S. economy is moving toward a high technology base. It requires greater amounts of education and training. Absorbing large numbers of unskilled workers from abroad will require a different kind of economy than the one that is emerging in the United States today.

Fourth, amnesty tells the world that the way to get into America is to break the law, cheat and come here because you can get permanent residence and then you become a citizen. Mr. Chairman, in my opinion what amnesty does is it cheapens the value of American citizenship. I do not think this House wants to do that in the way that is proposed by the bill that is in front of us today.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has expired.

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman 30 seconds, which is the balance of my time.

Mr. DAUB. I appreciate the remaining 30 seconds from the agricultural portion of this debate.

So I would urge my colleagues to think carefully about the dynamic of chain migration, the dynamic of this echo effect that causes so many more to come, legally, based on the chain of someone who came here illegally. I do not think this House wants to do that. We have a chance by voting for the McCollum amendment and for the Fish amendment to send this bill to conference in much better shape for the kind of result that will do us proud in immigration reform.

May I say in conclusion how much affection I have for the intellect and persistence of the gentleman from Kentucky [Mr. MAZZOLI] who I think ought to be given credit for all the work that has been done in immigration reform.

□ 1600

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the contribution of the Energy and Commerce Committee to this proposition that is before us is quite modest in scope.

We had the question of what Medicaid benefits would be extended to

those in the category of legalized aliens who would be denied any welfare benefits, and thus Medicaid benefits. We carved some exceptions out, particularly in the area of emergencies in public health, which we considered the most appropriate. Those matters were not of controversy as we considered our portion of the bill.

Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. BERMAN] to clarify some other matters on the debate on this legislation.

Mr. BERMAN. Mr. Chairman, I thank my friend, the gentleman from California [Mr. WAXMAN] for yielding this time to me.

Mr. Chairman, initially I might say in response to the comments of the gentleman from Nebraska earlier, that in all fairness to the extent we characterized a proposal by the names of its authors, it is only fair to point out that this was a Schumer, Berman, and Panetta proposal, as altered by the chairman of the subcommittee, Mr. MAZZOLI, as further modified by the gentleman from California, Mr. LUNGREN, and as finally amended, informally but very specifically in this bill, by the gentlemen in the other body, Mr. SIMPSON and Mr. WILSON.

Second, I wanted to take a couple of minutes to discuss one aspect of that proposal, the replenishment part, because there are concerns that I am hearing about and I think they should be addressed.

Many people, this individual included, have great concerns about the replenishment feature of this program. And, of course, as Mr. PANETTA eloquently stated earlier, the replenishment feature is part of a total package. There were compromises made in that replenishment program which apply only after this law has been in effect for 3 years. Individuals who are not at this time authorized to work and who have not come under the other legalization features may, under certain very specific and limited conditions, be given work authority in this country to perform agricultural services.

Now there are features of that replenishment program that I do not like. But I want to ask anyone who had concerns about it to read the language of the bill. I truly believe that if this law is implemented fairly, the replenishment program that would trigger the additional granting of work authority to individuals in agriculture will never come about, because it is made possible only if there is a shortage of available workers in this country.

What we are doing with this proposal is to require the Secretaries of Labor and Agriculture first, to determine if there are any U.S. workers available and willing to perform agricultural services. Even as we speak, the Department of Labor indicates that there are at least 100,000 to 125,000 unemployed domestic farm workers in this country.

Second, we have a proposal that would provide in a rather elaborate fashion legal status to the many thousands of agricultural workers who are now undocumented workers working in agricultural services based on the test of whether or not they have in fact worked in agriculture in this country in a fashion which has been spelled out by earlier speakers.

Third, there is a program that I do not like, but it exists, and we have made some technical and substantive changes in that program, namely the H-2 program.

In each of these sources of labor, the Secretaries of Labor and Agriculture will have to determine that the growers in this country, before they are entitled to any additional sources, have exhausted those sources of labor and have taken meaningful and serious steps to recruit, to offer reasonable wages and adequate working conditions to the workers in this country, before they can find that any further work authority is provided.

Mr. MAZZOLI. Mr. Chairman, I yield the gentleman from California [Mr. BERMAN] 1 additional minute.

Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would ask my friend, the gentleman from California, with whom I very violently disagreed in the early stages of this bill and whose patient help and cooperation has moved it to a posture I can support, please address for the purpose of the House and the gentleman from Nebraska the petitioning rights. There may be some misunderstanding about how quickly these special workers and the replenishment workers can really petition. Maybe the gentleman can address the question of this new wave and echo effect, and so forth, the gentleman talked about.

Mr. BERMAN. Mr. Chairman, I will be happy to deal with that question as I understand it.

Contrary to my wishes, the bill before us limits the petitioning rights of the agricultural workers who will be legalized under this program to exclude the whole series of preferences by which other lawful permanent residents of this country are allowed to petition for relatives. With the exception of spouses and minor children, there are no other petitioning rights for these individuals.

As to those particular rights, the gentleman from Kentucky far more than I can indicate the long backlog that now exists before even those petitions could bring anyone in.

Mr. DANNEMEYER. Mr. Chairman, I yield 3½ minutes to my colleague, the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in opposition today to H.R. 3810, the Immigration Reform Act of 1986. My opposition to H.R. 3810 does not mean I am opposed categorically to immigration reform, for I am not, Nor does it mean I oppose legal immigration, for I do not. However, I am opposed to several of the provisions affecting illegal immigrants contained in the immigration reform bill we are considering today.

I am a native of and represent a southern border State—Texas, I am well aware of the problems associated with illegal immigration: The costs to public education, the costs to public hospitals, the costs for public health services, the increase in criminal activity and job displacement.

I do not believe that State and local governments in my home State of Texas or in any other State should be burdened by these increased social costs associated with the failure to control our border. I feel the solution is to provide more resources to patrol and control the border and to enforce our laws. The solution is not to grant amnesty, or legalization, thereby legitimizing previous illegal actions by an unknown number of aliens. How many illegal aliens qualify for amnesty? No one knows. There could be over 1 million illegal aliens in Texas alone who will be granted amnesty under this bill.

I oppose legalization. However, should this bill becomne law, thereby legalizing an unknown number of illegal aliens, I believe it is only right that the Federal Government be reponsible for the accompanying social costs. Therefore, I support the amemdments to the health provisions approved by the Committee on Energy and Commerce which were incorporated as original text with the adoption of the rule.

Mr. Chairman, these health provisions are critical for States like Texas that likely would have substantial numbers of illegal aliens applying for permanent resident status should this bill become law. I would urge the House to insist on retaining these provisions should the House find itself in conference with the other body on this bill.

In addition to amnesty, I oppose the agricultural worker provisions. Again, I feel that these provisions allow an unknown number of aliens to gain permanent resident status because of their ability to move out of agricultural work and the allowability of their repalcement by new aliens.

I also am concerned with the employer sanctions provisions, the workability of the verification system to de-

termine alien status for employment and the antidiscrimination provision. I recognize that the antidiscrimination provision was included to prevent the possibility of increased discrimination due to employer sanctions, a real concern.

However, the provision gives aliens greater legal and procedural rights than currently affored to U.S. citizens, civil rights law already prohibits discrimination based on national origin. The antidiscrimination provision prohibits an employer from preferring a U.S. citizen over a noncitizen. I sumit that as written, the provision discriminates against U.S. citizens.

I also believe that if employer sanctions ultimately are going to be included in an immigration bill, they should be predicated on the hiring of an illegal alien, not on paperwork violations. As written, employers who do not even hire illegal aliens could be fined for noncompliance with recordkeeping and paperwork requirements that would serve no purpose. This is inefficient policy.

Mr. Chairman, for the previously stated major reasons, I oppose H.R. 3810 and urge its defeat. I recognize the need for immigration legislation, but cannot agree with the methods proposed. I do, however, endorse the provisions of the bill that recognize Federal responsibility for social services provided to aliens. I also support increasing our enforcement efforts.

□ 1610

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consumr.

Mr. Chairman, almost no issue has aroused public passions in southern California in recent years more than that of immigration. The district I represent in Orange County is but a few hours away from the porous United States-Mexico border south of San Diego.

While Congress has continued to struggle with the issue of immigration reform, the problem has escalated unchecked. In 1980, the Census Bureau estimated that the undocumented alien population ranged between 3.5 million and 6 million. Some economists now offer estimates that exceed 10 to 12 million illegal aliens. While we may never be able to determine the exact number of illegals who reside in the country, we are now certain of the 1.3 million illegal aliens that were apprehended by the INS in 1985. For every alien apprehended by the INS, it is estimated that twice that number enter this country undetected.

The surge of illegal immigrants entering the United States through our southern border has risen to such a level that the U.S. Border Patrol, responsible for protecting 66 miles of our southern border, has admitted defeat. They now acknowledge that they cannot begin to apprehend all illegals entering this country because their numbers and their determination far exceed manageable dimensions. The INS has arrested 270,000 illegal aliens in the past 6 months. This represents a 48-percent increase in the number of aliens arrested over the same period a year ago. Since May 1986 the Border Patrol has arrested an average of 70,000 aliens per month and has encountered an average of one illegal alien every 35 seconds.

Though San Diego County has endured countless hardships in the course of the struggle with illegal immigration, Los Angeles County has not escaped its share of economic and social devastation. According to the 1980 U.S. census, 49.8 percent of all undocumented aliens in this country were in California, 64.3 percent of those settled in Los Angeles County. Additional statistics point up the unjust burden thrust on Los Angles County by the mere chance of geography:

Los Angeles County is home to an estimated 1 million undocumented aliens;

Los Angeles County has more undocumented aliens than all other States combined with the exception of New York, Texas, and the entire State of California;

It costs local taxpayers more than $200 million each year to provide health, justice, and social services for this population. Out of that $200 million, the county department of health services spent approximately $115 million in 1985 on health care for the more than 600 undocumented aliens who daily occupy beds in the five county hospitals—none of which are currently reimbursed by the State or Federal Government;

Approximately 70 percent, or 18,000, of the babies born in country hospitals are to undocumented alien women. These babies are automatically American citizens, and are therefore eligible for all the welfare benefits available to any U.S. citizen;

And 48,000 children, whose mothers are undocumented aliens receive benefits costing county taxpayers $8 million per month;

As a result, to say that immigration reform is "must" legislation does not begin to capture the compelling need for enactment of a bill before the 99th Congress adjourns in a matter of days. While far from perfect, we have an historic opportunity to pass such legislation in the form of H.R. 3810, the Immigration Reform Act of 1986, now before us. As a member of the Judiciary Committee which crafted this bill, I rise to support it, warts and all, and urge my colleagues to do the same.

There are four key elements to immigration reform: Employer sanctions against those who knowingly hire illegal aliens; amnesty for those illegal aliens who are already here and have become part of our social and economic systems; increased enforcement at the border; and a viable guestworker program to meet the labor needs of agriculture in California and elsewhere.

The controversy over the substance of these issues has been made all the more difficult to resolve because of the nature of the rule for considering this bill as crafted by the House Rules Committee. The limitations in the rule on what amendments can and cannot be offered make our choices harder. For example, the bill as it comes to the floor provides certain social welfare benefits to illegal aliens. While they are not eligible for basic welfare programs, they are for some health and education programs. Despite the humanitarian motivations for such eligibility, these provisions are unreasonable given the enormous size of projected budget deficits. Despite these legitimate arguments against it, the rule does not permit an amendment to strike these provisions from the bill.

Nonetheless, the fundamental question to be addressed in evaluating this less than perfect package is simply this: Is it an improvement over the chaos which characterizes our current immigration control system? Since I believe it is an improvement, I intend to support the legislation.

As to the four key elements of immigration reform noted earlier, my thoughts are as follows. First, employer sanctions are justified by the fact that the magnet which draws illegal aliens to our country is not only personal freedom we enjoy but the economic opportunities which abound in California and in the United States generally compared to conditions in Mexico and other foreign countries. The bill puts stiff sanctions in effect for those who knowlingly hire illegal aliens.

Second, if we are going to have employer sanctions, then the other side of that coin is to provide some carefully drawn amnesty for illegal aliens that are already in the country. Many people in and out of Congress are unhappy about any form of amnesty, and I appreciate the concerns which prompt some to feel this way. However, we must confront the dilemma we are in whether we like it or not, namely, that illegal aliens who have been here a number of years are integral members of our society and economy. It is simply unrealistic to think that it is fair or workable to expect these people to go away. We need to wipe the slate clean, in terms of legal status, in order to hold employers accountable for future actions in hiring illegal aliens since this will be a new form of liability.

Third, additional resources for the border patrol are absolutely necessary.

Fourth, the substantial agricultural operations in our State, which bring food to our tables and employ many of our citizens, depends upon a reliable supply of temporary labor. A major flaw of the bill and the procedures under which it is being considered is the lack of a guestworker program along the lines of the original Senate bill and the lack of an opportunity to add one in the House. However, the provisions in H.R. 3810 as it stands today are in fact an improvement over the H-2 Program in current law.

We cannot be blind to the fact that illegal aliens are living in a jungle today. They are being preyed upon by ruthless people and cannot pursue the customary channels for legal redress since to do so would expose their illegal status. By providing for a more viable H-2 Program, this legislation advances basic human rights.

Last, I am pleased that an amendment which I introduced several years ago has been made in order under the rule. The amendment requires the Immigration and Naturalization Service to obtain either the consent of the owner or a search warrant before entering a farm or other agriculture operation in search of illegal aliens. House Members will have the opportunity to vote to reject or accept this provision. If adopted, this provision will reduce unnecessary crop damage resulting from indiscriminate INS "sweeps" and provide farmers and farmworkers the same degree of constitutional protection that their counterparts in other aspects of manufacture already enjoy.

In conclusion, I urge support for this legislation since action on immigration reform, even with the problems I have cited with this version, is a much better outcome than again adjourning for the session without enactment of comprehensive legislation. Major improvements are necessary to make the bill acceptable before enactment. At present, our much hailed U.S. melting pot is in danger of overflowing. The immigration reform effort now underway is crucial to the future of this Nation. It is not perfect, it is not what I would have drafted if given a free hand. It is however, better than nothing. Make no mistake, that is the choice. This, or nothing. In light of the severity of the immigration crisis and the social and economic implications for our Nation if the problem continues unchecked, the choice is easy. This, is better than nothing. I remain hopeful that some of its defects will be corrected before it is sent to the President.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman for Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I have once again listened with very much interest to the gentleman as I did back in 1984, and the gentleman would probably remember that I cited the gentleman's discussion he had in the well in 1984, 2 years ago, as one of the most important statements that I have heard on this floor in all my years here.

It reflected the gentleman's insight and hard work and thoughtful process. I have heard the gentleman's statement today, and I applaud the gentleman on again reaching the real truth, the kernel of wisdom in all of this.

There is a responsibility to have employer sanctions and with it comes a further responsibility to the employers and to the employees who have made America what it is who add to our gross national product. I want to thank the gentleman for having reached that posture.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding me this time.

Mr. Chairman, it is important that we support Mr. MOAKLEY's provisions changing the definition of political refugees in Salvadoran and Nicaraguan refugees.

I am particularly sensitive to this issue because the Governor of my State, the Honorable Toney Anaya, declared New Mexico a sanctuary State. While I strongly opposed this action, I do feel we must address the issue of political refugees in Central America through the legislative process.

The facts supporting Mr. MOAKLEY's provision are compelling.

Mr. Chairman, the human rights situations in both El Salvador and Nicaragua continue to be of great concern. According to the Human Rights Office of the Roman Catholic Archdiocese of San Salvador, nearly 2,000 civilian noncombatants disappeared or were killed in 1985 alone. This figure does not include the number of combatants that were killed. The New York Times, in a recent story, reports that the U.S. Embassy in San Salvador has documented over 100 Salvadoran civilians have been killed by guerrilla land mines since January of this year—and the number is on the rise. In Nicaragua, according to a recent U.S. State Department report—"Crackdown on Freedom in Nicaragua and profiles of Internal Opposition Leaders," August 1986—"the Sandinista Government has intensified repression" in that country. Additionally, various human rights groups have documented human rights abuses by the Contra forces—and there are significant civilian casualties as a result of the fighting between the Sandinistas and Contras.

In the past, various administrations have granted refugees, in similar situations as the Salvadorans and Nicaraguans, a temporary stay of deportation known as extended voluntary departure [EVD]. EVD has been granted to 15 different national groups during the past 25 years. It currently protects from deportation Poles, Afghans, Ugandans, and Ethiopians. This administration, however, has failed to extend this protection to Salvadorans and Nicaraguans.

It is important to clarify that EVD does not require either a body count of massacred returnees or that potential returnees prove that they will be singled out for persecution if they are sent home. Such a criteria is appropriate only to the higher asylum status. EVD has always been conferred upon nationalities due to unstable or unsettled conditions in potential deportees' homeland.

For example, the December 2, 1980, INS directive announcing the currently effective grant of EVD for Afghans stated explicitly that it was for Afghans who resist returning to Afghanistan because of the turmoil prevailing in that country rather than because of fear of persecution.

The issue you will be asked to vote on during consideration of the immigration bill, is whether Salvadorans and Nicaraguans will be granted an EVD-like status—and, therefore, be treated in the same manner as refugees in similarly situated circumstances. The proposal advocated would suspend deportations for approximately 2 years, pending a General Accounting Office study on the conditions in El Salvador and Nicaragua.

It is important to remember that this is not—and should not become—a foreign policy issue. This is not a debate on the performance of President Duarte—and it is not a debate on whether or not you support aid to the Contras. The issue is the protection of lives.

It is my hope that the House will support protection for Salvadorans and Nicaraguans.

Mr. WAXMAN. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

Mr. MAZZOLI Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to enter the second phase of the bill, of the bill's progress, which is the amendment phase. We have now before us 14 amendments which are listed in the rule. They will be taken as listed. Each has a time limit to it. There are 14 amendments, as I have said, 4 of which are limited to 10 minutes debate; 5 minutes, equally divided.

The other 10 are 20-minute amendments; 10 minutes on each side. Doing a rough calculation of minutes, that is

a total, if we could go through it without recorded votes, of 240 minutes or basically 4 hours. Obviously, there will be some recorded votes but I guess my thought would be that the decision that the Committee reaches or the House reaches is one it will reach in its wisdom. But it is the hope of the gentleman from Kentucky, and in this I am stating the sentiments of the gentleman from New Jersey, our distinguished chairman, who is in the other body at the time on the impeachment question, that we try to finish the bill tonight. We have a very limited amount of time in this legislative session; we have many other activities which have to be discharged. As I said, I would hope that after we have our debate that we might have a spirited debate in the limited time, have a vote, and then hopefully move on to the next amendment.

□ 1620

Mr. ZSCHAU. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. ZSCHAU. Mr. Chairman, I rise in support of this immigration reform legislation. Illegal immigration is a critical problem which we must address with a sense of urgency and with a responsible plan of action.

Mr. Chairman, if this is a typical month, over 100,000 people will illegally cross the U.S. border into California during October. This ever-growing number of illegal aliens in the United States—as high as 12 million—is causing the United States to withdraw the warm welcome Americans have traditionally given to immigrants from Europe, Mexico, Central and South America, and Asia. These statistics confirm that we have lost control of our borders.

It's essential that we regain control of our borders not only as a deterrent to illegal immigration, but also to preserve our ability to honor treaties, to collect tariffs, and to effectively interdict illegal drugs.

I support a two-pronged approach to this problem:

The first is to beef up our border patrol. For the past 4 years, over 1 million illegal aliens have been apprehended each year crossing the U.S. border. This year apprehensions are expected to be 2 million. At the same time the number of apprehensions have doubled, there has been only a slight increase in the number of agents to patrol the border.

Our second goal must be to reduce the incentive for aliens to come here illegally. A key provision in this bill imposes sanctions on employers who knowingly hire illegal aliens. This is based on the belief that if employers of illegal aliens are fined, they will no longer provide such jobs, and the lack of jobs will discourage foreign nationals from entering the country illegally. However, while eliminating most jobs for illegal aliens, it's important also to establish a workable mechanism to help California agriculture meet its labor needs while eliminating the factors which have permitted exploitation of foreign laborers in the past.

H.R. 3810 satisfies all of these needs. It represents a significant improvement over the 1984 immigration reform bill. It is less costly, sunsets employer sanctions if they don't work, and defers the deportation of Salvadoran and Nicaraguan refugees while the risks to them in their own countries are studied.

Today, we are faced with a crisis situation. The Immigration and Naturalization Service reports that its apprehensions of illegal aliens have increased by 50 percent over last year, and that one-third of those they apprehend have illegal drugs in their possession. Just this week we passed a comprehensive drug reform bill, but more needs to be done. With this bill, we have the opportunity to do more to fight the war against drugs and also to regain control of our border.

I urge my colleagues to support H.R. 3810.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to H.R. 3810 and to the rule under which it is being considered. For the second straight Congress we are being forced to consider the important and complex issue of immigration reform at the 11th hour under unreasonable and unfair truncated legislative procedures. This year's bill contains some provisions that serve both practical and humanitarian ends. However, ultimately the bill will not serve its stated purpose of gaining control of our national borders, because it ignores the historical and economic reality of our sourthern border and does not address the causes of current immigration waves. Moreover, the bill will inevitably result in discriminatory treatment of foreign-looking people and incredibly, inexcusably resurrect and legitimize the practice of indentured servitude.

Historically, our borders have been open to immigration from the Western Hemisphere. Until our last major effort at immigration "reform" in 1965, there were no quotas or limitations on immigrants from this hemisphere; in essence, a visa applicant had only to show that a job was available and that he or she was not otherwise disqualified. With the advent of the quota system, legal immigration has become virtually impossible from those countries where historical ties, geography, poverty, and civil strife combine to make large waves of immigration inevitable. This bill will not work, because it totally ignores historical patterns. Today's so-called illegal immigration crisis exists not so much because the numbers seeking to live and work in this country are greater, but because the 1965 reform makes legal entry all but impossible.

The flow of immigration—legal or illegal—is a sure index of desperation. Just as the Irish potato famine set off a wave of immigration, just as the Vietnam debacle threw the boat people to the sea, we have today a wave of immigrants fleeing from misery and desperation. The people we know as illegal immigrants do not want to become lawbreakers, but they cannot and will not let laws stand between them and what may be their only chance to survive or attain some semblance of human dignity. Ultimately, the only way to curb illegal entry is to address the human desperation behind illegal immigration. For this reason I have long supported the creation of a bilateral United States-Mexico Development Bank and a free trade zone. I believe that such actions would go far to create new opportunities and reduce desperation on both sides of the border. This bill, however, will not work because it fails to address the forces pushing immigration.

What the bill surely will do is to create a pervasive system of discrimination against citizens and legal residents who have foreign appearance and, for all practical purposes, to revive the cruel practice of indentured servitude. Employer sanctions are the heart of this bill, but without a uniform Federal identification document, employer sanctions simply cannot be enforced without discriminatory effect. Notwithstanding provisions prohibiting discrimination, it is too much to ask of employers that they fairly and accurately determine who may be hired and who may not, when the threat of sanctions hangs over an incorrect decision. Perhaps correctly, the bill explicitly states that it does not authorize creation of a national identification card. But in doing so it replaces the invasion of everyone's privacy with pervasive and invidious discrimination against substantial minority populations.

While the employer sanctions provisions are purportedly designed to reduce the flow of immigration, the so-called Schumer agricultural worker section directly undercuts that goal through its replenishment program. That giant concession to farming interests invites additional aliens to this country with the promise of legalization, so long as they are willing to be indentured to agriculture. The risk of exploitation in such a program is endemic. Whatever else it may be, such a program is not immigration reform.

I support some provisions of H.R. 3810 independently, such as those granting extended voluntary departure status to Salvadorans and Nicaraguans. However, I cannot support a package that will privatize law enforcement, that will result in widespread discrimination, that will recreate scandalous foreign worker programs, and that ultimately will not solve the problems it seeks to address.

Mr. COMBEST. Mr. Chairman, I rise today to express my great dissatisfaction with the immigration reform legislation under consideration by the House today. This bill represents the third attempt in as many years to address the severe immigration problem in this Nation. Once again, a solution to the immediate problem of uncontrollable borders has been lost in an onslaught of provisions that would ultimately complicate and exacerbate rather than alleviate the immigration problem.

As a Representative from one of the border States, I am especially concerned about the loss of border control that resulted in the presence of an estimated 3.5 million to 6 million illegal aliens in the United States in 1985. Last year, the Immigration and Naturalization Service [INS] deported approximately 1.3 million aliens, but there simply is not sufficient enforcement personnel to curb the steady flow of illegals. At present, the INS has only one agent for every 9.8 miles along the expansive southwest border. It is my view, and that of an overwhelming number of my west Texas constituents, that the first step in con-

trolling illegal immigration is greater enforcement of our existing immigration laws. This enforcement cannot possibly by achieved while the number of enforcement personnel remains deficient.

So, instead of devising a means for more effective border control, the House has assembled a so-called immigration reform package with a multitude of controversial provisions. Amnesty for illegal aliens is one of the provisions that I consider to be most objectionable. In effect, those individuals who have broken the law in crossing U.S. borders are being rewarded by granting them citizenship. Besides discouraging respect for our Nation's laws, amnesty cheapens the meaning and value of citizenship for those persons who have patiently waited through our standard citizenship process.

The House immigration package would also encourage discrimination against individuas of Hispanic origin who are legal citizens of the United States. By requiring employers to verify the citizenship of each employee, those individuals with Hispanic surnames, like many of my 19th District constituents, might be subjected to discriminatory hiring practices. Small businesses would be especially disadvantaged by the employer sanction provisions since burdensome recordkeeping would be mandatory for jobs ranging from temporary yard work to running errands.

Of course, one of the greatest impacts that the immigration reform package would have on west Texas would be in the agricultural sector. While growers depend on a readily available supply of workers, it is my view that the provisions of this immigration bill granting temporary resident status to agricultural workers would serve as a vehicle for increased legalization. Most of the farmworkers legalized under the greencard provisions would be likely to move out of agriculture. It would not solve the problem of available farmworkers, but it would create a secondary legalization program instead. Individuals crossing the border claiming that they are agriculture workers will be given a presumption of eligibility, thus interfering with the already deficient apprehension of aliens.

Another example of the widespread scope of this legislation is the authority granted in the H-2 provisions to legal services attorneys that would allow them to represent temporary foreign agricultural workers. The situation that exists in my congressional district clearly illustrates the adverse effect that the LSC has already had on agriculture. Hereford, TX, is the location of an LSC grantee that has repeatedly brought costly class action suits against numerous farmers. Several have switched to crops that can be harvested mechanically to avoid having to hire migrant workers. The result has not only damaged the agricultural balance of Hereford, but has also inhibited employment opportunities for migrant workers.

In addition, I can hardly see the logic in extending LSC services to H-2 workers who are not U.S. citizens or U.S. taxpayers. American citizens would be forced to compete with foreigners for services financed by taxpayer dollars. Considering our critical budget deficit, this is most inappropriate, unwise and costly.

Mr. Chairman, there can be little doubt that the flood of illegal immigrants into the United States must be curtailed. The financial and ethical effects of illegal immigration are immense. It is my view, however, that this package represents an ineffective attempt to solve the immediate problem. Providing noncitizens with free legal assistance or requiring employers to verify the citizenship of each individual they consider hiring will not curb the flow of individuals that are crossing the borders of our country each day.

It is important to remember that the root of the immigration problem lies in the economic situation of Mexico. Poverty and debt in Mexico makes the United States a powerful and very attractive magnet. A true solution to illegal immigration can be achieved only when Mexico finds a means to alleviate its internal problems. In the interim, we must protect our borders by fortifying and enforcing immigration laws, and we must ensure that those guarding our borders have the resources necessary to do this job.

I intend to channel my support and efforts toward effective and responsible legislative actions which address the true problem of illegal immigration. I strongly oppose, and I urge my colleagues to oppose, this misguided, burdensome and costly attempt to preserve the sanctity of the U.S. borders.

Mr. PACKARD. Mr. Chairman, everyone knows we have to so something about our immigration problem. U.S. immigration agents expect approximately 4 million illegals to cross our borders this year. Let's stop for a moment to put this figure in perspective.

Four million people breaks down to about 333,000 people per month—that's 183,000 more people than live in Arlington, VA, moving to the United States every month. Four million people per year amounts to the population of Lebanon, or Norway, or Israel. This figure is higher than the combined populations of Montana, Nevada, New Hampshire, Vermont, and Rhode Island. Although the scenario is unlikely, at the present rate it would only take 17 years to empty the entire country of Mexico.

Of those 4 million, the Border Patrol will apprehend about 1.8 million. I've been to the border; I've seen what takes place. After an illegal is caught, he or she is processed and taken back to Mexico in a matter of hours. When asked what those people typically do next, the agent repled, "Return to the U.S. within the hour."

In my district made up of San Diego County and Orange County we have had a tragic increase in drugs, crime, prostitution, and social problems. Now I read in the San Diego Union that the aliens are preying on our schoolchildren by stealing their lunch money.

How long can we wait? It is imperative that Congress pass immigration reform legislation now.

Mr. GREEN. Mr. Chairman, I would just like to say that in this complicated and controversial bill there is one provision which all reasonable legislators should be able to support. That provision has to do with colonial quotas and would raise the quota for Hong Kong from 600 to 5,000 a year.

It would have been a clear injustice to address the problems of illegals in this vast immigration reform bill and leave out this class of people who are trying to enter the United States legally under very unfavorable odds.

Let me just review for my colleagues some of the odds which exist for American citizens who wish to legally bring their close relatives in Hong Kong to this country. According to the State Department Bulletin on Immigration, as of October 1986, visas are currently being issued to the brothers and sisters of American citizens (fifth preference) who applied prior to February 22, 1974. For second preference—spouses and unmarried sons and daughters of permanent residents—visa applications are backed up to June 29, 1979. And even the most promising classification, first preference—unmarried sons and daughters of citizens—is backed up to April 1981.

As the Representative of the 15th Congressional District of New York, which includes Chinatown, I am especially interested in increasing the Hong Kong quota because of the hardships which my constituents have suffered as a result of families long kept apart. But obviously my colleagues on the House and Senate Judiciary Committees are also sensitive to this issue since the colonial quota increase was included in both the House and Senate versions. On behalf of my constituents who have new hope for family reunification, I thank them and commend them for their insight.

Mrs. ROUKEMA. Mr. Chairman, I would like to describe an amendment I offered to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986, which has been incroporated as original text in the substitute. I am the ranking Republican on the Labor-Management Relations Subcommittee of the Education and Labor Committee, and my amendment relates to a labor-management issue. The amendment will protect certain American workers from competition by aliens during a period when the American workers are on strike.

The purpose of my amendment is to provide consistency in the law for all categories of temporary alien workers. But before I describe my amendment, I will first share with you some background on the need for the amendment and the current state of the law.

As you know, earlier this year flight attendants went on strike against TWA. Many of my constituents who worked for TWA brought to my attention allegations that the company employed aliens to work on Trans-Atlantic flights while American employees were striking the airline. During an investigation of these allegations, I discovered that it is perfectly legal for a company to do this.

The Immigration and Nationality Act permits the issuance of temporary visas for certain foreign persons who plan to work as crewmembers on an American vessel or aircraft which either departs from or arrives at a foreign country; that is, one of the landings is in the United States and other must be in a foreign country. These are called nonimmigrant crew visas.

The act also allows the issuance of temporary visas for other types of nonimmigrant aliens for purposes of performing temporary labor in this country—for example, temporary farmworkers. However, regulations prohibit the issuance of these visas during strikes to all other temporary workers—those nonimmigrant aliens who come temporarily to the United

States to perform temporary services or labor other than as crewmembers.

There is no such prohibition against the issuance of nonimmigrant alien crewmember visas during strikes of American crewmembers. This a a gap in the law, and in my opinion an unintentional one, permitting unfair competition against American workers which must be closed. I feel very strongly that aliens should not be allowed into this country to hurt American employees by working as strikebreakers. The Government should certainly not help them do so by issuing special visas.

My amendment will close this gap in the law. The amendment, which is entitled "Denial of Crew Member Nonimmigrant Visas in Cases of Strikes," simply states that an alien may not be admitted to the United States as an alien crewman "for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service." To repeat, this will make the law regarding the issuance of temporary nonimmigrant visas to alien crewmembers consistent with the prohibition against issuing visas to other categories of temporary alien workers. It is an important and necessary amendment to the Immigration and Nationality Act.

Mr. CROCKETT. Mr. Chairman, I've been in Congress for 6 years now, and have listened to, and participated in, efforts to reform our immigration laws since the first day I arrived.

As the Representative of an urban area, and one that has a very large population of first- and second-generation immigrants, I am especially mindful of the serious nature of our immigration policies, and their impact on the peoples of the world.

During the past 6 years, we've examined immigration policies and practices; we've looked at the constitutional and statutory guidelines for allowing others to come to our shores; we've examined the social and economic factors involved in the guestworker programs and other variances to immigration law; and we've tried to broaden our outlook to take into consideration the legitimate political and human rights concerns that lead men and women to want to come to the United States.

Today, we see the fruits of those labors in the bill before us.

And, as much as I think this bill has merit, and as much as I would like to support it, I have a serious problem that will cause me to oppose it in its present form.

Mr. Chairman, my opposition to this immigration bill arises because of its dependence on the use of foreign agricultural workers, imported into this country at a time when unemployment among domestic farmworkers and others involved in the agriculture industry is particularly acute.

Just last month, the Bureau of Labor Statistics reported that some 235,000 agricultural workers were unemployed and actively seeking work.

These figures don't include the statistics on those agriculture workers who have dropped out of the "seeking work" category, or the number of farmers who own their land but are unable to work because of economic or other factors.

The Department of Agriculture has reported that there are roughly one million seasonal farmworkers in the United States. The argument that this so-called immigration reform would cause crippling labor shortages for the growers ignores the extremely high levels of unemployment among the domestic workers.

In 1985, farmworker unemployment rates stood at 14.3 percent—twice the total national average unemployment rate.

In areas where undocumented farm labor is allegedly used the most by growers, the unemployment rates among domestic workers is particularly high—exceeding 30 percent, for instance, in California's Imperial County and above 40 percent in Texas' Starr County.

There are two issues here—first, if the growers and other employers would just pay workers decent wages, they could attract enough workers in the ranks of the millions of unemployed legal residents of this country to meet all of their employment needs.

Second, this Nation's policy should, I think, be more attuned to help our own unemployed workers to get where the work is and find jobs than attuned to help devise elaborate formulas to allow growers to continue using illegal aliens as underpaid farmworkers.

The paradox of using significant numbers of undocumented farmworkers during a time of intolerably high domestic unemployment in the agriculture industry only sustains the unjust system of low wages, substandard working conditions, and high profit margins that have produced such misery on our farms in the past.

I can't support such a system. I can't vote to continue the injustices under these programs, or to strengthen the economic bondage of those who work in our fields.

For these reasons, I intend to vote "no" on this bill.

Mr. LOWERY of California. Mr. Chairman, it is said that the "third time's a charm." Well, it appears as if the House will adhere to this saying when we agree today to H.R. 3810, the Immigration Reform Act of 1986.

I rise in support of this bill for several reasons. First and foremost, my constituents are demanding action by Congress to control the influx of illegal aliens. Although H.R. 3810 is not without flaw, it does represent the best hope for immigration reform now, by this Congress. And action now is what the citizens in the 41st District of California want.

Second, the bill before us is more restrictive in its treatment of foreign workers than was the original House proposal which was voted down earlier by this House on a procedural vote. The requirement for 90 working days over a 3-year period is more in line with the basic legalization provisions in title II of H.R. 3810. While not enthusiastic about any two-tier legalization system, I will support this provision as necessary for enactment of major immigration legislation.

H.R. 3810 imposes employer sanctions on those who knowingly hire undocumented aliens and provides additional resources for enforcement agencies. The primary reason for the influx of aliens is the prospect for gainful employment. Until and unless employers are threatened with civil and criminal penalties, there is little hope that the United States will be able to stem the flow of illegals pouring into the United States. Moreover, unless our Federal agents—the INS and Border Patrol—are given the resources necessary to control the border and efficiently process legalization petitions, the lure of successful illegal entry will drive aliens across our border. H.R. 3810 acts responsibly in these two important areas.

Having outlined my support for immigration reform and this bill in particular, I would like to discuss one issue which will not be addressed during today's debate. It involves an amendment I intended to offer, and would have been able to offer, had the rule governing today's debate been similar to the two rules previously considered by the House. Unfortunately, in an understandable attempt to expedite enactment of immigration reform legislation, my amendment—and some others—were denied a hearing on the floor.

My amendment would have provided Federal reimbursement to localities for costs of emergency hospital services furnished to illegal aliens for fiscal years 1987–88.

Counties and cities throughout the Nation, particularly in our border communities, face a dilemma. As providers-of-last-resort, county run hospitals are forced to treat patients who have emergencies regardless of their ability to pay for services rendered. This is the case for legal residents of this country as well as illegal aliens. In the latter case, local jurisdictions are being forced to bear emergency health care costs resulting from a Federal failure to control its borders. The obvious consequences are that localities must divert funds reserved for a host of other needed services to pay for emergency health care for undocumented aliens.

This is not a new issue. It has, however, grown more acute as the number of illegal aliens has skyrocketed the past couple years. In San Diego alone, the county has borne $16.5 million over 5 years for providing emergency treatment to illegal aliens. Is it fair to ask taxpayers in this community to shoulder this cost because the Federal Government is unable to control the national border? I don't believe so and am sure that a majority of my colleagues would agree.

Although this matter will not be decided upon today by this House, I plan to pursue hearings and legislative remedies in the 100th Congress. Moreover, I call on my colleagues who have shown leadership on this issue—Mr. COELHO, Mr. COLEMAN, and Mr. ROYBAL—to combine our efforts in seeking a solution to this problem.

Mr. Chairman, despite the omission of my amendment, I rise in strong support of H.R. 3810 and urge Members to adopt this vital piece of legislation. With this action today, there is still a possibility that a House-Senate conference can report a bill back to both Houses for final approval. The Nation has waited 8 long years for immigration reform. The time to act is now.

Mr. LOWRY of Washington. Mr. Chairman, I rise in strong support of the provision of H.R. 3810 that would suspend the deportation of Salvadoran and Nicaraguan nationals from the United States that is contained in this bill. This provision would establish an appropriate and humanitarian U.S. response to conditions of violence in these two countries. It would not

give these individuals the legal right to remain here permanently, but would ensure that they will not be deported to areas where the general level of violence creates a potential risk to every individual's safety.

The violence in Central America has many causes. The extended voluntary departure provision of H.R. 3810 does not try to blame the violence on any particular force, faction, or government. This provision would simply establish a U.S. policy toward individuals who are now in the United States. It would say that we should not return these individuals into areas where they may become the victims of violence.

One common misconception is that our existing asylum procedure offers an adequate solution to this problem. Political asylum is appropriate for people who can demonstrate a direct threat to themselves as individuals. Many Salvadorans and Nicaraguans may be unable to demonstrate that they face a specific threat to their safety if deported. Yet they will be at risk if they are sent back to countries which are torn by violence. Extended voluntary departure is a more appropriate status for many of these individuals.

Our Nation's treatment of Central American refugees has aroused deep concern in the congressional district that I represent. Many churches, organizations, and individuals have been involved in efforts to assist refugees. The Seattle City Council has declared Seattle a "City of Sanctuary."

The people of Washington's Seventh District want our Nation to live up to its historic commitment to refugees. They know that extended voluntary departure status has been granted to people from Afghanistan, Cambodia, Cuba, Chile, Ethiopia, Iran, Poland, Uganda, Vietnam, and other countries. They are proud that our country was willing to help these people, and they want us to uphold our humanitarian traditions by helping Central Americans today. I urge my colleagues to support this provision of H.R. 3810.

Mr. RINALDO. Mr. Chairman, some objections have been raised about employment sanctions and the verification of job applicants by employers. Arguments have been made that these provisions would be difficult or too burdensome for employers to follow, or would be discriminatory to some individuals. The immigration reform measure contains a provision I offered as an amendment which would help ease the burden of employer sanctions. Specifically, my amendment would require the Department of Justice, in cooperation with the Departments of Labor and Health and Human Services, to study the feasibility of developing a telephone system for purposes of verifying the status of job applicants. This study is to be conducted within 12 months of the enactment of this bill.

This provision is fair both to the alien applying for employment in the United States and the employer who may fear reprisal for hiring any foreign worker regardless of legal status. The use of a telephone verification system for employment purposes has four advantages:

First, it would be less burdensome to employers in proving the legal status of applicants since they would need only to pick up the telephone to verify their immigration status. No extra paperwork would be involved and they would be assured of their compliance with the provisions of the alien employment law.

Second, it would be a more effective tool in determining the authenticity of alien status since many documents proving status can be easily forged.

Third, the alien could be assured after status has been verified that no undue pressure or threat of employment termination would be placed upon him or her.

Fourth, it would show American citizens and legal residents that action is being taken to ensure that their prospective jobs are not being taken away because of the hiring of illegal aliens.

I believe there is almost unanimous agreement that the principal reasons aliens migrate to the United States are available employment and the belief that it is not illegal for employers to hire illegal aliens. One way of solving this problem is to make it illegal for employers to hire illegal aliens and by imposing penalties on those employers who do.

However, it would be unfair to impose a cumbersome procedure upon employers to prove their compliance with the law. In addition, if the procedure is too burdensome, many legal aliens may be denied jobs because they may look illegal by nature of their skin color or accent.

That is why my amendment on studying the use of a telephone employment verification system for applicants and implementing its findings is needed. It is an easy and effective way to prove one's status without denying a person a job to which they may be entitled. For the employer, a job applicant may be offered employment in accordance with the law without fear of undue punishment.

I strongly favor immigration reform. An immigration policy that realistically allows us to resume control of our borders and at the same time promotes an orderly system of justice for the migration of aliens into our country is urgently needed. The imposition of employer sanctions, prohibitions against employment discrimination, and the strengthening of our border patrol are elements of reform that the majority of the American people support. I urge my colleagues to enact this legislation before this Congress adjourns.

Mr. LELAND. Mr. Chairman, the influx of illegal immigrants in our country has aroused great anger and debate among some sections of our country. Depending on whom you speak to, claims made that illegal immigrants displace American workers or drain Federal, State, and local resources by abusing assistance programs can either be verified or contradicted. Consequently, there have been demands on Congress to stem the tide of illegal immigration; to do something.

Defining "something" is a problem Congress has unsuccessfully attempted to resolve during the past 5 years. As Members of Congress we have an obligation to enact fair and decent legislation. In order for immigration reform legislation to truly be fair and decent it must address the root causes of illegal immigration—the economic and political instability in home countries. If we, as the American people's elected representatives, fail to address these root causes, any legislation we enact will simply be of cosmetic value, a hollow demonstration that something was done.

If H.R. 3810 is enacted, our Nation will wind up with a law that merely serves to placate some while inflicting suffering on others. H.R. 3810 is clearly a flawed bill, as evidenced by the difficulty it had reaching the House floor. I strongly oppose this ill-conceived piece of legislation and I will oppose its final passage.

The cornerstone of this legislation is the incorporation of employer sanctions. I am unalterably opposed to employer sanctions because of the resulting discrimination against people who are perceived to be "foreign-looking" or who have "foreign-sounding" names. My voting record while I served in the Texas Legislature and my voting record in this body demonstrates my long-standing opposition to employer sanctions and my grave concern over consequent discrimination. During all those years, there has been insufficient evidence that would rationally lead us to conclude that implementing employer sanctions would halt illegal immigration without massive discrimination resulting.

My opposition to the enactment of guest-worker programs, reminiscent of the abusive bracero program that wreaked physical, mental, and economic havoc on countless people, is also well established. I will not tolerate a return to such a misguided program. After clamors to bring an immigration bill to the floor which included a guest-worker program, a compromise was reached in the guest-worker provision of the legislation before us. Unfortunately, this compromise is just that, a compromise filled with flaws.

Today I will support those amendments which seek to protect both the legal and illegal population from abuse and discrimination. But on final passage, I will oppose H.R. 3810. Legislation enacted by the U.S. Congress must be premised on our great Nation's commitment to fairness, compassion, and decency. Tragically, H.R. 3810 fails to demonstrate this commitment. It is a deceptive bill as well, claiming to be immigration reform, yet failing to address the political and economic causes of illegal immigration. H.R. 3810, if enacted, will prove to create more ills than it purports to remedy. I urge my collegues to oppose this flawed legislation.

Mr. DIOGUARDI. Mr. Chairman, I rise today to express my strong support for an important provision that was included in the Immigration Reform Act of 1986. The provision is designed to reform the antiquated preference system. This was, and will continue to be, an area of great concern to myself and the gentleman from Massachusetts, Mr. DONNELLY. The inclusion of preference system reform was the result of a strong bipartisan effort.

On July 4 of this year, we saw a great outpouring of emotion and the bolstering of pride as we celebrated the 100th birthday of that glorious lady—the Statue of Liberty. Unfortunately, had the present preference system been in effect for all of those 100 years, those individuals most deeply moved by the July 4

celebration would not be here today. In fact, my father, who looked up at Lady Liberty with awe and admiration when he came through Ellis Island in 1929 would not have been allowed to enter the United States had the current preference system been in place.

Earlier this year, I sponsored legislation addressing this gross inequity. In a joint bipartisan effort, similar language was incorporated into the Immigration Reform Act of 1986. Under this provision, the inequities contained in the current preference system that discriminated against several countries were eliminated.

Ireland provided close to 5,000 immigrants per year in the 1950's or 2 percent of the total number of immigrants. Last year, the number of Irish immigrants had dwindled to just over 500 visas or 0.2 percent of the total. Similarly, Italian immigrants in the 1950's accounted for 7 percent of the immigrants entering the United States. In 1985, Italian immigrants accounted for only 0.5 percent of new arrivals. The same case could be made on behalf of several other countries.

The intent of this provision, as designed by Representative DONNELLY and myself, is to promote fairness in the current preference system. This provision's inclusion results in an additional 4,500 visas for Ireland, 7,500 visas for Italy and 3,500 visas for Poland. The same victory can be claimed for several other countries currently being discriminated against by the current preference system.

Mr. Chairman, I would like to thank Mr. DONNELLY for his efforts which were instrumental as I worked to have this provision incorporated into the bill, and to my colleagues for their efforts in righting this inequity.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of H.R. 3810, the Immigration Control and Legalization Amendments Act. There exists an urgent need to enact meaningful immigration reform legislation. This is an important economic, environmental and humanitarian issue. This bill represents the culmination of months of careful negotiation and deliberation. It contains major provisions which address the difficult and troubling issues involved in immigration reform.

First and foremost, this bill improves security along our borders, providing the funding necessary to increase border patrol personnel by 50 percent. This is necessary both to halt illegal immigration and also to end drug trafficking across our southern border. In 1985 the INS located over 1.3 million illegal aliens, more than double the total number of immigrants legally admitted last year. This is the highest apprehension figure in INS history, indicating that illegal immigration is increasing. Further, a substantial number of these aliens are repeat offenders. These figures show that our borders are out of control, and that apprehending and returning illegal immigrants to their homelands is not enough. Our border patrol must be strengthened if we are to meaningfully attack illegal immigration. I have consistently supported strengthening our borders, and I am pleased that the House has made this important provision.

H.R. 3810 also provides a legalization program for agricultural workers who have lived in the United States and been employed harvesting perishable crops for at least 90 days during each of the last 3 years. These workers may apply for temporary resident status, with adjustment to permanent resident status after 1 year. Additionally, workers who have been employed in agriculture for 90 days during the past year may apply for temporary resident status, with adjustment to permanent resident status in 2 years. Before being granted permanent resident status, undocumented workers must show basic citizenship skills. This provision meets the needs of agriculture for a stable workforce while ensuring the rights of those who harvest our produce and contribute to our economy.

This legislation requires that, in order to qualify for citizenship, applicants must demonstrate an understanding of English, and a knowlege and understanding of U.S. history and Government or a pursuit of a course of study to achieve such skills. If applicable, applicants must register for the military selective service. Additionally, any individual who has been convicted of any felony or three or more misdemeanors committed in the United States will be ineligible for permanent residence status.

Most undocumented workers legalized under this legislation will not be eligible for Federal financial assistance, including Aid to Families with Dependent Children [AFDC], Medicaid, and food stamps. Exceptions would be provided, under regulations established by the Justice Department, in cases involving old age, blindness, and disability.

H.R 3810 also provides sanctions for employers who hire illegal aliens. Jobs are the magnet that attracts illegal immigration. As long as there are jobs available, there will be tremendous incentive for illegal immigration. H.R. 3810 phases in a graduated penalty structure for individuals who employ, recruit, or refer undocumented aliens. The first offense would result in a citation explaining the prohibitions on employing undocumented workers. Future offenses would carry increasing civil fines. And individuals who engage in a pattern or practice of hiring illegal aliens would be subject to criminal fines and imprisonment.

Also included in H.R. 3810 are provisions to prevent discrimination in employment caused by employer sanctions. Employers, faced with the possibility of civil and criminal penalties for hiring illegal aliens could be reluctant to hire minority workers. Every effort must be made to prevent any act of discrimination. H.R. 3810 provides for the appointment of a special counsel within the Justice Department to enforce the antidiscrimination measures in this bill. The special counsel is authorized to initiate investigations of unfair employment practices. Employers who practice discrimination could be fined and required to hire the injured party and provide back pay.

H.R. 3810 provides a comprehensive package of immigration reforms. This legislation alone will not resolve all the issues involved in illegal immigration. But it does take an important first step in redirecting our immigration policy.

Mr. FAZIO. Mr. Chairman, no bill has undergone more intense debate, amendment, controversy, reversals and miraculous recoveries than this bill on the floor today. It still, in my view, has some serious problems because I do not think that employer sanctions can help but result in some discrimination. I do not know how to weigh this probability against the merely probable contribution this bill would make to genuine immigration reform.

There may be no satisfactory solution to these problems. We will have to watch the performance of this balance of mechanisms in the years ahead, and when we next have the fortitude to tackle this issue, make the corrections dictated by experience.

Several things are clear now, however, for anyone familiar with agriculture. The bill must deal with its unique requirements for workers, especially for perishable commodities. The recompromised Schumer-Berman-Panetta provision is as good an attempt to structure the complex equities in this situation as I can conceive of. I congratulate the principal authors of that amendment, and I congratulate the farm groups whose persistence, flexibility, imagination, and good faith were essential to the success of the compromise.

It is also clear now that we need to support the amendment to be offered this afternoon by our colleague, KIKA DE LA GARZA, chairman of the House Agriculture Committee, which would require search warrants for INS agents to enter fields in their attempts to apprehend illegal aliens.

This amendment reflects legislation first introduced at the beginning of the immigration debate 4 years ago by myself, Mr. EDWARDS, Mr. LUNGREN, and Mr. DANNEMEYER. Though the Supreme Court has found there is a technical difference between a field and an enclosed room in the application of search and seizure protections, there is no real reason why the same requirements for a search warrant should not be in effect in both places.

My colleagues should be aware of the disruption and damages caused innocent people by the current INS practice of outdoor sweeps through entire sections of acreage. In a number of cases panicked workers have been driven to their deaths out of fear that they would be caught and deported whether or not they were in the country legally.

In some cases, the situation faced by farmworkers in this country has been reminiscent of the 19th century labor history. This has not always been the situation, but too often it has been. Both the protections for farm workers in the Schumer-Berman-Panetta compromise and the search warrant requirements should go a long way toward mitigating these problems.

Congratulations to the sponsors of these provisions and to the authors of this massive bill who have persevered through extraordinary complexities and setbacks.

The CHAIRMAN. All time has expired.

Pursuant to House Resolution 580, the text of H.R. 5665 is considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments printed in the reported bill.

The substitute is considered as having been read.

The text of the substitute is as follows:

H.R. 5665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Legalization Amendments Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

TABLE OF CONTENTS

Sec. 1. Short title; references in Act.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

Part A—Employment

Sec. 101. Control of unlawful employment of aliens and unfair immigration-related employment practices.

Sec. 102. Fraud and misuse of certain immigration-related documents.

Part B—Improvement of Enforcement and Services

Sec. 111. Authorization of appropriations for enforcement and service activities of the Immigration and Naturalization Service.

Sec. 112. Unlawful transportation of aliens to the United States.

Sec. 113. Treatment of immigration emergencies.

Sec. 114. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.

Sec. 115. Enforcement of the immigration laws of the United States.

Part C—Verification of Status Under Certain Programs

Sec. 121. Verification of immigration status of aliens applying for benefits under certain programs.

TITLE II—LEGALIZATION

Sec. 201. Legalization of status.

Sec. 202. Cuban-Haitian adjustment.

Sec. 203. Updating registry date to January 1, 1976.

Sec. 204. State legalization assistance.

TITLE III—REFORM OF LEGAL IMMIGRATION

Part A—Temporary Agricultural Workers

Sec. 301. H-2A agricultural workers.

Sec. 302. Permanent residence for certain special agricultural workers.

Sec. 303. Determinations of agricultural labor shortages and admission of additional special agricultural workers.

Sec. 304. Commission on Agricultural Workers.

Sec. 305. Eligibility of certain agricultural workers for legal assistance.

Part B—Other Changes in the Immigration Law

Sec. 311. Change in colonial quota.

Sec. 312. Students.

Sec. 313. G-IV special immigrants.

Sec. 314. Visa waiver pilot program for certain visitors.

Sec. 315. Providing additional immigrant visas.

Sec. 316. Miscellaneous provisions.

TITLE IV—REPORTS TO CONGRESS

Sec. 401. Triennial reports concerning immigration.

Sec. 402. Reports on unauthorized alien employment and discrimination in employment.

Sec. 403. Reports on H-2A program.

Sec. 404. Reports on legalization program.

Sec. 405. Report on visa waiver pilot program.

Sec. 406. Report on INS resources.

Sec. 407. U.S.-Mexico border revitalization.

TITLE V—STATE AND LOCAL ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

Sec. 501. Reimbursement of States and localities for costs of incarcerating illegal aliens and certain Cuban nationals.

TITLE VI—COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT

Sec. 601. Commission on International Migration and Development.

TITLE VII—NATIONAL COMMISSION ON IMMIGRATION

Sec. 701. National Commission on Immigration.

TITLE VIII—INVESTIGATION, REVIEW, AND TEMPORARY LIMITATION ON DEPORTATION OF DISPLACED SALVADORANS AND NICARAGUANS

Part A—GAO Investigation and Report

Sec. 801. GAO investigation.

Sec. 802. Report.

Part B—Congressional Review

Sec. 811. Referral of report, committee hearings, and committee report.

Part C—Temporary Stay of Deportation

Sec. 821. Limitation on detention and deportation.

Sec. 822. Period of stay of deportation not counted towards obtaining suspension of deportation benefit.

Sec. 823. Alien's status during period of extension.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (g)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section and in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (g)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

"(5) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

"(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

"(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form established or designated by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in the United States by examining—

"(i) the individual's United States passport, or the individual's unexpired foreign passport if the foreign passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States, or

"(ii) a document described in subparagraph (B) and a document described in subparagraph (C).

A person or entity has complied with the requirement of the preceding sentence with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the require-

ments of such sentence, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.

"(B) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is the individual's—

"(i) social security account number card issued by the Social Security Administration,

"(ii) certificate of birth in the United States or United States consular report of birth, or

"(iii) in the case of an individual without a social security card or a certificate of birth in the United States or a United States consular report of birth, any other identification acceptable to the Attorney General.

"(C) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is the individual's—

"(i) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens, or other identification issued by the Attorney General to aliens who establish eligibility for employment,

"(ii) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section, or

"(iii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury and on the form designated or established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

"(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during such period as the Attorney General shall specify in regulations.

"(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(5) TIME FOR COMPLIANCE.—A person or entity has complied with the requirements of this subsection, with respect to the hiring of an individual, if the requirements of this subsection are first met not later than noon of the day following the day on which the individual is first employed by that person or entity.

"(6) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this section or section 1546 of title 18, United States Code.

"(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

"(d) PENALTIES.—

"(1) CIVIL MONEY PENALTY FOR UNLAWFUL EMPLOYMENT, RECRUITING, OR REFERRAL.—

"(A) IN GENERAL.—In the case of a person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)) to have violated paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of not less than $1,000, and not more than $2,000, for each unauthorized alien with respect to whom the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of not less than $2,000, and not more than $5,000, for each unauthorized alien with respect to whom the violation occurred.

In determining the level of civil penalty that is applicable under this subparagraph for violations of paragraph (1)(A) or (2) of subsection (a), determinations of more than one violation in the course of a single proceeding or adjudication shall be counted as a single determination.

"(B) CRIMINAL PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—A person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)) to have violated subsection (a)(1)(B) shall be subject to a civil penalty of not less than $250 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, and the history of previous violations.

"(4) ADMINISTRATIVE PROCESS.—

"(A) HEARING.—

"(i) IN GENERAL.—Before assessing a civil penalty against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(ii) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the assessment shall constitute a final and unappealable order.

"(iii) JUDICIAL REVIEW.—A person or entity (including the Attorney General) adversely affected by a final order respecting an assessment may, within 60 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(B) COLLECTION OF CIVIL PENALTIES.—If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in the appropriate district court of the United States.

"(5) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referral for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(e) PROHIBITION OF INDEMNITY BONDS.—

"(1) PROHIBITION.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

"(2) CIVIL PENALTY.—Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(f) MISCELLANEOUS PROVISIONS.—

"(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

"(g) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (1)

an alien lawfully admitted for permanent residence, or (2) authorized to be so employed by this Act or by the Attorney General.".

(2) Except as provided in paragraphs (3), (4), and (5), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, but shall not apply to the hiring, recruiting, or referring of individuals occurring after the end of the 6-year period beginning on the first day of the seventh month that begins after the date of the enactment of this Act.

(3) During the six-month period beginning on the first day of the first month after the date of the enactment of this Act—

(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act, and

(B) the Attorney General shall not conduct any proceeding, nor impose any penalty, under such section on the basis of any violation alleged to have occurred during the period.

(4) In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(5)(A) Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under section 274A of the Immigration and Nationality Act on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

(B)(i) During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

(ii) Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of the Immigration and Nationality Act (relating to performance of seasonal agricultural services).

(iii) A person, entity, or agent that violates clause (i) shall be deemed to be subject to a penalty under section 274A(d) of the Immigration and Nationality Act in the same manner as if it had violated section 274A(a)(1)(A) of such Act, without regard to paragraph (4) of this subsection.

(C) In this paragraph:

(i) The term "application period" means the period described in section 210(a)(1) of the Immigration and Nationality Act (as added by section 302(a) of this Act).

(ii) The term "seasonal agricultural services" has the meaning given such term in section 210(g) of the Immigration and Nationality Act (as added by section 302(a) of this Act).

(iii) The term "unauthorized alien" has the meaning given such term in section 274A(g) of the Immigration and Nationality Act.

(6) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.—(1) Chapter 8 of title II is further amended by inserting after section 274A, as inserted by subsection (a)(1), the following new section:

"UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

"SEC. 274B. (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

"(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

"(A) because of such individual's national origin, or

"(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual's citizenship status.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a person or other entity that employs three or fewer employees,

"(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964,

"(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government, or

"(D) discrimination against an individual on the basis of the individual's English language skill in those certain instances where the English language skill is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

"(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term 'citizen or intending citizen' means an individual who—

"(A) is a citizen or national of the United States, or

"(B) is an alien who—

"(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

"(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

"(b) CHARGES OF VIOLATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

"(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

"(c) SPECIAL COUNSEL.—

"(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the 'Special Counsel') within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (i)(1).

"(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

"(d) INVESTIGATION OF CHARGES.—

"(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe

that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

"(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

"(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

"(e) HEARINGS.—

"(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

"(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

"(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

"(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

"(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(g) DETERMINATIONS.—

"(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

"(2) ORDERS FINDING VIOLATIONS.—

"(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

"(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

"(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

"(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(6), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

"(iii) to hire individuals directly and adversely affected, with or without back pay; and

"(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than $1,000 for each individual discriminated against, and

"(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $2,000 for each individual discriminated against.

"(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such paragraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

"(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged or is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

"(h) AWARDING OF ATTORNEYS' FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee.

"(i) REVIEW OF FINAL ORDERS.—

"(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

"(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

"(2) COURT ENFORCEMENT ORDER.—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

"(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

"(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs.".

(2) The amendment made by paragraph (1) shall not apply to discrimination in hiring, recruiting, or referring of individuals occurring after the end of the 6-year period beginning on the first day of the seventh month that begins after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3

(29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a)";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act and before the end of the 6-year period beginning on the first day of such month.

(d) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new items:

"Sec. 274A. Unlawful employment of aliens.

"Sec. 274B. Unfair immigration-related employment practices.".

(f) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

SEC. 102. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) APPLICATION TO ADDITIONAL DOCUMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000";

(5) by inserting "(a)" before "Whoever" the first place it appears; and

(6) by adding at the end the following new subsections:

"(b) Whoever uses—

"(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

"(2) an identification document knowing (or having reason to know) that the document is false, or

"(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined not more than $5,000, or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) TWO ESSENTIAL ELEMENTS.—Two essential elements of the program of immigration control and reform established by this Act are—

(1) an increase in the border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1986, $422,000,000, and for fiscal year 1987, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1986, $12,000,000, and for fiscal year 1987, $15,000,000.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach shall include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) PROGRAM OF IN-SERVICE TRAINING.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) IN-SERVICE TRAINING PROGRAM.—(1) The Attorney General shall provide for such programs of in-service training for full-time and part-time personnel of the Service in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service includes a description of steps taken to carry out paragraph (1).".

(e) ENHANCEMENT OF COMMUNITY OUTREACH WITHIN THE IMMIGRATION AND NATURALIZATION SERVICE.—Section 103 (8 U.S.C. 1103), as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(d) COMMUNITY OUTREACH PROGRAM.—(1) The Attorney General shall enhance the responsibilities of the community outreach program within the Service so that such program, acting in cooperation with the community relations service of the Department of Justice, has personnel located at the district level—

"(A) to assist in the provision of services, particularly naturalization services;

"(B) to provide outreach to deal generally with community problems with the Service arising at the district level; and

"(C) to receive and investigate complaints of abuse of authority by personnel of the Service and to transmit findings thereon to appropriate authorities for disposition or resolution.

In providing for the functions described in subparagraph (A), the Attorney General may secure the assistance and services of voluntary and community agencies.

"(2) The Attorney General shall provide that the annual report of the Service includes details concerning the progress of the Service's community outreach program in carrying out the responsibilities described in paragraph (1).".

(f) DATA PROCESSING REQUIREMENTS OF THE INS.—(1) The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate, and to any other appropriate committees of the Congress, not later than six months after the date of the enactment of this Act, on the results of a comprehensive analysis of the data processing requirements of the Immigration and Naturalization Service. The report shall include—

(A) an assessment of the data processing needs of the Service, and

(B) an analysis of the alternatives considered to meet those requirements, including the use of regional centers and other available resources of the Department of Justice.

(2) The Attorney General shall provide that any automatic data processing equipment, facilities, and software of the Immigration and Naturalization Service are acquired consistent with the provisions of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759). No such equipment, facilities, or software may be ordered, acquired, or installed without the prior review and approval of the Administrator of General Services. The Administrator shall notify Congress in writing of all such approvals, together with any limitations or conditions thereon, or modifications thereto.

(3) Effective November 18, 1985, neither the Attorney General nor the Immigration and Naturalization Service may order, acquire, or install any new data processing equipment, facilities, or software for the use of the Service under the existing contract known as Acquisition II until 45 days after the date that Congress receives written notification under paragraph (2) of the approval, by the Administrator of General Services, of the order, acquisition, or installation.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(a) CRIMINAL PENALTIES.—(1) Any person who—

"(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

"(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

"(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation,

shall be fined not more than $10,000, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs.

"(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

"(A) be fined not more than $5,000, or imprisoned not more than one year, or both; or

"(B) in the case of—

"(i) a second or subsequent offense,

"(ii) an offense done for the purpose of commercial advantage or private financial gain, or

"(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined not more than $10,000, or imprisoned not more than five years, or both.".

SEC. 113. TREATMENT OF IMMIGRATION EMERGENCIES.

(a) IMMIGRATION CONTINGENCY PLAN.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Attorney General shall develop, and may from time to time modify, a contingency plan to provide for the allocation and management of personnel and resources in the event of an immigration emergency. In developing such a plan, the Attorney General shall consult with the Judiciary Committees of the House of Representatives and of the Senate and with State and local governments.".

(b) IMMIGRATION EMERGENCY FUND.—Section 404 (8 U.S.C. 1101 note) is amended by inserting "(a)" after "SEC. 404." and by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used in accordance with the immigration contingency plan developed under section 103(c) to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such funds with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

"(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

"(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

"(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).".

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended—

(A) in the matter in subsection (a) before paragraph (1), by inserting "which meets the requirements of subsection (d) and" after "income and eligibility verification system",

(B) in subsection (b), by striking out "income verification system" in the matter preceding paragraph (1) and inserting in lieu thereof "income and eligibility verification system", and

(C) by adding at the end the following new subsections:

"(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection—

"(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person

whose needs are to be taken into account in making the determination under section 402(a)(7),

"(ii) in the case of the program described in subsection (b)(4)—

"(I) any reference to the State shall be considered a reference to the State agency, and

"(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

"(III) the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for benefits under the applicable program.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the State—

"(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

"(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

"(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

"(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

"(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination to make an individual eligible for benefits based on citizenship or immigration status—

"(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(2) UNDER HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsections:

"(d) The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

"(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for financial assistance.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the Secretary—

"(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—

"(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

In this subsection and subsection (e), the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available.

"(e) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

"(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the entity, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the entity, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(3) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following new subsections:

"(c) The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

"(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

"(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the institution—

"(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

"(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

"(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

"(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

"(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

"(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

"(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

"(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

"(d) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

"(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the institution, under subsection (c)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the institution, under subsection (c)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

"(4) because of a fair hearing process described in subsection (c)(5)(B).

"(e) Notwithstanding subsection (c), if—

"(1) a guaranty is made under this title for a loan made with respect to an individual,

"(2) at the time the guaranty is entered into, the provisions of subsection (c) had been complied with,

"(3) amounts are paid under the loan subject to such guaranty, and

"(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.".

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d),".

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)".

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h) The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.".

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS VERIFICATION SYSTEM

"SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act.".

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: "In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).".

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (non-criminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States have until that date to begin

complying with the requirements imposed by those amendments.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(V) The food stamp program under the Food Stamp Act of 1977.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (III), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

"SEC. 245A. (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

"(1) ENTRY, PHYSICAL PRESENCE, AND TIMELY APPLICATION.—

"(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 18-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

"(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 17 months of the 18-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-month period or on the date of the issuance of such order, whichever day is later.

"(C) TREATMENT OF CERTAIN CUBAN AND HAITIAN ENTRANTS.—For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

"(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

"(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

"(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

"(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

"(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

"(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

"(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

"(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

"(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

"(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

"(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the thirteenth month that begins after the date the alien was granted such temporary resident status.

"(B) CONTINUOUS RESIDENCE.—

"(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

"(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

"(D) BASIC CITIZENSHIP SKILLS.—

"(i) IN GENERAL.—The alien must demonstrate that he either—

"(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

"(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

"(ii) EXCEPTION FOR ELDERLY INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

"(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

"(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

"(C) at the end of the twenty-fifth month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

"(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

"(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) or under subsection (b)(1) may be filed—

"(A) with the Attorney General, or

"(B) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(7) APPLICATION FEES.—

"(A) AMOUNT OF FEES.—The fee for filing an application for adjustment under subsection (a) shall be established by the Attorney General and may not exceed $75 in the case of an individual applicant or $175 in the case of an application filed on behalf of an individual, his spouse, and any of his children.

"(B) USE OF FEES.— The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

"(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraphs (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence.

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(iii) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(g) REGULATIONS IMPLEMENTING SECTION.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate and with qualified designated entities, shall prescribe—

"(1) regulations establishing a definition of the term 'resided continuously', as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

"(2) such other regulations as may be necessary to carry out this section.

Such regulations may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

"(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

"(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977; and

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

"(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

"(3) RESTRICTED MEDICAID BENEFITS.—

"(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

"(i) paragraph (1) shall not apply,

"(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

"(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

"(B) RESTRICTION OF BENEFITS.—

"(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

"(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

"(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

"(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

"(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term 'medical assistance' refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

"(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

"(A) The National School Lunch Act.

"(B) The Child Nutrition Act of 1966.

"(C) the Vocational Education Act of 1963.

"(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.

"(E) The Headstart-Follow Through Act.

"(F) The Job Training Partnership Act.

"(G) Title IV of the Higher Education Act of 1965.

"(H) The Public Health Service Act.

"(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

"(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with designated entities, shall broadly disseminate in English and other appropriate languages information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits. Such information shall include—

"(1) information respecting the requirements that aliens with lawful temporary resident status would have to meet to have their status adjusted to permanent resident status under subsection (b)(1) and the facilities available to provide education and employment training and opportunities in order to meet such requirements;

"(2) information on the conditions under which temporary lawful resident status can be rescinded under subsection (b)(2); and

"(3) information on conditions for employment and foreign travel of aliens with lawful temporary resident status under subsection (b)(3).".

(2) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence.".

(b) CONFORMING AMENDMENTS.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

"(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).".

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.".

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

"The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.".

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1976.

(a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1976", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1976".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948", and inserting in lieu thereof "January 1, 1976".

(c) CLARIFICATION.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

SEC. 204. STATE LEGALIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out subsections (b) and (c) of this section (including State and local administrative costs) such sums as may be necessary for fiscal year 1987 and for each of the four succeeding fiscal years.

(2) Amounts appropriated under this subsection for a fiscal year which are not obligated by the end of such year shall remain available for obligation during the next fiscal year.

(3) If the amounts appropriated under this subsection for a fiscal year are insufficient to provide fully for reimbursement and payments under subsections (b) and (c) for the fiscal year—

(A) amounts shall first be obligated for purposes of making payments to States and State educational agencies under such subsections, and

(B) in obligating such amounts, amounts shall be allocated among the States and State educational agencies on an equal pro rata basis based on their costs under such subsections in providing public assistance and educational services, except as provided in paragraph (4).

(4)(A) If the amounts appropriated under this subsection for a fiscal year exceed 40 percent, but are less than 100 percent, of the amounts necessary to provide fully for reimbursement and payments under subsections (b) and (c) for the fiscal year, the subsection (b) percentage (as defined in subparagraph (B)) may exceed the subsection (c) percentage, so long as the subsection (c) percentage is not less than 40 percent.

(B) In subparagraph (A), the terms "subsection (b) percentage" and "subsection (c) percentage" mean the ratio (expressed as a percentage) of—

(i) the amounts obligated for purposes of making payments under subsection (b) or subsection (c), respectively, to

(ii) the amounts necessary to provide fully for reimbursement and payments under the respective subsection.

(b) REIMBURSEMENT TO STATES FOR PUBLIC ASSISTANCE FOR ELIGIBLE LEGALIZED ALIENS.—(1) Subject to the amounts provided in advance in appropriation Acts, the Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 percent of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible legalized alien (as defined in paragraph (2)(D)) and for 100 percent of the costs of programs of public health assistance (as defined in paragraph (2)(C)) provided to any alien who is, or is applying on a timely basis to the Attorney General to become, an eligible legalized alien. No such reimbursement shall be available to any such program of public health assistance to the extent that the costs of services provided to such eligible legalized aliens have been financed through Federal funds.

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term "programs of public health assistance" means programs in a State or local jurisdiction which—

(i) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(D) The term "eligible legalized alien" means an alien who was granted lawful temporary resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status.

(c) EDUCATIONAL ASSISTANCE.—(1) Subject to the amounts provided in advance in appropriation Acts and in accordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in subsection (b)(2)(D)).

(2) The definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of Public Law 98-511; 20 U.S.C. 4101 et seq.) shall apply to payments under this subsection in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to "immigrant children" shall be deemed to be a reference to "eligible legalized aliens" (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under section 245A(a) of the Immigration and Nationality Act;

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase "described under paragraph (2)" shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A));

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) NO DUPLICATION OF ASSISTANCE.—Reimbursement under subsection (b) or subsection (c) shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(e) CONSULTATION IN IMPLEMENTING SECTION.—The Secretary of Health and Human Services and the Secretary of Education shall consult with representatives of State and local governments in establishing regulations and guidelines to carry out this section.

TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) PROVIDING NEW "H-2A" NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL LABOR.—Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor," in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) to perform other temporary service or labor".

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN H-2A PROGRAM.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following: "For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture. The provisions of section 216 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).".

(c) ADMISSION OF H-2A WORKERS.—(1) Chapter 2 of title II is amended by adding after section 215 the following new section:

"ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 216. (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

"(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

"(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

"(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

"(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

"(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H-2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

"(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

"(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

"(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops.

"(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was

hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

"(ii) The requirement of clause (i) shall not apply to any employer who—

"(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),

"(II) is not a member of an association which has petitioned for certification under this section for its members, and

"(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

"(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Control and Legalization Amendments Act of 1986 as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

"(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: *Provided,* That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

"(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

"(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

"(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

"(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

"(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: *Provided,* That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: *Provided further,* That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: *Provided further,* That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: *Provided further,* That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: *And provided further,* That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

"(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

"(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

"(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

"(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

"(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(14).

"(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secre-

tary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

"(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(g)) with respect to that employment.

"(2) The term 'H-2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).".

(2) Section 3306(c)(1)(B) of the Internal Revenue Code of 1954 is amended by striking out "before January 1, 1988," and inserting in lieu thereof "before January 1, 1993,".

(d) EFFECTIVE DATE.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 216 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(e) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 216 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(f) SENSE OF CONGRESS RESPECTING CONSULTATION WITH MEXICO.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 216 of the Immigration and Nationality Act.

(g) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Admission of temporary H-2A workers.".

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—(1) Chapter 1 of title II is amended by adding at the end the following new section:

"SPECIAL AGRICULTURAL WORKERS

"SEC. 210. (a) LAWFUL RESIDENCE.—

"(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

"(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

"(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

"(i) resided in the United States, and

"(ii) performed seasonal agricultural services in the United States for at least 90 mandays,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

"(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

"(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 mandays during each of the 12-months periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

"(3) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—

"(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(i) with the Attorney General, or

"(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) PROOF OF ELIGIBILITY.—

"(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

"(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

"(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

"(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

"(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward

to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

"(A) CRIMINAL PENALTY.—Whoever—

"(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

"(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(19).

"(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraph (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges).

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

"(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (b)(3) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

"(h) SEASONAL AGRICULTURAL SERVICES DEFINED.—In this section, the term 'seasonal agricultural services' means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.".

(2) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Special agricultural workers.".

(b) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act) is amended—

(A) by inserting "and subsection (f) of section 210 of such Act" before the period at the end of paragraph (1);

(B) by inserting "or (f)" after "such subsection (h)" in paragraph (2); and

(C) by inserting "or 210" after "such section 245A" in paragraph (2).

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act) is amended by inserting "or 210(f)" after "245A(h)".

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—Chapter 1 of title II is amended by adding after section 210 (added by section 302 of this title) the following new section:

"DETERMINATION OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS

"SEC. 210A. (a) DETERMINATION OF NEED TO ADMIT ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—Before the beginning of each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Secretaries of Labor and Agriculture (in this section referred to as the 'Secretaries') shall jointly determine the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under this section during the fiscal year to meet a shortage of workers to perform seasonal agricultural services in the United States during the year. Such number is, in this section, referred to as the 'shortage number'.

"(2) OVERALL DETERMINATION.—The shortage number is—

"(A) the anticipated need for special agricultural workers (as determined under paragraph (4)) for the fiscal year, minus

"(B) the supply of such workers (as determined under paragraph (5)) for that year,

divided by the factor (determined under paragraph (6)) for man-days per worker.

"(3) NO REPLENISHMENT IF NO SHORTAGE.—In determining the shortage number, the Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in paragraphs (4) and (5), the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the fiscal year involved.

"(4) DETERMINATION OF NEED.—For purposes of paragraph (2)(A), the anticipated need for special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall jointly estimate, using statistically valid methods, the number of man-days of labor performed in seasonal agricultural services in the United States in the previous fiscal year.

"(B) ADJUSTMENT FOR CROP LOSSES AND CHANGES IN INDUSTRY.—The Secretaries shall jointly—

"(i) increase such number by the number of man-days of labor in seasonal agricultural services in the United States that would have been needed in the previous fiscal year to avoid any crop damage or other loss that resulted from the unavailability of labor, and

"(ii) adjust such number to take into account the projected growth or contraction in the requirements for seasonal agricultural services as a result of—

"(I) growth or contraction in the seasonal agriculture industry, and

"(II) the use of technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

"(5) DETERMINATION OF SUPPLY.—For purposes of paragraph (2)(B), the anticipated supply of special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall use the number estimated under paragraph (4)(A).

"(B) ADJUSTMENT FOR RETIREMENTS AND INCREASED RECRUITMENT.—The Secretaries shall jointly—

"(i) decrease such number by the number of man-days of labor in seasonal agricultural services in the United States that will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

"(ii) increase such number by the number of additional man-days of labor in seasonal agricultural services in the United States that can reasonably be expected to result from the availability of able, willing, qualified, and unemployed special agricultural workers, rural low skill, or manual, laborers, and domestic agricultural workers.

"(C) BASES FOR INCREASED NUMBER.—In making the adjustment under subparagraph (B)(ii), the Secretaries shall consider—

"(i) the effect, if any, that improvements in wages and working conditions offered by employers will have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, of such improvements in wages and working conditions on the economic competitiveness of the perishable agricultural industry,

"(ii) the effect, if any, of enhanced recruitment efforts by the employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

"(iii) the number of able, willing and qualified individuals who apply for employment opportunities in seasonal agricultural services listed with offices of government employment services.

"(D) CONSTRUCTION.—Nothing in this subsection shall be deemed to require any individual employer to pay any specified level of wages, to provide any specified working conditions, or to provide for any specified recruitment of workers.

"(6) DETERMINATION OF MAN-DAY PER WORKER FACTOR.—

"(A) FISCAL YEAR 1990.—For fiscal year 1990—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of paragraph (2) the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1989 by special agricultural workers whose status is adjusted under section 210 and who performed seasonal agricultural services in the United States at any time during the fiscal year.

"(ii) LACK OF ADEQUATE INFORMATION.—If the Director determines that—

"(I) the information reported under subsection (b)(2)(A) is not adequate to make a reasonable estimate of the average number described in clause (i), but

"(II) the inadequacy of the information is not due to the refusal or failure of employers to report the information required under subsection (b)(2)(A),

the factor under this paragraph is 90.

"(B) FISCAL YEAR 1991.—For purposes of paragraph (2) for fiscal year 1991, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1990 by special agricultural workers who obtained lawful temporary resident status under this section.

"(C) FISCAL YEARS 1992 AND 1993.—For purposes of paragraph (2) for fiscal years 1992 and 1993, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in each of the two previous fiscal years by special agricultural workers who obtained lawful temporary resident status under this section during either of such fiscal years.

"(7) EMERGENCY PROCEDURE FOR INCREASE IN SHORTAGE NUMBER.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group or association representing employers (and potential employers) of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant increase in the shortage number due to (i) a significant increase in the need for special agricultural workers in the year, (ii) a significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant decrease (below the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF EMERGENCY PROCEDURE.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) PROMPT DETERMINATION ON REQUEST.—The Secretaries, not later than 21 days after the date of the receipt of such a request and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the shortage number for the fiscal year shall be increased, to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described in subparagraph (A) and that such an increase takes into account reasonable recruitment efforts having been undertaken.

"(8) PROCEDURE FOR DECREASING MAN-DAYS OF SEASONAL AGRICULTURAL SERVICES REQUIRED IN THE CASE OF OVER-SUPPLY OF WORKERS.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group of special agricultural workers may request the Secretaries to decrease the number of man-days required under subparagraphs (A) and (B) of subsection (d)(2) with respect to the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number due to (i) a significant decrease in the need for special agricultural workers in the year, (ii) a significant increase in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant increase (above the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF REQUEST.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) DETERMINATION ON REQUEST.—The Secretaries, before the end of the fiscal year involved and after consideration of any in-

formation submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the number of man-days specified in subparagraphs (A) and (B) of subsection (d)(2) for the fiscal year shall be reduced by the same proportion as the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in subparagraph (A).

"(b) ANNUAL NUMERICAL LIMITATION ON ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) ANNUAL NUMERICAL LIMITATION.—

"(A) FISCAL YEAR 1990.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1990 is—

"(i) 95 percent of the number of individuals whose status was adjusted under section 210(a), minus

"(ii) the number estimated under paragraph (3)(A)(i) for fiscal year 1989 (as adjusted in accordance with subparagraph (C)).

"(B) FISCAL YEARS 1991, 1992, AND 1993.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal years 1991, 1992, or 1993 is—

"(i) 90 percent of the number described in this clause for the previous fiscal year (or, for fiscal year 1991, the number described in subparagraph (A)(i)), minus

"(ii) the number estimated under paragraph (3)(A)(i) for the previous fiscal year (as adjusted in accordance with subparagraph (C)).

"(C) ADJUSTMENT TO TAKE INTO ACCOUNT CHANGE IN NUMBER OF H-2 AGRICULTURAL WORKERS.—The number used under subparagraph (A)(ii) or (B)(ii) (as the case may be) shall be increased or decreased to reflect any numerical increase or decrease, respectively, in the number of aliens admitted to perform temporary seasonal agricultural services (as defined in subsection (g)(2)) under section 101(a)(15)(H)(ii)(a) in the fiscal year compared to such number in the previous fiscal year.

"(2) REPORTING OF INFORMATION ON EMPLOYMENT.—In the case of a person or entity who employs, during a fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992) in seasonal agricultural services, a special agricultural worker—

"(A) whose status was adjusted under section 210, the person or entity shall furnish an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year, or

"(B) who was admitted or whose status was adjusted under this section, the person or entity shall furnish the alien and an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year.

"(3) ANNUAL ESTIMATE OF EMPLOYMENT OF SPECIAL AGRICULTURAL WORKERS.—

"(A) IN GENERAL.—The Director of the Bureau of the Census shall, before the end of each fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992), estimate—

"(i) the number of special agricultural workers who have performed seasonal agricultural services in the United States at any time during the fiscal year, and

"(ii) for purposes of subsection (a)(5), the average number of man-days of such services certain of such workers have performed in the United States during the fiscal year.

"(B) FURNISHING OF INFORMATION TO DIRECTOR.—The offical designated by the Secretaries under paragraph (2) shall furnish to the Director, in such form and manner as the Director specifies, information contained in the certifications furnished to the official under paragraph (2).

"(C) BASIS FOR ESTIMATES.—The Director shall base the estimates under subparagraph (A) on the information furnished under subparagraph (B), but shall take into account (to the extent feasible) the underreporting or duplicate reporting of special agricultural workers who have performed seasonal agricultural services at any time during the fiscal year. The Director shall periodically conduct appropriate surveys, of agricultural employers and others, to ascertain the extent of such underreporting or duplicate reporting.

"(D) REPORT.—The Director shall annually prepare and report to the Congress information on the estimates made under this paragraph.

"(c) ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—For each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any, determined under subsection (a)) for the fiscal year, or, if less, the numerical limitation established under subsection (b)(1) for the fiscal year. No such alien shall be admitted who is not admissible to the United States as an immigrant, except as otherwise provided under subsection (e).

"(2) ALLOCATION OF VISAS.—The Attorney General shall, in consultation with the Secretary of State, provide such process as may be appropriate for aliens to petition for immigrant visas or to adjust status to become aliens lawfully admitted for temporary residence under this subsection. No alien may be issued a visa as an alien to be admitted under this subsection or may have the alien's status adjusted under this subsection unless the alien has had a petition approved under this paragraph.

"(d) RIGHTS OF ALIENS ADMITTED OR ADJUSTED UNDER THIS SECTION.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (c) to that of an alien lawfully admitted for permanent residence at the end of the 3-year period that begins on the date the alien was granted such temporary resident status.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under subsection (c), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this section, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(4) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (c), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(5) EMPLOYMENT IN SEASONAL AGRICULTURAL SERVICES REQUIRED.—

"(A) FOR 3 YEARS TO AVOID DEPORTATION.—In order to meet the requirement of this paragraph (for purposes of this subsection and section 241(a)(20)), an alien, who has obtained the status of an alien lawfully admitted for temporary residence under this section, must establish to the Attorney General that the alien has performed 90 man-days of seasonal agricultural services—

"(i) during the one-year period beginning on the date the alien obtained such status,

"(ii) during the one-year period beginning one year after the date the alien obtained such status, and

"(iii) during the one-year period beginning two years after the date the alien obtained such status.

"(B) FOR 5 YEARS FOR NATURALIZATION.—Notwithstanding any provision in title III, an alien admitted under this section may not be naturalized as a citizen of the United States under that title unless the alien has performed 90 man-days of seasonal agricultural services in each of 5 fiscal years (not including any fiscal year before the fiscal year in which the alien was admitted under this section).

"(C) PROOF.—In meeting the requirements of subparagraphs (A) and (B), an alien may submit such documentation as may be submitted under section 210(b)(3).

"(D) ADJUSTMENT OF NUMBER OF MAN-DAYS REQUIRED.—The number of man-days specified in subparagraphs (A) and (B) are subject to adjustment under subsection (a)(8).

"(7) DISQUALIFICATION FROM CERTAIN PUBLIC ASSISTANCE.—The provisions of section 245A(h) (other than paragraph (1)(A)(iii)) shall apply to an alien who has obtained the status of an alien lawfully admitted for temporary residence under this section, during the five-year period beginning on the date the alien obtained such status, in the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance described in section 245A(h)(1)(A)(i).

"(e) DETERMINATION OF ADMISSIBILITY OF ADDITIONAL WORKERS.—In the determination of an alien's admissibility under subsection (c)(1)—

"(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under subparagraph (A):

"(i) Paragraphs (9) and (10) (relating to criminals).

"(ii) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(iii) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(iv) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(3) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(f) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

"(1) EQUAL TRANSPORTATION FOR DOMESTIC WORKERS.—If a person employs an alien, who was admitted or whose status is adjusted under subsection (c), in the performance of seasonal agricultural services and provides transportation arrangements or assistance for such workers, the employer must provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed in the performance of seasonal agricultural services.

"(2) PROHIBITION OF FALSE INFORMATION BY CERTAIN EMPLOYERS.—A farm labor contractor, agricultural employer, or agricultural association who is an exempt person (as defined in paragraph (5)) shall not knowingly provide false or misleading information to an alien who was admitted or whose status was adjusted under subsection (c) concerning the terms, conditions, or existence of agricultural employment (described in subsection (a), (b), or (c) of section 301 of MASAWPA).

"(3) PROHIBITION OF DISCRIMINATION BY CERTAIN EMPLOYERS.—In the case of an exempt person and with respect to aliens who have been admitted or whose status has been adjusted under subsection (c), the provisions of section 505 of MASAWPA shall apply to any proceeding under or related to (and rights and protections afforded by) this section in the same manner as they apply to proceedings under or related to (and rights and protections afforded by) MASAWPA.

"(4) ENFORCEMENT.—If a person or entity—

"(A) fails to furnish a certificate required under subsection (b)(2) or furnishes false statement of a material fact in such a certificate,

"(B) violates paragraph (1) or (2), or

"(C) violates the provisions of section 505(a) of MASAWPA (as they apply under paragraph (3)),

the person or entity is subject to a civil money penalty under section 503 of MASAWPA in the same manner as if the person or entity had committed a violation of MASAWPA.

"(5) SPECIAL DEFINITIONS.—In this subsection:

"(A) MASAWPA.—The term 'MASAWPA' means the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470).

"(B) The term 'exempt person' means a person or entity who would be subject to the provisions of MASAWPA but for paragraph (1) or (2), or both, of section 4(a) of MASAWPA.

"(g) GENERAL DEFINITIONS.—In this section:

"(1) The term 'special agricultural worker' means an individual, regardless of present status, whose status was at any time adjusted under section 210 or who at any time was admitted or had the individual's status adjusted under subsection (c).

"(2) The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(3) The term 'Director' refers to the Director of the Bureau of the Census.

"(4) The term 'man-day' means, with respect to seasonal agricultural services, the performance during a calendar day of at least 4 hours of seasonal agricultural services.".

(b) DEPORTATION OF CERTAIN WORKERS WHO FAIL TO PERFORM SEASONAL AGRICULTURAL SERVICES.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (18),

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(20) obtains the status of an alien who becomes lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(6)(A) by the end of the applicable period.".

(c) APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS.—For purposes of section 204 of this Act (relating to State legalization assistance), the term "eligible legalized alien" includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 210 (as inserted by section 302) the following new item:

"Sec. 210A. Determination of agricultural labor shortages and admission of additional special agricultural workers.".

(e) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act and amended by section 302(b)(1) of this Act) is further amended—

(A) by striking out "and subsection (f) of section 210 of such Act" in paragraph (1) and inserting in lieu thereof ", subsection (f) of section 210 of such Act, and subsection (d)(7) of section 210A of such Act";

(B) by striking out "such subsection (h) or (f)" in paragraph (2) and inserting in lieu thereof "such subsection (h), (f), or (d)(7)"; and

(C) by striking out "such section 245A or 210" in paragraph (2) and inserting in lieu thereof "such section 245A, 210, or 210A".

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act and amended by section 302(b)(2) of this Act) is further amended by striking out "245A(h) or 210(f)" and inserting in lieu thereof "245A(h), 210(f), or 210A(d)(7)".

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission on Agricultural Workers (hereinafter in this section referred to as the "Commission"), to be composed of 12 members—

(A) six to be appointed by the President,

(B) three be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

(A) with the Attorney General in appointing two members,

(B) with the Secretary of Labor in appointing two members, and

(C) with the Secretary of Agriculture in appointing two members.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Members shall be appointed to serve for the life of the Commission.

(b) FUNCTIONS OF COMMISSION.—(1) The Commission shall review the following:

(A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

(B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 60 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

(C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

(D) The extent to which the agricultural industry relies on the employment of a temporary workforce.

(E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

(F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

(G) The extent to which the problems of agricultural employers in securing labor are

related to the lack of modern labor-management techniques in agriculture.

(H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

(I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

(2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

(c) REPORT TO CONGRESS.—The Commission shall report to the Congress not later than five years after the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS OF COMMISSION.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(f) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(g) AUTHORITY OF COMMISSION.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) TERMINATION DATE.—The Commission shall cease to exist at the end of the 63-month period beginning with the month after the month in which this Act is enacted.

(j) DEFINITIONS.—In this section:

(1) The term "employer sanctions" means the provisions of section 274A of the Immigration and Nationality Act.

(2) The term "legalization program" refers to the provisions of section 245A of the Immigration and Nationality Act.

(3) The term "seasonal agricultural services" has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

(4) The term "special agricultural worker provisions" refers to sections 210 and 210A of the Immigration and Nationality Act.

SEC. 305. ELIGIBILITY OF CERTAIN AGRICULTURAL WORKERS FOR LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.).

PART B—OTHER CHANGES IN THE IMMIGRATION LAW

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) INCREASE TO 5,000.—(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "5,000".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 312. STUDENTS.

(a) REQUIRING TWO-YEAR FOREIGN RESIDENCE FOR MOST FOREIGN STUDENTS.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by striking out "(e) No person" and inserting in lieu thereof "(e)(1) No person (A)",

(2) by inserting after "training," the following: "or (B) except as provided in paragraph (2), admitted under subparagraph (F) or (M) of section 101(a)(15) or acquiring such status after admission,",

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (A)(iii) or clause (B) of paragraph (1)",

(4) by striking out ": *Provided*, That upon" and inserting in lieu thereof ". Upon",

(5) by striking out ": *And provided further*, That except" and inserting in lieu thereof ". Except", and

(6) by designating the second and third sentences (as so amended) as paragraphs (2) and (3), respectively,

(7) by adding at the end the following new paragraphs:

"(4) The Attorney General may waive such two-year foreign residence requirement in the case of an alien described in clause (B) of paragraph (1) who is an immediate relative (as specified in section 201(b)).

"(5) The Attorney General, in the case of an alien described in clause (B) of paragraph (1) who has the status of a nonimmigrant under section 101(a)(15)(F), may waive such two-year foreign residence requirement if the Attorney General determines that the waiver is in the public interest and that the alien—

"(A) is applying for a visa as an immigrant described in paragraph (3) or (6) of section 203(a) and meets the requirements of paragraph (6), or

"(B) is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii) and meets the requirements of paragraph (7).

"(6) An alien meets the requirements of this paragraph if the alien—

"(A) is admitted to the United States under section 101(a)(15)(F) before October 1, 1992, and

"(B) has obtained—

"(i) has obtained an advanced degree from a college or university in the United States and has been offered a position on the faculty (including as a researcher) of a college or university in the United States in the field in which he obtained the degree,

"(ii) a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and has been offered a research, business, or technical position by a employer in the field in which he obtained the degree, or

"(iii) an advanced degree in business or economics from a college or university in the United States, has exceptional ability in business or economics, and has been offered a research, business, or technical position by a United States employer which requires such exceptional ability,

and has received a certification under section 212(a)(14) with respect to the position.

"(7) An alien meets the requirements of this paragraph if the alien—

"(A) has obtained a degree in a natural science, mathematics, computer science, or an engineering or business field;

"(B) will receive no more than four years of training by a firm, corporation, or other legal entity in the United States, which training will enable the alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof; and

"(C) furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the training program in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the training program.".

(b) PROHIBITING ADJUSTMENT OF STATUS OF MOST STUDENT ENTRANTS.—Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e)(1)) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15)".

(c) NOT COUNTING PERIOD OF PRESENCE FOR SUSPENSION OF DEPORTATION.—Section 244(b) (8 U.S.C. 1254(b)) is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)", and

(2) by adding at the end the following new paragraph:

"(2) In determining the period of continuous physical presence in the United States under subsection (a), there shall not be included any period in which the alien was in the United States as—

"(A) a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15), or

"(B) a nonimmigrant described in section 101(a)(15)(H)(iii), pursuant to a waiver under section 212(e)(5)(B).".

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) apply to aliens admitted to the United States as a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act after the date of the enactment of this Act or who otherwise acquire such status after such date.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

(3) The amendments made by subsection (c) apply to periods occurring on or after the date of the enactment of this Act and shall not have the effect of excluding (in the determination of a period of continuous physical presence in the United States) any period before the date of the enactment of this Act.

SEC. 313. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I).".

SEC. 314. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—Chapter 2 of title II, as amended by section 301(c), is further amended by adding after section 216 the following new section:

"VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

"SEC. 217. (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this section referred to as the 'pilot program') under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

"(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

"(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

"(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(B) is designated as a pilot program country under subsection (c).

"(3) EXECUTES ENTRY CONTROL AND WAIVER FORMS.—The alien before the time of such admission—

"(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

"(B) executes a waiver of review and appeal described in subsection (b)(4).

"(4) ROUND-TRIP TICKET.—The alien has a round-trip, nontransferable transportation ticket which—

"(A) is valid for a period of not less than one year,

"(B) is nonrefundable except in the country in which issued or in the country of the alien's nationality or residence,

"(C) is issued by a carrier which has entered into an agreement described in subsection (d), and

"(D) guarantees transport of the alien out of the United States at the end of the alien's visit.

"(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

"(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

"(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE PUT INTO OPERATION.—

"(1) PRIOR NOTICE TO CONGRESS.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

"(2) AUTOMATED DATA ARRIVAL AND DEPARTURE SYSTEM.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

"(3) VISA WAIVER INFORMATION FORM.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

"(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program,

"(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

"(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

"(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

"(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

"(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term 'initial period' means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

"(d) CARRIER AGREEMENTS.—

"(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(C) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

"(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term 'pilot program period' means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.".

(b) LIMITATION ON STAY IN UNITED STATES.—Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by section 312(b), is further amended by striking out "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217".

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.".

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by adding after the item relating to section 216 the following new item:

"Sec. 217. Visa waiver pilot program for certain visitors.".

SEC. 315. PROVIDING ADDITIONAL IMMIGRANT VISAS.

(a) AUTHORIZING ADDITIONAL VISAS FOR NATIVES OF CERTAIN COUNTRIES.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), if—

(1) the total number of immigrants—

(A) who were born in a foreign state, and

(B) who were issued immigrant visas in fiscal year 1985 subject to the numerical limitation specified in section 201(a) of such Act or who otherwise acquired the status of an alien lawfully admitted for permanent residence in fiscal year 1985 subject to such numerical limitation,

was less than—

(2) three-fourths of the average annual number of immigrant visas made available under such Act, during the 10-fiscal year period beginning July 1, 1955, to aliens who were born in that foreign state,

there shall be made available to aliens born in that foreign state in each fiscal year (during the period described in subsection (f)) an additional number of immigrant visas equal to the amount of that difference or 7,500, whichever is less.

(b) DISTRIBUTION OF ADDITIONAL VISAS.—The additional visa numbers under subsection (a) for immigrants born in each foreign state shall be made available as follows:

(1) 30 percent of the additional visa numbers shall be made available to those qualified immigrants who are entitled to preference status under paragraph (1), (2), (3), (4), or (5) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), by allotting 6 percent of the additional visa numbers to the class of qualified immigrants described in each such respective paragraph.

(2) 30 percent of the additional visa numbers, plus any additional visa numbers not required under paragraph (1), shall be made available to qualified immigrants who are entitled to preference status under section 203(a)(6) of such Act (8 U.S.C. 1153(a)(6)).

(3) 40 percent of the additional visa numbers, plus any additional visa numbers not required under paragraph (1) or (2), shall be made available to other qualified immigrants who are not entitled to preference status under section 203(a) of such Act.

(c) ORDER OF CONSIDERATION.—(1) Immigrant visas under paragraphs (1) and (2) of subsection (b) shall be made available to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).

(2)(A) Except as provided in subparagraph (B), immigrant visas under subsection (b)(3) shall be made available to eligible immigrants strictly in the chronological order in which the immigrants qualify.

(B) The Secretary of State shall adjust the order in which immigrant visas under subsection (b)(3) are made available in a manner that assures equal availability to residents in all the geographic areas of the foreign state involved.

(d) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(e) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

(f) EFFECTIVE PERIOD.—The additional visa numbers shall be made available under this section only in fiscal years occurring during the five-fiscal year period beginning with first fiscal year that begins after the date of the enactment of this Act.

SEC. 316. MISCELLANEOUS PROVISIONS.

(a) EQUAL TREATMENT OF FATHERS.—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or to its natural father if the father has or had a bona fide parent-child relationship with the person" after "natural mother".

(b) SUSPENSION OF DEPORTATION FOR CERTAIN ALIENS.—Section 244(b) (8 U.S.C. 1254(b)), as amended by section 312(c), is further amended by adding at the end the following new paragraph:

"(3) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.".

(c) TREATMENT OF CUBAN POLITICAL PRISONERS.—Section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)) shall not apply to the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities.

(d) DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKE.—An alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

TITLE IV—REPORTS TO CONGRESS

SEC. 401. TRIENNIAL REPORTS CONCERNING IMMIGRATION.

(a) IN GENERAL.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives, not later than three years after the date of the enactment of this Act, and every three years thereafter, a comprehensive report on the general legal admissions under the Immigration and Nationality Act.

(b) CONTENTS.—Each report shall include—

(1) the number and classifications of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preference classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, educational system, social services, foreign policy, environmental quality and resources, and population growth rate of the United States.

(c) DATA.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) RECOMMENDATIONS.—The President also shall include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of aliens into the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT AND DISCRIMINATION IN EMPLOYMENT.

(a) PRESIDENTIAL REPORTS.—(1) The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) in accordance with this subsection.

(2) Every six months, beginning six months after the date of the enactment of this Act, the President shall transmit a report which shall include—

(A) an analysis of the adequacy of the employment verification system set forth in subsection (b) of section 274A of the Immigration and Nationality Act; and

(B) an analysis of the impact of that section on—

(i) the employment, wages, and working conditions of United States workers,

(ii) the number of aliens entering the United States illegally, and

(iii) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

(3)(A) By each of the dates specified in subparagraph (B), the President shall transmit a report which shall include a description of the impact of section 274A of the Immigration and Nationality Act on—

(i) discrimination against citizen and permanent resident alien members of minority groups, and

(ii) the paperwork and recordkeeping burden on United States employers.

(B) The dates referred to in subparagraph (A) are 18, 36, and 54 months after the date of enactment of this Act.

(b) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may appear appropriate.

(c) CIVIL RIGHTS COMMISSION MONITORING AND REPORTS.—(1) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of section 274A of the Immigration and Nationality Act and shall investigate allegations that the enforcement or implementation of that section has been conducted in a manner that results in unlawful discrimination by race or national origin against citizens of the United States or aliens who are not unauthorized aliens (as defined for purposes of that section).

(2) The Civil Rights Commission, not later than 18 months after the month in which this Act is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of that section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted 36 and 54 months after the month in which this Act is enacted.

SEC. 403. REPORTS ON H-2A PROGRAM.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

(1) the number of foreign workers permitted to be employed under the program in each year;

(2) the compliance of employers and foreign workers with the terms and conditions of the program;

(3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and

(4) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested,

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and

(D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the Congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) DEADLINES.—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 12 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three

years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON INS RESOURCES.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. U.S.-MEXICO BORDER REVITALIZATION.

(a) IN GENERAL.—The President is authorized to negotiate with the Government of Mexico, on a reciprocal and mutually beneficial basis, the establishment of a free-trade and co-production zone that would include the United States-Mexico borderlands, as a first step to achieving a free-trade area between the United States and Mexico over the long term.

(b) REPORT.—The President shall provide for a report to be submitted to the Congress on the progress in any such negotiations. Such report shall include such recommendations for changes in legislation as may be appropriate.

TITLE V—STATE AND LOCAL ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES AND LOCALITIES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) REIMBURSEMENT TO STATES AND LOCALITIES.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse States and local jurisdictions within a State for the costs incurred by the State or local jurisdiction—

(1) for the imprisonment of any illegal alien or Cuban national, described in subsection (b) or (c), respectively, who is convicted of a felony by the State or local jurisdiction, and

(2) for the pre-trial and post-trial detention of any illegal alien or Cuban national, described in subsection (b) or (c), respectively, who is convicted in the trial of a felony by the State or local jurisdiction.

(b) ILLEGAL ALIEN.—An illegal alien described in this subsection is any alien who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) CUBAN NATIONAL.—A Cuban national described in this subsection is an alien who is a national of Cuba and who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—This section shall become effective on October 1, 1986.

(f) STATE DEFINED.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT

SEC. 601. COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on International Migration and Development (in this section referred to as the "Commission") to conduct studies, in consultation with the governments of sending countries, and report to Congress concerning the following:

(1) CONDITIONS IN SENDING COUNTRIES.—The conditions in sending countries which contribute to unauthorized migration to the United States.

(2) TRADE AND INVESTMENT PROGRAMS.—Mutually beneficial, reciprocal trade and investment programs to alleviate the conditions identified in paragraph (1).

In this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(b) THREE-YEAR AGENDA.—The Commission shall develop an operating agenda under which—

(1) the Commission will study and report on both of the topics under subsection (a) over a three-year period, beginning on the date a majority of the members of the Commission are first appointed, and

(2) a final report of the Commission shall be transmitted not later than the end of such period.

(c) DETAILS ON STUDIES.—

(1) CONDITIONS IN SENDING COUNTRIES.—With respect to the studies described in subsection (a)(1), the Commission shall examine—

(A) the relationship between (i) current and projected demographic, social, economic, labor, and technological conditions in sending countries and in the United States and (ii) unauthorized migration from such countries to the United States, and

(B) the impact on such conditions of current trade and other policies governing the economic relations between sending countries and the United States.

(2) TRADE AND INVESTMENT PROGRAMS.—With respect to the studies described in subsection (a)(2), the Commission shall examine the feasibility of mutually beneficial, reciprocal trade and investment programs to alleviate conditions in the sending countries contributing to unauthorized migration from those countries to the United States.

(d) COMPOSITION OF COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed jointly by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and the Majority and Minority Leaders of the Senate. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) NONPARTISAN STRUCTURE.—Not more than 8 members of the Commission may be members of the same political party and not more than 4 may be a member of Congress.

(3) REPRESENTATION.—Among the individuals appointed to the Commission, there shall be individuals representing academia, Federal, State, and local government, organized labor, business, and organizations with experience in migration and development matters.

(4) CHAIRMAN AND VICE CHAIRMAN.—The chairman and the vice chairman of the Commission shall be elected from among the members and shall serve for the life of the Commission.

(e) COMPENSATION OF MEMBERS.—

(1) PER DIEM.—Each member of the Commission who is not an officer or employee of the Federal Government shall, subject to such amounts as are provided in advance in appropriations Acts, receive $100 for each full-day equivalent (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is an officer or employee of the Federal Government shall receive no additional pay on account of his or her service on the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed reasonable travel expenses, including per diem in lieu of subsistence.

(f) STAFF.—The chairman shall appoint a director of the Commission and such additional Commission personnel as the chairman deems necessary. The personnel of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) OPERATION OF COMMISSION.—

(1) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) MEETINGS OF COMMISSION.—The Commission shall meet at the call of the chairman or a majority of its members.

(3) HEARINGS.—The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(4) USE OF CONSULTANTS.—The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $100 per full-day equivalent (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed reasonable travel expenses including per diem in lieu of subsistence.

(5) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(6) ACCEPTING GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(7) USE OF U.S. MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(8) SUPPORT SERVICES FROM GSA.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS AND TERMINATION.—

(1) REPORTS.—The Commission shall transmit to Congress annual reports, in accordance with its agenda established under subsection (b). Each such report shall include a summary of the studies conducted by the Commission and such recommendations as the Commission deems appropriate.

(2) TERMINATION.—The Commission shall cease to exist 30 days after the end of the three-year period beginning on the date a majority of the members of the Commission are first appointed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VII—NATIONAL COMMISSION ON IMMIGRATION

SEC. 701. NATIONAL COMMISSION ON IMMIGRATION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Immigration (hereinafter in this section referred to as the "Commission") to conduct studies and analyses and to report to Congress concerning the following:

(1) PUSH-PULL FACTORS AND RECIPROCAL PROGRAMS.—(A) The push and pull factors affecting unauthorized immigration to the United States, and

(B) the development, in partnership with Latin American countries, of reciprocal trade and economic development programs of mutual benefit.

(2) EMPLOYMENT OF UNAUTHORIZED ALIENS.—The incentives for employers in the United States to employ aliens who are not authorized to be so employed.

(3) AGRICULTURAL RELIANCE ON UNAUTHORIZED WORKERS.—The reliance of the agricultural industry on the employment, on a temporary basis, of aliens not authorized to be employed in the United States.

(4) BACKLOGS IN APPROVED IMMIGRANT VISAS.—The existence and extent of backlogs for the issuance of immigrant visas to aliens who have approved petitions for immigrant preference status.

(b) DETAILS OF STUDIES.—

(1) PUSH-PULL STUDY.—With respect to the topic described in subsection (a)(1)(A)—

(A) REVIEW OF ECONOMIC AND SOCIAL CONDITIONS.—The Commission shall review and analyze—

(i) the economic and social conditions, patterns, and trends in the United States and in foreign countries which affect unauthorized immigration into the United States,

(ii) the short-term and long-term problems in the United States and elsewhere associated with such unauthorized immigration, and

(iii) potential solutions to such problems.

The Commission's reviews and analyses shall focus on, and be conducted in close consultation with the governments of, those foreign countries from which nationals are most likely to immigrate without prior authorization to the United States.

(B) CONSIDERATIONS.—The Commission shall take into account, in such reviews and analyses the following:

(i) TRENDS.—The prevailing and projected demographic, technological, and economic trends affecting immigration into the United States.

(ii) IMPACT OF LAWS.—The impact of immigration laws, and their enforcement, on unauthorized immigration and on social and economic conditions in foreign countries.

(iii) IMPACT ON UNEMPLOYMENT.—How unemployment in particular areas and occupations in the United States is affected by unauthorized immigration.

(iv) GOVERNING LAWS.—The laws, policies (including trade policies), and procedures governing economic and diplomatic relations between the United States and foreign countries.

(C) RECOMMENDATIONS.—The Commission shall make recommendations respecting additional statutory and other changes that should be made to best deal with unauthorized immigration into the United States.

(2) STUDY ON EMPLOYMENT OF UNAUTHORIZED ALIENS.—

(A) ASSESSMENT.—With respect to the topic described in subsection (a)(2), the Commission shall assess—

(i) the effectiveness of the enforcement of the labor laws described in section 101(e) of this Act in removing the economic incentive on hiring individuals not authorized to be employed in the United States, and

(ii) the level of displacement from employment of lawful residents occurring as a result of the employment of unlawful residents.

(B) SPECIFIC RECOMMENDATIONS.—If the labor laws described in section 101(e) are not effective in removing the economic incentive on hiring individuals not authorized to be employed in the United States, the Commission shall review and make recommendations with respect to alternative measures which would minimize such job displacement while insuring that employment discrimination does not occur as a result of implementation of such measures.

(3) AGRICULTURAL RELIANCE ON TEMPORARY WORKERS.—With respect to the topic described in subsection (a)(3), the Commission shall review and study the temporary worker program currently provided under the Immigration and Nationality Act and shall assess the following:

(A) LABOR SHORTAGES.—Present and future labor shortages in the agricultural industry.

(B) WORKER ABUSES.—Abuses of foreign, as well as domestic, workers presently employed in agriculture.

(C) USE OF DOMESTIC WORKERS.—The feasibility and cost effectiveness of training and transporting domestic workers to perform agricultural work in areas as needed.

(D) SPECIFIC STATUTORY CHANGES.—Whether or not statutory changes in such program should be made with respect to—

(i) limiting the number of aliens who can be admitted under such program,

(ii) changing the terms and conditions of their employment,

(iii) changing the standards for recruitment and retention of domestic workers,

(iv) providing for payment of Social Security and unemployment taxes under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act with respect to foreign agricultural workers, and

(v) otherwise removing any economic disincentives to the hiring of qualified domestic workers and ending the reliance of any industry on a constant supply of temporary foreign agricultural workers.

(4) IMMIGRANT VISA BACKLOGS.—

(A) REVIEW AND STUDY.—With respect to the topic described in subsection (a)(4), the Commission shall review and study the causes and circumstances regarding the existence of the backlog in the issuance of immigrant visas to aliens with approved preference petitions and shall propose means of ameliorating such backlog, with particular focus on family reunification.

(B) DEADLINE FOR REPORT.—The Commission shall present its recommendations to the Congress with respect to this topic not later than 18 months after the date of the enactment of this Act.

(c) COMPOSITION OF COMMISSION.—

(1) IN GENERAL.—The Commission shall be composed of 15 members as follows:

(A) PRESIDENTIAL APPOINTMENTS.—Five members appointed by the President, not more than three of whom are members of the same political party and not more than three of whom are officers or employees of the Federal Government.

(B) APPOINTMENTS BY SPEAKER OF HOUSE OF REPRESENTATIVES.—Five members appointed by the Speaker of the House of Representatives, not more than three of whom are members of the same political party and not more than two of whom are members of Congress.

(C) APPOINTMENTS BY PRESIDENT PRO TEMPORE OF SENATE.—Five members appointed by the President pro tempore of the Senate, not more than three of whom are members of the same political party and not more than two of whom are members of Congress.

(2) CONSIDERATIONS IN MAKING APPOINTMENTS.—In making such appointments, due consideration shall be given to securing representatives on the Commission from a variety of constituencies, including State and local government officials and individuals and representatives of organizations with experience or expertise in immigration matters. Members shall be appointed in a

manner that provides for balanced representation of all interests.

(3) TIMELY APPOINTMENTS.—Appointments to the Commission shall be made within 90 days after the date of the enactment of this section.

(4) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—The chairman and the vice chairman of the Commission shall be elected from among the members. The term of office of the chairman and vice chairman shall be for the life of the Commission.

(5) PARTICIPATION BY REPRESENTATIVES OF FOREIGN GOVERNMENTS.—The chairman may invite for the purpose of participating in any meeting or hearing held by the Commission, and for the purpose of contributing to the studies to be conducted and the recommendations to be developed by the Commission, such representatives of the governments of countries as the Commission deems desirable.

(d) MEMBERSHIP.—

(1) LIFE MEMBERSHIP.—Members shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(4) MEETINGS.—The Commission shall meet at the call of the chairman or a majority of its members.

(e) COMPENSATION OF MEMBERS.—

(1) PER DIEM.—

(A) NON-FEDERAL MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall, subject to such amounts as are provided in advance in appropriations Acts, receive $150 for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission.

(B) FEDERAL MEMBERS.—Members of the Commission who are officers or employees of the Federal Government shall receive no additional pay on account of their service on the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(f) STAFF.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by and whose rate of pay shall be fixed by the chairman.

(2) OTHER STAFF.—The chairman may appoint and fix the rate of pay of such additional personnel as the chairman deems desirable.

(3) LAW GOVERNING APPOINTMENT AND PAY.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) AUTHORITY OF COMMISSION.—

(1) HEARINGS.—The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable. To the extent feasible, the Commission shall hold at least some hearings in the border regions of the United States.

(2) ESTABLISHMENT OF 3 EXPERT PANELS.—The Commission shall, to the maximum extent feasible, conduct its activities through the establishment of three expert panels, each of the panels to provide detailed information and recommendations to the Commission respecting one of the topics described in subsection (a).

(3) USE OF CONSULTANTS.—The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $150 per diem (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses including per diem in lieu of subsistence.

(4) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(5) ACCEPTING GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(6) USE OF U.S. MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(7) SUPPORT SERVICES FROM GSA.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS AND TERMINATION.—

(1) REPORT.—The Commission shall transmit a report to the Congress not later than three years after the date of the enactment of this Act. Such report shall include a summary of the reviews and analyses conducted by or on behalf of the Commission and such recommendations as the Commission deems appropriate.

(2) TERMINATION.—The Commission shall cease to exist on the thirtieth day beginning after the date of the transmission of the report under paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VIII—INVESTIGATION, REVIEW, AND TEMPORARY LIMITATION ON DEPORTATION OF DISPLACED SALVADORANS AND NICARAGUANS

PART A—GAO INVESTIGATION AND REPORT

SEC. 801. GAO INVESTIGATION.

(a) REQUIRING GAO INVESTIGATION ON DISPLACED SALVADORANS AND NICARAGUANS.—Within 60 days after the date of the enactment of this Act, the Comptroller General shall begin an investigation concerning displaced nationals of El Salvador and Nicaragua.

(b) DETERMINATIONS ON DISPLACED SALVADORANS AND NICARAGUANS IN CENTRAL AMERICA.—The investigation shall determine the following, separately, with respect to displaced Salvadorans and with respect to displaced Nicaraguans who are present in either El Salvador, Nicaragua, Honduras, Guatemala, or Mexico, regardless of whether or not they are registered:

(1) The number of these displaced persons and their current locations.

(2) Their place of origin in El Salvador or Nicaragua and the period of, and reason for, their displacement.

(3) Their current living conditions, with particular attention to (A) their personal safety and the personal safety of those providing assistance to them, and (B) the availability of food and medical assistance.

(4) An assessment of (A) current efforts to provide food, medical assistance, housing, and other necessities and to secure personal safety for these persons, and (B) policies and procedures that reasonably could be implemented to assure more efficient and equitable distribution of this assistance.

(5) The impact of the war in El Salvador or the war in Nicaragua, respectively, and of activities of officers of the Government or political parties in El Salvador or Nicaragua, respectively, on the matters described in the previous paragraphs.

(c) DETERMINATIONS ON SALVADORANS AND NICARAGUANS RETURNED FROM THE UNITED STATES.—In the case of nationals of El Salvador and nationals of Nicaragua who have been required (whether through deportation, voluntary departure proceeding, or otherwise) to depart from the United States and who return to El Salvador or Nicaragua, the investigation shall assess—

(1) their condition and circumstances in El Salvador or Nicaragua upon return from the United States, with particular attention to any violations of fundamental human rights that have occurred upon their return to El Salvador or Nicaragua, or

(2) the extent to which these persons, upon their return, have become displaced persons within El Salvador or Nicaragua.

(d) DETERMINATIONS ON SALVADORANS AND NICARAGUANS IN THE UNITED STATES IN AN UNLAWFUL STATUS.—In the case of nationals of El Salvador and nationals of Nicaragua, respectively, who are present in the United States in an unlawful status, the investigation shall—

(1) compare the situation in El Salvador and Nicaragua with the situation in other countries during periods when nationals of those countries have been provided administrative grants of extended voluntary departure under the immigration laws,

(2) describe the policies and procedures of the United States respecting the treatment of aliens (other than Salvadorans and Nicaraguans) in the United States in similar circumstances, and

(3) describe the policies of all other countries in which Salvadorans or Nicaraguans have sought refuge as these policies concern the return of the Salvadorans to El Salvador and Nicaraguans to Nicaragua.

SEC. 802. REPORT.

The Comptroller General shall submit to the Speaker of the House of Representatives and the President of the Senate, not later than one year after the date of the initiation of the study under section 801, a report on such study, including detailed findings concerning the items described in subsections (b), (c), and (d) of such section.

PART B—CONGRESSIONAL REVIEW

SEC. 811. REFERRAL OF REPORT, COMMITTEE HEARINGS, AND COMMITTEE REPORT.

(a) REFERRAL.—The report, when submitted under section 802, shall be referred, in accordance with the rules of each House, to the standing committee or committees of each House of Congress having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

(b) COMMITTEE HEARINGS.—No later than 90 days of continuous session of Congress after the date of the referral of the report to a committee, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

(1) the findings of the report,

(2) the appropriate steps that should be taken to provide assurances of personal safety and adequate, efficient, and equitable distribution of assistance with respect to Salvadorans and Nicaraguans who are displaced within their countries or who have fled to other countries in Central America,

(3) treaty obligations of the United States, humanitarian considerations, and previous practice of the United States respecting the treatment of aliens in similar circumstances, and

(4) whether it is appropriate to extend, remove, or alter the restrictions contained in part C.

(c) COMMITTEE REPORT.—No later than 270 days of continuous session of the Congress after the date of the referral of the report to a committee, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

(d) TREATMENT OF CONTINUITY OF SESSION.—For purposes of this part, continuity of session of Congress is broken only by an adjournment sine die at the end of the second regular session of a Congress, and days on which either House of Congress is not in session because of an adjournment of more than 10 days to a date certain are excluded from the computation of the periods of continuous session of Congress.

PART C—TEMPORARY STAY OF DEPORTATION

SEC. 821. LIMITATION ON DETENTION AND DEPORTATION.

(a) LIMITATION.—(1) Except as provided in paragraph (2), the Attorney General shall not detain or deport aliens described in subsection (b) during the period beginning on the date of the enactment of this Act and ending 270 days of continuous session of Congress after the date of transmittal of the report of the Comptroller General to the Speaker of the House of Representatives under section 802.

(2) Paragraph (1) shall not be construed to prohibit the brief interrogation of an alien under section 287(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(1)) for the purpose of determining whether this section applies to particular aliens.

(b) ALIENS COVERED BY THE LIMITATION.—The nationals referred to in subsection (a)(1) are aliens who—

(1) are nationals of El Salvador or nationals of Nicaragua;

(2) have been and are continuously present in the United States since before August 6, 1986;

(3) are determined to be deportable only under—

(A) paragraph (1) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)), but only as such paragraph relates to a ground for exclusion described in paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a) of such Act (8 U.S.C. 1182(a)), or

(B) under paragraphs (2), (9), or (10) of section 241(a) of such Act (8 U.S.C. 1254(a)); and

(4) have agreed in writing to depart from the United States voluntarily upon the expiration of the period referred to in subsection (a).

SEC. 822. PERIOD OF STAY OF DEPORTATION NOT COUNTED TOWARDS OBTAINING SUSPENSION OF DEPORTATION BENEFIT.

With respect to an alien whose deportation is temporarily stayed under section 821 during a period, the period of the stay shall not be counted as a period of physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)).

SEC. 823. ALIEN'S STATUS DURING PERIOD OF EXTENSION.

During the period of the extension of an alien's voluntary departure under section 821, the alien—

(1) shall not be considered to be permanently residing in the United States under color of law,

(2) shall not be eligible for any program of public assistance furnished (directly or through reimbursement) under Federal law, and

(3) may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36) of the Immigration and Nationality Act) or any political subdivision thereof which furnishes such assistance.

The CHAIRMAN. No amendments to the bill or to the substitute are in order except the amendments printed in House Report 99-980. The amendments shall be considered only in the order in which they appear in the report and may be offered by the sponsor designated in the report, or by the chairman of the appropriate committee, or his designee, where a committee is designated. The amendments are considered as having been read, are not subject to amendment or to a demand for a division of the question but each amendment shall be debatable as specified in the report, equally divided and controlled by the proponent and a Member opposed thereto.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FORD of Michigan: In section 101(a)(1), in section 274A(a) of the Immigration and Nationality Act inserted by such section, strike out paragraph (5).

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] will be recognized for 5 minutes and the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I yield myself such time as I may consume.

Mr. Chairman, I would like to say at the outset that I will offer this amendment and the amendment designated No. 2 on behalf of the Committee on Education and Labor, and the gentleman from Texas [Mr. BARTLETT] will offer amendment No. 3, also passed by the Committee on Education and Labor.

Mr. Chairman, there are two reasons not to waive the verification requirement and provide an affirmative defense to charges of its violation. The first reason is simple: It makes no sense to excuse an employer even if he has actual knowledge that he is hiring an unauthorized alien, merely because the employment service mistakenly certified that the individual was authorized to work.

The second reason to eliminate this waiver is that it has the potential for imposing huge costs on the State employment services without raising any money to pay for them. Secretary Brock estimates that if the employment services are pressured into verifying the citizenship status of their millions of referrals, the cost will be at least $45 million a year. Budget cuts have already closed hundreds of employment service offices in every State. The imposition of $45 million of new responsibilities without providing proportionate funding would close hundreds more and lead to the layoff of thousands of employment service personnel.

Secretary Brock supports my amendment. The National Governor's Association supports it. And the Interstate Conference of Employment Security Agencies supports it.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] has consumed 3 minutes.

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment was adopted in the Committee on the Judiciary when presented by the gentleman from Colorado [Mr. BROWN]. What the gentleman brought to us was a concern that employers had that if they were to receive people who were referred to them by a State employment agency and they were then to make a check and discover that those people were here illegally, they would be put in a funny situation where they could not rely on the recommendations made by the State referral agency.

We have argued on the floor here that employer sanctions are necessary, and those of us who support the bill have suggested that, yes, there will be an additional burden placed on the employers of America, but a necessary burden, in order to get our borders under control.

Now, to hear that somehow the State referral agencies are incapable of making that simple decision, as some would like to say, but a small employer is, seems to be inconsistent.

All we are saying here is that if the State employment agency has referred someone to an employer, that employer should be able to rely on the State employment agency for having verified the person's status. To suggest that these people are not trained to verify the status is to suggest that somehow they are incapable of doing

what we are going to require employers to do, which is to make a simple analysis of the documentation presented to them.

It just seems to me that we ought to treat the State referral agency the same way we treat employers.

If we say that somehow State referral agencies are incapable of doing that, what does that say about the burden we are placing on employers? I think we have reached the point where we have said, this is a reasonable burden to be placed on employers; it seems to me it ought to be a reasonable burden placed on the referral agencies as well.

Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. BROWN], who was the source of the amendment originally.

Mr. BROWN of Colorado. Mr. Chairman, I think this issue is very clear. The amendment to strike this particular section of the bill is one that is saying, let us have duplicate paperwork. If you think we are short of paperwork, you may want to vote for this amendment.

If you think it makes sense to eliminate duplicate paperwork, then you will want to oppose it.

Let us make it clear what is involved here. We are not requiring the State unemployment services to fill out these forms. That has nothing to do with this section.

It only says that if they do fill out these forms and they are presented to the employer, that may be used as a defense. That is all it says. It does not require the forms to be filled out; it only says if they have been filled out already, the employer may use that as a defense.

The other point I think is important to know here is that if the employer finds out that the individual is an illegal alien, that this is not a conclusive defense.

But the bottom line on this is whether or not you want to add an additional burden to the employers of America and make this process more cumbersome, more time consuming, more costly, and more unworkable.

Basically, all the language of the bill says right now is that if these items have been checked by the State unemployment agency and if they have chosen to supply documentation, then that process does not have to be needlessly duplicated.

I appreciate the opportunity to expand on the amendment.

□ 1630

Mr. LUNGREN. Mr. Chairman, I yield my remaining time to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I do oppose the amendment, although I do respect the gentleman from Michigan and I know we will be on the same side of other amendments; but the fact is that in this bill there is a provision that an employer may rely on the State employment commission, a government agency, for verification, so that if the State employment agency verifies that an employee is eligible to work, then all the provision that is in the bill does is to say that that employer can rely upon that.

I think whether one is for or against this bill as a whole, this provision that is in the bill, which the gentleman's amendment would seek to strike, this provision in the bill makes a lot of common sense. A State employment commission that does handle verification for other reasons, verification for employment, is frankly in many cases in a much better position to verify who is eligible to work and who is not than an employer who is busy running a business and who does not have access to the records that the State employment commission does. I think it is a commonsense amendment.

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to the gentleman who has just spoken, I would like to read further from Secretary Brock's letter:

> With respect to the amendment's impact on employer sanctions, we believe it would weaken their effectiveness because it would relieve employers who hire through State employment agencies of any direct responsibility for compliance with Federal immigration laws. This amendment exempts such employers from the requirement, imposed on all other employers, that they sign a government form attesting to the fact that they had examined the job applicant's identification documentation and had no reason to believe that the applicant was an unauthorized alien.

He goes on to say later: "We estimated that State public employment service agencies would spend up to $45 million annually"—and we are talking about State agencies, not the INS, not a Federal Government agency, but we are talking about a burden we are going to place on a State agency that has never had any role in the immigration business. These State agencies, and this is the reason that the National Governors Association also supports my amendment to strike the Brown amendment, in the estimate of the Department of Labor would have to spend $45 million annually, if only those people who now use the State employment office use them; but if other people were encouraged to use the State employment office, as the proponent of the Brown amendment suggests they would in order to get around the duty to examine the papers themselves, then that would increase the volume and would increase the cost proportionately. This is not a cost that is covered by anything in this bill.

The Brown amendment if it were serious should have provided to reimburse the States for the cost incurred by giving them this kind of a burden. The $45 million a year is only assuming you have already invested the State money in recruiting and training the people do to this job.

I think it is an undue burden on the States.

Mr. Chairman, I include the entire letter from Secretary Brock, as follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, July 23, 1986.

Hon. WILLIAM D. FORD,
House of Representatives,
Washington, DC.

DEAR BILL: Thank you for your letter of July 14 requesting my comments on the Brown amendment to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1985.

The amendment provides that a person or entity shall be deemed in compliance with the employment verification system in the case of an individual who was referred for employment by a State employment agency if that person or entity retains documentation of such referral certifying that the agency complied with the verification system with respect to the individual's referral. The Department of Labor opposes this amendment.

As the Department reads the Brown amendment, it does not mandate that State employment agencies issue referral documents certifying that they had complied with the certification provisions. However, employers are likely to push for such documentation for job applicants referred by the State employment agencies once employer sanctions are instituted.

With respect to the amendment's impact on employer sanctions, we believe it would weaken their effectiveness because it would relieve employers who hire through State employment agencies of any direct responsibility for compliance with Federal immigration laws. This amendment exempts such employers from the requirement, imposed on all other employers, that they sign a government form attesting to the fact that they had examined the job applicant's identification documentation and had no reason to believe that the applicant was an unauthorized alien.

In addition we would note that the amendment would result in a sizeable duplication of the documentation and paperwork requirements of the employer sanctions provision. Furthermore, if, pursuant to this amendment, the State employment service agencies were to issue some form of identification documentation to all individuals using their services, this could lead to a large-scale production of fraudulent government documents or a de facto government work identification card.

Regarding the workload for State employment agencies, if the certification of legal work status for all persons referred for employment were undertaken and the appropriate referral documents issued, this would mean a large increase in workload for the State employment agencies. In 1984, in response to a similar provision in H.R. 1510 of the 98th Congress, we estimated that State public employment service agencies would spend up to $45 million annually in order to perform this verification function. That estimate was based on then-current levels of applicants and referrals. If more employers

were to use the public employment service, in order to avoid the verification responsibility by providing themselves with this affirmative defense against employer sanctions, this estimate could be much greater. In addition, we assumed that the term "State employment agency" applied to State public employment service agencies only. A broader reading could presumably include any State-operated employment-related program, such as Job Training Partnership Act (JTPA) programs, the Work Incentive (WIN) program, and others. We have not estimated workload increases for these programs.

Considering all of the above, the Department of Labor opposes the Brown amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Very truly yours,

WILLIAM E. BROCK.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. FORD].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 449]

Abercrombie	Bosco	Courter
Ackerman	Boucher	Coyne
Akaka	Boulter	Craig
Alexander	Boxer	Crane
Anderson	Broomfield	Crockett
Andrews	Brown (CA)	Daniel
Annunzio	Brown (CO)	Dannemeyer
Applegate	Bruce	Darden
Archer	Bryant	Daschle
Armey	Burton (IN)	Daub
Aspin	Bustamante	de la Garza
Atkins	Byron	DeLay
AuCoin	Callahan	Dellums
Badham	Carney	Derrick
Barnes	Carper	DeWine
Bartlett	Carr	Dickinson
Barton	Chandler	Dicks
Bates	Chapman	Dingell
Bedell	Chappell	DioGuardi
Beilenson	Chappie	Dixon
Bennett	Cheney	Donnelly
Bentley	Clay	Dorgan (ND)
Bereuter	Clinger	Dornan (CA)
Berman	Coats	Dowdy
Bevill	Cobey	Downey
Biaggi	Coble	Dreier
Bilirakis	Coelho	Duncan
Bliley	Coleman (MO)	Durbin
Boehlert	Coleman (TX)	Dwyer
Boggs	Collins	Dymally
Boner (TN)	Combest	Dyson
Bonior (MI)	Conte	Early
Bonker	Cooper	Eckart (OH)
Borski	Coughlin	Eckert (NY)
Edwards (CA)	Levine (CA)	Roemer
Edwards (OK)	Lewis (CA)	Rogers
Emerson	Lewis (FL)	Rose
English	Lightfoot	Rostenkowski
Erdreich	Lipinski	Roth
Evans (IA)	Livingston	Roukema
Evans (IL)	Lloyd	Rowland (CT)
Fascell	Long	Rowland (GA)
Fawell	Lott	Roybal
Fazio	Lowery (CA)	Russo
Feighan	Lowry (WA)	Sabo
Fiedler	Lujan	Savage
Fields	Luken	Saxton
Fish	Lundine	Schaefer
Florio	Lungren	Scheuer
Foglietta	Mack	Schroeder
Foley	MacKay	Schuette
Ford (MI)	Madigan	Schulze
Ford (TN)	Manton	Schumer
Frank	Markey	Sensenbrenner
Franklin	Marlenee	Sharp
Frenzel	Martin (IL)	Shaw
Frost	Martin (NY)	Shelby
Fuqua	Martinez	Shumway
Gallo	Matsui	Shuster
Garcia	Mavroules	Sikorski
Gaydos	Mazzoli	Siljander
Gejdenson	McCain	Sisisky
Gekas	McCandless	Skeen
Gibbons	McCloskey	Skelton
Gilman	McCollum	Slattery
Glickman	McDade	Slaughter
Gonzalez	McGrath	Smith (FL)
Goodling	McHugh	Smith (IA)
Gordon	McKernan	Smith (NE)
Gradison	McKinney	Smith (NJ)
Gray (IL)	McMillan	Smith, Denny (OR)
Gray (PA)	Meyers	Smith, Robert (NH)
Green	Mica	Smith, Robert (OR)
Gregg	Michel	Snowe
Guarini	Mikulski	Snyder
Gunderson	Miller (CA)	Solarz
Hall (OH)	Miller (OH)	Solomon
Hall, Ralph	Miller (WA)	Spence
Hamilton	Mineta	Spratt
Hammerschmidt	Moakley	St Germain
Hansen	Molinari	Staggers
Hatcher	Mollohan	Stallings
Hawkins	Monson	Stangeland
Hayes	Montgomery	Stark
Hendon	Moody	Stenholm
Henry	Moorhead	Stokes
Hertel	Morrison (CT)	Strang
Hiler	Morrison (WA)	Stratton
Hillis	Mrazek	Studds
Holt	Murphy	Stump
Hopkins	Murtha	Sundquist
Horton	Myers	Sweeney
Howard	Natcher	Swift
Hoyer	Nelson	Swindall
Hubbard	Nichols	Synar
Huckaby	Nielson	Tallon
Hughes	Nowak	Tauzin
Hunter	Oakar	Taylor
Hutto	Oberstar	Thomas (CA)
Hyde	Obey	Thomas (GA)
Ireland	Olin	Torres
Jacobs	Ortiz	Torricelli
Jeffords	Owens	Towns
Jenkins	Oxley	Traficant
Johnson	Packard	Udall
Jones (NC)	Panetta	Valentine
Jones (OK)	Parris	Vander Jagt
Jones (TN)	Pashayan	Vento
Kanjorski	Pease	Visclosky
Kasich	Penny	Volkmer
Kastenmeier	Pepper	Vucanovich
Kemp	Perkins	Waldon
Kennelly	Petri	Walgren
Kildee	Pickle	Walker
Kleczka	Porter	Watkins
Kolbe	Price	Waxman
Kolter	Pursell	Weaver
Kostmayer	Quillen	Weber
Kramer	Rahall	Wheat
LaFalce	Rangel	Whitehurst
Lagomarsino	Ray	Whitley
Lantos	Regula	Whittaker
Latta	Reid	Whitten
Leach (IA)	Richardson	Williams
Leath (TX)	Rinaldo	Wilson
Lehman (CA)	Ritter	Wirth
Lehman (FL)	Roberts	Wise
Leland	Robinson	Wolf
Lent	Rodino	Wolpe
Levin (MI)	Roe	Wortley
Wright	Wyden	Young (AK)
	Wylie	Young (FL)
	Yates	Young (MO)
	Yatron	Zschau

□ 1645

The CHAIRMAN. Three hundred ninety-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas [Mr. GONZALEZ] for a recorded vote.

Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 342, not voting 35, as follows:

[Roll No. 450]

AYES—55

Akaka	Florio	Owens
Atkins	Ford (MI)	Perkins
Barnes	Ford (TN)	Price
Bennett	Gray (PA)	Rahall
Berman	Hawkins	Rangel
Biaggi	Hayes	Savage
Boggs	Hertel	Scheuer
Bonior (MI)	Hoyer	Sikorski
Boxer	Kastenmeier	Solarz
Brown (CA)	Leach (IA)	Stark
Bruce	Lehman (FL)	Stokes
Carper	Levin (MI)	Synar
Clay	Martinez	Vento
Collins	Miller (CA)	Weaver
Crockett	Mineta	Wolpe
Dellums	Mitchell	Yates
Dingell	Morrison (CT)	Young (MO)
Dymally	Murphy	
Edwards (CA)	Oakar	

NOES—342

Abercrombie	Cobey	Evans (IA)
Ackerman	Coble	Evans (IL)
Alexander	Coelho	Fascell
Anderson	Coleman (MO)	Fawell
Andrews	Coleman (TX)	Fazio
Annunzio	Combest	Feighan
Applegate	Conte	Fiedler
Archer	Cooper	Fields
Armey	Coughlin	Fish
AuCoin	Courter	Foglietta
Badham	Coyne	Frank
Bartlett	Craig	Franklin
Barton	Crane	Frenzel
Bates	Daniel	Frost
Bedell	Dannemeyer	Fuqua
Beilenson	Darden	Gallo
Bentley	Daschle	Garcia
Bereuter	Daub	Gaydos
Bevill	Davis	Gejdenson
Bilirakis	de la Garza	Gekas
Bliley	DeLay	Gibbons
Boehlert	Derrick	Gilman
Boner (TN)	DeWine	Glickman
Bonker	Dickinson	Gonzalez
Borski	Dicks	Goodling
Bosco	DioGuardi	Gordon
Boucher	Dixon	Gradison
Boulter	Donnelly	Gray (IL)
Broomfield	Dorgan (ND)	Green
Brown (CO)	Dornan (CA)	Gregg
Bryant	Dowdy	Guarini
Burton (IN)	Downey	Gunderson
Bustamante	Dreier	Hall (OH)
Byron	Duncan	Hall, Ralph
Callahan	Durbin	Hamilton
Carney	Dwyer	Hammerschmidt
Carr	Dyson	Hansen
Chandler	Early	Hatcher
Chapman	Eckart (OH)	Hendon
Chappell	Eckert (NY)	Henry
Chappie	Edwards (OK)	Hiler
Cheney	Emerson	Hillis
Clinger	English	Holt
Coats	Erdreich	Hopkins

Horton	Mikulski	Sisisky
Howard	Miller (OH)	Skeen
Hubbard	Miller (WA)	Skelton
Huckaby	Moakley	Slattery
Hughes	Molinari	Slaughter
Hutto	Mollohan	Smith (FL)
Hyde	Monson	Smith (IA)
Ireland	Montgomery	Smith (NE)
Jacobs	Moody	Smith (NJ)
Jeffords	Moorhead	Smith, Denny (OR)
Jenkins	Morrison (WA)	Smith, Robert (NH)
Johnson	Mrazek	Smith, Robert (OR)
Jones (NC)	Myers	Snowe
Jones (OK)	Natcher	Snyder
Jones (TN)	Neal	Solomon
Kanjorski	Nelson	Spence
Kasich	Nichols	Spratt
Kemp	Nielson	St Germain
Kennelly	Nowak	Staggers
Kildee	Oberstar	Stallings
Kleczka	Obey	Stangeland
Kolbe	Olin	Stenholm
Kolter	Ortiz	Strang
Kostmayer	Oxley	Stratton
Kramer	Packard	Studds
LaFalce	Panetta	Stump
Lagomarsino	Parris	Sundquist
Lantos	Pashayan	Sweeney
Latta	Pease	Swift
Leath (TX)	Penny	Swindall
Lehman (CA)	Pepper	Tallon
Leland	Petri	Tauzin
Lent	Pickle	Taylor
Levine (CA)	Porter	Thomas (CA)
Lewis (CA)	Pursell	Thomas (GA)
Lewis (FL)	Quillen	Torres
Lightfoot	Ray	Torricelli
Lipinski	Regula	Towns
Livingston	Reid	Traficant
Lloyd	Richardson	Udall
Long	Ridge	Valentine
Lott	Rinaldo	Vander Jagt
Lowery (CA)	Ritter	Visclosky
Lowry (WA)	Roberts	Volkmer
Lujan	Robinson	Vucanovich
Luken	Rodino	Waldon
Lundine	Roe	Walgren
Lungren	Roemer	Walker
Mack	Rogers	Watkins
MacKay	Rose	Waxman
Madigan	Rostenkowski	Weber
Manton	Roth	Wheat
Markey	Roukema	Whitehurst
Marlenee	Rowland (CT)	Whitley
Martin (IL)	Rowland (GA)	Whittaker
Martin (NY)	Roybal	Whitten
Matsui	Sabo	Williams
Mavroules	Saxton	Wilson
Mazzoli	Schaefer	Wirth
McCain	Schroeder	Wise
McCandless	Schuette	Wolf
McCollum	Schulze	Wortley
McDade	Schumer	Wyden
McGrath	Seiberling	Wylie
McHugh	Sensenbrenner	Yatron
McKernan	Sharp	Young (AK)
McKinney	Shaw	Young (FL)
McMillan	Shelby	Zschau
Meyers	Shumway	
Mica	Shuster	
Michel	Siljander	

NOT VOTING—35

Anthony	Foley	McCurdy
Aspin	Fowler	McEwen
Barnard	Gephardt	Moore
Bateman	Gingrich	Murtha
Boland	Grotberg	Rudd
Breaux	Hartnett	Russo
Brooks	Hefner	Schneider
Burton (CA)	Hunter	Tauke
Campbell	Kaptur	Traxler
Conyers	Kindness	Weiss
Edgar	Loeffler	Wright
Flippo	McCloskey	

□ 1655

The Clerk announced the following pair:

On this vote:

Mr. Weiss for, with Mr. Barnard against.

Messrs. ROE, GILMAN, WHEAT, and TOWNS changed their votes from "aye" to "no."

Ms. OAKAR changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. THE Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FORD of Michigan: In section 101(a)(1), in section 274A(b) of the Immigration and Nationality Act inserted by such section, strike out paragraph (5) and redesignate paragraph (6) as paragraph (5).

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] will be recognized for 5 minutes and the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after what just happened, I can assure the House that I will not be offering any more amendments supported by the administration this afternoon. I know now what it is like.

This amendment is offered on behalf of the Committee on Education and Labor to close what we believe to have been an inadvertent loophole for a particular type of employment by virtue of the language on page 10 of the bill under subparagraph 5, time for compliance.

□ 1705

We strike this provision of the bill because it would permit an employer to have until noon of the day following the day that he hires the employee to verify whether the employee is or is not a legal alien, or a citizen.

Mr. Chairman, especially in agriculture, but also frequently in construction, employers hire unskilled workers 1 day at a time. There are people who call themselves "day haul contractors" who are down there on the border, and they haul people up. As they fill a bus up, they haul them to the fields, and they work 1 day and they are gone, they are someplace else the next day.

This language would permit the employer who engages in 1-day hiring of unskilled laborers to never verify the status of anybody he was hiring because they wouldn't be there the following day at noon when he was required to get the verification.

This is a very simple amendment; we believe that the committee was prepared to accept this because it does not fly in the face of what they were doing; it is only because of the nature of the 1-day hire for unskilled labor that this language has the unfortunate effect that it would have if it is not stricken.

The CHAIRMAN. The gentleman from Michigan has consumed 2 minutes.

The Chair now recognizes the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, this is not an inadvertent part of the bill. This part of the bill was placed in as a result of an amendment by the gentleman from Florida [Mr. MCCOLLUM] during our deliberations in the Committee on the Judiciary 2 years ago.

The reason for it is very simple: We have two obligations we place on employers. One is that they not knowingly hire illegal aliens. We place an additional paperwork burden on employers to help in the enforcement of this.

Mention was made by people who testified before our subcommittee that at times when they do hire, and this was some people in agriculture but also other areas, they have a particular time; maybe a week to get a certain thing done.

If someone comes to them and does not have both of the documents necessary, do they have to send them home and lose that day's work?

We said, it seemed to be a reasonable thing that they could allow them to work that day as long as they brought the documentation the next day. The point people should keep in mind is this: If someone intentionally used this as a ruse to hire people who are here illegally, he would still be violating the law and would be subject to the penalties of the law.

This goes to the paperwork burden. This goes to the documentation that he is to keep and which he can use as an affirmative defense. We have made what we thought was a reasonable compromise that worked out in the real workaday world. That does happen that people come to you and may not have both of the documents that are required under the law.

Should that person not be allowed to work that day? Should that employer be denied that person's labor that day? We are saying, let us try and work it out reasonably. If the employer is using it as a ruse, then in fact what we are going to do is find that person liable for violating the law.

I would yield to my chairman on this.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from California, my friend, Mr. LUNGREN, for yielding, and I join him in opposing the amendment offered by the committee.

I understand the effort of the committee to be sure that there is not some circumvention of the law, some way to play games with it; but I think

the gentleman has addressed two key elements:

One, this was an effort on the part of the committee, the full Judiciary Committee, to do justice and to realize in its work the demands of the real world.

Second, it was an effort to try to be sure that there was a provision in the bill which would sanction those employers who intentionally engaged in a little rigamarole here on a 1-day basis. It was an effort to solve both problems.

Mr. LUNGREN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. McCOLLUM], who is the original author of this section of the bill.

Mr. McCOLLUM. Mr. Chairman, we have a lot of problems among our citrus growers, and we found out that Senator THURMOND had problems among peach growers and so on, with a fear that a perishable crop on the ground after a freeze or a frost is going to wind up costing a lot of money to the employer that is unnecessarily going to be lost if he has got to have the documents in hand that particular morning.

After a lot of discussion of this sort of issue, we came to the realization that we could have this 24-hour period without doing any damage to the production of the documents.

I do not think it does. I urge a no vote on this amendment. We need to be able to make this thing workable and realistic for the people to whom it is going to affect, and we cannot expect fresh fruit and vegetable folks to be able to have the kind of protection in growing their crops and harvesting them without this provision in the law.

So I urge that this effort to delete it be defeated, as it was in the past and as it was in conference last year.

Mr. LUNGREN. Mr. Chairman, I want to mention that we have had this in the bill in the past. It is a reasonable accommodation to the real world. It does not allow someone to get around the law. I hope that this amendment will be voted down.

I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in my first remarks I said that I thought that this unconscionable loophole was inadvertently placed in the bill, but the gentleman from California and the gentleman from Florida have just convinced me that they knew full well what they were doing. They wanted this loophole in the bill; they have identified it for what it is. The people who use day hire, unskilled labor, to pick, as he said, perishable crops would be excused completely from any responsibility to determine at the time they hire the person, whether they are or are not in this country legally.

He says it is inconvenient to do it until the next day; so we now are going to adopt a policy, according to the gentleman from Florida, that says we should determine whether somebody is in this country legally before we give them a job, but not if it is inconvenient. Not if it is inconvenient.

That is inconsistent with what the proponents of this bill have said from the beginning, and I only want to suggest to you that if this is typical of the attitude that lies behind this bill by its supporters over there, I think you are going to have more trouble than you believe when we get to conference.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, the concern I am pressing on this is the fact that from Florida we have a freeze; that is the problem expressed to me; and the citrus is rotting if it is not picked; it has to be picked immediately. That is the concern expressed to me.

Nobody is trying to get a loophole. We are just trying to hold the employer accountable; and he will be held accountable, but if the person does not have the document on his person at the moment he ought to be able to use him, demand it be there the next day, and that is the one way we can pick the frozen fruit that otherwise is going to rot and be perished.

It is not an effort for normal procedures that we are talking about.

Mr. FORD of Michigan. Reclaiming my time, Mr. Chairman, I wonder if the gentleman could look at me with a straight face and tell me that while he is hiring that person the day he hires them, he cannot ask him whether he is legal or not?

Mr. McCOLLUM. Mr. Chairman, he can, and that is what he is doing; but the question is the documentation, not whether he is asking him. He must ask him under this law.

Mr. FORD of Michigan. So he does not have to look at the documentation until the next day. He does not have to look at the documentation when he hires them; he has to look at it at least 1 day after he hires them.

Mr. McCOLLUM. He has to ask him on the day. He has to ask him on the day he hires him, and if he does not ask him, then he is in real trouble under this bill.

Mr. FORD of Michigan. No, your amendment excuses him from even asking at the time he hires them. He does not have to ask him until noon of the following day.

Mr. McCOLLUM. I disagree, but that is respectfully so.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. FORD].

The amendment was rejected.

□ 1715

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARTLETT: In section 101(a)(1), in section 274A(d)(1) of the Immigration and Nationality Act inserted by such section, amend subparagraph (B) to read as follows:

"(B) CIVIL MONEY PENALTY FOR PATTERN AND PRACTICE VIOLATIONS.—In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall, after having been afforded notice and opportunity for an administrative hearing, be subject to a civil penalty of not less than $3,000, and not more than $10,000 for each unauthorized alien with respect to whom the violation occurred.".

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] will be recognized for 10 minutes and the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, it may well be that we will not be required to take the entire time on this amendment, but I would like to take a few minutes to explain the amendment.

The purpose of this amendment is to remove those so-called and very real criminal sanctions including jail time that is a part of this bill and to replace those criminal sanctions with a very large and substantial and, I think, and the Education and Labor Committee believed, more effective civil sanctions including a fine of a minimum of $3,000 per alien and up to $10,000 per alien. The problem with criminal sanctions, Mr. Chairman, is that they are both unnecessary and they are also overkill. Other labor laws include stiff fines for a pattern of practice. This amendment would make this bill consistent with other similar laws in labor legislation that we already have. Employers typically abide by labor laws in this country, as do corporations, and because of the fines, not because of the proposal of criminal sanctions, minimum wage, overtime, fair labor standards, OSHA, EEOC, and others. And they do not include jail time or criminal penalties. This bill should not do it either.

Now, corporations pay fines and most fines of up to $10,000 for violation per alien are very, very real because they create severe economic dis-

incentives to violate this law. But individuals go to jail.

The way the bill is constructed, the individual who would be going to jail would be the person who actually does the hiring, the road construction foreman, the high school principal, the manager of the dry cleaners.

Any hint, it seems to me, any hint of jail time or criminal penalties or criminal charges for making a mistake, for making a mistake in the hiring of someone as to whether or not they are eligible to be hired is something that will so chill a manager or someone at the hiring level that they would choose not to make a mistake and they will not consider anyone who appears to be foreign born.

Now, there is no antidiscrimination provision in this bill, or could ever be written into a bill that could overcome that fear of criminal charges that could be brought. The person who does the hiring is liable for the criminal charges, not the corporation, not the employer.

Mr. Chairman, I refer to the bill itself. There is no defense in the bill that is proposed that would be a defense if that person who is doing the hiring made his hiring decision upon the instruction of his employer. There is no defense if he did not have corporate counsel or he did not have some sort of legal advice, there is no defense if he did not know what a pattern of practice said in the law. If fact, this bill, the imposition of criminal sanctions would so chill hiring decisions as to court such widespread discrimination in this country that it would never recover.

This is the same amendment adopted in last year's bill authored by the gentleman across the aisle, Mr. COLEMAN of Texas, which was adopted by the Committee on Education and Labor, supported by the U.S. Chamber of Commerce, the ACLU, La Raza, UNIDA, the Farm Bureau, LULAC, Republicans and Democrats all across this country. In our rush to stop the flow of illegal workers, we ought to do enough to get the job done, and civil penalties with a $10,000 fine per alien is enough to do that, but this would be the first time that we have made such hiring illegal and it is not necessary. It is counterproductive to go a step further, as the bill does, and to add in criminal charges, to construct such onerous threatening penalties as to cause a new and I think dangerous and vicious round of xenophobia and discrimination against non-Anglos in the hiring marketplace.

I very strongly urge the Members on both sides of the aisle to consider this amendment, whether you are for the bill or against the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. I thank the chairman.

Mr. Chairman, I want to tell you a very simple message about this amendment. That is that there are no criminal penalties in this bill for individual violations of this law. There are no criminal penalties in this bill for individual violations of this law. Last year there were. This year the committee has come to the floor with a bill that contains no criminal penalties for individual violations of this law. The only area in which one can be subjected to a 6-month jail term is an area where he is a systematic, regular, repeated violator of the prohibition against hiring people that are not citizens, that is one who participates in a pattern or a practice of violations of this statute.

A person who is convicted the first time of hiring someone who is not a citizen is given simply a citation, no fine. The second time, he is fined $1,000 or $2,000. A third time, he is fined $2,000 to $5,000. Only a person who engages in a pattern or practice of systematic violation would subject himself to a 6-month jail sentence. That is extremely lenient, extremely reasonable, and, I repeat, there are no criminal penalties in this bill for individual violations.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to the chairman of the subcommittee.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, he has been one of the strongest proponents on our subcommittee in favor of making this law a workable law and at the same time sending the kind of message that we have to send in order to make this law abided by.

Let me just underscore what my friend has said, and I think he would agree with me. First and foremost, this criminal penalty in the bill does not apply to individual violations; is that correct?

Mr. BRYANT. That is exactly right.

Mr. MAZZOLI. May I also ask the gentleman, is this not in the committee bill the conference committee position adopted in 1984 after that long, arduous conference on the earlier form of the immigration bill?

Mr. BRYANT. Indeed it is. It is a recognition of the need to make a violation more than simply a cost of doing business.

Mr. MAZZOLI. Exactly.

Mr. BRYANT. If we do not have ultimately for the repeated practitioner of violations of this law a jail term, even though it is a short one—6 months is the maximum you can get—we will not have an effective law.

Mr. MAZZOLI. May I ask the gentleman one last question?

I would ask my friend and colleague from Texas, a very valuable member of our subcommittee: Is it not the case that the only way an individual, the only way that there is any triggering of the criminal penalties under this bill is for what the gentleman calls systematic pattern and practice, repeated, blatant kinds of violations of employer sanctions provisions?

Mr. BRYANT. That is correct. And for those types of violators simply putting a $3,000 fine, which is as low as a fine could go under Mr. BARTLETT's amendment, will not be enough because then it would only be a cost of doing business. That admittedly could get them for as much as $10,000, but you could get them for as little as $3,000. Unless you put teeth in this, we are not going to have a serious reform.

Mr. BARTLETT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the amendment to replace criminal sanctions with civil penalties for employers who hire undocumented immigrants.

The provision on employer sanctions currently in the bill threatens employers with a 6-month jail sentence for pattern and practice violations. This is overkill. Adequate provisions already exist with civil remedies and the power of injunction.

Criminal sanctions would result in discrimination. The foreman at a construction site or manager at a restaurant would avoid hiring people who look foreign or speak with an accent.

If employers know that they can be handcuffed and arrested if they make the wrong decision, I seriously doubt that they will take a chance and hire anyone who do not look or sound like American.

Mr. BARTLETT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the issue as to whether criminal sanctions are included in the bill or not, and I refer to page 15, where it states very, very clearly that "the person or entity shall be fined not more than $1,000 imprisoned not more than 6 months, or both, for each violation." Now, that is a violation for a pattern or practice. But that individual plant superintendent, that individual hiring foreman is not—all he is going to know is that it is jail time if he makes a mistake.

As the gentleman from California [Mr. TORRES] so eloquently states, he is going to make sure he does not make a mistake because he is not going to consider people who appear to be foreign born.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. I thank the gentleman for yielding.

What we have been talking about from the beginning of this debate is whether or not the question of sanctions really places in the hands of the employer the hardship and the penalty of being both judge and jury. The average employer will try to do the right thing by hiring a person whom he or she believed would be a good employee. The problem is that those of us who are Americans, persons born and raised in this country, with surnames that do not sound Anglo, as well as those persons who speak with an accent, who are also Americans, will find themselves with the burden of trying to prove to the employer who is frightened silly because of employer sanctions.

My colleague from Texas makes good sense. We will have to live for the next 5 or 6 years under the cloud of sanctions. Further, I do not believe that American corporations should be judges and juries.

□ 1730

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, as reported from the Judiciary Committee, our bill established a criminal penalty for pattern and practice violations of the prohibition against knowingly hiring an illegal alien.

What we have here is an amendment that strikes the criminal penalty for pattern and practice violations.

Mr. Chairman, we feel that criminal penalties are warranted for repeat offenders to assure that unscrupulous employers do not simply absorb the monetary civil penalties provided in the bill as a cost of doing business and continue to hire illegal aliens.

The profits to be made in some cases from hiring and from exploiting illegal aliens are substantial, and we fear that some employers are simply not going to be deterred by civil penalties alone, but warrant criminal penalties when a pattern and practice can be established.

I think also that criminal penalties signal that Congress views repeated disregard of the employer sanctions provisions as a serious office and should result in severe penalties.

These penalties, as we have heard, are graduated, and the criminal penalty will simply not be reached because of ignorance or clerical errors on the part of the employer.

I might add that the administration opposes this amendment. They feel that it would deprive the Government of an option in enforcement. And second that criminal penalties should be available when the employer has actually engaged in a criminal activity such as the smuggling of aliens, the most heinous of the offenses, or the crime of counterfeiting.

I think in balance that we feel, Mr. Chairman, that this amendment greatly weakens the sanctions in the bill and should be defeated.

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, I think this is a bad amendment and, if adopted, will turn this bill into a toothless tiger, a mamby-pamby immigration bill.

I understand why people do not want criminal penalties, because a lot of folks do not want an immigration bill that will work. They do not want a bill that has the ultimate penalty, a criminal penalty, for a criminal conduct pattern of practice in which you have lots and lots of people employing and utilizing illegal aliens over and over and over again, the ones who are bringing hundreds of thousands of people into this country.

The question is those who are in continuous violation, what do you do with them? If you just make them subject to a civil penalty, I am telling you you do not crack down on illegal immigration in this country.

You must have the capability, you must have the tools at your disposal, to put into effect the ultimate penalty in order to stop illegal immigration.

The purpose of this bill is supposed to be tough, and here we are watering it down, making it easy, making it so people will not have to face that ultimate penalty, and we end up not doing anything with this problem that everybody says could destroy America one of these days.

Let me remind you, under this bill now, for 6 months after the enactment of this bill there is a period of education where there is no enforcement at all. Then for 1 year there is a period where, if you transgress once and knowingly hire an illegal alien, you only get a citation. So you have basically a year and a half of going to school on this bill.

The criminal penalties require all of the criminal law requirements, including beyond a reasonable doubt and all of the other proof requirements. And again, it is for a pattern of practice, a continuing pattern, almost like you were talking about an organized crime situation.

So for the life of me, for an immigration bill that tries to restrict illegal immigration, I cannot understand why we want to remove the option of the penalty, and I urge you to defeat this amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to congratulate the gentleman. The gentleman makes an extremely important point. The gentleman is absolutely right.

If in fact you adopt this amendment, it basically guts the penalty provisions of the bill. I do not see how you could be any fairer than you are in the provisions in the bill. It requires a pattern of practice, it requires a series of transactions, more than just one individual transaction where an employer has, perhaps innocently, hired illegal aliens. That is not what we are talking about. We are talking about a pattern of practice in order to establish a violation of this section of the bill.

I would urge my colleagues to reject this particular amendment.

Mr. GLICKMAN. Mr. Chairman, I would just like to reiterate. We are talking about folks here who are not the cream of the crop in American business. We are talking about people who bring in over and over and over cheap labor that they do not want to see having been paid the minimum wage in order for them to enrich themselves. There are very few of these people, but where they exist, they ought to be subject to the ultimate criminal penalty. And by eliminating this provision, you hurt the bill very much.

Mr. BARTLETT. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I agree with the gentleman from Texas [Mr. BARTLETT] that you do not have to start out with criminal penalties.

Ruin the bill? Let us all get reasonable for a minute. Do you mean to tell me that after this legislation passes, we will never revisit immigration reform again? Of course we will. And if we determine that it is really necessary to have criminal sanctions put into the bill, we can do it. But let us not start putting small business men and women in jail because they have made an error.

I suggest to you that the Bartlett amendment is the way to go, and we can do it with an "aye" vote on this amendment.

Mr. MAZZOLI. Mr. Chairman, I yield the remainder of my time to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would just simply say that despite

what my friend from Texas, Mr. COLEMAN, said a moment ago, simple error, oversight, inadvertent activity under the bill does not warrant in the committee version a criminal sanction. You have to have a pattern and a practice and an intentional flouting of the law.

Mr. CARPER. Mr. Chairman, let me just restate what I think has been stated often enough, I just cannot support the amendment offered by the gentleman from Texas.

I believe, in response to what Mr. COLEMAN of Texas just said, that we do not want to put an individual business man or woman in jail, we do not want them to face criminal sanctions, simply by having made an error. We are not talking about making error after error after error in a pattern that continues to persist. In an instance like that, Mr. Chairman, I think the criminal sanctions are appropriate, and I must vote against this amendment.

Mr. BARTLETT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are not speaking of the cream of the crop or the best or the worst of employers. This bill applies not only to every employer in the country, but every person under this section who is a hiring decision. Every superintendent, every foreman, every dry cleaners manager, every person who makes a hiring decision, can read the law that says the person shall be fined not more than $1,000, imprisoned not more than 6 months. It is that imprisonment language that goes further than is necessary.

If sanctions are going to work, a $10,000 per person, per violation fine is adequate to work. To throw in jail time is too much.

□ 1740

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 264, not voting 31, as follows:

[Roll No. 451]

AYES—137

Akaka	Brown (CO)	Crane
Andrews	Bruce	Dannemeyer
Anthony	Burton (IN)	de la Garza
Archer	Bustamante	DeLay
Armey	Callahan	Dellums
AuCoin	Chapman	DeWine
Bartlett	Chappie	Dowdy
Barton	Cheney	Downey
Bilirakis	Coble	Durbin
Bliley	Coleman (TX)	Dymally
Boggs	Combest	Eckart (OH)
Boulter	Courter	Edwards (CA)
Brown (CA)	Craig	Emerson
Evans (IL)	Lagomarsino	Rinaldo
Fazio	Latta	Roberts
Fields	Leath (TX)	Rowland (CT)
Ford (MI)	Lehman (CA)	Roybal
Franklin	Leland	Savage
Gallo	Levin (MI)	Saxton
Garcia	Lightfoot	Schuette
Gejdenson	Loeffler	Shumway
Gibbons	Lowry (WA)	Skeen
Gonzalez	Lujan	Slaughter
Goodling	Marlenee	Smith (NE)
Gordon	Martin (NY)	Smith, Denny (OR)
Gray (IL)	Martinez	Smith, Robert (OR)
Guarini	Matsui	Solomon
Gunderson	McCain	Stallings
Hall (OH)	McCandless	Stenholm
Hansen	Mitchell	Strang
Hatcher	Molinari	Stump
Hawkins	Mollohan	Sweeney
Hayes	Monson	Swift
Hendon	Morrison (WA)	Torres
Hertel	Nielson	Towns
Hiler	Oakar	Udall
Horton	Ortiz	Vander Jagt
Huckaby	Owens	Visclosky
Hunter	Oxley	Vucanovich
Jacobs	Parris	Williams
Johnson	Pashayan	Wolpe
Kasich	Pickle	Wyden
Kemp	Quillen	Young (AK)
Kennelly	Rahall	
Kildee	Rangel	
Kolbe	Reid	
Kramer	Richardson	

NOES—264

Abercrombie	Duncan	Lewis (CA)
Ackerman	Dwyer	Lewis (FL)
Alexander	Dyson	Lipinski
Anderson	Early	Livingston
Annunzio	Eckert (NY)	Lloyd
Applegate	English	Long
Aspin	Erdreich	Lott
Atkins	Evans (IA)	Lowery (CA)
Badham	Fascell	Luken
Barnes	Fawell	Lundine
Bates	Feighan	Lungren
Bedell	Fiedler	Mack
Beilenson	Fish	MacKay
Bennett	Flippo	Madigan
Bentley	Florio	Manton
Bereuter	Foglietta	Markey
Berman	Foley	Martin (IL)
Bevill	Ford (TN)	Mavroules
Biaggi	Frank	Mazzoli
Boehlert	Frenzel	McCloskey
Boner (TN)	Frost	McCollum
Bonior (MI)	Fuqua	McDade
Bonker	Gaydos	McGrath
Borski	Gekas	McHugh
Boucher	Gilman	McKernan
Boxer	Gingrich	McKinney
Broomfield	Glickman	McMillan
Bryant	Gradison	Meyers
Byron	Green	Mica
Carney	Gregg	Michel
Carper	Hall, Ralph	Mikulski
Carr	Hamilton	Miller (CA)
Chandler	Hammerschmidt	Miller (OH)
Chappell	Henry	Miller (WA)
Clay	Hillis	Mineta
Clinger	Holt	Moakley
Coats	Hopkins	Montgomery
Cobey	Howard	Moody
Coelho	Hoyer	Moorhead
Coleman (MO)	Hubbard	Morrison (CT)
Collins	Hughes	Mrazek
Conte	Hutto	Murphy
Cooper	Hyde	Murtha
Coughlin	Jeffords	Myers
Coyne	Jenkins	Natcher
Crockett	Jones (NC)	Neal
Darden	Jones (OK)	Nelson
Daschle	Jones (TN)	Nichols
Daub	Kanjorski	Nowak
Davis	Kastenmeier	Oberstar
Derrick	Kleczka	Obey
Dickinson	Kolter	Olin
Dingell	Kostmayer	Packard
DioGuardi	LaFalce	Panetta
Dixon	Lantos	Pease
Donnelly	Leach (IA)	Penny
Dorgan (ND)	Lehman (FL)	Pepper
Dornan (CA)	Lent	Perkins
Dreier	Levine (CA)	Petri
Porter	Siljander	Traficant
Price	Sisisky	Valentine
Pursell	Skelton	Vento
Ray	Slattery	Volkmer
Regula	Smith (FL)	Waldon
Ridge	Smith (IA)	Walgren
Ritter	Smith (NJ)	Walker
Robinson	Smith, Robert (NH)	Watkins
Rodino	Snowe	Waxman
Roe	Snyder	Weaver
Roemer	Solarz	Weber
Rogers	Spence	Wheat
Rose	Spratt	Whitehurst
Rostenkowski	St Germain	Whitley
Roth	Staggers	Whittaker
Roukema	Stangeland	Whitten
Rowland (GA)	Stark	Wilson
Sabo	Stokes	Wirth
Schaefer	Stratton	Wise
Scheuer	Studds	Wolf
Schroeder	Sundquist	Wortley
Schulze	Swindall	Wright
Schumer	Synar	Wylie
Seiberling	Tallon	Yates
Sensenbrenner	Tauzin	Yatron
Sharp	Taylor	Young (FL)
Shaw	Thomas (CA)	Young (MO)
Shelby	Thomas (GA)	Zschau
Shuster	Torricelli	
Sikorski		

NOT VOTING—31

Barnard	Edgar	McCurdy
Bateman	Edwards (OK)	McEwen
Boland	Fowler	Moore
Bosco	Gephardt	Rudd
Breaux	Gray (PA)	Russo
Brooks	Grotberg	Schneider
Burton (CA)	Hartnett	Tauke
Campbell	Hefner	Traxler
Conyers	Ireland	Weiss
Daniel	Kaptur	
Dicks	Kindness	

□ 1750

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Barnard against.

Messrs. LOEFFLER, FAZIO, HORTON, and GUARINI changed their votes from "no" to "aye."

Mr. MICA and Ms. MIKULSKI changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LUNGREN: In section 101(b)(1), at the end of subsection (a) of section 274B of the Immigration and Nationality Act inserted by such section, insert the following new paragraph:

"(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] will be recognized for 10 minutes and the gen-

tleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. LUNGREN]

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

□ 1800

Mr. Chairman, this amendment goes to the section of the bill known as the Frank amendment. As some Members will recall, this amendment became a point of controversy in the conference last time and has remained somewhat a point of controversy throughout the subcommittee and the committee deliberations. That Frank amendment deals with the question of potential discrimination visited upon individuals as the result of the specter of employer sanctions.

This amendment amends that section of the bill to state that notwithstanding any other provision of this section, it is not an unfair immigration related employment practice for a person or other entity to prefer to hire, recruit, or prefer an individual who is a citizen or a national of the United States over another individual who is an alien if the two individuals are equally qualified.

It seems to me, Mr. Chairman, that when two individuals are equally qualified, the employer should be allowed to exercise this small amount of discretion for whatever reason to hire a citizen or national of the United States over another individual who is an alien.

The current problem illustrates the need for this amendment. I think this problem occurs in defense contracts.

Members will know in dealing with employers in their districts that we require by law employees of defense contractors to be citizens. We do not grant any exceptions. If someone has a defense contract and wants to hire a citizen, this discriminates against noncitizens, even though they may at some point in time intend to become citizens.

So what we have done in the law is to say that for reasons we think are important, if you are a defense contractor you have to hire citizens.

The Frank amendment, if unamended, says that if you decide to hire a citizen over a noncitizen, you can become subject to a new civil action, a new civil right, that noncitizens have.

It seems to me that both of those elements in the law would therefore collide.

The problem ensues, which I think cannot be dealt with if this amendment is not adopted, that problem is for companies who wish to put themselves in the position of bidding on defense contracts in the future. What do they do? Do they hire noncitizens because the law requires them not to prefer citizens? Then when they attempt to get a job with the Defense Department, a contract, say that we are going to fire the people we have relied on? It does not make sense.

Some have said that we have certain exceptions, that when you intend to become a defense contractor. Well, how far back to do you go? How do you figure that out?

Look at many of the small businesses in your district. Oftentimes they hope to get a defense contract in the future. So how do you deal with it?

It seems to me to get out of this catch-22 situation, this amendment is the best way to do it. It says that irrespective of the Frank amendment, if you have as an employer a citizen and a noncitizen in front of you, equally qualified, and you are trying to make a hiring decision, one is a citizen and one is a noncitizen, they are equally qualified, you have every right under the law to prefer the citizen over the noncitizen.

It seems to me we allow it in other hiring practices of the Government. We ought to allow it in the private sector.

If people are concerned about discrimination, it seems to me the universal paperwork burden that we have in the bill is the best way to take care of discrimination. If an employer has to require that paperwork of anybody, no matter how they look, blue eyed, brown eyed, black hair, blond hair, swarthy complexion, light complexion, there is no incentive for them to discriminate.

The gentleman from New York said that he is not worried about the bigots. He is worried about the nonbigots who might be concerned about running afoul of the law. I think that takes care of it.

This in my judgment is an absolutely essential amendment so that we do not run into the problem of putting our citizens in the position of a most difficult decision.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am not sure really whether I am in opposition or in support of the gentleman's amendment.

May I ask the gentleman just one basic question. We dealt with this thing in the committee up and down the line. I know the gentleman is going to engage in a discussion with our colleague, the gentleman from Massachusetts; but I guess the one question I have is: When you have two equally qualified, who makes the determination of who is equally qualified? Does the gentleman have any sort of advice to us that this will be used in some way as a dodge or a device to somehow defeat the law?

Mr. LUNGREN. Well, no. If the gentleman will yield, I would just say to the gentleman that I assume the person who would finally make the determination would be the governmental structure that has been set up in the Frank amendment, or whatever comes out of the conference. It will only come up if an action were taken against an employer. He would have to show they were equally qualified.

I would say in most cases, I would hope that the doubt would be resolved in favor of the employer to make the decision as to equal qualifications.

Mr. MAZZOLI. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I am opposed to the amendment. I understand its appeal to some Members and I want to both discuss my reasons for opposition, but also on my time to discuss the implications of the amendment of the gentleman from California.

I want to set the context of the antidiscrimination provision for this amendment and for amendments that will follow.

We are putting forward in here a new concept, sanctions for employers who hire people who are here illegally. I favor that. I think it is necessary to deal with the economic incentive that brings some people here.

A number of people, especially Hispanic Americans, are afraid because Hispanic Americans have had some experience with discrimination and because so much of the immigration, legal and illegal, occurs on our border with Mexico, that the introduction of employer sanctions may increase discrimination against people based on their ethnicity because people will say, "Gee, the surest way not to hire anybody illegal is to not hire anybody who is Hispanic." We hope that is wrong and we are going to do everything we can to discourage that.

In 1984 when this bill was last on the floor in the House, an amendment had been prepared by the gentleman from California [Mr. HAWKINS], which I then offered after it was defeated in another form, that set up a special provision to deal with discrimination that may come because of employer sanctions. That was substantially compromised, as the gentleman from California [Mr. LUNGREN] pointed out in the 1984 conference.

What you have before you is what the conference agreed to—Mr. Chairman, if the Members will listen, they may find it is more exciting than it seems.

We are dealing here with what we came out of conference with. The reason it deals with noncitizens is that under the legalization portion of this bill, the matched pair of sanctions, we are telling people who have been here illegally, "We want you now to present yourselves for legalization," but we do not want them to be in limbo where while they present themselves they will not get any job protection, be-

cause people say, "Hey, I don't like you getting legalized and I won't hire you." They are not otherwise protected.

The intent of the overall amendment was to provide them protection. I stress that because I believe in the form that we now have it, and if the amendment of the gentleman from California is adopted, I suppose it is even more acceptable to people on the other side who would have accepted it in conference, this is an essential part I believe of any immigration bill. If we are going to have sanctions, many of us feel in good faith with a lot of citizens, especially Hispanic Americans, requires that we deal with the potential for antidiscrimination. If we get rid of sanctions, we get rid of this. It exists to deal with the potential of sanction driven discrimination and it is an essential provision, because we do not want to further burden the EOC.

Now, we did cover noncitizens. The gentleman from California has an amendment which says, as I understand it, and this is where I would like to address him, not that it totally strips out protection for noncitizens, but that an employer who is faced with people of equal qualifications who decides to prefer the American citizen can legally do so; not that an employer is being invited to say, "I won't hire any of those people who will be legalized."

Mr. Chairman, I yield to the gentleman from California for a reply to see if I have correctly stated that proposition.

Mr. LUNGREN. Well, that is correct. What my amendment says specifically is that if an employer has a situation in which the decision is to be made between a citizen or national and someone who is a noncitizen here legally, that he can prefer the citizen or national over the noncitizen or national if they are equally qualified. That is what it says.

Mr. FRANK. If the gentleman will further forebear, that is not meant to be any invitation to an employer to refuse wholesale to hire the people in this legalizing category; is that correct?

Mr. LUNGREN. That is true, sure.

Mr. FRANK. Mr. Chairman, I thank the gentleman.

Let me say that I do not like this amendment, but I do not like it less than I do not like some others.

I understand the difficulty of the concept we have got here. I think we have provided in the bill for the situation the gentleman talked about. We did try to provide for an employer who had some legal requirement to hire citizens. I understand that. I think we have dealt fairly with that.

I would point out that organized labor has supported the amendment in the form it is in and it did get agreement, although reluctant agreement, from the other body; so I hope this amendment is defeated, but I do want to stress in any case that I think it is important that we have, given the sanctions, some form of an antidiscrimination provision. I know a later amendment will come to try to kill the whole thing.

I just want to point out with regard to this amendment that any employer as a general matter of antidiscrimination, I would point out that under this amendment, and it is very explicit in the report language, the burden of proof of proving discrimination is on those who would charge it. The employer does not have to prove that he or she was innocent. Somebody else has to prove he or she was guilty. An employer faced with two people of equal qualifications, under existing law, can in fact pick anybody under any circumstances; so I do not believe that it is necessary to establish that particular point. Therefore, I am opposing it, because an employer can do whatever he or she wants, presented with two people of equal qualifications; but I want to stress again the importance, the centrality of this bill if it is to survive, of a significant antidiscrimination mechanism to deal with the potential discrimination that may come from sanctions.

□ 1815

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining, and the gentleman from California [Mr. LUNGREN] has 5 minutes remaining.

Mr. MAZZOLI. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I ask my friend, the gentleman from Massachusetts [Mr. FRANK], whose service on the committee has been noble, and whose work in trying to get a bill has gone back many years—as the gentleman heard earlier, I have some reservation about the amendment of the gentleman from California [Mr. LUNGREN]. I worry that there may be some use of this as a dodge or a device to get around the question.

I am heartened by what the gentleman from Massachusetts has said, that centrality in this matter is preservation of the Frank language, which is in the bill before us. That, which comes up at a later stage, is more central, more vital, and profoundly influential on the gentleman's feeling toward the bill than maybe this particular amendment.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, let me say, in the interest of truth in labeling, it is the Hawkins language, because in a complicated parliamentary situation, this was drafted by the staff of the Committee on Education and Labor. It is the Hawkins language as it survived the conference with the Senate.

Now no author wants to claim pride of authorship after a conference with the other body, but the fact is that the central provision here is some mechanism, a brandnew mechanism to deal with a brandnew potential source of discrimination, and if sanctions do not cause discrimination, then this will not have much to do, and we can get rid of it. But yes, it is central that we have some protection. I do not think that we have a bill without it.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, this amendment attempts to clean up a proposition which is fundamentally flawed. What it attempts to do is to state that when there are two applicants for a job who are equally qualified, one of whom is a U.S. citizen and another of whom is not, but does have a green card, it is not illegal to hire the U.S. citizen over the alien who is allowed to work.

Now what is wrong with that? It seems to me that when there are two equally qualified people applying for a job, the employer ought to be able to choose whomever he wants, and not be subject to a charge of discrimination.

The fundamental flaw of the entire proposition is that adopting an antidiscrimination provision against alienage, and elevating alienage to race, creed, color, national origin, or sex on the things that cannot be discriminated against in the hiring process, effectively takes away the rights of an employer to choose a more qualified person.

Very frankly, the next amendment is to strike this proposition altogether. I hope that that amendment is approved. However, if the amendment is not approved, at least we ought to give employers the assurance that they will not be hauled before a special office in the Justice Department if they decide to go with a U.S. citizen over an alien.

Mr. MAZZOLI. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, just to mention to the Members of the House who may share some concern about language that might amend the underlying Frank language and somehow fail to protect the individuals who might be covered by employer sanctions, I would just cite that title IV of the bill before us is replete with studies that have to be made by agencies of Government, and the Civil Rights Commission is supposed to issue three reports on the discriminatory effects, if any, of this bill when it is implemented.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, how is the Civil Rights Commission supposed to issue these reports if we are defunding them?

Mr. MAZZOLI. I would hope, and I appreciate what the gentleman has said, and I understand that they are not exactly numero uno on the Federal spending cycle, but those reports will be picked up, because we want this bill not to be unwittingly discriminatory.

Mr. BUSTAMANTE. Mr. Chairman, I urge my colleagues to oppose the Lungren amendment which would institute employment discrimination against legal U.S. residents.

This legislation is regressive, both on legal and moral grounds. Under present law, residents admitted to this country are expected to support themselves, otherwise they are subject to deportation. It makes no sense to admit immigrants and refugees to this country, require them to work, and then allow employers to refuse them employment because of their immigration status. This amendment would restrict a legal resident's right to work—a right which has been consistently upheld by the Supreme Court. The Supreme Court has recognized the importance of a legal resident's right to work as the very essence of personal freedom and opportunity that the 14th amendment intended to secure. However, the Lungren amendment would curtail such right and freedom as guaranteed under our Constitution.

If the author of this amendment is concerned about protecting employers from the charge of discrimination should they choose either of two equally qualified applicants, let me inform him that these employers are protected as is clearly stated in the Judiciary Committee report on this bill. I, therefore, urge you to oppose the Lungren amendment.

Mr. MAZZOLI. Mr. Chairman, I yield back the balance of my time.

Mr. LUNGREN. Mr. Chairman, I yield back the balance of my time.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. GONZALEZ. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

One hundred twenty-three Members are present, a quorum.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER: In the heading to section 101, strike out "AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES" and conform the table of contents accordingly.

Strike out subsection (b) of section 101 and redesignate the succeeding subsections of section 101 accordingly.

In section 101(e), strike out "items" and insert in lieu thereof "item".

In section 101(e), insert closing quotation marks and a period after the item relating to section 274A and strike out the item relating to section 274B.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes and the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would strike the so-called Frank anti-discrimination language—language totally unacceptable as a matter of policy and as a matter of law. This language would broaden the coverage under the current provisions of title VII, create a new protected class and create a new bureaucracy outside the EEOC for adjudication of complaints.

Immigration reform has been around, as most of us here are well aware, for quite sometime. The Frank language, on the other hand, is a relative newcomer. So new, in fact, it wasn't even offered in this committee last Congress. It's not in S. 1200 this Congress, and the only hearing has been 1 day of testimony—a joint House-Senate hearing last year.

Mr. Chairman, anyone who sat through the testimony and subsequent questioning has to come away wondering, "What are they doing, and why is this language in the bill in the first place?" More importantly, no one could answer—all things being equal, should it be against the law for an employer to prefer to hire a U.S. citizen!

The subcommittee did get some answers, though. We are asked to put into place a new precedent-setting bureaucracy and laws which would give aliens in this country greater rights and protections than citizens?

We are told sanctions might cause discrimination, yet no one has to prove sanctions cause discrimination. Rather, sanctions are being used as a scapegoat—an excuse to broaden civil rights coverage without going through title VII. In a GAO report, not one of the countries having employer sanctions indicated a problem of discrimination among citizens or legal aliens. The Rev. Theodore Hesburgh was quoted in the Washington Post last year,

• • • a combined penalty and verification system would not increase discrimination against Hispanics, calling such a contention, the most flimsy argument you find in this whole area.

Expert testimony before this subcommittee couldn't come up with one example of alienage discrimination. Several witnesses testified to the possibility of national orgin discrimination—an area already covered under title VII—but not alienage discrimination. As Paul Grossman, a witness who appeared before the subcommittee and who is both a recipient of the 1978 MALDEF Service Award and, at one time, the manager of one of the largest labor practices in the Southwest, indicated to us, he has never heard of a case of alienage discrimination; national origin discrimination, yes, but alienage discrimination, no. He indicated, too, that he does not believe the problem, if it exists, falls on the shoulders of small employers. He takes the view it is large employers of the kind covered under title VII who create the greatest abuse. National origin is not covered under title VII of the Civil Rights Act, and I believe, absent proof to the contrary, which was not forthcoming during the hearing, existing law is sufficient.

The answers the subcommittee did get during the hearing revealed flaws and problems so numerous as to defy the imagination.

It would create an entirely new protected class under Federal civil rights laws, namely noncitizens.

It would broaden coverage to all employers.

Does it cover part-time, as well as full-time employees? We don't know.

It omits the protections created over time which are contained in title VII such as occupational exceptions and prohibitions against preferences—sections 703(e) and 703(j)).

It allows different standards.

It sets the stage for conflicting precedents.

It allows private right of action.

Allows two bites from the apple—one from the EEOC and one from the special counsel this language creates.

It sets precedents where administrative law judges are not only the final arbiter, but can set attorney fees as well.

It has unrealistic and unworkable timeframes.

Mr. Chairman, I could go on and on. The proponents of this language have created more questions than they have answers. Questions that need more than 1 day's study. If sanctions do in fact cause discrimination, then the committee can and should act at a later date. Then they will be acting on fact and information, not guesses and supposition. Therefore, Mr. Chairman, I urge that my motion to strike be adopted.

□ 1825

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] has consumed 5 minutes.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute to speak in opposition to the gentleman's amendment.

Basically speaking, it seems to me that if we are going to have employer sanctions, and we keep saying that that is one of the centerpiece elements of this bill, then it seems to me that in balance and in equity and perspective we ought to have in here something like the Frank amendment. Now I might have crafted it somewhat differently than the gentleman from Massachusetts has done, but essentially it says to those who are in this Nation, and those who have come here, sometimes illegally, that you have, in the event that there is discrimination applied to you or directed against you because of your ethnicity, because of your race, because of your background, that you will have some opportunity to redress that grievance.

I think if the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER] to strike this entire section were to prevail our bill would become imbalanced, unfair and certainly lacking the equity that I think the underlying bill does. So I would certainly urge my colleagues to oppose the gentleman's amendment, support the committee and support the committee's language as it has been amended by the gentleman from California, and leave us a good solid bill.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the full Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the motion to strike of the gentleman from Wisconsin. This amendment flies in the face of the action taken last Congress when this body approved the Frank amendment by a vote of 404 to 9.

Why did we adopt the Frank amendment? Because there has been serious concern on the part of those who fear the possibility of employment discrimination based on alienage or national origin. We wanted to allay their concerns and their fears, so we devised an amendment which would provide effective remedies in the event of discrimination.

The gentleman from California who previously offered his amendment allows a hiring preference for citizens over aliens if both are equally qualified. The gentleman from Kentucky [Mr. MAZZOLI] stated a while ago, that there is a balance and equity in creating sanctions then we have got and at the same time providing a remedy should discrimination occur.

To provide such a remedy we have set up the Special Counsel in the Justice Department to handle discrimination complaints.

Mr. Chairman, I believe that we should defeat the motion of the gentleman from Wisconsin. It would be unreasonable, to establish a program that could conceivably create a problem and not at the same time provide a remedy, and a mechanism to achieve that remedy, for individuals who have been prevented from finding gainful employment.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Pending that, let me thank the gentleman in the chair, Mr. NATCHER, for presiding to this point in the way that he has. It has made the bill move very smoothly.

Mr. FISH. Mr. Chairman, I rise in support of the antidiscrimination provision, so-called Frank amendment, which is now part of our immigration bill, and in opposition to the motion to strike.

Mr. Chairman, it has been mentioned that this provision was the result of 1 day of hearings. It seems to me at the last conference it was the subject of each day of 10 days at which time it was greatly modified from its original statement.

The interesting thing is that there were three major issues on which that conference in 1984 floundered. One was the antidiscrimination provision, second was the cap on reimbursing the States, and the third was the agriculture provision.

Now we have resolved here, and we are here tonight because we have resolved the agriculture labor provision. We saw the President and we resolved the cap provision on reimbursement, and now let us not go back and undo what we all now find acceptable in the antidiscrimination provision.

The concern that this bill might inadvertently lead to preference for aliens has been dealt with just in the last few minutes by the Lungren amendment. The antidiscrimination provision would not duplicate EEOC coverage. It would only apply where no EEOC coverage exists.

Mr. Chairman, numerous witnesses in the past Congresses have expressed their deep concern that the imposition of employer sanctions would cause extensive unemployment discrimination. Here we are addressing the employer sanction concerns that employers in our bill will be reluctant to hire certain persons because of their ethnic background. Barriers should not be placed in the path of permanent residents and other aliens who are seeking employment. It just makes no sense to admit immigrants and refugees, requiring them to work, and then not protecting them from discrimination.

Mr. Chairman, I urge my colleagues to vote against the pending amendment which seeks to strike the antidiscriminatory provisions.

□ 1835

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time to me, and I stand in support of the gentleman from Wisconsin's [Mr. SENSENBRENNER] motion to strike.

I cannot disagree with anything that has been said by any of the speakers except the bottom line as to what their conclusions happen to be, from where they start to where they end up.

All of us have heard, who listen to the radio here in the Washington area, situations where employment opportunities are out there and only citizens need to apply. I think we have to be very cautious of what we are doing here.

There are some sensitive areas of employment in which employers may very well be very wise to limit their employed staff to citizens of the United States.

Now I do not believe, with the Frank amendment in this bill that employers could any longer do that. There is a certain amount of loyalty that goes with being an American citizen or is expected of us as American citizens that do not apply to aliens.

Now if that question can be clarified and if someone were to refute that particular question, then perhaps I could see this from a different standpoint; but I think it is very important, very important that we look at the entire sphere of what we are doing here and if some employer were to limit its employed staff or certain functions of its employed staff to American citizens, then I think they would be in violation of the Frank amendment.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman.

Mr. FRANK. Mr. Chairman, in the first place, if you had requirements that you have to have citizens imposed by some State law or some Federal contract, you would be OK. The amendment makes provision for that.

Second, as the gentleman from California's amendment makes clear, if you decide that in this case or that case, there are several qualified people, you prefer the citizen, that is okay.

Third, the burden of proof is on those who would charge discrimination.

Fourth, and I would just like, if the gentleman would let me, to state: This

does not apply to all aliens. It only applies to those who are not yet eligible for citizenship.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SHAW] has expired.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman from Kentucky.

Mr. Chairman, this is a very central point. We have people to whom we are going to offer the status of legalization. If the point comes at which they have lived in this country long enough to be citizens and choose not to apply for citizenship, then they do not get this protection. This protection only applies to those who have evinced an interest in being citizens, we hope, and have not yet reached that point. We are particularly worried about those who would accept the legalization in that status.

To answer the gentleman's question, if you are in an area—not that it is a policy "I'm not going to hire anybody for any job in my place who's not a citizen," yes, then you would have a problem.

Our view is, if people are going to be here legally, they ought to be allowed to work. We do not want to say that there is this whole class that can only get welfare.

We want to encourage people to take legal status; we do not want people hiding in the shadows. So we want people to be able to say that they will be hired on their merits.

An American citizen can be preferred, and they only get the protection of this up to the point when they can become citizens. If they choose not to become citizens, no protection.

Mr. MAZZOLI. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, this amendment should be resisted; it should be defeated. It is clear that there will be a certain amount of discrimination if employer sanctions are made a part of the law.

I know that because we have had some discrimination in California from employers who thought that the immigration law had been put in place, and there were quite a number of complaints from Hispanics, in particular, who were being discriminated against.

So I think that very definitely we should vote no on this amendment.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, this Nation if anything was founded on the basic principle of equity, that we would not discriminate, and that we would have no second class citizens in our society.

The fact that we now are implementing sanctions does raise the real and legitimate concern about discrimination based on national origin and alienage.

We do have laws in place that provide protections, on race, discrimination based on creed, national origin and others. There is a gap here at the present time. The gap relates to discrimination based on national origin for a certain number of employees, and also on the basis of alienage.

The Frank amendment tries to provide a correction for that. Surely it is in the best tradition of our society to provide equal protection for all and not to have second class citizens in our society.

I urge you to vote against this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Chairman, I rise in support of the Sensenbrenner amendment.

Mr. MAZZOLI. Mr. Chairman, I yield the balance of our time to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, this amendment destroys the balance that many people have tried to create in the proposal that is before us today.

We are prohibiting the hiring of undocumented workers through this bill. At the same time, we have made a decision to carefully craft a legalization program. Now, if this amendment were to pass, we are to say that four categories of people, and only four categories of people, permanent resident aliens, newly legalized aliens, refugees, and asylees; not people here on student visas, not people here on tourist visas, not any of the many other classes of aliens who are in this country legally, but only those four clases will have their protection against the ability to discriminate. They have no help from the Government in the right to obtain a job, to get a promotion, to get equal pay.

What hypocrisy to offer them the status in one hand and then to pull away any protection for their rights. Do we want these people to be busboys and dishwashers and have the most menial jobs and be prevented from moving up the ladder of opportunity?

I urge this body to allow this fundamental protection against alienage discrimination for intending citizens and to vote against the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, for the 8 years that I have been honored to serve in this body, I have served on the Civil and Constitutional Rights Subcommittee of the Judiciary Committee. During that period of time, I have gotten a feel for civil rights laws, and have demonstrated my commitment to stringent enforcement of civil rights laws.

The Equal Employment Opportunity Commission enforces title VII of the civil rights laws, and this proposal of Mr. Frank does not propose to add alienage to the list of protected classes enforced by the EEOC, but rather creates a separate class and a separate bureaucracy within the Justice Department.

Furthermore, the coverage of the EEOC only applies to employers of 15 or more; whereas the coverage of the Frank language is universal in its scope.

Now what that means is that an employer of less than 15 people, not subject to the EEOC requirements against discrimination based on race, creed, color, national origin or sex is subject to these requirements proposed in the language of the Frank amendment.

Frankly, that is unfair, and that is unequal enforcement of the civil rights laws, and in addition creates a bureaucracy to do the job that the EEOC is already doing adequately and admirably.

I would like to report to the membership that becuase of this, the U.S. Chamber of Commerce has come out in support of my amendment, and I received a letter from Albert Bourland, the vice president of congressional relations, that I would like to read, in part:

It says:

> The U.S. Chamber of Commerce will oppose any immigration reform legislation which:
>
> Gives aliens new federal job discrimination protections not available to U.S. citizens;
>
> Creates a new federal bureaucracy within the Justice Department which would result in duplicative investigations, enforcement and efforts;
>
> Bars employers from hiring only U.S. citizens; and
>
> Makes small employers, currently exempt from the requirements of Title VII of the Civil Rights Act of 1964, subject to laws granting new rights for non-citizens.
>
> The Sensenbrenner Amendment would delete these provisions from H.R. 3810, and the Chamber wholeheartedly supports your amendment.

□ 1845

Let us cast a vote for equal treatment under the laws in the civil rights area; let us cast a vote to make uniform the coverage of civil rights laws. The authors of the Frank amendment did not propose to use the title VII enforcement procedure which has worked well. I think that if this argument has any merit to it at all, we should have gone the title VII route rather than creating a new bureaucracy.

Mr. Chairman, I would urge the membership to vote for the motion to strike so we will not have unequal enforcement of the civil rights laws.

Mr. BUSTAMANTE. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment which would eliminate the protections against employment discrimination included in this bill.

The potential for employment discrimination under the employment sanctions is great and the consequences of such discrimination are serious. The demonstrated tendency of businesses to play it safe while hiring could jeopardize the employment of as many as 150,000 Hispanic jobseekers every week. Many will minimize the potential for discrimination as a result of employment sanctions; however, the consequence of discrimination is the violation of a fundamental right of all Americans, including Hispanic Americans—the right to work.

Our Declaration of Independence states what is today accepted as a universal human right, the inalienable right to the pursuit of happiness. Employment discrimination would have the effect of denying Americans, especially Hispanic Americans, their inalienable right to the pursuit of happiness. The Frank antidiscrimination provisions included in this bill protect that right. The seriousness of the possibility of employer sanctions threatening such basic right as the right to work requires that we go to all possible lengths to protect that right.

My colleagues, if you believe that protecting the right of Americans to work is worthwhile, vote against the Sensenbrenner amendment which would do away with this fundamental protection.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. SENSENBRENNER] has expired.

All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 260, not voting 32, as follows:

[Roll No. 452]

AYES—140

Archer	Crane	Hansen
Armey	Darden	Hatcher
Badham	Davis	Hendon
Barton	DeLay	Hiler
Bateman	Derrick	Hillis
Bentley	DeWine	Holt
Bliley	Dowdy	Huckaby
Boulter	Dreier	Hunter
Broomfield	Duncan	Hutto
Brown (CO)	Dyson	Ireland
Burton (IN)	Eckert (NY)	Jeffords
Callahan	Emerson	Jenkins
Carney	Fawell	Kasich
Carr	Fiedler	Latta
Chapman	Fields	Lewis (CA)
Chappie	Franklin	Lewis (FL)
Cheney	Gekas	Lightfoot
Coats	Gingrich	Livingston
Cobey	Goodling	Loeffler
Coble	Gradison	Lott
Coleman (MO)	Gregg	Lowery (CA)
Combest	Gunderson	Lungren
Coughlin	Hall, Ralph	Mack
Craig	Hammerschmidt	Madigan
Marlenee	Roberts	Spence
Martin (IL)	Robinson	Stallings
Martin (NY)	Rogers	Stenholm
McCandless	Roth	Strang
McCollum	Roukema	Stump
McGrath	Rowland (CT)	Sundquist
McMillan	Schaefer	Sweeney
Miller (OH)	Schuette	Swindall
Molinari	Sensenbrenner	Tallon
Monson	Shaw	Tauzin
Montgomery	Shumway	Taylor
Moorhead	Shuster	Thomas (GA)
Nichols	Siljander	Valentine
Nielson	Skelton	Vander Jagt
Olin	Slaughter	Volkmer
Oxley	Smith (NE)	Vucanovich
Packard	Smith, Denny (OR)	Walker
Parris	Smith, Robert (NH)	Weber
Petri	Smith, Robert (OR)	Whitehurst
Pickle	Snyder	Whittaker
Porter	Solomon	Wolf
Ray		Wylie
Regula		Young (FL)
Ritter		

NOES—260

Abercrombie	English	Lipinski
Ackerman	Erdreich	Lloyd
Akaka	Evans (IA)	Long
Alexander	Evans (IL)	Lowry (WA)
Anderson	Fascell	Lujan
Andrews	Fazio	Luken
Annunzio	Feighan	Lundine
Anthony	Fish	MacKay
Applegate	Flippo	Manton
Aspin	Florio	Markey
Atkins	Foglietta	Martinez
AuCoin	Foley	Matsui
Barnes	Ford (MI)	Mavroules
Bartlett	Ford (TN)	Mazzoli
Bates	Frank	McCain
Bedell	Frenzel	McCloskey
Beilenson	Frost	McDade
Bennett	Fuqua	McHugh
Bereuter	Gallo	McKernan
Berman	Garcia	McKinney
Bevill	Gaydos	Meyers
Biaggi	Gejdenson	Mica
Bilirakis	Gibbons	Michel
Boehlert	Gilman	Mikulski
Boggs	Glickman	Miller (CA)
Boner (TN)	Gonzalez	Miller (WA)
Bonior (MI)	Gordon	Mineta
Bonker	Gray (IL)	Moakley
Borski	Green	Mollohan
Bosco	Guarini	Moody
Boucher	Hall (OH)	Morrison (CT)
Boxer	Hamilton	Morrison (WA)
Brown (CA)	Hawkins	Mrazek
Bruce	Hayes	Murphy
Bryant	Henry	Murtha
Bustamante	Hertel	Myers
Byron	Hopkins	Natcher
Carper	Horton	Neal
Chandler	Howard	Nelson
Chappell	Hoyer	Nowak
Clay	Hubbard	Oakar
Clinger	Hughes	Oberstar
Coelho	Hyde	Obey
Coleman (TX)	Jacobs	Ortiz
Collins	Johnson	Panetta
Conte	Jones (NC)	Pashayan
Cooper	Jones (OK)	Pease
Courter	Jones (TN)	Penny
Coyne	Kanjorski	Pepper
Dannemeyer	Kastenmeier	Perkins
Daschle	Kemp	Price
Daub	Kennelly	Pursell
de la Garza	Kildee	Quillen
Dellums	Kleczka	Rahall
Dickinson	Kolbe	Rangel
Dicks	Kolter	Reid
Dingell	Kostmayer	Richardson
DioGuardi	Kramer	Ridge
Dixon	LaFalce	Rinaldo
Donnelly	Lagomarsino	Rodino
Dorgan (ND)	Lantos	Roe
Dornan (CA)	Leach (IA)	Roemer
Downey	Leath (TX)	Rose
Durbin	Lehman (CA)	Rostenkowski
Dwyer	Lehman (FL)	Rowland (GA)
Dymally	Leland	Roybal
Early	Lent	Sabo
Eckart (OH)	Levin (MI)	Savage
Edwards (CA)	Levine (CA)	Saxton
Scheuer	Stark	Weaver
Schroeder	Stokes	Wheat
Schumer	Stratton	Whitley
Seiberling	Studds	Whitten
Sharp	Swift	Williams
Shelby	Synar	Wilson
Sikorski	Thomas (CA)	Wirth
Sisisky	Torres	Wise
Skeen	Torricelli	Wolpe
Slattery	Towns	Wortley
Smith (FL)	Traficant	Wright
Smith (IA)	Udall	Wyden
Smith (NJ)	Vento	Yates
Snowe	Visclosky	Yatron
Spratt	Waldon	Young (AK)
St Germain	Walgren	Young (MO)
Staggers	Watkins	Zschau
Stangeland	Waxman	

NOT VOTING—32

Barnard	Fowler	Moore
Boland	Gephardt	Owens
Breaux	Gray (PA)	Rudd
Brooks	Grotberg	Russo
Burton (CA)	Hartnett	Schneider
Campbell	Hefner	Schulze
Conyers	Kaptur	Solarz
Crockett	Kindness	Tauke
Daniel	McCurdy	Traxler
Edgar	McEwen	Weiss
Edwards (OK)	Mitchell	

□ 1900

The Clerk announced the following pair:

On this vote:

Mr. McEwen for, with Mr. Barnard against.

Mr. LENT and Mr. WORTLEY changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer and amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOORHEAD: At the end of section 111, insert the following new subsection:

(g) INCREASE IN BORDER PATROL.—There are authorized to be appropriated, for each of fiscal years 1987, 1988, and 1989, such additional sums as may be necessary to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each such fiscal year is 50 percent higher than such level in fiscal year 1986.

The CHAIRMAN. The gentleman from California [Mr. MOORHEAD] will be recognized for 10 minutes and the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, the amendment that the gentleman from California [Mr. DREIER] and I are offering provides a 50-percent increase in the number of Border Patrol personnel. Under my amendment, the Border Patrol would be able to hire up to 50 percent more personnel and agents over the fiscal years 1987 to 1989.

At the present time, there are a total of about 3,800 people on the Border Patrol. This amendment would permit the employment of about 1,900 new Border Patrol agents across the borders of the United States, which is about 8,000 miles. Of that number, about 1,900 are on the border of our neighbor to the south, Mexico. There are only about 800 agents on the border at any one time, so that means if all of the agents we had were on the border to the south, there would be only one agent for every 2.4 miles. Is it any wonder that there are millions of people crossing the border each and every year illegally?

Our borders have never been more greatly tested than they are at the present time. There are people coming from 42 different nations. They are not all our neighbors to the south, they come from everywhere around the world, and they come seeking asylum in our Nation. We have legal ways for them to come, but they do not want to wait in line.

They bring with them in many instances drugs, baby smuggling, and all kinds of criminal activities that are caused by this problem. In fact, many of the people coming across the border become victims themselves, so the courts of the United States are tremendously clogged.

In Los Angeles County alone, there is a cost to the taxpayers of nearly $300 million a year. The cost of my amendment for the first year would be about $60 million, but the benefits would be 10 or 15 times that much. We need to do something besides the provisions that we have in this legislation if we truly want to stop illegal aliens from crossing the border and coming into our country.

It will be some time before the benefits of employer sanctions ever take hold. There are many people who cross the border just so that their children can be born in hospitals in the United States and they become citizens down the line when they become of age.

In Los Angeles County alone, over 80 percent of all the children born in the publicly supported hospitals are born of illegal aliens. This is a very severe problem for our State and for all of the States bordering on the border, and for many others that do not.

□ 1910

I believe that it is essential that we take this positive step and we protect the people in our Border Patrol from the deaths they have suffered, from the victims that they have become because they are such a long, thin line that they really cannot protect themselves. It is a war zone down in Tijuana and in other cities on the Mexican border.

Let us protect our Border Patrol by at least giving them the manpower to do their job.

Mr. MAZZOLI. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, let me first commend my friend from California, Mr. MOORHEAD and his associate, Mr. DREIER, for having very strong and continuing interest in the welfare of the Immigration Service and specifically the Border Patrol.

Let me just say that I do not oppose the gentleman's amendment. I would like to refresh the memory of the House and to recite for them the fact that our subcommittee and the Committee on Judiciary and the Committee on Appropriations that deals with this subject have collectively not been inadvertent to the needs of the Immigration Service.

I wish to say that there is an annual appropriation of something over $600 million to the Immigration Service which we have over the years authorized and increased. The bill before us, exclusive of the gentleman's proposed amendment, would in fiscal year 1986 authorize $422 million for the Immigration Service. In fiscal year 1987 it would authorize $419 million. So a total of over $800 million for improving Immigration Service activities.

Breaking it down and arraying this money based upon how the Immigration Service currently arrays its money between services and enforcement, my calculations are that we would have $184 million in fiscal year 1986 and another $184 million in fiscal year 1987 devoted to enforcement. A large amount of that, $164 million of it, involved in Border Patrol. Another $20 million in enforcement activities such as investigation.

My point is that the Committee on Immigration and the Committee on Judiciary has not been inattentive and we have not been unmindful of the problems of the Immigration Service and I am proud of my tenure on the committee and my stewardship, I think, has seen a very significant increase in money in the Immigration Service.

My only question is that I have some question about whether the capacity of Glenco, the facility where the Immigration agents are trained and recruited is really large enough to accommodate all these additional men and women.

I do not oppose the gentleman's amendment. I just simply think we have done a good job on our own which I think would be sufficient without the gentleman's amendment. I question whether the capacity to recruit and train is there if this amendment is agreed to. I will not oppose the gentleman's amendment, because it comes from his heart and it comes from that part of the country where, of course, the whole question of illegal entry is a significant problem.

Mr. MOORHEAD. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding me this time.

Mr. Chairman, it is a privilege for me to join with my friend from Glendale as the cosponsor of this amendment. I also would like to compliment the distinguished chairman of the subcommittee for doing what certainly is a very good job on this issue and focusing attention on it.

I am very pleased that he is not opposing the amendment, and I would simply like to make a couple of important points that relate to this issue.

This is an immigration reform bill, but it has become more than that with this amendment. This amendment makes it an antiterrorism bill and an antidrug bill. We have got to realize that while the subcommittee and the full committee have authorized and appropriated certainly an increase, we over the past 5 years have seen a doubling of the flow of illegals across the border.

Over that 5-year period, the committee has actually increased by one-third the total that has been appropriated. While that is certainly a step in the right direction, I do believe that it is not enough.

Mr. Chairman, here in the Capitol we have 1,170 Capitol Police. Unfortunately, along that 2,000-mile border between Mexico and the United States, there are a total of 2,849 agents. I believe that it is critically important if we are to not only address the immigration issue but stem the flow of drugs and turn the corner on this tremendous problem and the threat of terrorism that we do bring about this increase.

Mr. MOORHEAD has appropriately pointed out the tremendous cost that is now imposed on the county of Los Angeles and throughout the country and I do believe that this is a very good amendment and urge my colleagues to support it.

Mr. Chairman, I rise to urge my colleagues to support this amendment to H.R. 3810 offered jointly by Mr. MOORHEAD and myself. Our amendment, which has been introduced separately as H.R. 5385, would authorize a 50 percent increase in Border Patrol above and beyond the provisions already included in the text of H.R. 3810.

As Members with districts so close to the Mexican border, the steady flow of immigrants has affected our area far more seriously and directly than most. Time and again we have heard the facts and figures of how serious the immigration emergency is. And time and again we will continue to hear

that apprehensions are up from over 1.1 million in 1985 to a projected 1.8 million this year. And we will further hear that for everyone apprehended two or three get away. Unfortunately, these figures tend to become incomprehensible numbers to some. But in Los Angeles County we are measuring these figures in more immediate and meaningful terms.

Los Angeles is home to more than 1½ million of these illegal citizens and the legalized children which they have produced. Our local tax bill for providing these individuals social services comes to $200 million annually with the county department of health services alone spending $115 million annually on health care for the more than 600 illegal aliens who occupy beds in our county hospitals. A total of 48,000 children whose mothers are illegal aliens receive $8 million a month from county taxpayers. None of these moneys are reimbursed by the State or Federal Government but are in addition to the Federal funds provided.

Though I generally support H.R. 3810's efforts to address the problem of our open borders, there remains an urgent need within the bill to supplement the ability of the Border Patrol to intercept illegals by increasing the number of agents employed on our southern boundary. Our recent enhancement package of the enforcement apparatus has been successfully implemented according to INS. However, the need and demand for a still greater interdiction effort is clear. The apprehension rate and flow of illegals over the United States-Mexico border has far exceeded the expectations of the enhancement package.

While apprehensions have doubled over the last 5 years, the number of Border Patrol agents have increased by less than one-third during the same period. This year alone, apprehensions are expected to exceed 1.7 million illegals captured. The restrictions which would otherwise be imposed by H.R. 3810 are graduated measures which will take time to implement. The amendment I am offering would provide for immediate increases for the Border Patrol. Additionally my amendment would help to address the growing problem of drug smuggling and threat of terrorism along this border. During 1985, the Border Patrol made 885 narcotic seizures which were valued in excess of $119 million. It is estimated these seizures will exceed 1,200 this year. It is unlikely employer sanctions will do much to curb the drug traffic or terrorists.

Therefore, Mr. Chairman, in order to provide immediate relief from the onslaught of illegal immigration, I urge my colleagues to approve this amendment and beef up our Border Patrol.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from California.

Mr. THOMAS of California. Did I hear the gentleman correctly that there are over 1,100 Capitol Police in this small area?

Mr. DREIER of California. I would say to the gentleman the number is 1,170 Capitol Police.

Mr. THOMAS of California. And that there are only about double that amount on the 2,000-mile border between the United States of Mexico.

Mr. DREIER of California. Exactly.

Mr. THOMAS of California. Are those figures actually correct; you have double checked them?

Mr. DREIER of California. They were provide to me by staff.

Mr. THOMAS of California. That is amazing.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman's statitstics are very revealing indeed and it certainly points up the need for this amendment.

While this bill, hopefully, will help with the problem of illegal immigration, I do not think it is going to do the whole problem. I think it is especially important that we show that we are going to do what is necessary to control our borders.

Mr. DREIER of California. The gentleman is absolutely right. It is in no way a panacea, but at least it is a step in the direction to which we are referring.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from California.

Mr. PACKARD. I thank the gentleman for yielding to me.

Mr. Chairman, it will take 3 years for the effects of this bill, which I totally support, to really change the atmosphere in my district in southern California and in San Diego County.

During that 3 years, our neighbors and our fields and our people are still going to be harassed with the problems we now struggle with. They are caling for increased enforcement from the INS, particularly during the early part when this bill will have little effect and then when the effect comes in, obviously we will not need that much enforcement.

Mr. DREIER of California. I thank the gentleman for his support of the amendment.

Mr. MAZZOLI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me make one last mention. Of course, I think we have got a good amendment here, basically. I do recall a time not too distant when many Members voted for an across-the-board cut in the appropriations for State and Justice, including this particular function of Immigration Service. I would say that it is easy to vote for an authorization, frankly, because money is not connected to it.

I hope that we have the same devotion to improving the plight of the Immigration Service and dealing with immigration reform in the broadest of bases when the next appropriation bill comes out of my friend's committee.

Mr. DREIER of California. If the gentleman will yield, I would simply like to say to the gentleman that I appreciate his going from not opposing the amendment to saying that now it is a good amendment.

Mr. MAZZOLI. I said pretty good.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding me this time.

Mr. Chairman, I will add to BILL THOMAS' astonishment one additional fact. We have more law enforcement presence in this tiny, 104 acres in Capitol Hill at any one time than we have on that entire southwest border.

Mr. DREIER of California. If the gentleman will yield, I have the number here. It is a total of 5,000 right here in the District of Columbia and 2,849 on the border.

Mr. SCHEUER. I am talking just about Capitol Hill. We have more law enforcement in the Capitol Police at any one time than we have on our entire southwest border.

Mr. Chairman, this amendment is essential for our national health and our survival as a nation we know now.

□ 1920

Our borders are out of control. Senator SIMPSON has said it. Many Members of this House have said it. They are leaking like a sieve. We have 2 million illegal immigrants, more or less, coming in every year, in addition to the 6 or 12 million that we have now.

If you look at the demographic statistics, things are going to get much worse, not better, in the years to come, simply because the gap in living standards, the gap in job availability, is going to get much worse.

All of Latin America at the present time needs 4 million additional jobs each year just to stay even with themselves at the pitiful, pathetic levels of roughly 50 percent unemployment and underemployment.

The United States, with an economy 5 times, more than 5 times that of all of Latin America, has never produced more than roughly 3 to 3¼ million jobs. Generally it has been between 2 and 3 million jobs a year.

So Latin America would have to do 10 times as well as they are doing now to provide the jobs that they need. When they do not have jobs, where do

they go? They go north, Mr. Chairman.

Remember, 40 percent of the illegal immigrants who come across the American border with Mexico are not Mexicans; they are Latin Americans who simply transit Mexico looking for jobs.

Mr. Chairman, at any given time no more than 800 Border Patrol agents are guarding our 8,000 miles of international borders.

Despite the best efforts of these overworked agents, illegal aliens are flowing across our borders—particularly our southwest border with Mexico—at an overwhelming and alarming rate.

To put it bluntly, our borders are a sieve. We have lost control of our borders.

One of the basic tenets of a nation's sovereignty is a secure border.

Mr. Chairman, I suggest that given the hemorrhaging that is occurring on our southern border, one could question our Nation's sovereignty.

And the tidal wave of immigrants flowing across our borders—an estimated 2 million this year on top of the 6 to 12 million who are here already—will continue to grow as long as a vast income gap remains between our Nation and those of Latin America.

Consider that Latin America must create 4 million new jobs in each remaining year of this century just to maintain the region's current low rate of employment and underemployment.

It is unlikely that this will occur—given that the U.S. economy, which is 5½ times larger than Latin America's, has never created more than 3.2 million jobs in any one year—even during the halcyon years of the 1970's.

For these reasons I rise in support of the Moorhead amendment to increase the resources for the Border Patrol by 50 percent through fiscal year 1989.

I urge my colleagues to support this effort.

An increase in funding for the Border Patrol is a first step toward regaining control over our borders, but much more needs to be done.

I regret that the House will not have the opportunity to consider the triggered amnesty provision that I proposed along with my colleagues from New Jersey [Mr. HUGHES] and Florida [Mr. SHAW].

This provision would have required a Presidential Commission to determine that our borders were reasonably secured before amnesty for illegal aliens already residing here became effective. Such a provision would help to avoid an explosion of new illegals crossing our borders with the hope of gaining legal status under amnesty.

As written, I am afraid that amnesty will act as a stimulus to an avalanche of further illegal immigration into the United States. The triggered amnesty provision is included in the bill approved by the Senate. Unfortunately, it was amended on the Senate floor to provide that amnesty cannot be delayed for more than 3 years.

Another problem with this legislation is the agricultural guest worker provision. Regretfully, U.S. immigration policy in the past has been driven by agricultural interests and the bill before us today perpetuates that interest and its demand for cheap unskilled labor.

I hope that the guest worker controversy can be worked out in a positive fashion in conference.

Despite these flaws, I intend to support this bill, although I do so reluctantly. This bill is far from a perfect solution, but we've witnessed the price of inaction and that price has grown far too high.

We all are familiar with the societal costs of a porous border: Higher crime rates; increased drug smuggling; undue pressures on our social services; and the very real threat of terrorist penetration.

I view this legislation as a first step toward developing comprehensive immigration reform; immigration reform that truly addresses the need to tighten up our borders.

Experience shows that it probably will take several pieces of legislation to accomplish the goal of a secure border.

Mr. Chairman, when I speak of a secure border, I don't mean a Berlin Wall. I don't support such a barrier and neither do the American people. What is needed is something in between the current deplorable state of our open border and an armed camp.

We need to incorporate more high technology such as remote sensing units and other apparatus to give our Border Patrol personnel the wherewithal to halt the ever-growing numbers seeking freedom and a better way of life in our great Nation.

Taken as a whole, this bill represents our only chance at this time to enact meaningful changes in our outdated immigration laws. In light of the current immigration crisis, we, as responsible Representatives of the American people, must act.

I urge my colleagues to support this bill.

Mr. MOORHEAD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, there seems to be a fairly unanimous view on the fact that the gentleman's amendment is a good statement for the House to be making. Let me point out that this is also amendment No. 7, out of 14. I think we are moving along at a good rate, about 45 minutes ahead of where I thought we were going to be at this juncture.

I do recommend that we accept this amendment and move on. There are a couple more we could accept. There are several that will be controversial, but since everybody is in favor of this one, I hope it can be accepted.

Mr. MOORHEAD. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Moorhead amendment. It is one of the most important amendments in the immigration reform package.

We must regain control of our borders. The Border Patrol agents we currently have are doing all they can to apprehend the thousands of illegal immigrants streaming into our country, but quite honestly, they are being overwhelmed.

The Moorhead amendment, if adopted, would allow the Border Patrol force to be substantially increased in size. This is vital, if we are going to actually slow, and hopefully stop, the influx of illegal immigrants into the United States. I urge my colleagues to vote yes with me and adopt the Moorhead amendment.

Mr. REID. Mr. Chairman, I rise in support of the amendment. There has been much talk recently of using the military to protect our borders. This is not the solution. Vigilante groups who cannot wait for something to be done have taken matters into their own hands and gone to the border themselves. This is definitely not the answer.

However, I share the sentiments of those who see the obvious solution to stopping illegal immigration: we need to put more people on the border to physically stop people from crossing into the United States. It's that simple. We already have the border patrol established for this purpose, but they are sadly undermanned. We currently have one border patrol agent for every four miles of our Southern border. We now expect one border patrol agent to stop a steady flow of aliens along the length of a distance of 70 football fields. That's a difficult task for ten men, let alone one.

Some argue that this will cost money. In fact, this amendment will save money in the long run. We pay millions and millions of dollars every year to house, feed, educate and hospitalize undocumented aliens and their families. I am told 80 percent of all children born in Los Angeles County public hospitals are born to illegal alien mothers—80 percent!

As a member of the Congressional Border Caucus, I am concerned that the border zone is becoming a chaotic no-man's land, a forboding area for the ordinary people who live there, but a fertile breeding ground for drug smugglers and criminals. Sure there are other ways to combat the crisis, and this bill includes many of them. Yet most of these solutions would not be necessary today if we had long ago treated the root cause and not the symptoms of the problem. I urge my colleagues to adopt this amendment to increase the border patrol by 50 percent. It's very simple: if we want to solve this problem, we need to patrol our borders, and to patrol our borders we need an adequate border patrol.

Mr. MOORHEAD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DE LA GARZA: At the end of Part B of title I, insert the following new section (and insert a corresponding item in the table of contents):

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes and the gentleman from New York [Mr. FISH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment offered by the Committee on Agriculture is designed to provide the protections of the fourth amendment to the Constitution to agricultural employers and employees.

Since *Hester* v. *United States* (265 U.S. 57), the Supreme Court has reiterated, on numerous occasions, the doctrine that there is no constitutional protection against search and seizure in an open field. Immigration and Naturalization Service current policy treats agricultural lands as open fields. Consequently, there is now no requirement that INS enforcement officers obtain a search warrant prior to entering a farm or ranch. Thus, there is a double standard currently imposed on the business of agriculture that is not applicable to other types of businesses.

The protections of the fourth amendment provide a basic right of people to be secure against unreasonable searches and seizures. Such constitutional protections are applicable to persons conducting businesses in office buildings and it is not apparent why persons conducting businesses in fields are any less deserving of this basic constitutional benefit.

The committee amendment merely requires that an INS enforcement officer may not enter an outdoor agricultural operation for the purpose of questioning an alien without the consent of the owner or without a search warrant. Let me point out specifically what the amendment does not do: It does not require a warrant in other cases relating to the arrest of an alien who appears to be in violation of the Immigration and Nationality Act and is likely to escape before a warrant can be obtained; it does not address warrantless entry to apprehend those workers committing a felony; nor would the committee amendment prevent INS officers from entering property within 25 miles of our national borders.

This amendment is particularly important to the agricultural community because it will ensure that, in the future, unlike the past, farming operations will not be disrupted by broad-scale, random raids. Work stoppages are very costly to the farmer, especially when crops need harvesting in a timely manner. Additionally, the Committee on Agriculture has learned of numerous cases in which agricultural employers and employees have been unduly harassed by INS enforcers to the extent that some workers and, in some instances their children, have had their lives jeopardized.

Based on data available to the U.S. Department of Labor, it is estimated that most of the 2 to 5 million undocumented aliens in this country are in the labor market. Since, according to the Attorney General, only 15 percent of these aliens work in agriculture, it is obvious a majority of these aliens are employed in other businesses. Yet, agriculture is receiving the lion's share of INS raids. For example, of the 110,000 undocumented workers apprehended by the INS last year, 72 percent were employed in agriculture. It is clear to the committee that farmers and ranchers and their employees are receiving a disproportionate share of INS scrutiny and that INS is focusing its search and seizure activities in a business which is the easiest to access, the one business that requires no search warrant.

Two provisions of H.R. 3810 should deter hiring of undocumented aliens. H.R. 3810 makes it unlawful for any person or entity, including a farmer, to hire an unauthorized alien. Stiff penalties are imposed for each alien hired in violation of the act. Furthermore, the employer sanctions provisions of H.R. 3810 require that employers, including farmers, complete certain paperwork requirements verifying that their employees are eligible to work in the United States. Employers, including farmers, are subjected to severe penalties for each individual involved if they violate this section of the bill. Employers, including farmers, are required to retain these verification forms which are to be made available to the INS for such period as the Attorney General specifies in regulations.

The Committee on Agriculture feels very strongly that these provisions, coupled with the bill's authorized increase in the border patrol and other INS enforcement activities to prevent the illegal entry of illegal aliens into the United States, eliminates the need for warrantless entry on agricultural lands in the future.

The employer sanctions provisions were designed to ensure that employers of all businesses be treated equally if they employ undocumented workers. Likewise, the Committee on Agriculture amendment would treat equally the INS search warrant requirement for the business of agriculture as well as all other types of businesses.

The House has previously indicated its desire to equate the search warrant provisions to all businesses. On June 13, 1984, the House, in considering H.R. 1510, upheld a Judiciary Committee amendment restricting warrantless entry on agricultural lands. The vote to strike that amendment was rejected by a substantial margin of 133 to 285. Further, the Committee on Agriculture amendment is identical to that approved by the House-Senate conferees in the last Congress, and it is also identical to that contained in H.R. 3810 as introduced by Chairman RODINO of the House Judiciary Committee.

The amendment is supported by farm, civil liberties, and other organizations including the National Council of Churches. I strongly urge its support by the House.

Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the subcommittee.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the gentleman's amendment. I think it makes a very healthy change in the bill.

I know that it seems to me logical and symmetrical to say that if you have a search warrant to enter some kind of a factory or some sort of a shop, that there ought to be a search warrant required before someone would enter somebody's clothes, somebody's fields. I think that this would be a suitable addition, and I support the gentleman's amendment.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, the effect of adopting this amendment is to completely exempt agriculture from employer sanctions, because requiring a warrant for the Immigration Service to go into an open field will be so cumbersome and so procedurally difficult that there will be no open-field arrests of illegal aliens who are working in the fields.

Very frankly, I think that this bill is very generous to agriculture. With the Schumer provisions, the streamlined H-2 provisions, I do not think with these two provisions we ought to have this open field search warrant provision.

Let us look at how this would work out practically. If the Immigration and Naturalization Service suspected that there were illegal aliens working in the field, they would have to go get a warrant from the United States magistrate. To do that, they would have to find out who the owner or the lessees

of the field were. That would require a title search, and in States were leases are not recorded, it would be practically impossible.

But even if they did get the field particularly described and the owner's name put on the warrant, when the Immigration Service people show up, the illegal aliens could simply scamper across the fields to the next adjoining plot of land, which was not covered by the warrant, and then the INS would be thwarted.

Finally, there are humanitarian aspects to this. The border patrol has indicated that in the Yuma, AZ, District, in the desert where it gets cold at night, there were several illegal aliens that were picked up who were lost in the desert. With the search warrant provision, they would not be able to go into the desert to find these illegal aliens and apprehend them and probably save their lives.

The Committee on the Judiciary, by an overwhelming vote, struck the search warrant provision from the Rodino bill, and it is one of the few instances where the gentleman from Massachusetts [Mr. FRANK] and I teamed up on the same side. I think there are civil libertarian implications to this, as well as the fact that we should not be exempting agriculture effectively from employer sanctions.

I would urge this amendment be defeated.

Well, if we leave this section in the bill, we won't need the program because the net effect will be to exempt agriculture from employer sanctions because a search warrant must be obtained before INS could enter a field. Employers will be able to hide in "plain view" aliens who are unlawfully in the United States.

The Detroit sector of the Border Patrol covers the States of Michigan, Ohio, Indiana and Illinois with a grand total of 18 agents. How are they going to effectively run a check, obtain a warrant, and execute the warrant say in southern Illinois or Ohio in a timely and cost effective manner? They aren't and we all know it. So it's no wonder agriculture wants this section left in the bill.

Who else might want this section to remain? Certainly smugglers would—and those who profit from their illegal activities would. How often have we heard or read about literally tons of illegal drugs smuggled across our borders in planes? Quite frankly, I don't know of a single instance where the pilot has radioed ahead to notify the Border Patrol which small air strip or pasture they would be landing in and how long they will be there so the Border Patrol could obtain a warrant. And perish the thought if this happens outside of "normal" business hours. Because, in certain areas, the magistrates aren't available after hours or on weekends, others will not issue warrants by phone, while some magistrates are up to 200 miles apart.

An open field is not the same as an enclosed building with limited exits. If a raid is performed in a building, the exits can be monitored to apprehend any who might try to escape. How do you monitor an open field, particularly when the next field over is owned by someone else who wouldn't be covered by the newly obtained warrant? Do we tell them, "Wait there until I get a new warrant?"

The administration of this section would be a nightmare. Leasing and subleasing of agriculture lands is a common practice. The Border Patrol doesn't have the manpower or resources to spend the time necessary to track owners or agents to obtain a warrant. With fewer Border Patrol agents than Capitol Hill Police, why are we doing everything in our power to make their jobs more difficult? As recently as 1984, the Supreme Court ruled that the requirement for a search warrant does not apply to open fields. Why are we trying to change that?

Then there is the human element. How many lives is this requirement for a search warrant going to cost? There is a 25 mile free zone along the border where the warrant provision will not apply. If you were a coyote smuggling illegals into the United States, or a terrorist sneaking in to avoid detection, once you hit that 25 mile line, you know you'd be home free, because after that the authorities would need a warrant to apprehend you. I don't have any doubts that a terrorist would be physically fit to cover 25 miles in the night. But, what about the people who pay a coyote? Is the coyote who has been already been paid going to slow down his entire group and risk capture if one or two can't keep up? Or is he going to keep up the pace and abandon the stragglers? Saying the requirement could cost lives is not an exaggeration. As an example, every year the Yuma, Ar sector is called upon to track people stranded in the desert where the temperatures can reach 125–130 degrees. How long can someone survive those conditions? And we, in effect, are telling the Border Patrol, "Get a warrant first." As the handout shows, they are not always successful. However, failure to adopt my amendment will cut their rescue ratio down dramatically. I don't want that on my conscience, do you?

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, this is an amendment that I offered in the Committee on Agriculture and that was approved by the Committee on Agriculture, because it requires, in line with the fourth amendment protections in the Constitution, that a warrant be provided before the INS enter an agricultural operation.

The provision was part of the bill that was developed 2 years ago in the House. It was agreed to in the conference, and it was part of the bill that was originally introduced by the gentleman from New Jersey [Mr. RODINO] and the gentleman from Kentucky [Mr. MAZZOLI].

The provision is supported by a broad coalition of farm groups, labor groups and, again, civil rights groups that consider this provision to be an important one. Why? Why? Because it is right. It is right legally because we do have a fourth amendment that prohibits the unlawful search and seizures.

That right applies to businesses; it applies to industries; it applies to homes; it applies to citizens. There is one area it does not apply to, to American farmers and American farms.

Surely that double standard ought to be ended.

Second, it is right from an enforcement point of view. We are now applying sanctions to farmers. This bill will apply sanctions to farmers. Therefore, they will be obligated to follow the law with regard to the hiring of undocumented. Surely we ought to require the INS to establish probable cause if they are going to enter property and seek out a search warrant based on probable cause.

The reality is that today when they conduct a raid, they conduct it based on probable cause because they know that that is where they are going and that is where undocumented aliens are known to be. So there is nothing that we are applying here that is very different in terms of probable-cause requirements on the part of the INS.

Last, it is right from a human point of view. Right now, they conduct random raids at whim. It is not only disruptive in terms of the farm operations; it jeopardizes the lives of the workers.

Only a few weeks ago, a worker in my area, during a raid, died as a result of an effort to escape that raid.

□ 1930

There is no reason why we should not require a search warrant in these operations. It is right legally. It is right from an enforcement point of view and it is right from a human point of view. Get rid of this double standard. Support this amendment.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, under the provisions of this bill, a farmer and all other employers will be able to get all the help they need legally and there will be no reason for them to hire illegal aliens under the provisions of this bill.

Therefore, the search and seizure requirements should be no different than they are for homes or any other entity.

I totally wish to associate myself with the gentleman in the well in support of the amendment.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of this amendment.

I would like to point out to my colleagues that this will not prevent any law enforcement agency from entering property within 25 miles of the border.

It would not prevent legitimate hot pursuit of persons that they believe are violating the law and they have the right to inquire as to their status; but what it does do is protect the integrity of a very important industry in the State of California, and I suspect other States in the Union, for those business people who have invested in some cases a lot of their net capital worth in an annual crop that comes due in the form of ripening and eating harvest in one particular season in a very narrow window of time.

The data indicates very clearly that the percentage of the time of law enforcement in making arrests in open fields in agriculture is far greater than the percentage of time of INS agents arresting or inquiring in factories.

Now, that just is not right. It is what you might call cherry picking.

Open fields are entitled, the business of an agricultural interest in an open field is entitled to the protection of our law against unreasonable searches and seizures, and that is all this amendment does.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from Los Angeles, CA.

Mr. BERMAN. Mr. Chairman, let me ask the gentleman if he would support a good-faith exception to the search warrant requirement?

Mr. DANNEMEYER. Good-faith exception, is the gentleman offering that?

Mr. BERMAN. No; I just was wondering what the gentleman's position was on the issue.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman would care to offer it, if it is in order, we might consider it.

People who are in the argicultural business in my county, in Orange County, are involved in the strawberry business and they come to me and tell me that in those instances where their crops are ripening and needs to be harvested, they are being interfered with by the INS coming into their fields, and this would merely require a search warrant.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, this answers a very important question. When we were debating the drug bill, some people wanted to know where were all the civil libertarians? Well, it turns out they were in the open fields trying to protect the poor farmers against raids of all these terrible people.

Mr. Chairman, I hope the amendment is defeated.

A search warrant is to protect your legitimate interest in privacy. There are things which people have a right to do in this country, in my judgment, for which they can expect privacy; but I think we ought to advise them not to do it in open fields. At least if they are going to do it in open fields, they ought not to be surprised if their privacy is not fully there.

We have dealt with the Immigration Service here and they say this is a very serious problem in their ability to enforce immigration laws, drug laws, laws against exploitation of individuals.

Privacy means if you have got a confined space that people do not break in on it.

The Supreme Court has recently ruled, by the way, that this search warrant is not required in these kinds of circumstances. If this amendment passes and we require a search warrant here, understand that these agricultural growers will be the only people in America entitled to search warrant protection in this area. Other people who have backyards and homes, they will not be covered.

We are talking here about an essential law enforcement tool.

Mr. PANETTA. Mr. Chairman, will the gentleman yield? The gentleman is not correct.

Mr. FRANK. Mr. Chairman, if the gentleman will yield me some of his time, I will be glad to respond.

The Supreme Court recently said that you do not have a search warrant requirement in other areas; so if you are doing it just to the agricultural growers, people do not have it in their backyards and elsewhere.

The gentleman tells me this one is across the board. It is a different one than in the committee, and I apologize.

The question remains, however, whether the important concept of protecting privacy is one that makes sense in open fields. What you are talking about is making it virtually impossible to enforce the law against the hiring and exploitation of illegals, because if you have got to go and get the search warrant, by the time you show up in the open fields, the law of violation will not be there.

We are not talking about rummaging through people's homes. We are not talking about breaking into their offices. We are talking about their wide open fields and if they have a privacy right there, it is a brand new right to be private out in the open.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. PACKARD. One of the primary industries in my area, in coastal San Diego County, is the glass house flower industry, which is in an enclosed area. That would be considered under this bill as an open field. They are right within the neighborhoods of our homes, and what would you do?

Mr. FRANK. I would say to the gentleman that people who live in glass houses should not break laws.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the amendment offered by my friend and colleague, the gentleman from Texas.

It seems almost incredible to me that we have to have an amendment on this floor to insert in this bill a basic American right, and that is the protection from unreasonable and warrantless search of private property by the Border Patrol.

In no way will this amendment hamper the Border Patrol in the legitimate pursuit of its business. It merely requires that before they come on to someone's farm, and that may be 5 acres, it may be 1 acre, it may be 200 acres, it may be more; it merely requires that they meet the same basic tenet of having a reason to be there and go to court and get permission to come there as they would have to go to any other workplace in this country. That is all the amendment does.

At the present time, this is not in effect and what we have got in California is a situation where the Border Patrol runs rampant with undue harrassment, causing undue work stopages, physical damage to crops, and the people who are victims and in many, many instances, have actually arrested people, detained people who are innocent, who are merely Hispanics working on a farm and were stopped because they did not happen to have proper documentation. They did not have proper documentation because they were bonifide Americans.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I think the question is today how much are we going to do for California growers? We are already going to make people citizens basically, so they will have a work force, and then they come to us and ask us to ignore the Immigration Service, to ignore our law enforcement agencies and insert into the law something that has never been there before at any time in our history and that is a requirement that an open field not be searched unless there is a warrant. Those open fields have no such protection at the present time and they have never had that kind of protection at any time in our history.

This is a major, radical step, to protect California growers. I simply ask, how far are we going to go?

Let us not get in the way of law enforcement again. Let us not get in the way of the Border Patrol and the INS. They have asked us not to do this.

I urge you to vote against this amendment. We have never offered

this protection before. It is not needed and it will be a barrier to law enforcement.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding this time.

Let us take just a minute and think about what we are doing. We are saying that in order for the law enforcement community, the Border Patrol and other law enforcement agencies, to be able to go in open fields, they have to have a search warrant. They have to track aliens and smugglers sometimes as much as 50 miles inland. After 25 miles, this amendment would require them to go and get a search warrant. Where would they go? Sometimes they have to travel 100 miles to get a search warrant.

Do you think that the aliens and the smugglers and the dope peddlers are going to wait while you in fact go in and get a search warrant? It does not make sense.

In the first place, it would be hard to describe the property that you want to search, because they move from field to field. They would have to go into the county clerk's office and determine the location of the smugglers or the aliens, and that is not an easy task to do.

Now do you identify what parcel they are on so you can get a search warrant? You have to be specific insofar as the lands where these individuals are located.

Now, if you really want to hamstring the Border Patrol, support this amendment.

We are arresting 3,000 aliens a day. Every 20 seconds we arrest an alien. We have so many aliens in our holding tanks that we have to close down the operation every month because we do not have enough space to hold the aliens.

Thirty-two percent of our cocaine is coming across the southern border today, 32 percent.

Eighty countries are now coming across our borders. The word is out. If you want to come across into the United States, come through Mexico, because it is an open border. It is a sieve.

If you really want to make it difficult for an overburdened, overworked, understaffed Border Patrol, support this amendment. It does not make sense. It does not make sense to handcuff our law enforcement community like this amendment would do.

Mr. DE LA GARZA. Mr. Chairman, I yield myself 30 seconds, just to correct the wrong perception that I have witnessed, and I say it very respectfully, of the nature of the amendment.

If we read the amendment, we would know that it does not apply within 25 miles of the border.

If we read the amendment, we would know that it is not limited solely to California.

If we read the amendment, we would know that it is not limited solely to aliens.

I am talking about American citizens working in a field. I am talking about resident legal aliens, it is not aimed, nor is it our intent to protect illegality—we just want equality in the application of the law.

Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding this time and for making his points of clarification.

Also, these warrants can be obtained by telephone, which is a very standard procedure and should continue, so it would not hamper law enforcement from doing its job.

Mr. PANETTA. Mr. Chairman, will the gentleman yield just very briefly?

Mr. MORRISON of Washington. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

Let me also make clear that this would allow for continuing searches and seizures when it comes to every other violation. The drug situation has been raised here. Frankly, it has distorted the issue, because the only time we require search warrants in this instance is when it involves immigration violations, and nothing else.

Mr. MORRISON of Washington. That is precisely the case. I appreciate the gentleman making that point.

Let me give you these numbers. Statistics show that only 15 percent of illegal workers work in agriculture, yet currently 72 percent of the apprehensions that are made of illegal workers in the United States are in agriculture. Very clearly, this is a distortion of the protections that are provided in the laws of the United States.

Let us pass this amendment as proposed by the Agriculture Committee and provide for equity for farmworkers, as well as farmowners.

Mr. FISH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have been told that this amendment would not apply within 25 miles of the border. That is absolutely correct. The Border Patrol agents would have to stop when they reached the 25-mile limit and get a search warrant.

What we are talking about here is smugglers dropping off their load of illegal aliens just below border check points, for the simple reason they know where these are, and without the ability to track and apprehend these aliens, border enforcement is rendered almost useless.

With respect to the law, the current practice with regard to entry of INS officers on open lands without a warrant is supported by the U.S. Supreme Court decisions in Hester, Katz & Oliver.

I think the question is, Do we want tonight to help law enforcement? The administration opposes this amendment. The Commissioner advises me that it would drastically impair the ability of the INS to enforce our immigration laws.

Mr. Chairman, I think we need stronger rather than weaker enforcement by requiring a warrant for entry. It would vitiate the basic thrust of the Immigration and Control Act.

□ 1945

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, let me make three or four very important points, and make them quickly.

First, the search warrant which the gentleman's amendment would insert is in the bill in the other body.

Second, I believe that the theory of hot pursuit would permit in most cases the INS to pursue in the event they are on some drug or some other activity; they would not have to worry about the search warrant.

Third, the INS does need enforcement tools, and we are giving them for the first time in history employer sanctions. The most profoundly influential tool that they could have is what we are giving them in this bill. They do not now have it; they will get it if this bill passes.

Last, in the amendment that we just adopted, offered by the gentleman from California [Mr. MOORHEAD], we have in 2 fiscal years, if the money is appropriated, doubled the size of the Border Patrol. It seems to me that that would be sufficient from the enforcement standpoint, because we do need enforcement of the immigration laws.

I submit that it is fair and equitable and proper for farmers, for agricultural interests, to have the same protection that any other U.S. citizen has, which is that the gendarmes do not come in without a search warrant.

Mr. DE LA GRAZA. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I rise in support of this amendment that the gentleman from California [Mr. EDWARDS] and I got in the bill last time in our committee. It does not deal with people involved in any other activity except immigration. The whole point is to try to get an equal application of the law in agriculture and nonagriculture. It is not necessarily to

protect agriculture, but also to make sure that if the INS is going to enforce the law, they are going to enforce the law in factories as well as on open fields.

It is to be distinguished from other activities, illegal activities taking place in open fields or anywhere else. It has nothing to do with law enforcement in other areas. I want to make that very, very clear.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the de la Garza amendment. In the Los Angeles region of INS there is a gentleman who I think exploits his opportunities through arbitrary and capricious use as Director of that region to raid employers for purposes of publicity, causing havoc to many legal workers in this country and in that particular area.

A requirement, a simple requirement that probable cause exists before the INS moves onto a particular piece of property is very justified. I urge an "aye" vote.

Mr. DE LA GARZA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I appreciate the chairman of the subcommittee, the gentleman from Kentucky accepting and agreeing with our committee. This amendment is solely to give to all citizens the right to be free from unreasonable search and seizure. That is all that we do. We ask for equity, we ask for justice, we ask for equality, and we ask for an "aye" vote on the amendment.

Mr. MARLENEE. Mr. Chairman, I rise in strong support of this amendment. Currently, INS agents must obtain a warrant before entering any place of business with the exception of farms and ranches. This exception must be eliminated immediately—which is exactly what this amendment does. Farmers and ranchers should be afforded the same protection that every other businessman enjoys under the fourth amendment of our Constitution which guarantees protection from unreasonable searches and seizures.

Although less than 15 percent of all employed illegal aliens are currently working in agriculture, an astounding 50 percent of undocumented workers picked up by INS agents in the interior of the country are captured while working in agriculture. The lack of a search warrant requirement has produced this heavy-handed harassment on our farmers and ranchers.

Warrantless searches in agriculture are both arbitrary and discriminatory. They discriminate against ranches and farms and their employees. They severely disrupt farm and ranch operations, resulting in thousands of dollars in lost crops and man-hours annually.

This is a matter of simple equity to agricultural property owners and a matter of civil rights to both farmers and farmworkers.

The amendment has been carefully drafted so as not to interfere with enforcement in the border area nor with hot pursuit. It does not apply to nonagricultural open fields and thus is not likely to interfere in any way with illegal drug enforcement as has been charged.

These warrantless searches are the only type of gestapo-police-state activity of this kind allowed in the United States and must be stopped. I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DE LA GARZA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 170, not voting 41, as follows:

[Roll No. 453]

AYES—221

Abercrombie	English	Lungren
Akaka	Evans (IA)	Mack
Anderson	Evans (IL)	Madigan
Annunzio	Fascell	Manton
Archer	Fazio	Marlenee
Armey	Fiedler	Martin (IL)
AuCoin	Fields	Martinez
Badham	Foglietta	Matsui
Barnes	Foley	Mazzoli
Bartlett	Ford (TN)	McCain
Bates	Fuqua	McCandless
Bedell	Garcia	McDade
Bellenson	Gaydos	McKernan
Berman	Gejdenson	Mikulski
Bilirakis	Gibbons	Miller (CA)
Bliley	Gingrich	Mineta
Bonior (MI)	Glickman	Monson
Bonker	Gonzalez	Moody
Borski	Goodling	Moorhead
Bosco	Gray (IL)	Morrison (CT)
Boucher	Gray (PA)	Morrison (WA)
Boulter	Gunderson	Mrazek
Boxer	Hall (OH)	Murtha
Brown (CA)	Hall, Ralph	Natcher
Brown (CO)	Hammerschmidt	Neal
Bruce	Hansen	Nielson
Burton (IN)	Hatcher	Oakar
Callahan	Hawkins	Obey
Carr	Hertel	Olin
Chandler	Horton	Packard
Chappie	Howard	Panetta
Cheney	Hoyer	Pashayan
Clay	Hubbard	Penny
Clinger	Huckaby	Pepper
Cobey	Jones (NC)	Perkins
Coble	Jones (OK)	Pickle
Coelho	Jones (TN)	Price
Coleman (MO)	Kastenmeier	Rangel
Coleman (TX)	Kemp	Ray
Combest	Kildee	Richardson
Craig	Kleczka	Ridge
Crane	Kolbe	Ritter
Dannemeyer	Kostmayer	Roberts
Daschle	Kramer	Rodino
Davis	Lagomarsino	Rose
de la Garza	Lantos	Rostenkowski
DeLay	Latta	Roybal
Dellums	Lehman (CA)	Savage
Derrick	Lehman (FL)	Saxton
Dicks	Leland	Schaefer
Dingell	Levine (CA)	Schroeder
Dixon	Lewis (CA)	Schuette
Dornan (CA)	Lewis (FL)	Schumer
Downey	Lloyd	Seiberling
Dreier	Loeffler	Shumway
Durbin	Long	Sisisky
Dymally	Lowery (CA)	Skeen
Dyson	Lowry (WA)	Slattery
Eckart (OH)	Lujan	Slaughter
Edwards (CA)	Luken	Smith (IA)
Emerson	Lundine	Smith, Denny (OR)
Smith, Robert (OR)	Taylor	Wheat
Snowe	Thomas (CA)	Whitehurst
Spratt	Thomas (GA)	Whitley
Stallings	Torres	Whitten
Stangeland	Towns	Williams
Stenholm	Traficant	Wirth
Stokes	Udall	Wolpe
Strang	Vander Jagt	Wright
Studds	Waldon	Wyden
Stump	Walker	Young (AK)
Sweeney	Watkins	Young (FL)
Swift	Waxman	Zschau
	Weaver	
	Weber	

NOES—170

Ackerman	Gradison	Pease
Alexander	Green	Petri
Andrews	Gregg	Porter
Anthony	Guarini	Pursell
Applegate	Hamilton	Quillen
Aspin	Hayes	Rahall
Atkins	Hendon	Regula
Barton	Henry	Reid
Bateman	Hiler	Rinaldo
Bennett	Holt	Robinson
Bentley	Hopkins	Roe
Bereuter	Hughes	Roemer
Bevill	Hunter	Rogers
Biaggi	Hutto	Roth
Boehlert	Hyde	Roukema
Boner (TN)	Jacobs	Rowland (CT)
Broomfield	Jeffords	Rowland (GA)
Bryant	Jenkins	Sabo
Bustamante	Johnson	Scheuer
Byron	Kanjorski	Sensenbrenner
Carney	Kennelly	Sharp
Carper	Kolter	Shaw
Chapman	LaFalce	Shelby
Coats	Leach (IA)	Shuster
Collins	Lent	Sikorski
Conte	Levin (MI)	Siljander
Cooper	Lightfoot	Skelton
Coughlin	Lipinski	Smith (FL)
Courter	Livingston	Smith (NJ)
Coyne	Lott	Smith, Robert (NH)
Darden	MacKay	Snyder
Daub	Martin (NY)	Spence
DeWine	Mavroules	St Germain
Dickinson	McCloskey	Staggers
DioGuardi	McCollum	Stark
Donnelly	McGrath	Stratton
Dorgan (ND)	McHugh	Sundquist
Dowdy	McKinney	Swindall
Duncan	McMillan	Synar
Dwyer	Meyers	Tallon
Early	Michel	Tauzin
Eckert (NY)	Miller (OH)	Torricelli
Erdreich	Miller (WA)	Valentine
Fawell	Moakley	Vento
Feighan	Molinari	Visclosky
Fish	Mollohan	Volkmer
Flippo	Montgomery	Vucanovich
Florio	Murphy	Walgren
Ford (MI)	Myers	Whittaker
Frank	Nelson	Wilson
Franklin	Nichols	Wise
Frenzel	Nowak	Wolf
Frost	Oberstar	Wortley
Gallo	Ortiz	Wylie
Gekas	Owens	Yatron
Gilman	Oxley	Young (MO)
Gordon	Parris	

NOT VOTING—41

Barnard	Gephardt	Mitchell
Boggs	Grotberg	Moore
Boland	Hartnett	Rudd
Breaux	Hefner	Russo
Brooks	Hillis	Schneider
Burton (CA)	Ireland	Schulze
Campbell	Kaptur	Smith (NE)
Chappell	Kasich	Solarz
Conyers	Kindness	Solomon
Crockett	Leath (TX)	Tauke
Daniel	Markey	Traxler
Edgar	McCurdy	Weiss
Edwards (OK)	McEwen	Yates
Fowler	Mica	

□ 2005

The Clerk announced the following pair:

On this vote:

Mr. Barnard for, with Mr. Mica against.

Messrs. DOWDY of Mississippi, SUNDQUIST, JACOBS, and HUNTER changed their votes from "aye" to "no."

Messrs. CHAPPIE, HAWKINS, SWEENEY, McCANDLESS, SAVAGE, ARMEY, and HUNTER, Ms. FIEDLER, and Messrs. STUDDS, BONIOR of Michigan, FIELDS, CHANDLER, RALPH M. HALL, and BONKER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GONZALEZ of Texas: In section 121(a)(2), insert the following new subsection:

"(c)(1) In the case of any family in which any member is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of the paragraphs (1) through (5) of subsection (a), the restriction established in subsection (a) shall not apply to—

"(A) the continued provision of any financial assistance commenced before the date of the enactment of the Immigration Control and Legalization Amendments Act of 1986;

"(B) the provision of any financial assistance pursuant to a conversation from any other financial assistance; or

"(C) the provision of any financial assistance to an individual displaced from a dwelling as a result of an activity of the Federal Government or an activity approved or assisted by the Federal Government.

"(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn; and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien."

In section 121(a)(2), in section 214(d)(2) of the Housing and Community Development Act of 1980, insert after "States" the following: "and is not 62 years of age or older."

In section 121(a)(2), in section 214(d)(4) of the Housing and Community Development Act of 1980, insert after "States" the following: "and is not 62 years of age or older" and insert "or recertification" after "application".

In section 121(a)(2), in section 214(d)(4)(A)(i) of the Housing and Community Development Act of 1980, insert after the comma the following: "or to appeal the verification determination of the Immigration and Naturalization Service under paragraph (3),".

In section 121(a)(2), in section 214(d)(4)(B) of the Housing and Community Development Act of 1980, amend the matter before clause (i) to read as follows:

"(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

In section 121(a)(2), in section 214(d)(4)(B)(i) of the Housing and Community Development Act of 1980, insert "or additional information" after "documents".

In section 121(a)(2), in section 214(d)(4)(B)(ii) of the Housing and Community Development Act of 1980, insert "or appeal" after "verification".

In section 121(a)(2), and the end of subsection (d) of section 214 of the Housing and Community Development Act of 1980, insert the following new paragraph:

"(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) Not later than 45 days after the date of the request of the individual for a hearing, the Secretary shall notify the individual in writing the decision of the hearing officer on the appeal of the determination.

In section 121(a)(2), amend the last sentence of section 214(d) of the Housing and Community Development Act of 1980, to read as follows:

For purpose of this subsection, the term "Secretary" means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

In section 121(a)(2), in section 214(e) of the Housing and Community Development Act of 1980, insert "of Housing and Urban Development" after "Secretary".

In section 121(a)(2), in section 214(e)(2) of the Housing and Community Development Act of 1980, insert after "(d)(4)(A)(ii)" the following:

(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Control and Legalization Amendments Act of 1986)

In section 121(a)(2), in section 214(e)(3) of the Housing and Community Development Act of 1980, insert after "(d)(4)(B)(ii)" the following:

(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Control and Legalization Amendments Act of 1986)

In section 121(a)(2), in section 214(e)(4) of the Housing and Community Development Act of 1980, insert after "(d)(5)(B)" the following:

(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Control and Legalization Amendments Act of 1986)

Amend paragraph (6) of section 121(b) to read as follows:

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a), as amended by subsection (a)(3) of this section, if further amended by adding at the end the following new subsection:

"(f) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Control and Legalization Amendments Act of 1986).".

In section 201(a)(1), in section 245A(h)(2) of the Immigration and Nationality Act, strike out "or" at the end of subparagraph (A), strike out the period at the end of subparagraph(B) and insert in lieu thereof ", or", and add at the end the following new subparagraph:

"(C) in the case of financial assistance subject to section 214 of the Housing and Community Development Act of 1980, unless such financial assistance would be available solely on the basis of the granting of temporary or permanent resident status to an individual (or to another member of the family of such individual) under subsection (a) or (b)(1) of this section.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 5 minutes and the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is one of the amendments recognized in the rule and therefore for that reason is in order, and it is the identical amendment that the House adopted when it considered and approved by overwhelming vote H.R. 1, the Housing Authorization and Community Development Act of 1985.

It was also part of the sequential referral on the part of the Committee on the Judiciary to the Committee on Banking, Finance and Urban Affairs, and which was incorporated in the rule originally provided, and in the bill that had been attempted to be brought up a week ago.

What it does, it provides a recognition of the fact that we have complicated situations in which families

living in—simply put, it assures a family having one member, at least, a citizen of the United States, afforded the privilege to continue the housing allowance that they have been allowed to in assisted housing programs.

In other words, what this does in the few instances that this happens but which nevertheless we are very sensitive about, provides a fair play and avoids throwing out entire families into the street with young children simply because of the presence of one member of the family who may not be a citizen of the United States.

It received an overwhelming vote in full debate during consideration of the housing authorization bill, and then it was also accepted by the Judiciary Committee in its bill, this last version, and as a sequential referral from the Housing Committee.

Mr. Chairman, I reserve the balance of my time.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment. I think the intent of the sponsor is sensible and his motives are humane, in attempting to unify and reunify families; but I think that there is a major flaw in this amendment which I would like to call to the attention of the House.

If I understand the thrust of the gentleman's amendment, it would provide that families living in subsidized public housing could not be required to verify their immigration status if any member of the family is a citizen of the United States, a national of the United States, or an alien resident of the United States.

I think the gentleman from Texas [Mr. GONZALEZ] would agree with me that if a couple, for instance, would come into the United States illegally and falsify an application for public housing, that those people should, upon the discovery of that falsification, be at least penalized and perhaps evicted.

If the gentleman's amendment passes, the following could occur. A group, a family could come into the United States, apply for public housing, falsify their citizenship status, move into the public housing, and before they are discovered as being illegal, a child would be born to them.

That child, being born on the soil of the United States, is an American citizen. The fact that a citizen then resides in the household would preclude the housing authorities from verifying the immigration status of the parents.

So we have a situation where a falsification of an application, a clear act of fraud, has been condoned by virtue of an act of birth. I think that that goes far beyond what we need to have in this legislation; I would also advise the Congressman from Texas that this amendment passed in the housing bill by a voice vote; there was no record vote taken.

I oppose the amendment, and I would be glad to yield to my colleague.

Mr. GONZALEZ. Mr. Chairman, the gentleman is misinterpreting the thrust, the content, and the wording of the bill.

In the first place, it is against the law for an applicant who is an alien to be admitted to public housing. So that the gentleman, from the very outset in his interpretation of the amendment, clearly reveals that he does not understand the thrust of the wording of the amendment.

□ 2015

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. I thank the gentleman for yielding.

I would say to my friend and colleague from Texas I am talking about the circumstance where a person would falsify their citizenship status in order to obtain public housing. If the amendment of the gentleman passes, the public housing authorities could not evict that person because the child has been born to them who is now a citizen of the United States and lives in their household.

Mr. GONZALEZ. Will the gentleman yield back to me?

Mr. DURBIN. I will be happy to.

Mr. GONZALEZ. In the first place, if the applicant falsified his application, he is, ab initio, illegally occupying the housing. He cannot continue.

Mr. DURBIN. What the gentleman's amendment does is preclude the housing authority from verifying the citizenship status.

Mr. GONZALEZ. No.

Mr. DURBIN. That is what section 121 refers to.

Mr. GONZALEZ. No, sir. I recall my time in order to say the gentleman is quite incorrect. There is nothing that prevents any housing authority from verifying the status of any of its occupants.

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LUNGREN asked and was given permission to revise and extend his remarks.)

Mr. LUNGREN. Mr. Chairman, the gentleman from Illinois is precisely correct. It is one of the major problems of this amendment. Let me just say what the situation is in southern California. In southern California, in Los Angeles County, 70 percent of the live births in the public hospitals are to women who are here illegally. What this amendment says is "if you happen to get across the border, if you were here illegally and had a child here," and in 70 percent of the births in Los Angeles public hospitals that is the case, "you get public housing. You can base it on that child." I do not want to penalize that child against everybody else, but the point is we have a limited amount of public housing.

In this Congress several years ago, 1981, we asked HUD to develop regulations to restrict housing to those who are eligible. Here what we are doing is turning around and saying that we really did not mean that. Here is a loophole in the law. Here is the way to get around it. This ought not to be in this bill, it ought to be in the housing bill. Take care of it in the housing bill. Let us debate it there. Let us take care of the nuances. Do not put it here, do not make this loophole.

Particularly in areas of the country where 70 percent of the live births are to women who are here illegally, what you are doing is saying, "Not only can you have your child here but we are going to provide housing for you here at taxpayers expense." There is not enough housing for Americans, there is not enough housing for legal aliens here because some of these people will be eligible for it. We are not in a total environment of infinity, we are in a finite environment.

I would say let us put taxpayer housing where we said in 1981 it ought to be.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN, I yield to the gentleman from California.

Mr. PACKARD. I thank the gentleman for yielding.

Mr. Chairman, in one local community hospital in my district it cost them over $100,000 of uncollectible bills for illegal women coming over the weekends to have their babies in that hospital. You can imagine what it will cost to provide them housing after they have already provided, at taxpayer expense, the cost of having the babies here.

Mr. LUNGREN. Mr. Chairman, I would ask for a "no" vote on this amendment.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 2 minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I would like to take this time to at least try to put everything in its true perspective. First of all, the people who are now in public housing and without documents are there because, first of all, they needed housing. At the time they went into public housing they complied with the law as it existed at that time. It was sometime later that the Congress of the United States passed a law that asked them to leave, but that law was never implemented and that was 5 years ago.

Now, 5 years later the same housing authority tells these people now, "You must leave because you are here illegally."

In the meantime, of course, life took its course, children were born, and community roots were established. What this amendment does is actually prevent the eviction of families and senior citizens who are there at the present time. It keeps families together, and by so doing prevents all kinds of social problems.

The law that was passed by Congress 5 years ago and is now going to be put into effect will prevent an illegal alien from getting public housing in the future but keep those families that qualify if at least one member of the family is a citizen or legal resident. Under those conditions the family remains intact, but if the entire family in public housing is without documents, then that family leaves. Housing authorities throughout the country are in favor of this amendment and I urge its adoption.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

Mr. LUNGREN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 73, noes 310, not voting 49, as follows:

[Roll No. 454]

AYES—73

Ackerman	Gray (PA)	Rangel
Akaka	Green	Richardson
Berman	Guarini	Rodino
Boggs	Hawkins	Roybal
Bonior (MI)	Hayes	Sabo
Brown (CA)	Hertel	Savage
Bustamante	Howard	Schroeder
Clay	Kanjorski	Seiberling
Coleman (TX)	Kastenmeier	Stokes
Collins	Kildee	Studds
Coyne	Leland	Swift
de la Garza	Levin (MI)	Torres
Dellums	Levine (CA)	Towns
Dingell	Lowry (WA)	Udall
Dymally	Lundine	Vento
Edwards (CA)	Martinez	Visclosky
Evans (IL)	McKinney	Waldon
Fascell	Mineta	Williams
Fazio	Morrison (CT)	Wolpe
Foglietta	Morrison (WA)	Wortley
Ford (TN)	Oakar	Wright
Frank	Ortiz	Young (AK)
Garcia	Owens	Young (MO)
Gonzalez	Pepper	
Gray (IL)	Perkins	

NOES—310

Abercrombie	Archer	Bartlett
Alexander	Armey	Barton
Anderson	Aspin	Bateman
Andrews	Atkins	Bates
Annunzio	AuCoin	Bedell
Anthony	Badham	Beilenson
Applegate	Barnes	Bennett
Bentley	Hansen	Penny
Bereuter	Hatcher	Petri
Bevill	Hendon	Pickle
Biaggi	Henry	Porter
Bilirakis	Hiler	Price
Bliley	Holt	Pursell
Boehlert	Hopkins	Rahall
Boner (TN)	Horton	Ray
Bonker	Hoyer	Regula
Borski	Hubbard	Reid
Bosco	Huckaby	Ridge
Boucher	Hughes	Rinaldo
Boulter	Hunter	Ritter
Broomfield	Hutto	Roberts
Brown (CO)	Hyde	Robinson
Bruce	Ireland	Roe
Bryant	Jacobs	Roemer
Burton (IN)	Jenkins	Rogers
Byron	Johnson	Rose
Callahan	Jones (NC)	Rostenkowski
Carper	Jones (OK)	Roth
Carr	Jones (TN)	Rowland (CT)
Chandler	Kasich	Rowland (GA)
Chapman	Kemp	Saxton
Chappell	Kennelly	Schaefer
Chappie	Kleczka	Scheuer
Cheney	Kolbe	Schuette
Clinger	Kolter	Schumer
Coats	Kostmayer	Sensenbrenner
Cobey	Kramer	Sharp
Coble	LaFalce	Shaw
Coelho	Lagomarsino	Shelby
Coleman (MO)	Lantos	Shumway
Combest	Latta	Shuster
Conte	Leach (IA)	Sikorski
Cooper	Lehman (CA)	Siljander
Coughlin	Lent	Sisisky
Courter	Lewis (CA)	Skeen
Craig	Lewis (FL)	Skelton
Crane	Lightfoot	Slattery
Dannemeyer	Lipinski	Slaughter
Darden	Livingston	Smith (FL)
Daschle	Lloyd	Smith (IA)
Daub	Loeffler	Smith (NJ)
Davis	Lott	Smith, Denny (OR)
DeLay	Lowery (CA)	Smith, Robert (NH)
Derrick	Lujan	Smith, Robert (OR)
DeWine	Luken	Snowe
Dickinson	Lungren	Snyder
DioGuardi	Mack	Spence
Dixon	MacKay	Spratt
Donnelly	Madigan	St Germain
Dorgan (ND)	Manton	Staggers
Dornan (CA)	Marlenee	Stallings
Dowdy	Martin (IL)	Stangeland
Downey	Martin (NY)	Stenholm
Dreier	Matsui	Strang
Duncan	Mavroules	Stratton
Durbin	Mazzoli	Stump
Dwyer	McCain	Sundquist
Dyson	McCandless	Sweeney
Early	McCloskey	Swindall
Eckart (OH)	McCollum	Synar
Eckert (NY)	McDade	Tallon
Emerson	McGrath	Tauzin
English	McHugh	Taylor
Erdreich	McKernan	Thomas (CA)
Evans (IA)	McMillan	Thomas (GA)
Fawell	Meyers	Torricelli
Feighan	Michel	Traficant
Fiedler	Mikulski	Valentine
Fields	Miller (OH)	Vander Jagt
Fish	Miller (WA)	Volkmer
Flippo	Moakley	Vucanovich
Florio	Molinari	Walgren
Foley	Mollohan	Walker
Ford (MI)	Monson	Watkins
Franklin	Montgomery	Waxman
Frenzel	Moorhead	Weber
Frost	Mrazek	Wheat
Fuqua	Murphy	Whitehurst
Gallo	Murtha	Whitley
Gaydos	Myers	Whittaker
Gejdenson	Natcher	Whitten
Gekas	Neal	Wilson
Gibbons	Nelson	Wirth
Gilman	Nichols	Wise
Gingrich	Nielson	Wolf
Glickman	Nowak	Wyden
Goodling	Oberstar	Wylie
Gordon	Obey	Yatron
Gradison	Olin	Young (FL)
Gregg	Oxley	Zschau
Gunderson	Packard	
Hall (OH)	Panetta	
Hall, Ralph	Parris	
Hamilton	Pashayan	
Hammerschmidt	Pease	

NOT VOTING—49

Barnard	Hartnett	Quillen
Boland	Hefner	Roukema
Boxer	Hillis	Rudd
Breaux	Jeffords	Russo
Brooks	Kaptur	Schneider
Burton (CA)	Kindness	Schulze
Campbell	Leath (TX)	Smith (NE)
Carney	Lehman (FL)	Solarz
Conyers	Long	Solomon
Crockett	Markey	Stark
Daniel	McCurdy	Tauke
Dicks	McEwen	Traxler
Edgar	Mica	Weaver
Edwards (OK)	Miller (CA)	Weiss
Fowler	Mitchell	Yates
Gephardt	Moody	
Grotberg	Moore	

□ 2030

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. McEwen against.

Mr. Solarz for, with Mr. Mica against.

Mr. SKEEN and Mr. STRATTON changed their votes from "aye" to "no."

Mr. LOWRY of Washington and Mr. WILLIAMS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Amend the heading for title II to read as follows:

TITLE II—ADJUSTMENT OF STATUS OF CUBAN/HAITIAN ENTRANTS AND UPDATING REGISTRY

In title II, strike out section 201 and redesignate sections 202 and 203 as sections 201 and 203, respectively.

In title II, strike out section 204.

Conform the table of contents accordingly.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes and the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself 4-minutes.

□ 2040

Mr. Chairman, this is the amendment to strike legalization or amnesty as it is known. It is not new to most of the Members, but I think it is very clearly the most significant amendment that will be offered to this bill. Many Members can vote for a strong employer sanction immigration reform bill if they do not have to swallow amnesty.

This is a question that has been around for quite some time. It is a question the American public has

great interest in. It is a question of confidence of the American public in our immigration system and immigration laws. Are we going to make that Statue of Liberty still shine forth as the beacon of hope to the rest of the world by regaining control of our borders and doing it the right way, or are we going to cause havoc with regard to the citizenry and quality of life of this country and not have the public support of our immigration laws?

If we pass the amnesty that is in the legislation and do not adopt my amendment tonight, we are going to be slapping in the face the thousands and thousands of immigrants, would-be immigration waiting in line who have waited for years to come to this country legally. We are going to be rewarding lawbreakers; people who have been here illegally who have no business becoming citizens and permanent resident aliens well before those who stood in line and are still standing in line today in country after country after country wanting to come here in the faint hope they can share in our liberty.

Another very important facet of why we should strike the amnesty provisions from this bill is the fact that if we leave them in here we are creating a reverse magnet and reversing that which we are doing in the employer sanction section of this bill. The reason why we want to make it illegal to knowingly hire an illegal alien is to cut off the magnet of the jobs attracting thousands, yea, millions of people to this country. If we leave amnesty in this bill, we are going to create another magnet that is going to draw them over here in the hope that they can get by with some fraudulent document or that we will give another opportunity down the road for amnesty if we have given it once, and it is wrong.

There are a lot of reasons why; those are just three reasons why you should vote for this amendment this gentleman is offering. But the most, the singular most important reason is because if we leave amnesty in this bill we are going to take in millions and millions of immigrants in the next 10 years beyond the capacity of our institutions to absorb and assimilate them.

The fact is, no one knows exactly how many illegals we have today in this country. But the estimates are very clearly on the higher side of the figures given. I submit to my colleagues a few years ago when we started this debate the question was do we have 3 to 5 million or do we have 10 to 12? I happen to think we have 10 to 12. Today, some people are still saying 3 to 5 million but we are taking in and we know we have for the last 5 years at least 2 million a year. I think the figure is closer to 20 million illegals in here today.

We have 280 million American citizens in this country. We take in about 500,000 immigrants legally each year. If we have 20 million illegals in this country and, as the Environmental Fund says, maybe we will have 64 percent or so of them come forward and register under the amnesty provision of this law, and the average immigrant in the 10 years after he first becomes a permanent resident brings in seven family members, as many expect will occur, that means that if there are 20 million here today, in 10 years we will have 90 million people added to the American population or by more than one-third increase the number of people in this country in 10 year. We cannot absorb and assimilate, we cannot afford to do that. We can take in 50,000 maybe we can take in a million a year, but we cannot take in 90 million.

Even if I am wrong, even it is 10 million that are here now, we are talking about taking half the number I just said when you finish the extrapolation of the figures they can bring in the way of relatives. In 10 years, on the low side, we are going to 45 million new Americans and that is wrong. We have to eliminate this amnesty provision if we are going to have any chance to regain control of our borders. If we are going to have the confidence in the American people and if we are going to get on with the control of the border that we have to have.

Now, it is not as harsh as some would say because there is the opportunity in this bill, if my amendment passes, to have the Attorney General in his discretion use the registry date that is updated in this legislation. From 1948 to January 1, 1976. That means the Attorney General, if my amendment is adopted, will still be able to let people stay in this country who have been here illegally for 10 years or more. I think that is fair and that is appropriate. It will not create a magnet. It is not unfair to a lot of other people. It does vest discretion in the Attorney General and it does not create the threat of having 45 million to 90 million more people in this country in the next 10 years that we cannot absorb and assimilate.

I urge my colleagues to vote for the McCollum amendment. Strike amnesty from this bill.

Mr. MAZZOLI. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding me this time.

Mr. Chairman, let me say first and foremost that the adoption of the gentleman's amendment, the motion to strike legalization, would just destroy what we are attempting to achieve when we talk about trying to get together in order to support a bill that will have as its objective immigration reform.

We are not going to achieve immigration reform unless we have a balance. Employer sanctions will address the problem of the unscrupulous employer who, with impunity, hires the undocumented alien. That is going to provide the disincentive to continued undocumented migration.

On the other side, we have got to look at this problem realistically. There are perhaps 8 million undocumented persons in the country who are presently working, providing for their families, and paying taxes. There is no evidence that these people have not been decent individuals who would aspire to citizenship if they were given the opportunity.

The administration recognizes the importance of this. It recognizes the importance of having such a balance. The Attorney General has told me that time and again. The President of the United States, when he spoke with me about continuing my efforts for this bill, recognized the importance of having legalization as well as employer sanctions.

To do what the gentleman would want us to do is to destroy the balance that we have sought to achieve. I would be no part of it because, in my judgment, we cannot deport these people. We would not, I am sure, provide the money to conduct the raids. It would mean billions of dollars in order to try to deport them. Nor will we ever have the national will to conduct such raids. But that is what this amendment asks us to do.

Mr. Chairman, what we are saying is we must recognize that these people are living now in a subsociety of America. Let us give them the opportunity to show that they are decent and loyal. Give them the opportunity after a period of time, meeting the conditions and the requirements that are spelled out in the bill to become eligible for citizenship and I am sure that it will be a one-time effort and not beyond that.

Without this provision, I assure you that, in whatever way I possibly can, I will not support the effort to bring this immigration bill to conference or anywhere beyond this House.

□ 2050

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, Congressman MCCOLLUM.

This amendment strikes at the heart of the bill.

As you well know, the State of Florida because of its location, is particularly susceptible to whatever decision this committee makes on this serious issue of legalization.

I firmly believe that to grant amnesty to those who have resided here illegally would be a tragedy.

Such a decision flies in the face of those who have waited for years to immigrate to this country legally and will make a mockery out of our immigration policy.

If this amendment is not adopted, I would have to say to individuals waiting to immigrate to this country through legal channels, "Sorry, you lose, you should have sneaked through the borders, falsified your papers and kept a low profile."

Mr. Chairman, illegal is illegal.

I pose this question to my colleagues, "Is Congress prepared to take a stand against those who deliberately violate our laws?"

Or are we going to resist the temptation to let our borders disintegrate and all semblance of control disappear?

I urge my colleagues to adopt this amendment.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking minority member on the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, it has now been said by the previous speaker that this amendment strikes at the heart of the bill. Let us all agree on that. This is clearly nothing more than a killer amendment.

We have been told earlier also what we would be doing if we did not adopt this amendment. What if we do? Nothing is going to change. These people are not going to go back, the ones who have equity in the United States. They are not going to leave the country and go home.

Clearly, our Government is not going to go after them. We have neither the resources nor the desire nor the public support for a nationwide search of millions of undocumented aliens.

Mr. Chairman, this legalization, recognizes that substantial numbers of illegal aliens are here to stay and responds realistically and humanely to their plight. At the same time that we act with firmness to deter future illegal entry, we must display compassion in our treatment of those aliens who have become a part of our society. The conferral of legal status on undocumented aliens with years of U.S. residence will permit this population to come out of the shadows and contribute more to our country.

In approaching legalization, we have struck an appropriate compromise between the views of those who would eliminate the legalization provisions entirely—and those who would provide lawful permanent resident status to those who only recently entered.

Mr. Chairman, legalization is a practical response to the failure of years of Government policy that has allowed this large population to be in our midst.

Second, legalization will not encourage illegal immigration in hopes of future amnesties. There was not any reason other than the desire to work that brought these people here in the first place. They did not come here for permanent resident status and citizenship; they came because of the magnet of the job opportunities and the higher standard of living.

Finally, Mr. Chairman, legalization will have a positive effect on the U.S. labor market. As we legalize the longtermers, they will demand better treatment under the laws governing minimum and overtime wages, as well as working conditions.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the McCollum amendment for the simple fact that if we condone amnesty, we are condoning an illegal act of those illegal immigrants who have entered this country illegally.

I would point out that we let legally into this country half a million people from around the world each year, which is more than the rest of the free world combined. If we allow amnesty to be included in this immigration bill, we are, in effect, opening the door to millions and millions more people to come into the country because those who have been granted amnesty can then bring in their direct family members.

In my State of Texas, we have a high unemployment rate, but recently in Fort Worth, in my district, they rounded up 300 illegal immigrants and deported them back to Mexico. The next day, 300 American citizens applied for those jobs that the illegal immigrants had taken.

Mr. Chairman, I think that the amnesty provisions are one of the most controversial and one of the most negative parts of this immigration bill. I hope that we support the McCollum amendment and delete them.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, there are two reasons why this amendment should be rejected: First, it will kill immigration reform; and second, it is wrong and it is unfair.

It is a killer amendment, Mr. Chairman. What are we going to do if this amendment passes, send in INS to round everybody up, a massive deportation? I thought under this bill they were supposed to do something else at the border.

Legalization is just, humane and necessary, in the traditions of this country. It will eliminate the underclass that exists right now. It will allow 5, 7, 9, 3 million people to come out of bondage, people who are not criminals, as some of my colleagues have said, but have been contributing to this society, have been taking jobs that we do not want. We have been recruiting them. All of a sudden, to lower the hammer, that is wrong, and it is against the traditions of this country.

Mr. Chairman, I submit someone mentioned the Statue of Liberty. If the Statue of Liberty saw what was happening in life, you would see a tear in that Statue of Liberty if we approve this amendment.

Mr. McCOLLUM. Mr. Chairman, may I inquire as to how much time is remaining?

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 3½ minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, just let me simply say that as a Texan and as one of the newest Members of the Congress, I do not think the issue here is decency; I do not think the issue is working and paying taxes. I think the issue here that we should recognize is what we are about to do is legitimize millions of unconvicted criminals, and we are going to reward them with the most treasured thing a human being on the face of this globe could have, and that is the path toward citizenship of the United States of America.

It is wrong. I strongly support the McCollum amendment. It should be stripped. Amnesty should be stripped from the bill and I urge my colleagues to support it.

Mr. MAZZOLI. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I just think we need to clear up the issue of legalization. You must be here 5 continous years, from January 1, 1982, or before, in order to be eligible. So anybody who came last year or the year before or the year before is not eligible. Five continuous years.

That is not an unfair trade to get the rest of this bill, which is employer sanctions and the other Border Patrol increases. I would say that balances what makes this bill so good, and I would urge you, if you want to keep this bill alive and have a responsible immigration policy, you ought to defeat this amendment.

Again, 5 continuous years in order to get legalization.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Just very briefly, the gentleman's amendment was debated and voted down in the subcommittee and in the full committee and on this floor in 1984. It was brought again in 1986 and

voted down in the subcommittee and voted down in the full committee, and I hope, with all respect to my friend, the gentleman from Florida [Mr. McCOLLUM], we proceed along the same path and vote it down here in the House.

It is a very well and sincerely offered amendment, but it would be totally destructive to the balance of perspective and symmetry of our bill. I hope that the Congress would not support it.

I will say that if the amendment were to be adopted, I think we will have a very difficult time moving the rest of the bill.

To the gentleman's credit, in all of these efforts in subcommittee, full committee and on the floor; even though his amendment has not prevailed, he has never flagged in his support for the bill. In the event that we do vote the gentleman's amendment down, which I hope happens, I would solicit the gentleman's continued support for the bill because it has been very important to us in the past.

□ 2100

Mr. McCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Chairman, I have had a chance twice before to talk about my own views on the question of amnesty, so I want to just summarize them.

This is an issue for all of us tonight of population and of politics. The poor and the disadvantaged and the unemployed who are here right now are going to be watching very closely each and every Member's vote on the question of whether or not you want to cheapen and devalue what the worth of American citizenship ought to be all about. It is population control, as my good friend, the gentleman from Florida [Mr. McCOLLUM] has mentioned, that when you give legal status to one who came here illegally, they are then eligible in 3 or 5 years thereafter for mother, brother, father, sister, spouse of each and offspring thereof, and the chain migration effect, the echo effect of that, as has been well described, amounts to between 70 and 100 million people, nearly a one-third increase on the population flood of this country; indeed, from an economic point of view, from a city, county, and State welfare and education point of view, a suffocating impact that we cannot afford. It sends the wrong signal.

I think that the registry date which provides that anyone here prior to 1976 can get their amnesty is sufficient to go to conference.

It is politics, because some say it is either going to be my way or there will be no bill at all. That is not how this House ought to legislate. Do it my way or we will not do it at all, not after we have been through what we have been through to try to get a symmetrical bill that we can send to conference to work out our differences.

So please, I ask my colleagues, reject amnesty. Vote for registry and support the McCollum amendment.

Mr. MAZZOLI. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I would ask the Members on my side of the aisle, as well as the other side of the aisle, to vote against the McCollum amendment, with all due respect. I seriously believe that if this amendment is to be adopted, the bill will die.

I think it is more important for those of you who are concerned about legalization and do not think it is proper, I would suggest that if this bill dies we will come back in 2 or 4 years. Legalization will be part of it and you will have more people who will be legalized than under the bill. That may be just a little bit to hang on to, but I think it is something, it is a fact.

I would remind you that 2 years ago on the eve of this vote, Ronald Reagan, the President of the United States, indicated that he thought looking at everything, looking at the issue in its entirety, that legalization was necessary, it was something we ought to do. It was humane, and he supported it. I have no reason to believe that he disagrees with that now.

It may be hard to swallow for some. I did not come to Congress prepared to vote for it, but I am absolutely convinced, after looking at this for 8 years, that we have to do something with legalization. You are not going to round them all up and send them home. Some of you on my side of the aisle will be the first ones standing up and demanding that we not do that to those fine people who are here.

I think it is a reasonable accommodation. I hope to go to conference and be close to the Senate on legalization, but do not take legalization out of the bill. Do not denude the bill. We need a bill. We need it now. Please do not destroy this bill.

Mr. McCOLLUM. Mr. Chairman, I yield myself the remaining time.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we are talking about from between 2 and 12 million illegal aliens, is that correct?

Mr. McCOLLUM. Well, it could be as many as 20 million.

Mr. HYDE. Let us take 12 and let us cut that in two and say 6 million illegal aliens. Now, after 5 years they will be citizens. They will be eligible for citizenship, is that right?

Mr. McCOLLUM. They will be eligible, that is correct.

Mr. HYDE. All right. Then they are entitled to bring in a spouse and their children, is that correct?

Mr. McCOLLUM. That is correct.

Mr. HYDE. So if you add 6 million people and you have three children and a spouse, you are talking about 24 million people, one-third of the population of Mexico, eligible to come into this country, regardless of any quotas or anything else, in 5 years.

Mr. McCOLLUM. That is exactly right.

Mr. HYDE. Mr. Chairman, I thank the gentleman very much.

Mr. McCOLLUM. And in 10 years we may have as many as 90 million eligible to come into the country and that is a third of the population doubled over the size that we have now.

I would like to point out to some of my colleagues who are worried about what is going to happen to people who stay in here if we do not have amnesty. I will tell you what they are going to do when they cannot get a job. They are going to go back across. Nobody is going to round them up. Nobody is going to do anything about that.

The question here is what price are we willing to pay to get an immigration bill? I think the price is too high if it is amnesty. I think the price is too high if it is 45 to 90 million more people in this country over the next 10 years. I think the price is too high if it is half the population of Mexico in the next 5 years and that is the price we are going to pay if we have amnesty in this bill. It is entirely too big a price to pay.

Mr. Chairman, I strongly urge my colleagues to vote in favor of the McCollum amendment. Let us strike amnesty from this bill. Let us close our borders with employer sanctions and let us have decent legislation. Vote aye on the McCollum amendment.

Mr. BUSTAMANTE. Mr. Chairman, I urge my colleagues to join me in opposing the McCollum amendment which would strip immigration reform of one of its integral elements. Without the legalization provision, the effort to get control of our borders will certainly fail.

Aside from the humanitarian considerations in support of legalization, the failure to regularize the status of millions of undocumented aliens within our borders will create an enforcement nightmare. Not only will the immigration authorities have to deal with new flows of illegal aliens at our borders, but they will have to deal with millions of undocumenteds inside the United States. With limited resources available to enforce our immigration laws, the amendment would make effective immigration enforcement prohibitive, if not impossible.

Far from promoting further illegal immigration, legalization will enhance our capability to stem new flows of illegal immigration. Furthermore the legalization provision sets up stringent standards which all applicants must meet. It will require long residing applicants to show compliance with most of the 33 grounds of exclusion in current law applicable to all persons seeking to come to the United States.

And, when legalized, a person will not be eligible for Federal financial assistance, Medicaid, or food stamps for 5 years. I urge my colleagues to vote against the McCollum amendment if they are serious about strengthening the enforcement of our immigration laws.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the gentleman's amendment to delete the legalization provisions of this bill. Some opponents have characterized this provision as an amnesty program. I would like to remind my colleagues that section 201 is a legalization program not merely an amnesty program.

Applicants for legalization must meet stringent requirements of continuous residency, knowledge of, or willingness to learn the English language and U.S. history and government. They are also ineligible for this program if they have committed a felony or three misdemeanors. Moreover, applicants for the legalization program do not become permanent residents for at least a year, if they meet the above requirements.

This provision was offered by the distinguished majority leader and adopted by the House during last year's debate on the immigration bill. Legalization provides an equitable balance to any immigration reform package. Since we last voted on this measure, nothing has changed to warrant consideration of an immigration bill with a legalization component. I urge my colleagues to vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 199, not voting, 41 as follows:

[Roll No. 455]

AYES—192

Andrews	Crane	Hatcher
Applegate	Dannemeyer	Hendon
Archer	Darden	Hiler
Armey	Daschle	Holt
Bartlett	Daub	Hopkins
Barton	DeLay	Horton
Bateman	Dickinson	Hubbard
Bennett	DioGuardi	Huckaby
Bentley	Dowdy	Hunter
Bereuter	Dreier	Hutto
Bevill	Duncan	Hyde
Bilirakis	Dyson	Ireland
Billey	Eckert (NY)	Jacobs
Boner (TN)	Emerson	Jenkins
Boulter	English	Jones (OK)
Broomfield	Erdreich	Jones (TN)
Brown (CO)	Fawell	Kanjorski
Bryant	Fiedler	Kasich
Burton (IN)	Fields	Kolbe
Byron	Flippo	Kolter
Callahan	Franklin	Kramer
Carney	Frenzel	Latta
Carr	Frost	Leath (TX)
Chapman	Fuqua	Lent
Chappell	Gallo	Lewis (FL)
Cheney	Gekas	Lightfoot
Coats	Goodling	Livingston
Cobey	Gordon	Lloyd
Coble	Gradison	Loeffler
Coleman (MO)	Gregg	Lott
Coleman (TX)	Hall, Ralph	Lujan
Combest	Hammerschmidt	Mack
Craig	Hansen	MacKay
Madigan	Ridge	Staggers
Martin (IL)	Ritter	Stallings
Martin (NY)	Roberts	Stangeland
McCandless	Robinson	Stenholm
McCloskey	Roemer	Strang
McCollum	Rogers	Stratton
McDade	Rose	Stump
McGrath	Roth	Sundquist
McMillan	Roukema	Sweeney
Meyers	Rowland (GA)	Swindall
Mica	Saxton	Tallon
Miller (OH)	Schaefer	Tauzin
Molinari	Schroeder	Taylor
Mollohan	Schuette	Thomas (GA)
Monson	Sensenbrenner	Traficant
Montgomery	Shaw	Valentine
Moorhead	Shelby	Vander Jagt
Murphy	Shumway	Volkmer
Myers	Shuster	Vucanovich
Neal	Siljander	Walker
Nelson	Skeen	Watkins
Nichols	Skelton	Whitehurst
Nielson	Slaughter	Whitley
Olin	Smith, Denny (OR)	Whittaker
Parris	Smith, Robert (NH)	Wilson
Petri	Smith, Robert (OR)	Wise
Porter	Snowe	Wolf
Pursell	Snyder	Wortley
Quillen	Spence	Wylie
Ray		Yatron
Regula		Young (AK)
Reid		Young (FL)

NOES—199

Abercrombie	Fish	McHugh
Ackerman	Florio	McKernan
Akaka	Foglietta	McKinney
Alexander	Foley	Michel
Anderson	Ford (TN)	Mikulski
Annunzio	Frank	Miller (CA)
Anthony	Garcia	Miller (WA)
Aspin	Gaydos	Mineta
Atkins	Gejdenson	Moakley
AuCoin	Gibbons	Morrison (CT)
Badham	Gilman	Morrison (WA)
Barnes	Gingrich	Mrazek
Bates	Glickman	Murtha
Bedell	Gonzalez	Natcher
Beilenson	Gray (IL)	Nowak
Berman	Gray (PA)	Oakar
Biaggi	Green	Oberstar
Boehlert	Guarini	Obey
Boggs	Gunderson	Ortiz
Bonior (MI)	Hall (OH)	Owens
Bonker	Hamilton	Oxley
Borski	Hawkins	Packard
Boucher	Hayes	Panetta
Boxer	Henry	Pease
Brown (CA)	Hertel	Penny
Bruce	Howard	Pepper
Bustamante	Hoyer	Perkins
Carper	Hughes	Pickle
Chandler	Jeffords	Price
Clay	Johnson	Rahall
Clinger	Jones (NC)	Rangel
Coelho	Kastenmeier	Richardson
Collins	Kemp	Rinaldo
Conte	Kennelly	Rodino
Cooper	Kildee	Roe
Coughlin	Kleczka	Rostenkowski
Courter	Kostmayer	Rowland (CT)
Coyne	LaFalce	Roybal
Davis	Lagomarsino	Sabo
de la Garza	Lantos	Savage
Dellums	Leach (IA)	Scheuer
Derrick	Lehman (CA)	Schumer
DeWine	Lehman (FL)	Seiberling
Dicks	Leland	Sharp
Dingell	Levin (MI)	Sikorski
Dixon	Levine (CA)	Sisisky
Donnelly	Lewis (CA)	Slattery
Dorgan (ND)	Lipinski	Smith (FL)
Dornan (CA)	Long	Smith (IA)
Downey	Lowery (CA)	Smith (NJ)
Durbin	Lowry (WA)	Spratt
Dwyer	Luken	St Germain
Dymally	Lundine	Stark
Early	Lungren	Stokes
Eckart (OH)	Manton	Studds
Edwards (CA)	Marlenee	Swift
Evans (IA)	Martinez	Synar
Evans (IL)	Matsui	Thomas (CA)
Fascell	Mavroules	Torres
Fazio	Mazzoli	Torricelli
Feighan	McCain	Towns
Udall	Weber	Wright
Vento	Wheat	Wyden
Visclosky	Whitten	Young (MO)
Waldon	Williams	Zschau
Walgren	Wirth	
Waxman	Wolpe	

NOT VOTING—41

Barnard	Fowler	Pashayan
Boland	Gephardt	Rudd
Bosco	Grotberg	Russo
Breaux	Hartnett	Schneider
Brooks	Hefner	Schulze
Burton (CA)	Hillis	Smith (NE)
Campbell	Kaptur	Solarz
Chappie	Kindness	Solomon
Conyers	Markey	Tauke
Crockett	McCurdy	Traxler
Daniel	McEwen	Weaver
Edgar	Mitchell	Weiss
Edwards (OK)	Moody	Yates
Ford (MI)	Moore	

□ 2115

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Gephardt against.

Mr. McEwen for, with Mr. Conyers against.

Mr. QUILLEN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROYBAL: At the end of title III insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

SEC. 317. PROVIDING ADDITIONAL IMMIGRANT VISA NUMBERS FOR NATIVES OF CONTIGUOUS COUNTRIES.

(a) ADDITONAL IMMIGRANT VISA NUMBERS.—Section 201 (8 U.S.C. 1151) is amended—

(1) by inserting "certain aliens provided immigrant visa numbers under subsection (c)," in subsection (a) after "subsection (b) of this section,", and

(2) by adding at the end the following new subsection:

"(c) ADDITIONAL VISA NUMBERS FOR NATIVES OF CONTIGUOUS COUNTRIES.—(1) In addition to the number of immigrant visas made available under subsection (a), there shall be made available to natives of each of the foreign states contiguous to the United States for each fiscal year a number of immigrant visas not to exceed the number specified under paragraph (2), not more than 26 percent of which may be made available in any of the first three quarters of such fiscal year.

"(2)(A) Except as provided in subparagraph (B), the number of additional visas made available to natives of either of the foreign contiguous states for a fiscal year is equal to 20,000.

"(B) If for a fiscal year one of the foreign contiguous states does not use the full number of additional immigrant visa numbers made available under this subsection, then the number of additional visas made available to natives of the other foreign contiguous states for the following fiscal year

shall be increased by the number not used by the other foreign contiguous states for the previous fiscal year".

(b) ALLOTMENT OF NEW VISA NUMBERS.—Section 203 (8 U.S.C. 1153) is amended by adding at the end the following new subsection:

"(f) ALLOTMENT OF SPECIAL VISAS FOR CONTIGUOUS COUNTRIES.—(1) Aliens who are subject to the numerical limitations specified in section 201(c) shall be allotted visas in the same manner, subject to the same conditions, and in the same order as aliens who are subject to the numerical limitations specified in section 201(a), except that the percentage limitations specified in paragraphs (1) through (6) thereof shall not apply.

"(2) Requirements respecting acquisition of preference status by reason of a relationship or occupational qualification described in a paragraph of subsection (a) shall apply, in the same manner, for the acquisition of preference status under paragraph (1) of this subsection.".

(c) CONFORMING AMENDMENTS.—Section 202 (8 U.S.C. 1152) is amended—

(1) by inserting "and (C)" in subsection (a) after "section 201(b)",

(2) by striking out "under section 202" in the matter in subsection (e) before paragraph (1) and inserting in lieu thereof "under subsection (a)", and

(3) by adding at the end of subsection (e) the following:

"This subsection shall not apply to visas made available under section 201(c) and allotted under section 203(f),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning with the first fiscal year that begins after the date of the enactment of this Act.

The CHAIRMAN. The gentleman from California [Mr. ROYBAL] will be recognized for 5 minutes, and the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

□ 2125

Mr. ROYBAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the discussion during the day has been most interesting. We have heard from a wide range of opinion on the part of many Members of the House of Representatives. But I think that as we analyze the situation at the moment we can conclude that those who are in favor of this legislation, almost everyone, did, in fact, apologize for their position, but justified it because they believe that it is immigration reform.

Many have said that they would vote for the bill, but with mixed emotions. Others said that they would hold their nose to vote for this piece of legislation. Others just would vote for the bill simply because there was nothing else. But the justification, Mr. Chairman, for all was the fact that they actually believe that this bill is immigration reform.

If they believe that it is immigration reform, then I respect what they believe.

The truth of the matter is that I happen to believe that it is not immigration reform. The amendment before you, however is, in fact, immigration reform, because what it does is it changes the basic law of the country. It makes it possible for a change in the visa provisions of the Nation, increasing the worldwide visas from 270,000 to 310,000 visas throughout the entire world, 40,000 of those would be devoted to this hemisphere. In other words, Mexico would be increased by 20,000 and Canada would also be increased by an additional 20,000.

The reason for that is that there is a tremendous backlog in Mexico at the present time. People who are here in the United States from Mexico, who wish to reunite with their families must wait as long as 9 years before they can bring them to the United States. All preference categories except the first preference are already oversubscribed.

Therefore, if we really want to do things in an orderly manner, and if we want to be sure that these people immigrate within the law, then we must increase the current annual quota in order to make it possible for more people to come to the United States from both Canada and Mexico in a legal manner.

This perhaps will stem the flow somewhat of those individuals who will be coming into the United States even under this bill. Under this particular bill before us, 350,000 will be legalized if they worked in the United States just 60 days sometime this last year. That is perfectly all right if this is what this House wants to do. But if we want to do something in a legal way, it is most necessary that this amendment be agreed to.

Mr. Chairman, again I will try to impress on the Members of the House that the one objective that we must have in mind is that we must do everything we possibly can to make available laws that can be obeyed, that will better the situation with regard to the illegal aliens and immigration in general to the United States.

What this amendment does is actually unite families. At the present time we have thousands upon thousands of people in Canada and in the United States who cannot live with their wives and their children simply because visas are not available. By increasing the visa system by just 20,000 for Mexico and for Canada, we will be able, I believe, to reduce pressures to come into this country illegally.

It would also recognize the nearness to Mexico and to Canada, and especially consider that we have historic and friendly relationships with the countries in question.

The CHAIRMAN. The time of the gentleman from California [Mr. ROYBAL] has expired.

Mr. MAZZOLI. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would just like to refresh the memory of the House.

The amendment offered by the gentleman from California [Mr. ROYBAL] did appear in the bills before the Congress and before this body in the 98th Congress 2 years ago. They appeared, if I remember correctly, in the conference report of the 1984 bill. So it obviously reflects a thinking process which is germinating in this body.

The one thing I would like to at least bring to the attention of the House is that this, of course, deals with what we call legal immigration. Basically this amendment, proposed by the gentleman from California, deals with legal immigration, and what we are talking about in the bill before the House tonight is, of course, illegal entry, basically trying to deal with it in some humane fashion.

Legal immigration is a subject of hearings that we have started in our subcommittee this year and which we will have in full dress form in the 100th Congress. It would really be more precisely and logically and suitably a subject before us later, not right now, because we might be putting the cart before the horse.

So my restraint about this is simply the fact that I believe that we are on the trial in the course of the routine hearings of immigration changes in the legal style which could take care of problems brought up by the gentleman, as well as the gentleman from Nebraska. I just have a little bit of reluctance at this point.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I have a couple of questions because I tend to agree with the gentleman's comments that he just made. The bill, we have been told all along, is to deal with the question of undocumented workers and the question of what we do about the status of current numbers in this country.

What is the quota now legally for Canada, and what is the quota now for Mexico?

Mr. MAZZOLI. It is 20,000 in each case.

Mr. DAUB. Are we shifting the quota, is there any thought that that is what is being done?

Mr. MAZZOLI. I believe, if I understand the gentleman's question, what numbers are not used by one country are shifted to the other.

Mr. DAUB. Are there any other quota numbers that are changed in any part of the bill that will not be subject to debate tonight on the floor? Are we changing the number for any other country?

Mr. MAZZOLI. We will change in the bill the quota for Hong Kong, the Crown Colony. That is changed. Otherwise, no.

Mr. DAUB. Besides Canada and besides Mexico and besides the Crown Colony of Hong Kong where the legal numbers are going to be changed, and particularly if this particular amendment passes, there are no other legal immigration quotas that are changed?

Mr. MAZZOLI. We, of course, have an amendment to be offered that would tend to change some numbers, but that is not in the bill which is before this body.

□ 2135

Mr. DAUB. The extended voluntary departure amendment, the Fish amendment, No. 14?

Mr. MAZZOLI. No. The earlier number; No. 13.

Mr. DAUB. Mr. DONNELLY's amendment, No. 13?

Mr. MAZZOLI. That's right.

Mr. DAUB. What would the quotas there be affecting? Which countries and how many; numbers, if the gentleman knows?

Mr. MAZZOLI. I understand it is a 5-year period. Great Britain. I am advised it is primarily from European countries; Western Europe.

Mr. DAUB. Ireland?

Mr. MAZZOLI. Ireland is one of the countries, yes.

Mr. DAUB. England?

Mr. MAZZOLI. I believe that would be also.

Mr. DAUB. Wales, Scotland, Western Europe?

Mr. MAZZOLI. I would think that most of it——

Mr. DAUB. So if these amendments all pass, we will be adding about 100——

Mr. MAZZOLI. Only for 5 years. I must say that if the Donnelly amendment were to carry, it is a limited period.

Mr. DAUB. We will add 100,000 new quota entrants, legally, under this bill, is that correct?

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has again expired.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 additional minute.

The CHAIRMAN. The gentleman is recognized for one additional minute.

Mr. MAZZOLI. To try to indicate that the gentleman is correct. One of the problems we have tried to deal with in this bill is to try to limit the reach of it. Now, there are those who wanted to go further, and there are some amendments being offered which would seek to open this thing up.

The gentleman from California has one; the gentleman from Massachusetts has another; but basically speaking, the committee, the subcommittee has hewed to the line of trying to deal with undocumented entry and how to deal with it sensitively and humanely.

To that extent, I would again remind the House that in very many versions of the immigration reform bill over the last three Congresses, the gentleman's amendment did appear. So this is not the first time we have confronted it. It does satisfy a matter that we have dealt with with our neighbors to the north and neighbors to the south.

My only restraint about it, because this may be exactly what the Congress comes to agree with once we have the full-fledged hearings. It is just, I think this might be slightly premature; that is my only problem with it.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman.

Mr. ROYBAL. Mr. Chairman, the gentleman says that this amendment is not premature.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MAZZOLI. Mr. Chairman, I yield myself the balance of my time, and I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, the truth of the matter is, it is not premature. That this exact language has been in the bill in the past; it has also been in the conference report; therefore it has been part of the legislation as it existed last year and the year before that and the year before that; and it is not premature to the point where now it can be adopted; and if there are any changes to be forthcoming, then we can change it at that time.

Mr. MAZZOLI. Mr. Chairman, I appreciate what the gentleman is saying; premature, if I might say, in the sense that we are now having the hearings which we were not conducting in the 98th Congress or the 97th.

So we are now looking at the subject of legal immigration dealing with quota changes, caps, and all of the variety of questions, and that is why I say with respect to tonight, in October 1986 I suspect it is somewhat premature.

Mr. DAUB. I want to join in agreement with the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MAC KAY

Mr. MACKAY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MACKAY: At the end of the bill, add the following new title (and conform the table of contents accordingly):

TITLE IX—FEDERAL RESPONSIBILITY FOR DEPORTATABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 901. EXPEDITIOUS DEPORTION OF CONVICTED ALIENS.

Section 242 (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(i) In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.".

SEC. 902. TRANSFER OF CERTAIN DEPORTABLE ALIENS FROM STATE AND LOCAL PENAL FACILITIES TO FEDERAL PENAL FACILITIES

Notwithstanding any other provision of law, any alien who is incarcerated in a State or local penal facility for an offense involving controlled substances, the commission of which makes such alien deportable under section 241 of the Immigration and Nationality Act, shall, upon written request of the appropriate State or local official, be transferred to a penal facility under the authority of the Director of the Bureau of Prisons. The Attorney General shall prescribe such regulations as may be necessary to carry out this section.

SEC. 903. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of the enactment of this Act, to list facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States.

The CHAIRMAN. The gentleman from Florida [Mr. MACKAY] will be recognized for 10 minutes and the gentleman from California [Mr. LUNGREN] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MACKAY].

Mr. MACKAY. Mr. Chairman, the next amendment addresses a narrow but a very important issue. It has to do with illegal aliens who are convicted of drug-related crimes, who under Federal law should be deported and who, under the policies of the Immigration and Naturalization Service, should be deported on an expedited basis.

The policies require that deportation proceedings begin when a conviction takes place, the idea being that when the sentence is over, the person would be deported.

Now, unfortunately, the very opposite is happening. These people are not being deported; the expedited procedure is not working; the local and State jails are jammed up, the Immigration and Naturalization Service has no incentive to give priority to these because the burden of inaction falls on State and local governments and not on the Federal system.

This amendment provides three things; First, it provides that deportation proceedings will begin when there is a conviction; second, it provides that

these people will be transferred into the Federal system.

I would point out at this point this is a much narrower group of people than the group of people that was contemplated a few weeks ago by the Bennett amendment. This is less than a third that number of people, but it would provide they would be transferred into the Federal system.

Third, it would require a study from the Department of Defense showing and listing the facilities that are available for the Bureau of Prisons that could be used to detain these people who should be deported.

I believe that this amendment would be a long step in the right direction. I do not believe it would be unduly disruptive on the Federal system. If it is disruptive on the Federal system, that is where the disruption should be instead of where it is now, which is in the State systems.

Let me tell you what is happening in California; 63 percent of the narcotics arrests in southern California are illegal aliens. These people are going into a system that is already overfilled, they are being released; they are committing further crimes and we have got a revolving door effect there; we have got that same effect in New York; in a very exaggerated fashion we have got it in Florida; in Texas, and everyplace where the drug problem and the immigration problem coincide.

I believe this amendment would lead very quickly to a changing of priorities in INS. I think it would be one that would be very strongly supported by your State and local officials. In fact, in my case, the amendment came about as a request from local sheriffs, and from the Governor of Florida.

Mr. Chairman, I yield to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I think this is a meritorious amendment. I wish to associate myself with the able gentleman in support of it.

Mr. MACKAY. Mr. Chairman, I reserve the balance of my time.

Mr. LUNGREN. Mr. Chairman, I am not going to ask for a vote on this because I think two-thirds of the tripart en bloc amendment are good, and I think it would be very difficult to explain to Members and have them vote against one-third of it when they favor two-thirds.

I will say this, however—it will be in all honesty with the gentleman from Florida—I will make efforts in conference to knock that one-third out because that one-third is the same question that we dealt with in the drug bill. It was defeated on this floor not because we do not think that we ought to help the State and local governments in terms of the problems they have in jailing these people, but because we do not have the room in our Federal prison system.

It was pointed out on the floor, if you push these people in the Federal system, some of those people we voted to go into the Federal prison system on the drug bill, for mandatory sentences, will not be able to go there because we are not going to have room for them.

So to the extent that the gentleman says that we should require expeditious deportation of convicted aliens, I absolutely agree. It will be a part of the bill as far as I am concerned.

To the extent that we should direct the Secretary of Defense to give us a list of those facilities under his jurisdiction that could be made available to the Bureau of Prisons for incarcerating aliens subject to exclusion or deportation, absolutely it ought to be part of the bill.

As far as the mandate of an immediate transfer of certain deportable aliens from State and local penal facilities to the Federal penal facilities, we do not have the room. We ought to recognize it; and if it is a case of pushing these people into the system or putting major drug dealers in because the mandatory sentences we have just passed in this House—I think most Members would say we ought to do the latter.

So I will tell the gentleman that I am not going to call for a vote now, but to be addressing you in all candor, I think in the conference we are going to have to recognize that that is going to have to come out, because we have received a message from the administration: They cannot accept this. I know the gentleman from Florida does not want to kill an immigration bill.

So let us allow this to be part of the bill, but I think we are going to bring a bill back to you with one-third of your very commendable amendment removed.

Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

□ 2145

Mr. DAUB. I will be very brief and say to the gentleman from Florida that I think he raises appropriate issues for conference, whereas I do think, as the gentleman from California says, a little work needs to be done. I want to commend the gentleman because the issue of how we treat the once-apprehended once-convicted undocumented worker or person without a status ought not to be allowed to say here is very important. I think the gentleman's effort is a good one and merits inclusion in the bill as it goes to conference, and I support the gentleman's amendments en bloc.

Mr. MACKAY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I want to commend my colleague for offering this amendment. I think it is an excellent one. If we are ever going to do anything about the problem of the Federal Government not taking care of its responsibilities with the aliens who are here who have committed crimes and are in our prisons, this is the time to do it. We have had all kinds of excuses from the Immigration Service for not deporting folks. This is the time for those excuses to stop.

There may be a price to pay of sorts here, but we need to pay whatever price it takes because in the long run we are going to pay a much greater price by putting this burden on our State and local prisons if we continue to have overcrowded local prisons. It is ridiculous. I commend the gentleman again for this series of amendments and strongly urge the adoption of all of the amendments and hope that they are protected in conference, all three of them.

Mr. MACKAY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I would like to tell everybody in the Chamber, all my colleagues, that this is an amendment that is designed to do what is going to be necessary not only now but in the future. As more and more illegal aliens get into the business of drug trafficking and get into the other business of crime, more and more States are going to be impacted by the problems that have occurred now.

This amendment anticipates some of the solutions that we are going to need for the future and transfers the responsibility, my colleagues, from your State systems and your States' taxpayers to the Federal Government, where the responsibility belongs, where it has belonged, and where it will belong.

It is a Federal problem. It is time for the Federal Government to take the responsibility for it.

Mr. Chairman, I urge adoption of this amendment and commend the gentleman from Florida for a very fine amendment.

Mr. MACKAY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman, and I thank the Chairman.

I want to compliment Mr. MACKAY from Florida for bringing this before the Congress. I shall only take approximately just a few seconds.

We have a situation which no doubt, evidently from the comments around the floor, is recognized as a Federal responsibility. It has been put in the form of an amendment, and I compliment the gentleman for bringing it to the attention of the House tonight. I am confident that it will be accepted even without a vote.

Mr. FASCELL. Mr. Chairman, I rise in strong support of the amendment being offered by

my Florida colleague, BUDDY MACKAY. The Federal Government is responsible for border control. We can all agree that, in recent years, the United States has lost control over illegal immigration into this country. One of the grimmest consequences of insufficient Federal efforts is that illegal aliens are increasingly entering this country and selling drugs.

The MacKay amendment complements our efforts on the drug bill and gives the Federal Government some of the tools it needs to have a positive effect on both the immigration and drug problems. This amendment requires Federal cooperation in incarcerating Mariels and other illegal aliens who have been convicted of drug crimes and requires that these individuals be deported in an expedited manner. Most important to heavily impacted States like Florida, under this amendment, convicted illegal aliens who are in State and local jails for drug offenses would be transferred to Federal facilities, pending their deportation.

We have committed ourselves to a comprehensive fight against drug trafficking overseas and in this country. Granted, it would be preferable to prohibit these individuals from entering the United States in the first place. But if we can't do that, at least let us put into motion the expedited procedures for deporting them, beginning with their transfer from State and local jails into Federal facilities.

Some would say that there is insufficient space in our 47 Federal prisons to handle the transfer of any illegal aliens from State and local jails. It is undeniably true that our Nation's prisons are already overcrowded. Under the MacKay amendment, if no space could be found in Federal prisons, these aliens could also be transferred to any of the 874 Defense Department facilities which are deemed appropriate for this purpose.

Immigration is a Federal responsibility. This House correctly recognizes that the Federal Government has a major role in fighting drugs. So why should taxpayers in Florida and other heavily affected States have the additional financial burden of supporting illegal aliens who have been convicted of selling drugs in their communities? In my judgment, it is logical and equitably that illegal aliens convicted on drug offenses should be transferred out of State and local jails and into available Federal facilities and deported as quickly as possible.

I urge my colleagues to take positive action on the immigration front and against drug trafficking by voting for the MacKay amendment.

Mr. MACKAY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MACKAY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer amendment No. 14.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Strike title VIII and conform the table of contents accordingly.

PARLIAMENTARY INQUIRY

Mr. DAUB. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DAUB. May I inquire as to whether, if I may state this question parliamentarywise to the Chairman, the gentleman from New York seeks to offer his amendment No. 1 listed as No. 13 in the rule?

The CHAIRMAN. The gentleman from New York [Mr. FISH] is offering amendment No. 14.

The gentleman does not desire to offer No. 13.

Mr. DAUB. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DAUB. Mr. Chairman, I appreciate the fact that may be within the gentleman's rights, in fact it is within the gentleman's rights.

We just finished voicevoting down the addition of quotas from Mexico and Canada and by not having a chance to discuss the Donnelly language which is included in the bill, is it not true, Mr. Chairman, that we will be allowing some legal quota increases but denying others?

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry.

Mr. DAUB. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from New York [Mr. FISH] will be recognized for 10 minutes and the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, my amendment strikes the provision in the bill that grants extended voluntary departure to El Salvadorans and Nicaraguans in the United States who have arrived as late as midsummer of this year. This legislation raises two central issues. First, it calls for a GAO report, which I do not believe we need, to supplement information on conditions of Salvadorans in El Salvador. Second, the question is, Should we suspend deportation of Salvadorans while we wait a 2-year period for that GAO report to be completed?

My answer on both these questions is "no" for the following reasons: Mr. Chairman, we have had this bill before us for years. Time has simply passed it by. There is no need. As to the GAO study, although I believe this legislation is well intended, another study would accomplish little.

The bill before us calls for the number and location of displaced persons, the origins of the reasons for displacement, the living conditions of Salvadorans. All this information is in a report in 1985 of the Agency for International Development.

Next it requests information from GAO as to what happens to Salvadorans returning to El Salvador.

Mr. Chairman, this bill was first introduced in the Congress to cover the years 1983 and 1984 responding to conditions in El Salvador in 1982, conditions that no longer exist.

Long since then, we have put in place the Intergovernmental Committee on Migration which interviews and protects every deportee back to El Salvador. There is no further danger of the random violence that was rampant in 1981 and 1982 which gave rise to this legislation. In fact, there were 9,000 cases reported in 1981; there is no doubt about there being random violence. By 1985 this had declined to 335.

You might compare that to the number of 1,600 homicides that occurred in 1 year in the city of New York.

Mr. Chairman, the major problem with this measure is that it does violence to the Refugee Act of 1980. Congress passed that act to supplement the piecemeal and nation-specific legislation for refugees, for example those we adopted for Cubans and for Hungarians.

Prior to 1981 refugees were paroled into the United States, following consultation with the Congress.

In place of this system, the Refugee Act set up a system under which any person, regardless of origin, can apply for, and my point is, Mr. Chairman, that this act, the Refugee Act, was intended by this Congress to be the exclusive available remedy and the legislation that I seek to strike this evening circumvents this system by creating a new system for handling Salvadorans and Nicaraguans during the next 2 years while we wait for this GAO report.

In addition, it raises the prospect that a stream of Salvadorans and others from the Caribbean Basin will illicitly enter the United States.

A claim will be made, I am sure, that a discriminatory policy exists toward Salvadoran applications, and that is simply not borne out by the facts.

Mr. Chairman, the United States is not the last safe haven for Salvadorans and Nicaraguans.

As we know, not all parts of El Salvador are unsafe and Honduras provides safe refugee camps open to all Salvadorans. In addition, almost all Salvadorans come to the United States by land route. In doing so, they must cross at least two borders, Mexico and Guatelmala. Mexico is also a safe haven for Salvadorans, and the United Nations high commissioner for refugees has established a presence in both Honduras and in Mexico to take care of these people.

Mr. Chairman, I yield 2 minutes to the chairman of the subcommittee,

the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman and I thank the chairman.

I would like to advise the House that, of course, we have reached the final amendment, No. 14. When this is disposed of in 20 minutes, then we will be able to go into final passage of the bill.

Let me just say that with reluctance and with a measure of unhappiness I do oppose the gentleman's language, the gentleman from California, and support the amendment.

I support the amendment offered by the gentleman from New York [Mr. FISH] to strike the language in the bill, that is the Moakley language.

Let me say, to the gentleman from Massachusetts' credit, we have worked closely over the last 4 years on this bill. It originally began without a cutoff date.

With the help of the gentleman, we were able to put a cutoff date in. Now, the cutoff date has been worked up to August of this year, 1986, but at least there is a cutoff date.

As I say, to the gentleman's credit, we were able over the last 4 years working on this bill to make some improvements which are in the bill. So if the House were to reject the amendment of the gentleman and adopt the gentleman's language, it is not like it used to be. Basically there is a cutoff date which we did not have earlier. The individuals who would be here in EVD are not able to get public assistance, whereas originally they might have. Furthermore, there are no preference rights, while these people are here in extended voluntary departure they cannot ask legally for their families to join them. The time spent in extended voluntary departure does not count toward the 7 years which under the existing INA allows a person to stay here and not go back home and ask for suspension of deportation. So, to that extent this is a much better offering. I will say to the gentleman as I say to the House there has been in two separate hearings before our subcommittee, the 98th Congress, the 99th Congress, no credible evidence ever adduced to say that an individual who would be returned to El Salvador is treated cruelly, foully or in anywise persecuted.

This is not to say that it does not happen. This is only to say that there has been no evidence that we were ever able to have before our committee that this actually occurs.

The second reason for my supporting the amendment of the gentleman is that if we were to accept the gentleman's language, we would go back to pre-1980 dealing with refugees and asylees.

I would urge the House to support the amendment of the gentleman.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the course of the 99th Congress, we have debated the civil wars in Central America. Most Members have supported President Duarte in his struggle against the Salvadoran insurgents and, more recently, a majority passed aid to the Nicaraguan Contras which promises an escalation of the violence which already exists in that beleaguered country. So let there be no doubt in anyone's mind—violence and civil war are still very much a fact of life in Central America.

The issue before us is "How do we respond to the humanitarian debris of these wars?" Do we send them back to the war zone? Is this body really going to vote to deport Nicaraguan refugees back to war-torn Nicaragua on the heels of our approval of military assistance to the Contras?

If we are true to our proud national traditions we will not. Our country has on 15 occasions over the past 26 years granted extended voluntary departure, a temporary stay of deportation, to national groups where there is extreme civil unrest in their homelands. In fact, we provide EVD currently to Poles, Afghans, and Ethiopians for this very reason. Surely the unrest in El Salvador or Nicaragua is at least as great as that in any one of these countries.

Some confuse EVD with asylum. Asylum is granted—on a case by case basis—to those who can prove an individualized fear of persecution. And this is granted under the authority of the Refugee Act. But even since passage of that act in 1980, it has continued to be necessary to temporarily protect whole national groups from deportation—something this administration has done four times since President Reagan took the oath of office.

Never in the history of EVD in this country, has it been demanded that a mortality rate for deportees be produced. Only now are critics of the Salvadoran EVD proposal asking for such a body count. But cries for body counts totally miss the point. We have never argued that returnees are singled out for persecution. If this were the case, then obviously asylum would be a more appropriate remedy to propose. What we do know is that there is significant violence in El Salvador and Nicaragua, and that is all we need to know to justify EVD.

There are also opponents of this proposal, as it pertains to Salvadorans, who hide behind the smokescreen provided them by a small program in El Salvador, conducted by the Intergovernmental Committee for Migration. ICM is a reception and counseling service, nothing more. "To suggest that it's something else is false," according to ICM's Washington representative. The so-called ICM report that many cite is methodologically flawed and, according to ICM, is "not a scientific data base on which to construct definitive analyses of situations of returnees."

Finally, many of the opponents of this measure argue that those fleeing Central America are economic migrants. But in the case of the Salvadorans, the Census Bureau testified before the House last year that there were only 94,000 Salvadorans in the United States in 1980 both legally and illegally combined. The current flow of Salvadorans, says the Census Bureau, began only with the escalation of violence that immediately followed the assassination of Catholic Archbishop Oscar Romero in 1981.

Certainly, many things have changed since I first began proposing EVD for Salvadorans. Certainly death squad activities and similar human rights problems have been reduced under President Duarte, but problems still remain. We could all stand here and debate the number of death squad deaths in 1986 as opposed to 1982 but that is not at all the issue. Rather, the fact remains that there is major civil war in El Salvador and Nicaragua.

Put simply—do we allow these refugees temporary safety or do we deport them back to the horrible cauldron of war? I appeal to my colleagues to join me in defeating the motion to strike—and to help save some lives.

□ 2200

Mr. Chairman, I would just like to allude to a recent letter from the Archbishop Rivera Y Damas, who wrote to the Members of the Congress urging passage of this bill in November 1985. In June 1986, Mr. Chairman, he reaffirmed his support of the bill in a taped conversation with an aide of mine who visited him down in San Salvador.

In July 1986, the archbishop again urged his support to the Bishop of Pittsburgh, Anthony Bevilaqua.

Mr. Chairman, if I could just read from the archbishop's letter:

> I, Archbishop Rivera y Damas, ask each and every one of you, Honorable Members of the House and Senate of the United States of America, that you open your arms and your hearts and your Christian charity to my suffering people and that you double your efforts against deportation of the Salvadoran refugees and support measures such as the Moakley-DeConcini bill. . . .

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr Chairman, I would like to associate myself with the gentleman's remarks.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the country of El Salvador and its people have been suffering the ravages of civil strife for the past 6 years. In last year's Report on Human Rights Practices, the State Department determined that the creation of "a stable public order sufficient to protect individual rights has been disrupted by guerrilla and military operations, partisan hatreds, acts of revenge, fear, and a prevailing uncertainty characterized by violence."

Recent press reports detail increased violence, including the kidnapping of government officials and their families, indiscriminate guerrilla attacks resulting in civilian deaths and the use of aerial bombings in the countryside by the military.

As a result of 6 years of living in the midst of violence, fear, and danger, thousands of Salvadorans and Nicaraguans have been displaced from their homes, and villages. Others have fled to the United States, seeking respite from violence, instability, and uncertainty. Most only seek a temporary haven until peace and stability return to their home countries.

Our Nation has a long humanitarian tradition of providing refuge to persons fleeing civil strife and violence until such time as they can return home.

In fact, in recent years relief has been provided to nationals of several countries during periods of unrest and violence. Currently it is being provided for nationals of Ethiopia, Uganda, Afghanistan, and Poland in the form of extended voluntary departure [EVD]. Most recently, the grant of EVD to nationals of Poland was extended for an additional 6 months.

It is my firm belief that the situation within El Salvador, Nicaragua is as unsettled and violent as in those countries where the executive branch has felt compelled to offer temporary shelter.

Accordingly, I wholeheartedly support EVD and urge my colleagues to reject this amendment.

Mr. MOAKLEY. Mr Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, my party of this amendment deals with Nicaragua, people who are in our country fleeing the persecution they have experienced in Nicaragua. I ask that the same consideration be given to those worthy people as the folks fleeing from the same kind of persecution in El Salvador.

Mr. Chairman, I warmly commend the able gentleman for the amendment.

Mr. Chairman, I rise in strong opposition to the motion to strike the extended voluntary departure language now in the bill.

United States immigration policy now affords no special benefits to Salvadorans or Nicaraguans. Undocumented aliens from these countries, if apprehended, are liable for deportation. In light of the civil unrest, violence, and political upheaval in Central America, particularly in Nicaragua, justice and humanitarian concern demand that the United States grant some temporary relief from deportation at least until conditions improve.

I should emphasize that the language now in the bill provides only a temporary suspension of certain types of deportation. It does not provide permanent resident status for these refugees nor does it allow access to public assistance. Moreover, the moratorium applies only to those who would be deported because they lack proper documentation. Those who would be deported for criminal convictions, or immoral or illegal activities, would still be deported. I should also note that the administration now has authority for discretionary relief. This legislation is necessary only because the administration, with its special political slant on Central America, has not acted with the humanitarian concern traditionally displayed by America.

Our traditional humanitarian concern is codified in our obligations under international and domestic law. As a signatory to the U.S. Convention and Protocol Relating to the Status of Refugees, and in various provisions of U.S. immigration law, the United States has agreed not to return an alien to a country if his life or liberty would be threatened by persecution. To receive asylum, however, an alien must prove that he or she would face persecution to which others in the country are not subjected. For Nicaraguans, it is an unfair burden.

There is another form of protection for aliens from countries torn by civil strife. Legal authority now exists for the administration to provide discretionary relief, staying or deferring deportation or extending voluntary departure status. Upon the recommendation of the Department of State, immigration authorities have granted blanket, nation-specific extended voluntary departure status to Cubans, Czechs, Chileans, Cambodians, Dominicans, Iranians, Laotians, Nicaraguans—from 1979 through 1980—and Vietnamese. Currently, the Lebanese, Ethiopians, Ugandans, Afghanis, and Poles enjoy this special benefit.

Nation-specific extended voluntary departure status is, and it ought to be, an extraordinary procedure. These are extraordinary circumstances. The violence and indiscriminate killing of civilians in Nicaragua are well-documented. There can be no question but that deported Nicaraguans would be viewed with suspicion by the Sandinistas. The danger they would face cannot be ignored. These people are bona fide refugees who deserve our protection.

Immigration authorities generally rely on advisory opinions from the Department of State about conditions in the country. The State Department declines to make the findings that would permit Nicaraguans to qualify for extended voluntary departure status. The administration does not support general relief for Nicaraguans despite the clear danger they face if they are returned.

Opponents of extended voluntary departure offer two arguments. They argue that a benefit like extended voluntary departure status will have a magnet effect and attract even more illegals. The language in the bill should obviate the concern. No benefit would accrue to a Nicaraguan who enters the United States after enactment of the bill and an alien who would otherwise be eligible for temporary suspension of deportation would forfeit that benefit if he or she leaves the United States and seeks to reenter.

The second argument we will hear is that special protection for Nicaraguans would undermine the Refugee Act of 1980. Before 1980, refugees were admitted to the United States under piecemeal and nation-specific legislation. The Refugee Act of 1980 was intended to provide an orderly and equitable process for establishing the need for asylum or withholding of deportation. That argument is unpersuasive.

We have already provided special consideration for nationals from certain countries. As I noted before, aliens from 14 countries have enjoyed extended voluntary departure status and nationals from 5 countries currently enjoy that status. After the Refugee Act of 1980, immigration authorities began to provide a stay of deportation for Poles who were in the United States as of December 23, 1981, and who are unwilling to return to Poland because of conditions there. Immigration authorities also do not enforce departure for Ethiopians who arrived in the United States before June 30, 1980. The legislation before us would not be the first time this Nation has recognized extraordinary circumstances and seen the need to work around the Refugee Act.

And I repeat, the circumstances in Nicaragua are extraordinary. The fighting and indiscriminate destruction, the terror and internal strife in Nicaragua cannot be ignored. The repressive record of the Sandinistas has been established; the Sandinistas have gagged the citizens, shut down La Prensa and controlled the media, and attempted to export a revolution without borders. I admit we are divided about Nicaragua but even those who disagree with me about the Communist takeover cannot ignore the reality of the internal conflict there and the

very real dangers any deported Nicaraguan would face.

In the long tradition of humanitarian concern this Nation has displayed and in recognition of the extraordinary circumstances in Nicaragua, I urge my colleagues to support a temporary suspension of deportation and to vote against the motion to strike.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I rise in support of Moakley-DeConcini. I just want to make it very clear that I believe this is a just act for us to perform here today.

Mr. Chairman, a hearing on Central American refugees was held in June 1985, making a clear connection between the political problems in the region and the flow of refugees to this Nation.

Our policy has created the flow of refugees, we should at least offer these innocent victims of that policy temporary asylum. The hearing record clearly points out the increase of refugees from Nicaragua and El Salvador as the violence increased.

This is not a permanent situation; it would only offer asylum for as long as the turmoil continues in their countries.

Both the Salvadoran Armed Forces and the guerrillas are responsible for the flow of refugees from El Salvador and Nicaragua. This is not a political or economic question. It is a question of protecting the lives of thousands of innocent people.

We just recently voted $100 million in aid for the Contras to fight the Nicaraguan Government. Shouldn't the victims of that government's oppressive policies be given temporary asylum? A vote for this amendment is a slap in the face of the Contras. It is the same as saying that the political turmoil in Nicaragua is not severe enough to warrant giving even temporary political asylum to Nicaraguans wanting to flee their country because of political oppression.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman I commend the gentleman for his leadership and for his brilliant statement with which I associate myself.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to efforts to strike from the immigration bill the provision granting a temporary stay of deportation of Salvadoran and Nicaraguan refugees who are currently in the United States.

The issue of granting extended voluntary departure status to Salvadoran and Nicaraguan refugees is not a political statement against the governments of those countries. It is far from that. Instead, is a deeply humanitarian issue. It is a matter of whether we, as citizens of a country whose very principles are based on compassion and equity, will set-aside our political differences and provide a temporary refuge for persons less fortunate than ourselves who are innocent victims of civil wars waging through their countries.

Consider the facts: An August 1986 State Department report found that the Sandinista government has intensified repression in that country. Fact: Various human rights groups have documented human rights abuses by the Contra forces. Fact: There are significant civilian casualties as a result of fighting between the Sandinistas and Contras. Fact: Despite the commendable efforts of the Duarte government to improve human rights in that country, a substantial body of evidence exists which indicates that human rights violations continue to occur at an alarming rate. Fact: While it is true that political killings and activities by death squads are lower now than they were at the beginning of the civil war in El Salvador, political killings and disappearances continue at a rate higher than any other country currently receiving extended voluntary departure.

Notwithstanding the ongoing violence in El Salvador, the administration continues to point to data compiled by the Intergovernmental Committee for Migration, an organization under United States State Department contract which assists and monitors Salvadorans deported from the United States. ICM can provide returnees information about assistance programs in the area of the country to which the person is returning, bus money, referrals for health care, overnight housing, and temporary identification documents. Unfortunately, ICM is not a protection or human rights monitoring organization.

The administration claims that ICM data proves that deported Salvadorans are safe when they return to their homeland. ICM collects this data by giving returnees postcards which they are asked to send to ICM once a month for 6 months. These postcards are then used to verify the safety of the returnees. However, a recent ICM survey found that only about half of the returnees could be located. According to the survey, 57 percent of the caseload returned to conflictive zones. And of those in conflictive zones, only 12 percent could even be located, and only a few individuals could actually be interviewed. I think it's crucial to understand that ICM cannot and does not protect Salvadorans once they are sent back. Not only does ICM lack any real political clout in El Salvador, but it is structured primarily to assist refugees with transportation and training, not to protect them from violence.

Finally, Mr. Chairman, as to claims that Salvadoran refugees are merely economic refugees or those seeking to avoid military service in that country and thus, not entitled to EVD, let me say this: The facts say otherwise. Many of these refugees have genuine cause for concern for their safety and well-being were they forced to return to El Salvador at the present time. President Duarte himself has described a "culture of terror" in his country. And last spring he announced his support for the resettlement outside El Salvador of displaced Salvadorans who were the victims of irrational violence . . . imposed upon our people. Furthermore, virtually all of the estimated 500,000 Salvadorans in the United States came after the start of the civil war, and studies show that the reason for their flight to be the violence in El Salvador.

Let's stop holding Salvadorans and Nicaraguans to a separate standard. A well-founded fear of persecution upon return is a standard for the granting of asylum, not EVD. EVD has always been conferred upon nationalities due to unstable or unsettled conditions in potential deportees' homelands, such as civil war. In the past, various administrations have granted EVD to refugees in situations similar to that of the Salvadorans and Nicaraguans. In fact, EVD has been granted to 15 different national groups during the past 25 years, and currently protects from deportation Poles, Afghans, Ugandans, and Ethiopians. Yet the Reagan administration continues to deny this protection to Salvadorans and Nicaraguans.

The time has come for us to act on our beliefs, and to alleviate an intolerable disregard for basic human rights. It is time we extend an offer of compassion and protection to these refugees, and I urge my colleagues to defeat the motion to strike the EVD provisions for Salvadorans and Nicaraguans contained in this bill.

Mr. MOAKLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Chairman, I yield the remainder of my time to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, we are at the end of a long journey, and this is the last amendment we will have before we go to final passage.

I would just ask Members who are serious about immigration reform—what I am about to say is not a threat; I think it is an observation of political reality based on the vote we had on the previous question of legalization—

71-059 O-87-8 (Pt. 21)

this is a killer amendment. This kills the bill.

The Rules Committee could pass out a rule today or tomorrow and bring this bill to the floor by itself. It passed out as a separate bill out of our committee even though many of us disagree with it. On the subcommittee we could have blocked it. We decided we would not block it, even though we disagreed with it. We brought it forward. And to have it now to be brought here, what I am talking about is the EVD section of it, it means that if it stays in this bill, this bill dies.

□ 2210

We just managed to maintain legalization by a seven-vote margin. We just passed the bill on the floor 2 years ago by a five-vote margin, why? Because of legalization. Now you are trying to saddle this bill with extended voluntary departure.

Irrespective of how you feel on that, do not kill this bill. Support the motion to strike. It ought not to be here. EVD is not essential to this bill. The administration has said they will veto it; that is not an idle threat. They said it long before it ever became attached to this bill.

If you want immigration reform, I would ask you, I would beg you to vote the motion to strike. Let me talk about the substance of it. The gentleman from New York has talked about ICM, the International Commission on Migration. Not the United States. Not the U.S. State Department. They are the ones that go and receive every single person deported to El Salvador from the United States. They meet them, they greet them, they try and help resettle them. They then follow it up and they try and talk to them. In the 3 years or so they have been down there there have been two deaths down there. One, the result of an argument in a bar over a soccer match. Two, a person who attempted an armed robbery.

If you establish the idea that we should grant extended voluntary departure to this group, where do you stop? How do you say no to any group? How do you say no to Guatemala? How do you say no to Brazil? How do you say no to any of those countries in Central and South America?

If you take general conditions, my God, we should give extended voluntary departure to the people who live in downtown District of Columbia. People who live in Chicago, who live in Los Angeles. It is more dangerous, statistically, in those areas than in El Salvador.

This throws the whole immigration bill out the window. This throws immigration law out the window. This throws the Refugee Act of 1980 out the window. We decided in 1980 we should not have extended voluntary departure on a group basis; we should have it on an individual basis. We adopted the international definition of refugee and that is what is applied. That is what should be done.

But no, you are going to make a total exception for El Salvadorans and Nicaraguans. The question is are they economic refugees? The gentleman from Arizona [Mr. KOLBE], I would like to yield to him for a second to mention something that he observed when he was down there.

Mr. KOLBE. I thank the gentleman for yielding to me.

Mr. Chairman, when we were down in El Salvador a few months ago, I picked up on a Saturday a classified section of a newspaper. Here is an entire page of advertisements of travel agencies.

Mr. LUNGREN. If you want an immigration bill, support the motion to strike. Otherwise, this bill is dead.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 199, not voting 37, as follows:

[Roll No. 456]

AYES—197

Anthony	Dowdy	Jones (NC)
Applegate	Dreier	Jones (TN)
Archer	Duncan	Kasich
Armey	Dyson	Kemp
Badham	Eckert (NY)	Kolbe
Bartlett	Emerson	Kramer
Barton	English	LaFalce
Bateman	Erdreich	Lagomarsino
Bennett	Evans (IA)	Latta
Bereuter	Fawell	Leath (TX)
Bevill	Fiedler	Lent
Bilirakis	Fields	Lewis (CA)
Bliley	Fish	Lewis (FL)
Boner (TN)	Flippo	Lipinski
Boulter	Franklin	Livingston
Broomfield	Frenzel	Lloyd
Brown (CO)	Fuqua	Loeffler
Burton (IN)	Gallo	Lott
Byron	Gekas	Lowery (CA)
Callahan	Gibbons	Lujan
Carney	Gingrich	Lungren
Chandler	Glickman	Mack
Chappell	Goodling	Madigan
Chappie	Gordon	Marlenee
Cheney	Green	Martin (IL)
Coats	Gregg	Martin (NY)
Cobey	Gunderson	Mazzoli
Coble	Hall, Ralph	McCain
Coleman (MO)	Hammerschmidt	McCandless
Combest	Hansen	McCollum
Cooper	Hatcher	McMillan
Courter	Henry	Meyers
Craig	Hiler	Mica
Crane	Holt	Michel
Dannemeyer	Hopkins	Miller (OH)
Daub	Hubbard	Miller (WA)
Davis	Huckaby	Molinari
DeLay	Hunter	Monson
DeWine	Hutto	Montgomery
Dickinson	Hyde	Moorhead
Dingell	Ireland	Morrison (WA)
DioGuardi	Jenkins	Myers
Dornan (CA)	Johnson	Natcher
Nelson	Sensenbrenner	Stump
Nielson	Shaw	Sundquist
Olin	Shelby	Sweeney
Oxley	Shumway	Swindall
Packard	Shuster	Tallon
Parris	Siljander	Tauzin
Pashayan	Skeen	Taylor
Petri	Skelton	Thomas (CA)
Porter	Slaughter	Thomas (GA)
Pursell	Smith (IA)	Traficant
Quillen	Smith (NE)	Valentine
Ray	Smith, Denny (OR)	Vander Jagt
Ridge	Smith, Robert (NH)	Vucanovich
Ritter	Smith, Robert (OR)	Walker
Roberts	Snyder	Weber
Robinson	Spence	Whitehurst
Roemer	Stallings	Whitley
Rogers	Stangeland	Whittaker
Roth	Stenholm	Wilson
Roukema	Strang	Wolf
Rowland (CT)	Stratton	Wylie
Saxton		Young (AK)
Schaefer		Young (FL)
Schuette		

NOES—199

Abercrombie	Garcia	Obey
Ackerman	Gaydos	Ortiz
Akaka	Gejdenson	Owens
Alexander	Gilman	Panetta
Anderson	Gonzalez	Pease
Andrews	Gradison	Penny
Annunzio	Gray (IL)	Pepper
Aspin	Gray (PA)	Perkins
Atkins	Guarini	Pickle
AuCoin	Hamilton	Price
Barnes	Hawkins	Rahall
Bates	Hayes	Rangel
Bedell	Hendon	Regula
Beilenson	Hertel	Reid
Bentley	Horton	Richardson
Berman	Howard	Rinaldo
Biaggi	Hoyer	Rodino
Boehlert	Hughes	Roe
Boggs	Jacobs	Rose
Bonior (MI)	Jeffords	Rostenkowski
Bonker	Jones (OK)	Rowland (GA)
Borski	Kanjorski	Roybal
Bosco	Kastenmeier	Sabo
Boucher	Kennelly	Savage
Boxer	Kildee	Scheuer
Brown (CA)	Kleczka	Schroeder
Bruce	Kolter	Schumer
Bryant	Kostmayer	Seiberling
Bustamante	Lantos	Sharp
Carper	Leach (IA)	Sikorski
Carr	Lehman (CA)	Sisisky
Chapman	Lehman (FL)	Slattery
Clay	Leland	Smith (FL)
Clinger	Levin (MI)	Smith (NJ)
Coelho	Levine (CA)	Snowe
Coleman (TX)	Lightfoot	Spratt
Collins	Long	St Germain
Conte	Lowry (WA)	Staggers
Coughlin	Luken	Stark
Coyne	Lundine	Stokes
Darden	MacKay	Studds
Daschle	Manton	Swift
de la Garza	Markey	Synar
Dellums	Martinez	Torres
Derrick	Matsui	Torricelli
Dicks	Mavroules	Towns
Dixon	McCloskey	Udall
Donnelly	McDade	Vento
Dorgan (ND)	McGrath	Visclosky
Downey	McHugh	Volkmer
Durbin	McKernan	Waldon
Dwyer	McKinney	Walgren
Dymally	Mikulski	Watkins
Early	Miller (CA)	Waxman
Eckart (OH)	Mineta	Wheat
Edwards (CA)	Moakley	Whitten
Evans (IL)	Mollohan	Williams
Fascell	Moody	Wirth
Fazio	Morrison (CT)	Wise
Feighan	Mrazek	Wolpe
Florio	Murphy	Wortley
Foglietta	Murtha	Wright
Foley	Neal	Wyden
Ford (MI)	Nowak	Young (MO)
Ford (TN)	O'Neill	Zschau
Frank	Oakar	
Frost	Oberstar	

NOT VOTING—37

Barnard	Grotberg	Russo
Boland	Hall (OH)	Schneider
Breaux	Hartnett	Schulze
Brooks	Hefner	Solarz
Burton (CA)	Hillis	Solomon
Campbell	Kaptur	Tauke
Conyers	Kindness	Traxler
Crockett	McCurdy	Weaver
Daniel	McEwen	Weiss
Edgar	Mitchell	Yates
Edwards (OK)	Moore	Yatron
Fowler	Nichols	
Gephardt	Rudd	

□ 2030

The Clerk announced the following pair:

On this vote:

Mr. McEwen for, with Mr. Weiss against.

Mrs. ROUKEMA changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3810) to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes, pursuant to House Resolution 580, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. Over many years, the Chair has used the gentleman from Kentucky [Mr. NATCHER] as the Chairman of the Committee of the Whole and the gentleman has always done an exemplary job. The Chair desires at this time to express its profound thanks to the gentleman for the marvelous job the gentleman has done.

MOTION TO RECOMMIT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SENSENBRENNER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SENSENBRENNER moves to recommit the bill, H.R. 3810, to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GARCIA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 166, not voting 36, as follows:

[Roll No. 457]

YEAS—230

Abercrombie	Durbin	Livingston
Ackerman	Dwyer	Long
Alexander	Dyson	Lott
Anderson	Early	Lowery (CA)
Annunzio	Eckart (OH)	Lowry (WA)
Anthony	Evans (IA)	Luken
Aspin	Fascell	Lundine
Atkins	Fazio	Lungren
AuCoin	Feighan	MacKay
Badham	Fish	Manton
Barnes	Florio	Markey
Bates	Foglietta	Martin (IL)
Bedell	Foley	Matsui
Beilenson	Ford (MI)	Mavroules
Bennett	Ford (TN)	Mazzoli
Berman	Frank	McCandless
Biaggi	Frenzel	McCloskey
Boehlert	Frost	McDade
Boggs	Fuqua	McHugh
Bonior (MI)	Gejdenson	McKernan
Bonker	Gibbons	McKinney
Borski	Gilman	McMillan
Bosco	Gingrich	Mica
Boucher	Glickman	Michel
Boxer	Goodling	Mikulski
Brown (CA)	Gray (IL)	Miller (CA)
Bruce	Gray (PA)	Miller (WA)
Bryant	Green	Mineta
Bustamante	Gunderson	Moakley
Byron	Hamilton	Mollohan
Carper	Hatcher	Monson
Chandler	Henry	Moody
Chappell	Hertel	Moorhead
Cheney	Howard	Morrison (CT)
Clay	Hoyer	Morrison (WA)
Clinger	Huckaby	Mrazek
Coelho	Hutto	Murtha
Coleman (MO)	Jeffords	Natcher
Collins	Jenkins	Neal
Conte	Johnson	Nelson
Cooper	Jones (OK)	Nielson
Coughlin	Kanjorski	Nowak
Coyne	Kastenmeier	Oakar
Dannemeyer	Kennelly	Oberstar
Darden	Kildee	Obey
Daschle	Kostmayer	Ortiz
Davis	LaFalce	Owens
Derrick	Lagomarsino	Packard
DeWine	Lantos	Panetta
Dicks	Leach (IA)	Pashayan
Dingell	Lehman (CA)	Pease
DioGuardi	Lehman (FL)	Penny
Dixon	Levin (MI)	Pepper
Donnelly	Levine (CA)	Perkins
Dorgan (ND)	Lewis (CA)	Pickle
Dornan (CA)	Lightfoot	Porter
Downey	Lipinski	Price
Quillen	Slattery	Torricelli
Rahall	Smith (FL)	Udall
Rangel	Smith (IA)	Vento
Richardson	Smith (NE)	Visclosky
Ridge	Smith (NJ)	Vucanovich
Rodino	Snowe	Waldon
Roe	Spratt	Walgren
Rogers	St Germain	Waxman
Rose	Staggers	Weber
Rostenkowski	Stallings	Wheat
Rowland (CT)	Stangeland	Williams
Rowland (GA)	Stark	Wilson
Sabo	Stokes	Wise
Schaefer	Strang	Wolpe
Scheuer	Stratton	Wortley
Schumer	Studds	Wright
Seiberling	Swift	Wyden
Sharp	Synar	Young (MO)
Shaw	Thomas (GA)	Zschau
Sisisky	Torres	

NAYS—166

Akaka	Gradison	Rinaldo
Andrews	Gregg	Ritter
Applegate	Guarini	Roberts
Archer	Hall, Ralph	Robinson
Armey	Hammerschmidt	Roemer
Bartlett	Hansen	Roth
Barton	Hawkins	Roukema
Bateman	Hayes	Roybal
Bentley	Hendon	Savage
Bereuter	Hiler	Saxton
Bevill	Holt	Schroeder
Bilirakis	Hopkins	Schuette
Bliley	Horton	Sensenbrenner
Boner (TN)	Hubbard	Shelby
Boulter	Hughes	Shumway
Broomfield	Hunter	Shuster
Brown (CO)	Hyde	Sikorski
Burton (IN)	Ireland	Siljander
Callahan	Jacobs	Skeen
Carney	Jones (NC)	Skelton
Carr	Jones (TN)	Slaughter
Chapman	Kasich	Smith, Denny (OR)
Chappie	Kemp	Smith, Robert (NH)
Coats	Kleczka	Smith, Robert (OR)
Cobey	Kolbe	Snyder
Coble	Kolter	Spence
Coleman (TX)	Kramer	Stenholm
Combest	Latta	Stump
Courter	Leath (TX)	Sundquist
Craig	Leland	Sweeney
Crane	Lent	Swindall
Daub	Lewis (FL)	Tallon
de la Garza	Lloyd	Tauzin
DeLay	Loeffler	Taylor
Dellums	Lujan	Thomas (CA)
Dickinson	Mack	Towns
Dowdy	Madigan	Traficant
Dreier	Marlenee	Valentine
Duncan	Martin (NY)	Vander Jagt
Dymally	Martinez	Volkmer
Eckert (NY)	McCain	Walker
Edwards (CA)	McCollum	Watkins
Emerson	McGrath	Whitehurst
English	Meyers	Whitley
Erdreich	Miller (OH)	Whittaker
Evans (IL)	Molinari	Whitten
Fawell	Montgomery	Wirth
Fiedler	Murphy	Wolf
Fields	Myers	Wylie
Flippo	Olin	Yatron
Franklin	Oxley	Young (AK)
Gallo	Parris	Young (FL)
Garcia	Petri	
Gaydos	Pursell	
Gekas	Ray	
Gonzalez	Regula	
Gordon	Reid	

NOT VOTING—36

Barnard	Gephardt	Nichols
Boland	Grotberg	Rudd
Breaux	Hall (OH)	Russo
Brooks	Hartnett	Schneider
Burton (CA)	Hefner	Schulze
Campbell	Hillis	Solarz
Conyers	Kaptur	Solomon
Crockett	Kindness	Tauke
Daniel	McCurdy	Traxler
Edgar	McEwen	Weaver
Edwards (OK)	Mitchell	Weiss
Fowler	Moore	Yates

□ 1045

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Nichols against.

Mr. Boland for, with Mr. Barnard against.

Mr. McEwen for, with Mr. Conyers against.

Mr. Solarz for, with Mr. Mitchell against.

Mr. RINALDO changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous materials on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, pursuant to the provisions of House Resolutiom 580, I call up from the Speaker's table the Senate bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

MOTION OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Speaker, I move to strike out all after the enacting clause of the Senate bill, S. 1200, and insert in lieu thereof the text of the bill, H.R. 3810, as passed by the House, as follows:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Legalization Amendments Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

TABLE OF CONTENTS

Sec. 1. Short title; references in Act.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

Part A—Employment

Sec. 101. Control of unlawful employment of aliens and unfair immigration-related employment practices.

Sec. 102. Fraud and misuse of certain immigration-related documents.

Part B—Improvement of Enforcement and Services

Sec. 111. Authorization of appropriations for enforcement and service activities of the Immigration and Naturalization Service.

Sec. 112. Unlawful transportation of aliens to the United States.

Sec. 113. Treatment of immigration emergencies.

Sec. 114. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.

Sec. 115. Enforcement of the immigration laws of the United States.

Sec. 116. Restricting warrantless entry in the case of outdoor agricultural operations.

Part C—Verification of Status Under Certain Programs

Sec. 121. Verification of immigration status of aliens applying for benefits under certain programs.

TITLE II—LEGALIZATION

Sec. 201. Legalization of status.

Sec. 202. Cuban-Haitian adjustment.

Sec. 203. Updating registry date to January 1, 1976.

Sec. 204. State legalization assistance.

TITLE III—REFORM OF LEGAL IMMIGRATION

Part A—Temporary Agricultural Workers

Sec. 301. H-2A agricultural workers.

Sec. 302. Permanent residence for certain special agricultural workers.

Sec. 303. Determinations of agricultural labor shortages and admission of additional special agricultural workers.

Sec. 304. Commission on Agricultural Workers.

Sec. 305. Eligibility of certain agricultural workers for legal assistance.

Part B—Other Changes in the Immigration Law

Sec. 311. Change in colonial quota.

Sec. 312. Students.

Sec. 313. G-IV special immigrants.

Sec. 314. Visa waiver pilot program for certain visitors.

Sec. 315. Providing additional immigrant visas.

Sec. 316. Miscellaneous provisions.

TITLE IV—REPORTS TO CONGRESS

Sec. 401. Triennial reports concerning immigration.

Sec. 402. Reports on unauthorized alien employment and discrimination in employment.

Sec. 403. Reports on H-2A program.

Sec. 404. Reports on legalization program.

Sec. 405. Report on visa waiver pilot program.

Sec. 406. Report on INS resources.

Sec. 407. U.S.-Mexico border revitalization.

TITLE V—STATE AND LOCAL ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

Sec. 501. Reimbursement of States and localities for costs of incarcerating illegal aliens and certain Cuban nationals.

TITLE VI—COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT

Sec. 601. Commission on International Migration and Development.

TITLE VII—NATIONAL COMMISSION ON IMMIGRATION

Sec. 701. National Commission on Immigration.

TITLE VIII—INVESTIGATION, REVIEW, AND TEMPORARY LIMITATION ON DEPORTATION OF DISPLACED SALVADORANS AND NICARAGUANS

Part A—GAO Investigation and Report

Sec. 801. GAO investigation.

Sec. 802. Report.

Part B—Congressional Review

Sec. 811. Referral of report, committee hearings, and committee report.

Part C—Temporary Stay of Deportation

Sec. 821. Limitation on detention and deportation.

Sec. 822. Period of stay of deportation not counted towards obtaining suspension of deportation benefit.

Sec. 823. Alien's status during period of extension.

TITLE IX—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

Sec. 901. Expeditious deportation of convicted aliens.

Sec. 902. Transfer of certain deportable aliens from State and local penal facilities to Federal penal facilities.

Sec. 903. Identification of facilities to incarcerate deportable or excludable aliens.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (g)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section and in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien

in the United States knowing that the alien is an unauthorized alien (as defined in subsection (g)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

"(5) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

"(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

"(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form established or designated by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in the United States by examining—

"(i) the individual's United States passport, or the individual's unexpired foreign passport if the foreign passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States, or

"(ii) a document described in subparagraph (B) and a document described in subparagraph (C).

A person or entity has complied with the requirement of the preceding sentence with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of such sentence, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.

"(B) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is the individual's—

"(i) social security account number card issued by the Social Security Administration,

"(ii) certificate of birth in the United States or United States consular report of birth, or

"(iii) in the case of an individual without a social security card or a certificate of birth in the United States or a United States consular report of birth, any other identification acceptable to the Attorney General.

"(C) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is the individual's—

"(i) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens, or other identification issued by the Attorney General to aliens who establish eligibility for employment,

"(ii) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section, or

"(iii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury and on the form designated or established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

"(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during such period as the Attorney General shall specify in regulations.

"(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(5) TIME FOR COMPLIANCE.—A person or entity has complied with the requirements of this subsection, with respect to the hiring of an individual, if the requirements of this subsection are first met not later than noon of the day following the day on which the individual is first employed by that person or entity.

"(6) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this section or section 1546 of title 18, United States Code.

"(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

"(d) PENALTIES.—

"(1) CIVIL MONEY PENALTY FOR UNLAWFUL EMPLOYMENT, RECRUITING, OR REFERRAL.—

"(A) IN GENERAL.—In the case of a person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)) to have violated paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of not less than $1,000, and not more than $2,000, for each unauthorized alien with respect to whom the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of not less than $2,000, and not more than $5,000, for each unauthorized alien with respect to whom the violation occurred.

In determining the level of civil penalty that is applicable under this subparagraph for violations of paragraph (1)(A) or (2) of subsection (a), determinations of more than one violation in the course of a single proceeding or adjudication shall be counted as a single determination.

"(B) CRIMINAL PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—A person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)) to have violated subsection (a)(1)(B) shall be subject to a civil penalty of not less than $250 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, and the history of previous violations.

"(4) ADMINISTRATIVE PROCESS.—

"(A) HEARING.—

"(i) IN GENERAL.—Before assessing a civil penalty against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(ii) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the assessment shall constitute a final and unappealable order.

"(iii) JUDICIAL REVIEW.—A person or entity (including the Attorney General) adversely affected by a final order respecting an assessment may, within 60 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(B) COLLECTION OF CIVIL PENALTIES.—If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the

amount in the appropriate district court of the United States.

"(5) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referral for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(e) PROHIBITION OF INDEMNITY BONDS.—

"(1) PROHIBITION.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

"(2) CIVIL PENALTY.—Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(f) MISCELLANEOUS PROVISIONS.—

"(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

"(g) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (1) an alien lawfully admitted for permanent residence, or (2) authorized to be so employed by this Act or by the Attorney General.".

(2) Except as provided in paragraphs (3), (4), and (5), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, but shall not apply to the hiring, recruiting, or referring of individuals occurring after the end of the 6-year period beginning on the first day of the seventh month that begins after the date of the enactment of this Act.

(3) During the six-month period beginning on the first day of the first month after the date of the enactment of this Act—

(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act, and

(B) the Attorney General shall not conduct any proceeding, nor impose any penalty, under such section on the basis of any violation alleged to have occurred during the period.

(4) In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(5)(A) Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under section 274A of the Immigration and Nationality Act on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

(B)(i) During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

(ii) Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of the Immigration and Nationality Act (relating to performance of seasonal agricultural services).

(iii) A person, entity, or agent that violates clause (i) shall be deemed to be subject to a penalty under section 274A(d) of the Immigration and Nationality Act in the same manner as if it had violated section 274A(a)(1)(A) of such Act, without regard to paragraph (4) of this subsection.

(C) In this paragraph:

(i) The term "application period" means the period described in section 210(a)(1) of the Immigration and Nationality Act (as added by section 302(a) of this Act).

(ii) The term "seasonal agricultural services" has the meaning given such term in section 210(g) of the Immigration and Nationality Act (as added by section 302(a) of this Act).

(iii) The term "unauthorized alien" has the meaning given such term in section 274A(g) of the Immigration and Nationality Act.

(6) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.—(1) Chapter 8 of title II is further amended by inserting after section 274A, as inserted by subsection (a)(1), the following new section:

"UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

"SEC. 274B. (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

"(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

"(A) because of such individual's national origin, or

"(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual's citizenship status.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a person or other entity that employs three or fewer employees,

"(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964,

"(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government, or

"(D) discrimination against an individual on the basis of the individual's English language skill in those certain instances where the English language skill is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

"(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term 'citizen or intending citizen' means an individual who—

"(A) is a citizen or national of the United States, or

"(B) is an alien who—

"(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

"(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

"(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

"(b) CHARGES OF VIOLATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging

that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

"(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

"(c) SPECIAL COUNSEL.—

"(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the 'Special Counsel') within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (i)(1).

"(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

"(d) INVESTIGATION OF CHARGES.—

"(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

"(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

"(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

"(e) HEARINGS.—

"(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

"(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

"(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

"(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

"(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(g) DETERMINATIONS.—

"(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

"(2) ORDERS FINDING VIOLATIONS.—

"(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

"(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

"(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

"(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(6), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

"(iii) to hire individuals directly and adversely affected, with or without back pay; and

"(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than $1,000 for each individual discriminated against, and

"(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $2,000 for each individual discriminated against.

"(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such paragraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

"(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged or is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

"(h) AWARDING OF ATTORNEYS' FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other

than the United States, a reasonable attorney's fee.

"(i) REVIEW OF FINAL ORDERS.—

"(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

"(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

"(2) COURT ENFORCEMENT ORDER.—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

"(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

"(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs.".

(2) The amendment made by paragraph (1) shall not apply to discrimination in hiring, recruiting, or referring of individuals occurring after the end of the 6-year period beginning on the first day of the seventh month that begins after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a)";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act and before the end of the 6-year period beginning on the first day of such month.

(d) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new items:

"Sec. 274A. Unlawful employment of aliens.
"Sec. 274B. Unfair immigration-related employment practices.".

(f) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

SEC. 102. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) APPLICATION TO ADDITIONAL DOCUMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000";

(5) by inserting "(a)" before "Whoever" the first place it appears; and

(6) by adding at the end the following new subsections:

"(b) Whoever uses—

"(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

"(2) an identification document knowing (or having reason to know) that the document is false, or

"(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined not more than $5,000, or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) TWO ESSENTIAL ELEMENTS.—Two essential elements of the program of immigration control and reform established by this Act are—

(1) an increase in the border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1986,

$422,000,000, and for fiscal year 1987, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1986, $12,000,000, and for fiscal year 1987, $15,000,000.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach shall include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) PROGRAM OF IN-SERVICE TRAINING.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) IN-SERVICE TRAINING PROGRAM.—(1) The Attorney General shall provide for such programs of in-service training for full-time and part-time personnel of the Service in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service includes a description of steps taken to carry out paragraph (1).".

(e) ENHANCEMENT OF COMMUNITY OUTREACH WITHIN THE IMMIGRATION AND NATURALIZATION SERVICE.—Section 103 (8 U.S.C. 1103), as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(d) COMMUNITY OUTREACH PROGRAM.—(1) The Attorney General shall enhance the responsibilities of the community outreach program within the Service so that such program, acting in cooperation with the community relations service of the Department of Justice, has personnel located at the district level—

"(A) to assist in the provision of services, particularly naturalization services;

"(B) to provide outreach to deal generally with community problems with the Service arising at the district level; and

"(C) to receive and investigate complaints of abuse of authority by personnel of the Service and to transmit findings thereon to appropriate authorities for disposition or resolution.

In providing for the functions described in subparagraph (A), the Attorney General may secure the assistance and services of voluntary and community agencies.

"(2) The Attorney General shall provide that the annual report of the Service includes details concerning the progress of the Service's community outreach program in carrying out the responsibilities described in paragraph (1).".

(f) DATA PROCESSING REQUIREMENTS OF THE INS.—(1) The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate, and to any other appropriate committees of the Congress, not later than six months after the date of the enactment of this Act, on the results of a comprehensive analysis of the data processing requirements of the Immigration and Naturalization Service. The report shall include—

(A) an assessment of the data processing needs of the Service, and

(B) an analysis of the alternatives considered to meet those requirements, including the use of regional centers and other available resources of the Department of Justice.

(2) The Attorney General shall provide that any automatic data processing equipment, facilities, and software of the Immigration and Naturalization Service are acquired consistent with the provisions of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759). No such equipment, facilities, or software may be ordered, acquired, or installed without the prior review and approval of the Administrator of General Services. The Administrator shall notify Congress in writing of all such approvals, together with any limitations or conditions thereon, or modifications thereto.

(3) Effective November 18, 1985, neither the Attorney General nor the Immigration and Naturalization Service may order, acquire, or install any new data processing equipment, facilities, or software for the use of the Service under the existing contract known as Acquisition II until 45 days after the date that Congress receives written notification under paragraph (2) of the approval, by the Administrator of General Services, of the order, acquisition, or installation.

(g) INCREASE IN BORDER PATROL.—There are authorized to be appropriated, for each of fiscal years 1987, 1988, and 1989, such additional sums as may be necessary to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each such fiscal year is 50 percent higher than such level in fiscal year 1986.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(a) CRIMINAL PENALTIES.—(1) Any person who—

"(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

"(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

"(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation,

shall be fined not more than $10,000, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs.

"(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

"(A) be fined not more than $5,000, or imprisoned not more than one year, or both; or

"(B) in the case of—

"(i) a second or subsequent offense,

"(ii) an offense done for the purpose of commercial advantage or private financial gain, or

"(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined not more than $10,000, or imprisoned not more than five years, or both.".

SEC. 113. TREATMENT OF IMMIGRATION EMERGENCIES.

(a) IMMIGRATION CONTINGENCY PLAN.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Attorney General shall develop, and may from time to time modify, a contingency plan to provide for the allocation and management of personnel and resources in the event of an immigration emergency. In developing such a plan, the Attorney General shall consult with the Judiciary Committees of the House of Representatives and of the Senate and with State and local governments.".

(b) IMMIGRATION EMERGENCY FUND.—Section 404 (8 U.S.C. 1101 note) is amended by inserting "(a)" after "SEC. 404." and by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used in accordance with the immigration contingency plan developed under section 103(c) to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such funds with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

"(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

"(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The

Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

"(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).".

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended—

(A) in the matter in subsection (a) before paragraph (1), by inserting "which meets the requirements of subsection (d) and" after "income and eligibility verification system",

(B) in subsection (b), by striking out "income verification system" in the matter preceding paragraph (1) and inserting in lieu thereof "income and eligibility verification system", and

(C) by adding at the end the following new subsections:

"(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection—

"(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

"(ii) in the case of the program described in subsection (b)(4)—

"(I) any reference to the State shall be considered a reference to the State agency, and

"(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

"(III) the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for benefits under the applicable program.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the State—

"(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

"(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

"(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

"(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

"(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination to make an individual eligible for benefits based on citizenship or immigration status—

"(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(2) UNDER HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsections:

"(d) The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

"(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for financial assistance.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the Secretary—

"(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—

"(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

In this subsection and subsection (e), the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available.

"(e) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

"(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the entity, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the entity, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(3) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following new subsections:

"(c) The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

"(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

"(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the institution—

"(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

"(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

"(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

"(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

"(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

"(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

"(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

"(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

"(d) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

"(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the institution, under subsection (c)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the institution, under subsection (c)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

"(4) because of a fair hearing process described in subsection (c)(5)(B).

"(e) Notwithstanding subsection (c), if—

"(1) a guaranty is made under this title for a loan made with respect to an individual,

"(2) at the time the guaranty is entered into, the provisions of subsection (c) had been complied with,

"(3) amounts are paid under the loan subject to such guaranty, and

"(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.".

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d),".

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting

after paragraph (3) the following new paragraph:

"(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)".

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h) The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.".

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS VERIFICATION SYSTEM

"SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act.".

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: "In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).".

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (non-criminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States have until that date to begin complying with the requirements imposed by those amendments.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(V) The food stamp program under the Food Stamp Act of 1977.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (III), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

"SEC. 245A. (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

"(1) ENTRY, PHYSICAL PRESENCE, AND TIMELY APPLICATION.—

"(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 18-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

"(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 17 months of the 18-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-month period or on the date of the issuance of such order, whichever day is later.

"(C) TREATMENT OF CERTAIN CUBAN AND HAITIAN ENTRANTS.—For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

"(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

"(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

"(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

"(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

"(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

"(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

"(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

"(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

"(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

"(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

"(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the thirteenth month that begins after the date the alien was granted such temporary resident status.

"(B) CONTINUOUS RESIDENCE.—

"(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

"(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

"(D) BASIC CITIZENSHIP SKILLS.—

"(i) IN GENERAL.—The alien must demonstrate that he either—

"(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

"(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

"(ii) EXCEPTION FOR ELDERLY INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

"(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

"(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

"(C) at the end of the twenty-fifth month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

"(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

"(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) or under subsection (b)(1) may be filed—

"(A) with the Attorney General, or

"(B) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other of-

ficial or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(7) APPLICATION FEES.—

"(A) AMOUNT OF FEES.—The fee for filing an application for adjustment under subsection (a) shall be established by the Attorney General and may not exceed $75 in the case of an individual applicant or $175 in the case of an application filed on behalf of an individual, his spouse, and any of his children.

"(B) USE OF FEES.— The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

"(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraphs (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence.

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(iii) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(g) REGULATIONS IMPLEMENTING SECTION.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate and with qualified designated entities, shall prescribe—

"(1) regulations establishing a definition of the term 'resided continuously', as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

"(2) such other regulations as may be necessary to carry out this section.

Such regulations may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

"(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

"(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977; and

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

"(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

"(3) RESTRICTED MEDICAID BENEFITS.—

"(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

"(i) paragraph (1) shall not apply,

"(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of

title XIX of the Social Security Act, to be so eligible, and

"(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

"(B) RESTRICTION OF BENEFITS.—

"(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

"(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

"(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

"(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

"(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term 'medical assistance' refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

"(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

"(A) The National School Lunch Act.

"(B) The Child Nutrition Act of 1966.

"(C) the Vocational Education Act of 1963.

"(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.

"(E) The Headstart-Follow Through Act.

"(F) The Job Training Partnership Act.

"(G) Title IV of the Higher Education Act of 1965.

"(H) The Public Health Service Act.

"(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

"(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with designated entities, shall broadly disseminate in English and other appropriate languages information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits. Such information shall include—

"(1) information respecting the requirements that aliens with lawful temporary resident status would have to meet to have their status adjusted to permanent resident status under subsection (b)(1) and the facilities available to provide education and employment training and opportunities in order to meet such requirements;

"(2) information on the conditions under which temporary lawful resident status can be rescinded under subsection (b)(2); and

"(3) information on conditions for employment and foreign travel of aliens with lawful temporary resident status under subsection (b)(3).".

(2) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence.".

(b) CONFORMING AMENDMENTS.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

"(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).".

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.".

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

"The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.".

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1976.

(a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1976", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1976".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948", and inserting in lieu thereof "January 1, 1976".

(c) CLARIFICATION.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

SEC. 204. STATE LEGALIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out subsections (b) and (c) of this section (including State and local administrative costs) such sums as may be necessary for fiscal year 1987 and for each of the four succeeding fiscal years.

(2) Amounts appropriated under this subsection for a fiscal year which are not obligated by the end of such year shall remain available for obligation during the next fiscal year.

(3) If the amounts appropriated under this subsection for a fiscal year are insufficient to provide fully for reimbursement and payments under subsections (b) and (c) for the fiscal year—

(A) amounts shall first be obligated for purposes of making payments to States and State educational agencies under such subsections, and

(B) in obligating such amounts, amounts shall be allocated among the States and State educational agencies on an equal pro rata basis based on their costs under such subsections in providing public assistance and educational services, except as provided in paragraph (4).

(4)(A) If the amounts appropriated under this subsection for a fiscal year exceed 40 percent, but are less than 100 percent, of the amounts necessary to provide fully for reimbursement and payments under subsections (b) and (c) for the fiscal year, the subsection (b) percentage (as defined in subparagraph (B)) may exceed the subsection (c) percentage, so long as the subsection (c) percentage is not less than 40 percent.

(B) In subparagraph (A), the terms "subsection (b) percentage" and "subsection (c) percentage" mean the ratio (expressed as a percentage) of—

(i) the amounts obligated for purposes of making payments under subsection (b) or subsection (c), respectively, to

(ii) the amounts necessary to provide fully for reimbursement and payments under the respective subsection.

(b) REIMBURSEMENT TO STATES FOR PUBLIC ASSISTANCE FOR ELIGIBLE LEGALIZED ALIENS.—(1) Subject to the amounts provided in advance in appropriation Acts, the Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 percent of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible legalized alien (as defined in paragraph (2)(D)) and for 100 percent of the costs of programs of public health assistance (as defined in paragraph (2)(C)) provided to any alien who is, or is applying on a timely basis to the Attorney General to become, an eligible legalized alien. No such reimbursement shall be available to any such program of public health assistance to the extent that the costs of services provided to such eligible legalized aliens have been financed through Federal funds.

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term "programs of public health assistance" means programs in a State or local jurisdiction which—

(i) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(D) The term "eligible legalized alien" means an alien who was granted lawful temporary resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status.

(c) EDUCATIONAL ASSISTANCE.—(1) Subject to the amounts provided in advance in appropriation Acts and in accordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in subsection (b)(2)(D)).

(2) The definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of Public Law 98-511; 20 U.S.C. 4101 et seq.) shall apply to payments under this subsection in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to "immigrant children" shall be deemed to be a reference to "eligible legalized aliens" (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under section 245A(a) of the Immigration and Nationality Act;

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase "described under paragraph (2)" shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A));

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) NO DUPLICATION OF ASSISTANCE.—Reimbursement under subsection (b) or subsection (c) shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(e) CONSULTATION IN IMPLEMENTING SECTION.—The Secretary of Health and Human Services and the Secretary of Education shall consult with representatives of State and local governments in establishing regulations and guidelines to carry out this section.

TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) PROVIDING NEW "H-2A" NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL LABOR.—Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor," in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) to perform other temporary service or labor".

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN H-2A PROGRAM.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following: "For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture. The provisions of section 216 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).".

(c) ADMISSION OF H-2A WORKERS.—(1) Chapter 2 of title II is amended by adding after section 215 the following new section:

"ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 216. (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

"(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

"(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

"(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

"(3) The employer has not provided the Secretary with satisfactory assurances that

if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

"(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H-2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

"(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

"(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

"(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops.

"(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

"(ii) The requirement of clause (i) shall not apply to any employer who—

"(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),

"(II) is not a member of an association which has petitioned for certification under this section for its members, and

"(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

"(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Control and Legalization Amendments Act of 1986 as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

"(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: Provided, That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

"(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

"(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

"(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

"(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

"(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: Provided, That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: Provided further, That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: Provided further, That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: Provided further, That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: And provided further, That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

"(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

"(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

"(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

"(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

"(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(14).

"(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

"(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(g)) with respect to that employment.

"(2) The term 'H-2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).".

(d) EFFECTIVE DATE.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 216 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(e) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 216 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(f) SENSE OF CONGRESS RESPECTING CONSULTATION WITH MEXICO.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 216 of the Immigration and Nationality Act.

(g) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Admission of temporary H-2A workers.".

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—(1) Chapter 1 of title II is amended by adding at the end the following new section:

"SPECIAL AGRICULTURAL WORKERS

"SEC. 210. (a) LAWFUL RESIDENCE.—

"(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

"(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

"(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

"(i) resided in the United States, and

"(ii) performed seasonal agricultural services in the United States for at least 90 mandays,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

"(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

"(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 mandays during each of the 12-months periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

"(3) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—

"(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(i) with the Attorney General, or

"(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) PROOF OF ELIGIBILITY.—

"(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

"(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

"(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

"(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

"(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

"(A) CRIMINAL PENALTY.—Whoever—

"(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

"(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(19).

"(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraph (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges).

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon

the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

"(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (b)(3) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

"(h) SEASONAL AGRICULTURAL SERVICES DEFINED.—In this section, the term 'seasonal agricultural services' means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.".

(2) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Special agricultural workers.".

(b) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act) is amended—

(A) by inserting "and subsection (f) of section 210 of such Act" before the period at the end of paragraph (1);

(B) by inserting "or (f)" after "such subsection (h)" in paragraph (2); and

(C) by inserting "or 210" after "such section 245A" in paragraph (2).

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act) is amended by inserting "or 210(f)" after "245A(h)".

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—Chapter 1 of title II is amended by adding after section 210 (added by section 302 of this title) the following new section:

"DETERMINATION OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS

"SEC. 210A. (a) DETERMINATION OF NEED TO ADMIT ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—Before the beginning of each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Secretaries of Labor and Agriculture (in this section referred to as the 'Secretaries') shall jointly determine the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under this section during the fiscal year to meet a shortage of workers to perform seasonal agricultural services in the United States during the year. Such number is, in this section, referred to as the 'shortage number'.

"(2) OVERALL DETERMINATION.—The shortage number is—

"(A) the anticipated need for special agricultural workers (as determined under paragraph (4)) for the fiscal year, minus

"(B) the supply of such workers (as determined under paragraph (5)) for that year,

divided by the factor (determined under paragraph (6)) for man-days per worker.

"(3) NO REPLENISHMENT IF NO SHORTAGE.—In determining the shortage number, the Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in paragraphs (4) and (5), the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the fiscal year involved.

"(4) DETERMINATION OF NEED.—For purposes of paragraph (2)(A), the anticipated need for special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall jointly estimate, using statistically valid methods, the number of man-days of labor performed in seasonal agricultural services in the United States in the previous fiscal year.

"(B) ADJUSTMENT FOR CROP LOSSES AND CHANGES IN INDUSTRY.—The Secretaries shall jointly—

"(i) increase such number by the number of man-days of labor in seasonal agricultural services in the United States that would have been needed in the previous fiscal year to avoid any crop damage or other loss that resulted from the unavailability of labor, and

"(ii) adjust such number to take into account the projected growth or contraction in the requirements for seasonal agricultural services as a result of—

"(I) growth or contraction in the seasonal agriculture industry, and

"(II) the use of technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

"(5) DETERMINATION OF SUPPLY.—For purposes of paragraph (2)(B), the anticipated supply of special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall use the number estimated under paragraph (4)(A).

"(B) ADJUSTMENT FOR RETIREMENTS AND INCREASED RECRUITMENT.—The Secretaries shall jointly—

"(i) decrease such number by the number of man-days of labor in seasonal agricultural services in the United States that will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

"(ii) increase such number by the number of additional man-days of labor in seasonal agricultural services in the United States that can reasonably be expected to result from the availability of able, willing, qualified, and unemployed special agricultural workers, rural low skill, or manual, laborers, and domestic agricultural workers.

"(C) BASES FOR INCREASED NUMBER.—In making the adjustment under subparagraph (B)(ii), the Secretaries shall consider—

"(i) the effect, if any, that improvements in wages and working conditions offered by employers will have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, of such improvements in wages and working conditions on the economic competitiveness of the perishable agricultural industry,

"(ii) the effect, if any, of enhanced recruitment efforts by the employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

"(iii) the number of able, willing and qualified individuals who apply for employment opportunities in seasonal agricultural services listed with offices of government employment services.

"(D) CONSTRUCTION.—Nothing in this subsection shall be deemed to require any individual employer to pay any specified level of wages, to provide any specified working conditions, or to provide for any specified recruitment of workers.

"(6) DETERMINATION OF MAN-DAY PER WORKER FACTOR.—

"(A) FISCAL YEAR 1990.—For fiscal year 1990—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of paragraph (2) the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1989 by special agricultural workers whose status is adjusted under section 210 and who performed seasonal agricultural services in the United States at any time during the fiscal year.

"(ii) LACK OF ADEQUATE INFORMATION.—If the Director determines that—

"(I) the information reported under subsection (b)(2)(A) is not adequate to make a reasonable estimate of the average number described in clause (i), but

"(II) the inadequacy of the information is not due to the refusal or failure of employers to report the information required under subsection (b)(2)(A),

the factor under this paragraph is 90.

"(B) FISCAL YEAR 1991.—For purposes of paragraph (2) for fiscal year 1991, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1990 by special agricultural workers who obtained lawful temporary resident status under this section.

"(C) FISCAL YEARS 1992 AND 1993.—For purposes of paragraph (2) for fiscal years 1992 and 1993, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in each of the two previous fiscal years by special agricultural workers who obtained lawful temporary resident status under this section during either of such fiscal years.

"(7) EMERGENCY PROCEDURE FOR INCREASE IN SHORTAGE NUMBER.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group or association representing employers (and potential employers) of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant increase in the shortage number due to (i) a

significant increase in the need for special agricultural workers in the year, (ii) a significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant decrease (below the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF EMERGENCY PROCEDURE.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) PROMPT DETERMINATION ON REQUEST.—The Secretaries, not later than 21 days after the date of the receipt of such a request and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the shortage number for the fiscal year shall be increased, to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described in subparagraph (A) and that such an increase takes into account reasonable recruitment efforts having been undertaken.

"(8) PROCEDURE FOR DECREASING MAN-DAYS OF SEASONAL AGRICULTURAL SERVICES REQUIRED IN THE CASE OF OVER-SUPPLY OF WORKERS.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group of special agricultural workers may request the Secretaries to decrease the number of man-days required under subparagraphs (A) and (B) of subsection (d)(2) with respect to the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number due to (i) a significant decrease in the need for special agricultural workers in the year, (ii) a significant increase in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant increase (above the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF REQUEST.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) DETERMINATION ON REQUEST.—The Secretaries, before the end of the fiscal year involved and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the number of man-days specified in subparagraphs (A) and (B) of subsection (d)(2) for the fiscal year shall be reduced by the same proportion as the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in subparagraph (A).

"(b) ANNUAL NUMERICAL LIMITATION ON ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) ANNUAL NUMERICAL LIMITATION.—

"(A) FISCAL YEAR 1990.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1990 is—

"(i) 95 percent of the number of individuals whose status was adjusted under section 210(a), minus

"(ii) the number estimated under paragraph (3)(A)(i) for fiscal year 1989 (as adjusted in accordance with subparagraph (C)).

"(B) FISCAL YEARS 1991, 1992, AND 1993.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal years 1991, 1992, or 1993 is—

"(i) 90 percent of the number described in this clause for the previous fiscal year (or, for fiscal year 1991, the number described in subparagraph (A)(i)), minus

"(ii) the number estimated under paragraph (3)(A)(i) for the previous fiscal year (as adjusted in accordance with subparagraph (C)).

"(C) ADJUSTMENT TO TAKE INTO ACCOUNT CHANGE IN NUMBER OF H-2 AGRICULTURAL WORKERS.—The number used under subparagraph (A)(ii) or (B)(ii) (as the case may be) shall be increased or decreased to reflect any numerical increase or decrease, respectively, in the number of aliens admitted to perform temporary seasonal agricultural services (as defined in subsection (g)(2)) under section 101(a)(15)(H)(ii)(a) in the fiscal year compared to such number in the previous fiscal year.

"(2) REPORTING OF INFORMATION ON EMPLOYMENT.—In the case of a person or entity who employs, during a fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992) in seasonal agricultural services, a special agricultural worker—

"(A) whose status was adjusted under section 210, the person or entity shall furnish an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year, or

"(B) who was admitted or whose status was adjusted under this section, the person or entity shall furnish the alien and an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year.

"(3) ANNUAL ESTIMATE OF EMPLOYMENT OF SPECIAL AGRICULTURAL WORKERS.—

"(A) IN GENERAL.—The Director of the Bureau of the Census shall, before the end of each fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992), estimate—

"(i) the number of special agricultural workers who have performed seasonal agricultural services in the United States at any time during the fiscal year, and

"(ii) for purposes of subsection (a)(5), the average number of man-days of such services certain of such workers have performed in the United States during the fiscal year.

"(B) FURNISHING OF INFORMATION TO DIRECTOR.—The offical designated by the Secretaries under paragraph (2) shall furnish to the Director, in such form and manner as the Director specifies, information contained in the certifications furnished to the official under paragraph (2).

"(C) BASIS FOR ESTIMATES.—The Director shall base the estimates under subparagraph (A) on the information furnished under subparagraph (B), but shall take into account (to the extent feasible) the underreporting or duplicate reporting of special agricultural workers who have performed seasonal agricultural services at any time during the fiscal year. The Director shall periodically conduct appropriate surveys, of agricultural employers and others, to ascertain the extent of such underreporting or duplicate reporting.

"(D) REPORT.—The Director shall annually prepare and report to the Congress information on the estimates made under this paragraph.

"(c) ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—For each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any, determined under subsection (a)) for the fiscal year, or, if less, the numerical limitation established under subsection (b)(1) for the fiscal year. No such alien shall be admitted who is not admissible to the United States as an immigrant, except as otherwise provided under subsection (e).

"(2) ALLOCATION OF VISAS.—The Attorney General shall, in consultation with the Secretary of State, provide such process as may be appropriate for aliens to petition for immigrant visas or to adjust status to become aliens lawfully admitted for temporary residence under this subsection. No alien may be issued a visa as an alien to be admitted under this subsection or may have the alien's status adjusted under this subsection unless the alien has had a petition approved under this paragraph.

"(d) RIGHTS OF ALIENS ADMITTED OR ADJUSTED UNDER THIS SECTION.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (c) to that of an alien lawfully admitted for permanent residence at the end of the 3-year period that begins on the date the alien was granted such temporary resident status.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under subsection (c), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this section, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(4) IN GENERAL.—Except as otherwise provided in this subsection, an alien who ac-

quires the status of an alien lawfully admitted for temporary residence under subsection (c), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(5) EMPLOYMENT IN SEASONAL AGRICULTURAL SERVICES REQUIRED.—

"(A) FOR 3 YEARS TO AVOID DEPORTATION.—In order to meet the requirement of this paragraph (for purposes of this subsection and section 241(a)(20)), an alien, who has obtained the status of an alien lawfully admitted for temporary residence under this section, must establish to the Attorney General that the alien has performed 90 man-days of seasonal agricultural services—

"(i) during the one-year period beginning on the date the alien obtained such status,

"(ii) during the one-year period beginning one year after the date the alien obtained such status, and

"(iii) during the one-year period beginning two years after the date the alien obtained such status.

"(B) FOR 5 YEARS FOR NATURALIZATION.—Notwithstanding any provision in title III, an alien admitted under this section may not be naturalized as a citizen of the United States under that title unless the alien has performed 90 man-days of seasonal agricultural services in each of 5 fiscal years (not including any fiscal year before the fiscal year in which the alien was admitted under this section).

"(C) PROOF.—In meeting the requirements of subparagraphs (A) and (B), an alien may submit such documentation as may be submitted under section 210(b)(3).

"(D) ADJUSTMENT OF NUMBER OF MAN-DAYS REQUIRED.—The number of man-days specified in subparagraphs (A) and (B) are subject to adjustment under subsection (a)(8).

"(7) DISQUALIFICATION FROM CERTAIN PUBLIC ASSISTANCE.—The provisions of section 245A(h) (other than paragraph (1)(A)(iii)) shall apply to an alien who has obtained the status of an alien lawfully admitted for temporary residence under this section, during the five-year period beginning on the date the alien obtained such status, in the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance described in section 245A(h)(1)(A)(i).

"(e) DETERMINATION OF ADMISSIBILITY OF ADDITIONAL WORKERS.—In the determination of an alien's admissibility under subsection (c)(1)—

"(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under subparagraph (A):

"(i) Paragraphs (9) and (10) (relating to criminals).

"(ii) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(iii) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(iv) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(3) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(f) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

"(1) EQUAL TRANSPORTATION FOR DOMESTIC WORKERS.—If a person employs an alien, who was admitted or whose status is adjusted under subsection (c), in the performance of seasonal agricultural services and provides transportation arrangements or assistance for such workers, the employer must provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed in the performance of seasonal agricultural services.

"(2) PROHIBITION OF FALSE INFORMATION BY CERTAIN EMPLOYERS.—A farm labor contractor, agricultural employer, or agricultural association who is an exempt person (as defined in paragraph (5)) shall not knowingly provide false or misleading information to an alien who was admitted or whose status was adjusted under subsection (c) concerning the terms, conditions, or existence of agricultural employment (described in subsection (a), (b), or (c) of section 301 of MASAWPA).

"(3) PROHIBITION OF DISCRIMINATION BY CERTAIN EMPLOYERS.—In the case of an exempt person and with respect to aliens who have been admitted or whose status has been adjusted under subsection (c), the provisions of section 505 of MASAWPA shall apply to any proceeding under or related to (and rights and protections afforded by) this section in the same manner as they apply to proceedings under or related to (and rights and protections afforded by) MASAWPA.

"(4) ENFORCEMENT.—If a person or entity—

"(A) fails to furnish a certificate required under subsection (b)(2) or furnishes false statement of a material fact in such a certificate,

"(B) violates paragraph (1) or (2), or

"(C) violates the provisions of section 505(a) of MASAWPA (as they apply under paragraph (3)),

the person or entity is subject to a civil money penalty under section 503 of MASAWPA in the same manner as if the person or entity had committed a violation of MASAWPA.

"(5) SPECIAL DEFINITIONS.—In this subsection:

"(A) MASAWPA.—The term 'MASAWPA' means the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470).

"(B) The term 'exempt person' means a person or entity who would be subject to the provisions of MASAWPA but for paragraph (1) or (2), or both, of section 4(a) of MASAWPA.

"(g) GENERAL DEFINITIONS.—In this section:

"(1) The term 'special agricultural worker' means an individual, regardless of present status, whose status was at any time adjusted under section 210 or who at any time was admitted or had the individual's status adjusted under subsection (c).

"(2) The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(3) The term 'Director' refers to the Director of the Bureau of the Census.

"(4) The term 'man-day' means, with respect to seasonal agricultural services, the performance during a calendar day of at least 4 hours of seasonal agricultural services.".

(b) DEPORTATION OF CERTAIN WORKERS WHO FAIL TO PERFORM SEASONAL AGRICULTURAL SERVICES.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (18),

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(20) obtains the status of an alien who becomes lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(6)(A) by the end of the applicable period.".

(c) APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS.—For purposes of section 204 of this Act (relating to State legalization assistance), the term "eligible legalized alien" includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 210 (as inserted by section 302) the following new item:

"Sec. 210A. Determination of agricultural labor shortages and admission of additional special agricultural workers.".

(e) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act and amended by section 302(b)(1) of this Act) is further amended—

(A) by striking out "and subsection (f) of section 210 of such Act" in paragraph (1) and inserting in lieu thereof ", subsection (f) of section 210 of such Act, and subsection (d)(7) of section 210A of such Act";

(B) by striking out "such subsection (h) or (f)" in paragraph (2) and inserting in lieu thereof "such subsection (h), (f), or (d)(7)"; and

(C) by striking out "such section 245A or 210" in paragraph (2) and inserting in lieu thereof "such section 245A, 210, or 210A".

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act and amended by section 302(b)(2) of this Act) is further amended by striking out "245A(h) or 210(f)" and inserting in lieu thereof "245A(h), 210(f), or 210A(d)(7)".

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission on Agricultural Workers (herein-

after in this section referred to as the "Commission"), to be composed of 12 members—

(A) six to be appointed by the President,

(B) three to be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

(A) with the Attorney General in appointing two members,

(B) with the Secretary of Labor in appointing two members, and

(C) with the Secretary of Agriculture in appointing two members.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Members shall be appointed to serve for the life of the Commission.

(b) FUNCTIONS OF COMMISSION.—(1) The Commission shall review the following:

(A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

(B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 60 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

(C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

(D) The extent to which the agricultural industry relies on the employment of a temporary workforce.

(E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

(F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

(G) The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

(H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

(I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

(2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

(c) REPORT TO CONGRESS.—The Commission shall report to the Congress not later than five yecrs after the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS OF COMMISSION.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(f) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(g) AUTHORITY OF COMMISSION.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) TERMINATION DATE.—The Commission shall cease to exist at the end of the 63-month period beginning with the month after the month in which this Act is enacted.

(j) DEFINITIONS.—In this section:

(1) The term "employer sanctions" means the provisions of section 274A of the Immigration and Nationality Act.

(2) The term "legalization program" refers to the provisions of section 245A of the Immigration and Nationality Act.

(3) The term "seasonal agricultural services" has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

(4) The term "special agricultural worker provisions" refers to sections 210 and 210A of the Immigration and Nationality Act.

SEC. 305. ELIGIBILITY OF CERTAIN AGRICULTURAL WORKERS FOR LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.).

PART B—OTHER CHANGES IN THE IMMIGRATION LAW

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) INCREASE TO 5,000.—(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "5,000".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 312. STUDENTS.

(a) REQUIRING TWO-YEAR FOREIGN RESIDENCE FOR MOST FOREIGN STUDENTS.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by striking out "(e) No person" and inserting in lieu thereof "(e)(1) No person (A)",

(2) by inserting after "training," the following: "or (B) except as provided in paragraph (2), admitted under subparagraph (F) or (M) of section 101(a)(15) or acquiring such status after admission,",

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (A)(iii) or clause (B) of paragraph (1)",

(4) by striking out ": Provided, That upon" and inserting in lieu thereof ". Upon",

(5) by striking out ": And provided further, That except" and inserting in lieu thereof ". Except", and

(6) by designating the second and third sentences (as so amended) as paragraphs (2) and (3), respectively,

(7) by adding at the end the following new paragraphs:

"(4) The Attorney General may waive such two-year foreign residence requirement in the case of an alien described in clause (B) of paragraph (1) who is an immediate relative (as specified in section 201(b)).

"(5) The Attorney General, in the case of an alien described in clause (B) of paragraph (1) who has the status of a nonimmigrant under section 101(a)(15)(F), may waive such two-year foreign residence requirement if the Attorney General determines that the waiver is in the public interest and that the alien—

"(A) is applying for a visa as an immigrant described in paragraph (3) or (6) of

section 203(a) and meets the requirements of paragraph (6), or

"(B) is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii) and meets the requirements of paragraph (7).

"(6) An alien meets the requirements of this paragraph if the alien—

"(A) is admitted to the United States under section 101(a)(15)(F) before October 1, 1992, and

"(B) has obtained—

"(i) has obtained an advanced degree from a college or university in the United States and has been offered a position on the faculty (including as a researcher) of a college or university in the United States in the field in which he obtained the degree,

"(ii) a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and has been offered a research, business, or technical position by a employer in the field in which he obtained the degree, or

"(iii) an advanced degree in business or economics from a college or university in the United States, has exceptional ability in business or economics, and has been offered a research, business, or technical position by a United States employer which requires such exceptional ability,

and has received a certification under section 212(a)(14) with respect to the position.

"(7) An alien meets the requirements of this paragraph if the alien—

"(A) has obtained a degree in a natural science, mathematics, computer science, or an engineering or business field;

"(B) will receive no more than four years of training by a firm, corporation, or other legal entity in the United States, which training will enable the alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof; and

"(C) furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the training program in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the training program.".

(b) PROHIBITING ADJUSTMENT OF STATUS OF MOST STUDENT ENTRANTS.—Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e)(1)) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15)".

(c) NOT COUNTING PERIOD OF PRESENCE FOR SUSPENSION OF DEPORTATION.—Section 244(b) (8 U.S.C. 1254(b)) is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)", and

(2) by adding at the end the following new paragraph:

"(2) In determining the period of continuous physical presence in the United States under subsection (a), there shall not be included any period in which the alien was in the United States as—

"(A) a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15), or

"(B) a nonimmigrant described in section 101(a)(15)(H)(iii), pursuant to a waiver under section 212(e)(5)(B).".

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) apply to aliens admitted to the United States as a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act after the date of the enactment of this Act or who otherwise acquire such status after such date.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

(3) The amendments made by subsection (c) apply to periods occurring on or after the date of the enactment of this Act and shall not have the effect of excluding (in the determination of a period of continuous physical presence in the United States) any period before the date of the enactment of this Act.

SEC. 313. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I).".

SEC. 314. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—Chapter 2 of title II, as amended by section 301(c), is further amended by adding after section 216 the following new section:

"VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

"SEC. 217. (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this section referred to as the 'pilot program') under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

"(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

"(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

"(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(B) is designated as a pilot program country under subsection (c).

"(3) EXECUTES ENTRY CONTROL AND WAIVER FORMS.—The alien before the time of such admission—

"(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

"(B) executes a waiver of review and appeal described in subsection (b)(4).

"(4) ROUND-TRIP TICKET.—The alien has a round-trip, nontransferable transportation ticket which—

"(A) is valid for a period of not less than one year,

"(B) is nonrefundable except in the country in which issued or in the country of the alien's nationality or residence,

"(C) is issued by a carrier which has entered into an agreement described in subsection (d), and

"(D) guarantees transport of the alien out of the United States at the end of the alien's visit.

"(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

"(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

"(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE PUT INTO OPERATION.—

"(1) PRIOR NOTICE TO CONGRESS.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

"(2) AUTOMATED DATA ARRIVAL AND DEPARTURE SYSTEM.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

"(3) VISA WAIVER INFORMATION FORM.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

"(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program,

"(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

"(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

"(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

"(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

"(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term 'initial period' means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

"(d) CARRIER AGREEMENTS.—

"(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(C) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

"(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term 'pilot program period' means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.".

(b) LIMITATION ON STAY IN UNITED STATES.—Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by section 312(b), is further amended by striking out "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217".

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.".

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by adding after the item relating to section 216 the following new item:

"Sec. 217. Visa waiver pilot program for certain visitors.".

SEC. 315. PROVIDING ADDITIONAL IMMIGRANT VISAS.

(a) AUTHORIZING ADDITIONAL VISAS FOR NATIVES OF CERTAIN COUNTRIES.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), if—

(1) the total number of immigrants—

(A) who were born in a foreign state, and

(B) who were issued immigrant visas in fiscal year 1985 subject to the numerical limitation specified in section 201(a) of such Act or who otherwise acquired the status of an alien lawfully admitted for permanent residence in fiscal year 1985 subject to such numerical limitation,

was less than—

(2) three-fourths of the average annual number of immigrant visas made available under such Act, during the 10-fiscal year period beginning July 1, 1955, to aliens who were born in that foreign state,

there shall be made available to aliens born in that foreign state in each fiscal year (during the period described in subsection (f)) an additional number of immigrant visas equal to the amount of that difference or 7,500, whichever is less.

(b) DISTRIBUTION OF ADDITIONAL VISAS.—The additional visa numbers under subsection (a) for immigrants born in each foreign state shall be made available as follows:

(1) 30 percent of the additional visa numbers shall be made available to those qualified immigrants who are entitled to preference status under paragraph (1), (2), (3), (4), or (5) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), by allotting 6 percent of the additional visa numbers to the class of qualified immigrants described in each such respective paragraph.

(2) 30 percent of the additional visa numbers, plus any additional visa numbers not required under paragraph (1), shall be made

available to qualified immigrants who are entitled to preference status under section 203(a)(6) of such Act (8 U.S.C. 1153(a)(6)).

(3) 40 percent of the additional visa numbers, plus any additional visa numbers not required under paragraph (1) or (2), shall be made available to other qualified immigrants who are not entitled to preference status under section 203(a) of such Act.

(c) ORDER OF CONSIDERATION.—(1) Immigrant visas under paragraphs (1) and (2) of subsection (b) shall be made available to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).

(2)(A) Except as provided in subparagraph (B), immigrant visas under subsection (b)(3) shall be made available to eligible immigrants strictly in the chronological order in which the immigrants qualify.

(B) The Secretary of State shall adjust the order in which immigrant visas under subsection (b)(3) are made available in a manner that assures equal availability to residents in all the geographic areas of the foreign state involved.

(d) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(e) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

(f) EFFECTIVE PERIOD.—The additional visa numbers shall be made available under this section only in fiscal years occurring during the five-fiscal year period beginning with first fiscal year that begins after the date of the enactment of this Act.

SEC. 316. MISCELLANEOUS PROVISIONS.

(a) EQUAL TREATMENT OF FATHERS.—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or to its natural father if the father has or had a bona fide parent-child relationship with the person" after "natural mother".

(b) SUSPENSION OF DEPORTATION FOR CERTAIN ALIENS.—Section 244(b) (8 U.S.C. 1254(b)), as amended by section 312(c), is further amended by adding at the end the following new paragraph:

"(3) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.".

(c) TREATMENT OF CUBAN POLITICAL PRISONERS.—Section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)) shall not apply to the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities.

(d) DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKE.—An alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

TITLE IV—REPORTS TO CONGRESS

SEC. 401. TRIENNIAL REPORTS CONCERNING IMMIGRATION.

(a) IN GENERAL.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives, not later than three years after the date of the enactment of this Act, and every three years thereafter, a comprehensive report on the general legal admissions under the Immigration and Nationality Act.

(b) CONTENTS.—Each report shall include—

(1) the number and classifications of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preference classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, educational system, social services, foreign policy, environmental quality and resources, and population growth rate of the United States.

(c) DATA.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) RECOMMENDATIONS.—The President also shall include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of aliens into the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT AND DISCRIMINATION IN EMPLOYMENT.

(a) PRESIDENTIAL REPORTS.—(1) The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) in accordance with this subsection.

(2) Every six months, beginning six months after the date of the enactment of this Act, the President shall transmit a report which shall include—

(A) an analysis of the adequacy of the employment verification system set forth in subsection (b) of section 274A of the Immigration and Nationality Act; and

(B) an analysis of the impact of that section on—

(i) the employment, wages, and working conditions of United States workers,

(ii) the number of aliens entering the United States illegally, and

(iii) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

(3)(A) By each of the dates specified in subparagraph (B), the President shall transmit a report which shall include a description of the impact of section 274A of the Immigration and Nationality Act on—

(i) discrimination against citizen and permanent resident alien members of minority groups, and

(ii) the paperwork and recordkeeping burden on United States employers.

(B) The dates referred to in subparagraph (A) are 18, 36, and 54 months after the date of enactment of this Act.

(b) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and the Judiciary of the House of Representatives and to the Committees on Finance and the Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may appear appropriate.

(c) CIVIL RIGHTS COMMISSION MONITORING AND REPORTS.—(1) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of section 274A of the Immigration and Nationality Act and shall investigate allegations that the enforcement or implementation of that section has been conducted in a manner that results in unlawful discrimination by race or national origin against citizens of the United States or aliens who are not unauthorized aliens (as defined for purposes of that section).

(2) The Civil Rights Commission, not later than 18 months after the month in which this Act is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of that section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted 36 and 54 months after the month in which this Act is enacted.

SEC. 403. REPORTS ON H-2A PROGRAM.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

(1) the number of foreign workers permitted to be employed under the program in each year;

(2) the compliance of employers and foreign workers with the terms and conditions of the program;

(3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and

(4) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or perma-

nent resident aliens for jobs for which temporary foreign workers have been requested,

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and

(D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the Congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) DEADLINES.—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 12 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON INS RESOURCES.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. U.S.-MEXICO BORDER REVITALIZATION.

(a) IN GENERAL.—The President is authorized to negotiate with the Government of Mexico, on a reciprocal and mutually beneficial basis, the establishment of a free-trade and co-production zone that would include the United States-Mexico borderlands, as a first step to achieving a free-trade area between the United States and Mexico over the long term.

(b) REPORT.—The President shall provide for a report to be submitted to the Congress on the progress in any such negotiations. Such report shall include such recommendations for changes in legislation as may be appropriate.

TITLE V—STATE AND LOCAL ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES AND LOCALITIES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) REIMBURSEMENT TO STATES AND LOCALITIES.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse States and local jurisdictions within a State for the costs incurred by the State or local jurisdiction—

(1) for the imprisonment of any illegal alien or Cuban national, described in subsection (b) or (c), respectively, who is convicted of a felony by the State or local jurisdiction, and

(2) for the pre-trial and post-trial detention of any illegal alien or Cuban national, described in subsection (b) or (c), respectively, who is convicted in the trial of a felony by the State or local jurisdiction.

(b) ILLEGAL ALIEN.—An illegal alien described in this subsection is any alien who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) CUBAN NATIONAL.—A Cuban national described in this subsection is an alien who is a national of Cuba and who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—This section shall become effective on October 1, 1986.

(f) STATE DEFINED.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT

SEC. 601. COMMISSION ON INTERNATIONAL MIGRATION AND DEVELOPMENT.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on International Migration and Development (in this section referred to as the "Commission") to conduct studies, in consultation with the governments of sending countries, and report to Congress concerning the following:

(1) CONDITIONS IN SENDING COUNTRIES.—The conditions in sending countries which contribute to unauthorized migration to the United States.

(2) TRADE AND INVESTMENT PROGRAMS.—Mutually beneficial, reciprocal trade and investment programs to alleviate the conditions identified in paragraph (1).

In this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(b) THREE-YEAR AGENDA.—The Commission shall develop an operating agenda under which—

(1) the Commission will study and report on both of the topics under subsection (a) over a three-year period, beginning on the date a majority of the members of the Commission are first appointed, and

(2) a final report of the Commission shall be transmitted not later than the end of such period.

(c) DETAILS ON STUDIES.—

(1) CONDITIONS IN SENDING COUNTRIES.—With respect to the studies described in subsection (a)(1), the Commission shall examine—

(A) the relationship between (i) current and projected demographic, social, economic, labor, and technological conditions in sending countries and in the United States and (ii) unauthorized migration from such countries to the United States, and

(B) the impact on such conditions of current trade and other policies governing the economic relations between sending countries and the United States.

(2) TRADE AND INVESTMENT PROGRAMS.—With respect to the studies described in subsection (a)(2), the Commission shall examine the feasibility of mutually beneficial, reciprocal trade and investment programs to alleviate conditions in the sending countries contributing to unauthorized migration from those countries to the United States.

(d) COMPOSITION OF COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed jointly by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and the Majority and Minority Leaders of the Senate. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. Members shall be appointed for the life of the Commission. A vacancy in the Com-

mission shall be filled in the manner in which the original appointment was made.

(2) NONPARTISAN STRUCTURE.—Not more than 8 members of the Commission may be members of the same political party and not more than 4 may be a member of Congress.

(3) REPRESENTATION.—Among the individuals appointed to the Commission, there shall be individuals representing academia, Federal, State, and local government, organized labor, business, and organizations with experience in migration and development matters.

(4) CHAIRMAN AND VICE CHAIRMAN.—The chairman and the vice chairman of the Commission shall be elected from among the members and shall serve for the life of the Commission.

(e) COMPENSATION OF MEMBERS.—

(1) PER DIEM.—Each member of the Commission who is not an officer or employee of the Federal Government shall, subject to such amounts as are provided in advance in appropriations Acts, receive $100 for each full-day equivalent (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is an officer or employee of the Federal Government shall receive no additional pay on account of his or her service on the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed reasonable travel expenses, including per diem in lieu of subsistence.

(f) STAFF.—The chairman shall appoint a director of the Commission and such additional Commission personnel as the chairman deems necessary. The personnel of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) OPERATION OF COMMISSION.—

(1) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) MEETINGS OF COMMISSION.—The Commission shall meet at the call of the chairman or a majority of its members.

(3) HEARINGS.—The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(4) USE OF CONSULTANTS.—The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $100 per full-day equivalent (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed reasonable travel expenses including per diem in lieu of subsistence.

(5) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(6) ACCEPTING GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(7) USE OF U.S. MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(8) SUPPORT SERVICES FROM GSA.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS AND TERMINATION.—

(1) REPORTS.—The Commission shall transmit to Congress annual reports, in accordance with its agenda established under subsection (b). Each such report shall include a summary of the studies conducted by the Commission and such recommendations as the Commission deems appropriate.

(2) TERMINATION.—The Commission shall cease to exist 30 days after the end of the three-year period beginning on the date a majority of the members of the Commission are first appointed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VII—NATIONAL COMMISSION ON IMMIGRATION

SEC. 701. NATIONAL COMMISSION ON IMMIGRATION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Immigration (hereinafter in this section referred to as the "Commission") to conduct studies and analyses and to report to Congress concerning the following:

(1) PUSH-PULL FACTORS AND RECIPROCAL PROGRAMS.—(A) The push and pull factors affecting unauthorized immigration to the United States, and

(B) the development, in partnership with Latin American countries, of reciprocal trade and economic development programs of mutual benefit.

(2) EMPLOYMENT OF UNAUTHORIZED ALIENS.—The incentives for employers in the United States to employ aliens who are not authorized to be so employed.

(3) AGRICULTURAL RELIANCE ON UNAUTHORIZED WORKERS.—The reliance of the agricultural industry on the employment, on a temporary basis, of aliens not authorized to be employed in the United States.

(4) BACKLOGS IN APPROVED IMMIGRANT VISAS.—The existence and extent of backlogs for the issuance of immigrant visas to aliens who have approved petitions for immigrant preference status.

(b) DETAILS OF STUDIES.—

(1) PUSH-PULL STUDY.—With respect to the topic described in subsection (a)(1)(A)—

(A) REVIEW OF ECONOMIC AND SOCIAL CONDITIONS.—The Commission shall review and analyze—

(i) the economic and social conditions, patterns, and trends in the United States and in foreign countries which affect unauthorized immigration into the United States,

(ii) the short-term and long-term problems in the United States and elsewhere associated with such unauthorized immigration, and

(iii) potential solutions to such problems.

The Commission's reviews and analyses shall focus on, and be conducted in close consultation with the governments of, those foreign countries from which nationals are most likely to immigrate without prior authorization to the United States.

(B) CONSIDERATIONS.—The Commission shall take into account, in such reviews and analyses the following:

(i) TRENDS.—The prevailing and projected demographic, technological, and economic trends affecting immigration into the United States.

(ii) IMPACT OF LAWS.—The impact of immigration laws, and their enforcement, on unauthorized immigration and on social and economic conditions in foreign countries.

(iii) IMPACT ON UNEMPLOYMENT.—How unemployment in particular areas and occupations in the United States is affected by unauthorized immigration.

(iv) GOVERNING LAWS.—The laws, policies (including trade policies), and procedures governing economic and diplomatic relations between the United States and foreign countries.

(C) RECOMMENDATIONS.—The Commission shall make recommendations respecting additional statutory and other changes that should be made to best deal with unauthorized immigration into the United States.

(2) STUDY ON EMPLOYMENT OF UNAUTHORIZED ALIENS.—

(A) ASSESSMENT.—With respect to the topic described in subsection (a)(2), the Commission shall assess—

(i) the effectiveness of the enforcement of the labor laws described in section 101(e) of this Act in removing the economic incentive on hiring individuals not authorized to be employed in the United States, and

(ii) the level of displacement from employment of lawful residents occurring as a result of the employment of unlawful residents.

(B) SPECIFIC RECOMMENDATIONS.—If the labor laws described in section 101(e) are not effective in removing the economic incentive on hiring individuals not authorized to be employed in the United States, the Commission shall review and make recommendations with respect to alternative measures which would minimize such job displacement while insuring that employment discrimination does not occur as a result of implementation of such measures.

(3) AGRICULTURAL RELIANCE ON TEMPORARY WORKERS.—With respect to the topic described in subsection (a)(3), the Commission shall review and study the temporary worker program currently provided under the Immigration and Nationality Act and shall assess the following:

(A) LABOR SHORTAGES.—Present and future labor shortages in the agricultural industry.

(B) WORKER ABUSES.—Abuses of foreign, as well as domestic, workers presently employed in agriculture.

(C) USE OF DOMESTIC WORKERS.—The feasibility and cost effectiveness of training and transporting domestic workers to perform agricultural work in areas as needed.

(D) SPECIFIC STATUTORY CHANGES.—Whether or not statutory changes in such program should be made with respect to—

(i) limiting the number of aliens who can be admitted under such program,

(ii) changing the terms and conditions of their employment,

(iii) changing the standards for recruitment and retention of domestic workers,

(iv) providing for payment of Social Security and unemployment taxes under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act with respect to foreign agricultural workers, and

(v) otherwise removing any economic disincentives to the hiring of qualified domestic workers and ending the reliance of any

industry on a constant supply of temporary foreign agricultural workers.

(4) IMMIGRANT VISA BACKLOGS.—

(A) REVIEW AND STUDY.—With respect to the topic described in subsection (a)(4), the Commission shall review and study the causes and circumstances regarding the existence of the backlog in the issuance of immigrant visas to aliens with approved preference petitions and shall propose means of ameliorating such backlog, with particular focus on family reunification.

(B) DEADLINE FOR REPORT.—The Commission shall present its recommendations to the Congress with respect to this topic not later than 18 months after the date of the enactment of this Act.

(c) COMPOSITION OF COMMISSION.—

(1) IN GENERAL.—The Commission shall be composed of 15 members as follows:

(A) PRESIDENTIAL APPOINTMENTS.—Five members appointed by the President, not more than three of whom are members of the same political party and not more than three of whom are officers or employees of the Federal Government.

(B) APPOINTMENTS BY SPEAKER OF HOUSE OF REPRESENTATIVES.—Five members appointed by the Speaker of the House of Representatives, not more than three of whom are members of the same political party and not more than two of whom are members of Congress.

(C) APPOINTMENTS BY PRESIDENT PRO TEMPORE OF SENATE.—Five members appointed by the President pro tempore of the Senate, not more than three of whom are members of the same political party and not more than two of whom are members of Congress.

(2) CONSIDERATIONS IN MAKING APPOINTMENTS.—In making such appointments, due consideration shall be given to securing representatives on the Commission from a variety of constituencies, including State and local government officials and individuals and representatives of organizations with experience or expertise in immigration matters. Members shall be appointed in a manner that provides for balanced representation of all interests.

(3) TIMELY APPOINTMENTS.—Appointments to the Commission shall be made within 90 days after the date of the enactment of this section.

(4) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—The chairman and the vice chairman of the Commission shall be elected from among the members. The term of office of the chairman and vice chairman shall be for the life of the Commission.

(5) PARTICIPATION BY REPRESENTATIVES OF FOREIGN GOVERNMENTS.—The chairman may invite for the purpose of participating in any meeting or hearing held by the Commission, and for the purpose of contributing to the studies to be conducted and the recommendations to be developed by the Commission, such representatives of the governments of countries as the Commission deems desirable.

(d) MEMBERSHIP.—

(1) LIFE MEMBERSHIP.—Members shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(4) MEETINGS.—The Commission shall meet at the call of the chairman or a majority of its members.

(e) COMPENSATION OF MEMBERS.—

(1) PER DIEM.—

(A) NON-FEDERAL MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall, subject to such amounts as are provided in advance in appropriations Acts, receive $150 for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission.

(B) FEDERAL MEMBERS.—Members of the Commission who are officers or employees of the Federal Government shall receive no additional pay on account of their service on the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(f) STAFF.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by and whose rate of pay shall be fixed by the chairman.

(2) OTHER STAFF.—The chairman may appoint and fix the rate of pay of such additional personnel as the chairman deems desirable.

(3) LAW GOVERNING APPOINTMENT AND PAY.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) AUTHORITY OF COMMISSION.—

(1) HEARINGS.—The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable. To the extent feasible, the Commission shall hold at least some hearings in the border regions of the United States.

(2) ESTABLISHMENT OF 3 EXPERT PANELS.—The Commission shall, to the maximum extent feasible, conduct its activities through the establishment of three expert panels, each of the panels to provide detailed information and recommendations to the Commission respecting one of the topics described in subsection (a).

(3) USE OF CONSULTANTS.—The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $150 per diem (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses including per diem in lieu of subsistence.

(4) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(5) ACCEPTING GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(6) USE OF U.S. MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(7) SUPPORT SERVICES FROM GSA.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS AND TERMINATION.—

(1) REPORT.—The Commission shall transmit a report to the Congress not later than three years after the date of the enactment of this Act. Such report shall include a summary of the reviews and analyses conducted by or on behalf of the Commission and such recommendations as the Commission deems appropriate.

(2) TERMINATION.—The Commission shall cease to exist on the thirtieth day beginning after the date of the transmission of the report under paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VIII—INVESTIGATION, REVIEW, AND TEMPORARY LIMITATION ON DEPORTATION OF DISPLACED SALVADORANS AND NICARAGUANS

PART A—GAO INVESTIGATION AND REPORT

SEC. 801. GAO INVESTIGATION.

(a) REQUIRING GAO INVESTIGATION ON DISPLACED SALVADORANS AND NICARAGUANS.—Within 60 days after the date of the enactment of this Act, the Comptroller General shall begin an investigation concerning displaced nationals of El Salvador and Nicaragua.

(b) DETERMINATIONS ON DISPLACED SALVADORANS AND NICARAGUANS IN CENTRAL AMERICA.—The investigation shall determine the following, separately, with respect to displaced Salvadorans and with respect to displaced Nicaraguans who are present in either El Salvador, Nicaragua, Honduras, Guatemala, or Mexico, regardless of whether or not they are registered:

(1) The number of these displaced persons and their current locations.

(2) Their place of origin in El Salvador or Nicaragua and the period of, and reason for, their displacement.

(3) Their current living conditions, with particular attention to (A) their personal safety and the personal safety of those providing assistance to them, and (B) the availability of food and medical assistance.

(4) An assessment of (A) current efforts to provide food, medical assistance, housing, and other necessities and to secure personal safety for these persons, and (B) policies and procedures that reasonably could be implemented to assure more efficient and equitable distribution of this assistance.

(5) The impact of the war in El Salvador or the war in Nicaragua, respectively, and of activities of officers of the Government or political parties in El Salvador or Nicaragua, respectively, on the matters described in the previous paragraphs.

(c) DETERMINATIONS ON SALVADORANS AND NICARAGUANS RETURNED FROM THE UNITED STATES.—In the case of nationals of El Salvador and nationals of Nicaragua who have been required (whether through deportation, voluntary departure proceeding, or otherwise) to depart from the United States and who return to El Salvador or Nicaragua, the investigation shall assess—

(1) their condition and circumstances in El Salvador or Nicaragua upon return from the United States, with particular attention to any violations of fundamental human

rights that have occurred upon their return to El Salvador or Nicaragua, or

(2) the extent to which these persons, upon their return, have become displaced persons within El Salvador or Nicaragua.

(d) DETERMINATIONS ON SALVADORANS AND NICARAGUANS IN THE UNITED STATES IN AN UNLAWFUL STATUS.—In the case of nationals of El Salvador and nationals of Nicaragua, respectively, who are present in the United States in an unlawful status, the investigation shall—

(1) compare the situation in El Salvador and Nicaragua with the situation in other countries during periods when nationals of those countries have been provided administrative grants of extended voluntary departure under the immigration laws,

(2) describe the policies and procedures of the United States respecting the treatment of aliens (other than Salvadorans and Nicaraguans) in the United States in similar circumstances, and

(3) describe the policies of all other countries in which Salvadorans or Nicaraguans have sought refuge as these policies concern the return of the Salvadorans to El Salvador and Nicaraguans to Nicaragua.

SEC. 802. REPORT.

The Comptroller General shall submit to the Speaker of the House of Representatives and the President of the Senate, not later than one year after the date of the initiation of the study under section 801, a report on such study, including detailed findings concerning the items described in subsections (b), (c), and (d) of such section.

PART B—CONGRESSIONAL REVIEW

SEC. 811. REFERRAL OF REPORT, COMMITTEE HEARINGS, AND COMMITTEE REPORT.

(a) REFERRAL.—The report, when submitted under section 802, shall be referred, in accordance with the rules of each House, to the standing committee or committees of each House of Congress having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

(b) COMMITTEE HEARINGS.—No later than 90 days of continuous session of Congress after the date of the referral of the report to a committee, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

(1) the findings of the report,

(2) the appropriate steps that should be taken to provide assurances of personal safety and adequate, efficient, and equitable distribution of assistance with respect to Salvadorans and Nicaraguans who are displaced within their countries or who have fled to other countries in Central America,

(3) treaty obligations of the United States, humanitarian considerations, and previous practice of the United States respecting the treatment of aliens in similar circumstances, and

(4) whether it is appropriate to extend, remove, or alter the restrictions contained in part C.

(c) COMMITTEE REPORT.—No later than 270 days of continuous session of the Congress after the date of the referral of the report to a committee, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

(d) TREATMENT OF CONTINUITY OF SESSION.—For purposes of this part, continuity of session of Congress is broken only by an adjournment sine die at the end of the second regular session of a Congress, and days on which either House of Congress is not in session because of an adjournment of more than 10 days to a date certain are excluded from the computation of the periods of continuous session of Congress.

PART C—TEMPORARY STAY OF DEPORTATION

SEC. 821. LIMITATION ON DETENTION AND DEPORTATION.

(a) LIMITATION.—(1) Except as provided in paragraph (2), the Attorney General shall not detain or deport aliens described in subsection (b) during the period beginning on the date of the enactment of this Act and ending 270 days of continuous session of Congress after the date of transmittal of the report of the Comptroller General to the Speaker of the House of Representatives under section 802.

(2) Paragraph (1) shall not be construed to prohibit the brief interrogation of an alien under section 287(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(1)) for the purpose of determining whether this section applies to particular aliens.

(b) ALIENS COVERED BY THE LIMITATION.—The nationals referred to in subsection (a)(1) are aliens who—

(1) are nationals of El Salvador or nationals of Nicaragua;

(2) have been and are continuously present in the United States since before August 6, 1986;

(3) are determined to be deportable only under—

(A) paragraph (1) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)), but only as such paragraph relates to a ground for exclusion described in paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a) of such Act (8 U.S.C. 1182(a)), or

(B) under paragraphs (2), (9), or (10) of section 241(a) of such Act (8 U.S.C. 1254(a)); and

(4) have agreed in writing to depart from the United States voluntarily upon the expiration of the period referred to in subsection (a).

SEC. 822. PERIOD OF STAY OF DEPORTATION NOT COUNTED TOWARDS OBTAINING SUSPENSION OF DEPORTATION BENEFIT.

With respect to an alien whose deportation is temporarily stayed under section 821 during a period, the period of the stay shall not be counted as a period of physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)).

SEC. 823. ALIEN'S STATUS DURING PERIOD OF EXTENSION.

During the period of the extension of an alien's voluntary departure under section 821, the alien—

(1) shall not be considered to be permanently residing in the United States under color of law,

(2) shall not be eligible for any program of public assistance furnished (directly or through reimbursement) under Federal law, and

(3) may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36) of the Immigration and Nationality Act) or any political subdivision thereof which furnishes such assistance.

TITLE IX—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 901. EXPEDITIOUS DEPORTATION OF CONVICTED ALIENS.

Section 242 (8 U.S.C. 1254) is amended by adding at the end the following new subsection.

"(i) in the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.".

SEC. 902. TRANSFER OF CERTAIN DEPORTABLE ALIENS FROM STATE AND LOCAL PENAL FACILITIES TO FEDERAL PENAL FACILITIES.

Notwithstanding any other provision of law, any alien who is incarcerated in a State or local penal facility for an offense involving controlled substances, the commission of which makes such alien deportable under section 241 of the Immigration and Nationality Act, shall, upon written request of the appropriate State or local official, be transferred to a penal facility under the authority of the Director of the Bureau of Prisons. The Attorney General shall prescribe such regulations as may be necessary to carry out this section.

SEC. 903. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS.

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of enactment of this Act, to list facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3810) was laid on the table.

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the engrossment of the House amendment to S. 1200, just passed by the House, the text of the bill made in order by section 2 of House Resolution 580, inadvertently contained in section 301(C)(2), be stricken.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The motion to go to conference will be offered on tomorrow.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 751, FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 99-986) on the resolution (H. Res. 583) providing for the consideration of the joint resolution (H.J. Res. 751) making further continuing appropriations for the fiscal

year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FURTHER CONTINUING APPROPRIATIONS, 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-277)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.J. Res. 748, continuing appropriations for the fiscal year 1987 for 2 more days until the Congress can agree on a full-year budget.

The Congress has been informed of the administration's position on a continuing resolution, including provisions that warrant my veto. As I had previously made clear, the provision included in this resolution providing for the rehire of air traffic controllers who engaged in the 1981 strike is totally unacceptable. I cannot accept this and certain other provisions included in this measure.

The administration will continue to work closely with the Congress to reach agreement on an acceptable full-year continuing resolution. The Congress has had over 8 months to do its job, and complete action on fiscal year 1987 appropriations. The time for action is long past due.

RONALD REAGAN.

THE WHITE HOUSE, *October 9, 1986.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and the joint resolution will be printed as a House document.

Mr. WHITTEN. Mr. Speaker, I move that the message, together with the accompanying joint resolution, House Joint Resolution 748, be referred to the Committee on Appropriations.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have requested this time so I could possibly get the distinguished majority leader or whip to tell us what the schedule is for tomorrow.

Mr. Speaker, a number of the Members are asking what we could anticipate in the way of a schedule tomorrow. I know that beyond that it is pretty hard to say at this point, but if the distinguished majority leader would give us an idea, will we be coming in at 10 o'clock? What will be our schedule tomorrow?

□ 2255

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, we will come in at 10 o'clock tomorrow and we would expect to conclude our business by 3 o'clock tomorrow.

We will have some unanimous-consent requests and a vote on the rule and a vote on the continuing resolution, hoping to fulfill the commitments that we made yesterday to extend the continuing resolution in toward the middle of next week so as to provide breathing space.

Mr. LOTT. As I understand it, there could be a couple of votes on that because there is a motion to recommit with instructions, is that correct?

Mr. WRIGHT. I think that is altogether possible.

The SPEAKER. The Chair would hope that there would be some reports on conferences.

Mr. WRIGHT. Conference committee reports, of course. We earnestly hope that there will be affirmative movement so that we can have a conference report on the reconciliation bill, for one thing, and the clean water bill, as I understand, is nearing readiness and may be right for our consideration tomorrow.

Mr. LOTT. Does the distinguished majority leader care to make any further comments? We realize there may be some other conference reports that may come up, and we do not know what will happen on reconciliation. We have conference reports before the Rules Committee.

But the membership would need to know that we will be through at 3 o'clock, and we should expect at least three and maybe more votes, is that correct?

Mr. WRIGHT. That sounds plausible to me.

Mr. LOTT. I thank the gentleman.

EXTENDING EXCLUSION FROM FEDERAL UNEMPLOYMENT TAX OF WAGES PAID TO CERTAIN ALIEN FARMWORKERS

Mr. FORD of Tennessee. Mr. Speaker, pursuant to House Resolution 580, I call up the bill (H.R. 5679) to extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers, and ask for its immediate consideration.

The Clerk read the bill, as follows:

H.R. 5679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Secton 3306(c)(1)(B) of the Internal Revenue Code of 1954 is amended by striking out "before January 1, 1988,' and inserting in lieu thereof 'before January 1, 1993,'."

The SPEAKER. Pursuant to House Resolution 580, the gentleman from Tennessee [Mr. FORD] will be recognized for 5 minutes and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 5 minutes.

The Chair recognized the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5679, provides for a 5-year extension of the current exclusion from Federal unemployment tax of wages paid to certain alien farmworkers. This extension was adopted by the Committee on Ways and Means as an amendment to H.R. 3810. This was the only revenue provision in the House bill. In light of our intention to make the House bill an amendment in the nature of a substitute to S. 1200, the committee requested that the FUTA provision be considered separately. This procedure will allow for the extension, while preserving constitutional prerogative of the House to originate revenue measures

I urge the adoption of the bill.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 5679. H.R. 5679 merely contains the one provision of the Ways and Means Committee action on the Immigration bill, H.R. 3810, which affects the Internal Revenue Code.

Under current law immigrant agricultural workers who enter the country under the H-2 program are excluded from the unemployment compensation system. This means that the H-2 agricultural workers are not eligible for unemployment benefits and their employers do not have to pay the unemployment payroll tax with respect to their wages.

This feature of current law is scheduled to expire on December 31, 1987. One provision of H.R. 3810 approved by the nontax writing committees would have removed this sunset date. That is, it would have made permanent the exclusion of H-2 workers from the unemployment system. The Ways and Means Committee agreed without dissent that it was undesirable to remove the sunset permanently. Instead the committee agreed that the expiration date should be extended to December 31, 1992. H.R. 5679 reflects this decision by the Ways and Means Committee.

I support the passage of H.R. 5679.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. FORD of Tennessee. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed. The vote will be taken tomorrow.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. LUNDINE. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on House Resolution 582, which passed the House today.

The SPEAKER pro tempore (Mr. ENGLISH). Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. LUNDINE. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the bill, S. 2129, which passed the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CHICAGO'S 1986 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the renowned Italian navigator, Christopher Columbus, discovered America 494 years ago on October 12, 1492, and Chicagoans will again celebrate this monumental event in the history of the world with a gigantic parade on Monday, October 13.

This year, we shall be honored to have the Vice President of the United States, the Honorable GEORGE BUSH, joining us and leading the parade. Other participants in this event will include Mayor Harold Washington of the city of Chicago; Gov. James R. Thompson of the State of Illinois; Congressman MARTY RUSSO; Dr. Leonardo Baroncelli, Consul General of Italy; and many other civic and political dignitaries, as well as myself.

The parade will not only pay tribute to Christopher Columbus, the father of all immigrants, but also it will recognize the numerous lasting contributions of all Americans of Italian descent to our beloved America, for Italian culture, history, and traditions have been fundamental to the development of our country and all Western civilization.

Mr. Speaker, the President of the United States, the Honorable Ronald Reagan; the Governor of the State of Illinois, the Honorable James R. Thompson; and the mayor of the city of Chicago, the Honorable Harold Washington, have issued proclamations commemorating the discovery of America by Columbus, and copies of these proclamations follow:

COLUMBUS DAY, 1986

(By the President of the United States of America)

A PROCLAMATION

Each year, we are privileged to honor Christopher Columbus, whose epic voyages of discovery shaped the development of the Western Hemisphere. This great explorer won a place in history and in the hearts of all Americans because he challenged the unknown and thereby found a New World.

Columbus remains loved today. With his faith, vision, and courage, he could navigate beyond his world's horizons. He left a wide wake for all those to follow who would dream as he dreamed, who would defy the naysayers and dare to strive for new goals. Follow him they did; and may they ever do so, those who would make the New World ever new with all the ingenuity, energy, and boldness they have.

Americans of Italian descent are proud to say that Columbus, a son of Genoa, was the first of many Italians to come to America and a powerful reason the United States and Italy share the unique friendship they do. Those of Spanish descent likewise point out that Spain made Columbus's voyages possible and that he is the first link in the friendship of the United States and Spain. All Americans share in this just pride.

We are nearing the year 1992, when the world will celebrate the 500th anniversary of Columbus's first voyage to the Americas. The Christopher Columbus Quincentenary Jubilee Commisson, a distinguished group of Americans aided by representatives from Spain and Italy, held its initial working sessions in Chicago, Miami, and San Juan, cities that are planning major commemorative events in 1992. It also began a report to the Congress, to be delivered in September 1987, that will make recommendations about our Nation's observance of the celebration.

The passage of time—nearly half a millennium—has not dimmed the glory of the Admiral of the Ocean Seas, nor could it ever.

In tribute to Christopher Columbus, the Congress, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim Monday, October 13, 1986, as Columbus Day. I invite the people of this Nation to observe that day with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

In witness whereof, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

RONALD REAGAN.

STATE OF ILLINOIS

PROCLAMATION

Whereas, every American knows what historic even occurred in 1492, for in that year the history of the world took a dramatic leap. The voyage of Columbus, which spurred further exploration of the New World, is celebrated annually throughout the land; and

Whereas, Columbus and many other distinguished Italians have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day; and

Whereas, Italian-American residents in Illinois will be sponsoring their 30th annual Columbus Day Parade to honor their native hero;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 13, 1986 as Columbus Day in Illinois.

JAMES R. THOMPSON,
Governor.

CITY OF CHICAGO

PROCLAMATION

Whereas, The Joint Civic Committee of Italian-Americans (JCCIA), is sponsoring its annual COLUMBUS DAY PARADE on October 13, 1986; and

Whereas, the courage and visionary wisdom displayed by Christopher Columbus in his intrepid voyage of discovery is exemplary of the Italian-American community; and

Whereas, those qualities of our Italian-American brothers and sisters are evident in the many contributions to the arts, politics, sports and socio-economic life of Chicago; and

Whereas, this year's parade honoring the great navigator is dedicated to Liberty and Immigration—the Italian American Experience:

Now, therefore, I, Harold Washington, Mayor of the City of Chicago, do hereby proclaim October 13, 1986 to be Columbus Day in Chicago and urge citizens to be cognizant of the events held in connection with this historical observance in honor of the great navigator, Christopher Columbus.

Dated his 12th day of September, 1986.

HAROLD WASHINGTON,
Mayor.

Mr. Speaker, Chicago's Columbus Day celebration will begin at 9 a.m. with a Concelebrated Mass at Our Lady of Pompeii Church. An introduction will be given by Theresa Petrone, theme coordinator of this year's parade, before the Mass begins. Anthony Pope will serve as commentator, and the lectors will include Marie Davino and Tina Amico. The prayer of the faithful will be offered by Ron Onesti, and the members of the offertory procession will include: Rhonda Lee Frederick,

who was chosen queen of this year's Columbus Day Parade; Fred Natale, who will portray Christopher Columbus in this celebration, Marie Palello, secretary of the Joint Civic Committee of Italian Americans, and Ann Sorrentino, costume chairwoman of this year's parade. Music will be provided by the Italian Cultural Center Choir, under the direction of Josephine LiPuma; and the orgnists will be Lawrence Salvador and Frank Pugno. Serving as ushers will be Nick Bianco, John DeBella, Anthony Lanzito, Mike Palello, Anthony Pilas, and Lawrence Spallitta.

The principal celebrant will be the Most Reverend Alfred Abramowicz, Auxiliary Bishop of Chicago, and the homily will be given by Rev. Nicholas Marro, C.S., Borromeo Church. Other concelebrants will include Rev. Charles V. Fanelli, St. John Baptist Vianney Church; Rev. James V. Flosi, St. Luke Church; Rev. Leonard H. Mattei, St. Cyprian Church; Rev. Ronald E. Scarletta, Immaculate Conception of the Blessed Virgin Mary Church; Deacon Frank Di Vita, Divine Providence Church; Rev. Lawrence Cozzi, C.S., Villa Scalabrini; and Rev. Angelo Carbone, Our Lady of Pompeii Church.

The Fourth Degree Knights of Columbus will serve as the honor guard, and following the Mass, breakfast will be prepared and served by the Mothers Club of Our Lady of Pompeii Church, with Josephine Messina as chairperson. Also, there will be a wreath-laying ceremony at the Columbus State in Arrigo Park. Thomas Baratta and Sam Garnello of the Order of the Sons of Italy in America will coordinate this event, aided by the color guard of the Italian-American War Veterans. The invocation at the wreath-laying ceremony will be given by Bishop Abramowicz, and the master of ceremonies will be Leonard Giampietro. The posting of the colors will be under the direction of Michael Tosi, State of Illinois Commander of the Italian-American War Veterans.

Chicago's monumental Columbus Day Parade will step off from the corner of Dearborn and Wacker Drive at 1 p.m., and will include over 200 floats, bands, and marching units depicting the theme of this year's parade, "Liberty and Immigration—the Italian American Experience," with floats honoring Italian Americans who have contributed to the strength and greatness of our Nation. Colorful floats especially designed for the occasion will carry members of the Italian-American community wearing authentic costumes from the 19 regions of Italy. The Coro Tre Pini, the world renowed Italian Choir from Padua, will also participate in this year's parade. Coordinating the float personnel will be Lawrence Spallitta, and chairman of the parade marshalls will be Marco De Stefano.

Other individuals who will be playing an important part in the success of this year's parade are Leonard Giampietro, finance and souvenir book chairman, and John Porcelli, cochairman; Ernie Kumerow, chairman of the Labor Committee; Dominic DiFrisco, cochairman, and Theresa Petrone, cochairperson of program and arrangement; Rev. Lawrence Cozzi, C.S., chairman of the religious program and organizations, Rev. Leonard Mattei, cochairman; Nello Ferrara, general chairman of the 1986 parade, and James Coli, grand marshal; as well as all of the members who have so tirelessly served on these committees and the officers and trustees of the Joint Civic Committee of Italian Americans.

The parade will be televised locally on WGN-TV in Chicago from 1 p.m. to 2 p.m., and this cable station with its capabilities of reaching more than 30 states, will afford millions of people the opportunity to watch this year's gala event. The sponors for this year's parade include Dominick Di Matteo of Dominick's Finer Foods; Anthony Fornelli of Festa Italiana; Nello Ferrara of Ferrara Pan Candy Co.; Joe Rizza of Rizza Ford; Anthony Terlato of Paterno Imports; Alitalia Airlines; and Anheuser Busch, Inc.

One of the highlights of Chicago's Columbus Day celebration is the election of the queen of the parade. This year, judged on her beauty, poise, and personality, Rhonda Lee Frederick of Oak Lawn, IL, was chosen to reign as Queen of the Columbus Day Parade, and she received $1,000 as a prize from the Joint Civic Committee of Italian Americans.

The members of the Queen's Court include Rebecca Ann Kirch of Elmhurst, IL; Tracy Varchetto of LaGrange Park, IL; Maria Tassone of Chicago, IL; and Laura Bondarenko of Schaumburg, IL.

The chairman of the Queen's Contest was Fred Mazzei, and the cochairperson was Josephine Bianco. Judges for the contest included Frank Cacciatore, former director of the State of Illinois Film Office; Gilbert Cataldo, executive director of the Illinois International Port—Lake Calumet; Barbara Dardones, personnel consultant; Dr. John Drammis, Jr., cosmetic plastic surgeon and director of the Cosmetic Surgery Center of Chicago; Rose Farina, manager of events in the Richard J. Daley Center for the Chicago of Fine Arts; Dr. Carl Tintari, consmetic dentist and founder and director of the Midwest School of Facial Aesthetics; Laura Spingola, president of Trade Resources Ltd.; and Joseph M. Caliendo, fur fashion designer and coordinator.

Each year, the Joint Civil Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day Parade and other related activities. Many local groups are cooperating with the Joint Civic Committee of Italian Americans in this community-wide tribute to Columbus, and Anthony Sorrentino, executive director for the JCCIA, is again helping to coordinate the many varied activities as he has done in the past.

Our grand Columbus Day celebration will close with a reception at 3:30 p.m. at the Como Inn Restaurant in Chicago, in honor of our guests, the officers, subcommittee chairman, and members are participating in making the 1986 Columbus Day Parade a memorable event.

On this 17th celebration of Columbus Day as a national holiday, I am honored to participate again as honorary parade chairman in this celebration. The members of the Joint Committee of Italian Americans are to be commended for their continuing and dedicated hard work and the imaginative creativity that goes into the planning of an outstanding patriotic event such as Chicago's Columbus Day parade. Our community and our city are proud of all those who are participating in the 1986 Columbus Day Parade in Chicago and thereby insuring its overwhelming success.

Mr. Speaker, the officers and members of the 1986 Chicago Columbus Day Parade Committee are as follows:

LIST OF OFFICERS AND MEMBERS OF CHICAGO'S COLUMBUS DAY PARADE

COLUMBUS DAY PARADE COMMITTEE

Nello Ferrara, General Chairman 1986; James Coli, Grand Marshal.

HONORARY CHAIRMEN

Congressman Frank Annunzio, Congressman Marty Russo, and Dr. Leonardo Baroncelli, Consul General of Italy.

JCCIA OFFICERS

Charles C. Porcelli, president, Carl De Moon, first vice president, Leonard Giampietro, second vice president, Anthony Terlato, Third vice president, Fred Bartoli, fourth vice president, Fred Mazzei, fifth vice president, John DeBella, treasurer, Josephine L. Ortale, secretary, Thomas Baratta, Sergeant-at-arms, and Anthony Sorrentino, executive director.

BOARD OF TRUSTEES

Richard Parrillo, chairman, Congressman Frank Annunzio, vice chairman, Michael Annecca, Fred Bartoli, Anthony Bertuca, Victor Cacciatore, Jerry Campagna, Representative Ralph Capparelli, Michael Cardilli, Gilbert Cataldo, Michael Coccia, and James L. Coli.

Senator John D'Arco, Jr., Representative James De Leo, Pat De Leo, Dominick Di Matteo, Marco Domico, Nello Ferrara, Anthony J. Fornelli, Paul Fosco, Anthony Fratto, Fire Commissioner Louis Galante, Leonard Giampietro, and Dr. James F. Greco.

Ernie Kumerow, Joseph Lizzardro, Jr., Steve Lombardo, Charles LoVerde, Frank Mancari, Joseph Marchetti, Pat Marcy, Jr., Joseph Mazza, Michael R. Notaro, Charles C. Porcelli, and John C. Porcelli.

Nunzio Raimondi, Ciro Rossini, Dr. Salvatore Rotella, Dr. Mario O. Rubinelli, John Sepico, Dr. Raffaele Suriano, Anthony Terlato, Joseph Tolitano, Lester Trilla, Phillip Zinni, and Jerome N. Zurla.

CHAPLAIN

Rev. Armando Pierini, C.S.

THEME COORDINATION

Theresa Petrone

RELIGIOUS PROGRAM AND ORGANIZATIONS

Rev. Lawrence Cozzi, C.S., chairman, Rev. Leonard Mattei, cochairman, Rev. Armando Pierini, C.S., adviser, Nick Bianco, John DeBella, Michael Fortino, Mike Palello, Elvira Panarese, Chief Anthony Pilas, Anthony Pope, and Lawrence Spallitta.

AUTHENTIC ITALIAN COSTUMES

Ann Sorrentino, chairperson, Elena Frigoletti, Mary Spallitta, and Pauline Jo Cusimano.

FINANCE AND SOUVENIR BOOK

Leonard Giampietro, chairman, John Porcelli, cochairman, Ann Sorrentino, and Angeline Annunzio.

LABOR COMMITTEE

Ernie Kumerow, chairman, James Coli, Robert LoVerde, Angelo Fosco, Charles LoVerde, Tony Judge, Armando Fosco, Chuck Spranzo, John Serpico, Bruno Caruso, Mike Coli, and John Coli.

BANDS, MARCHERS, TRANSPORTATION, AND FLOATS

Marie Palello.

PROGRAM AND ARRANGEMENTS

Dominic DiFrisco, cochairman, Theresa Petrone, cochairperson, Alderman William Banks, Anthony Fornelli, James De Leo, Charles C. Porcelli, and Leonard Giampietro.

QUEEN CONTEST

Fred Mazzei, chairman, Josephine Bianco, cochairperson, Anita Louise Biance, Marie Palello, Mike Palello, and Josephine Ortale.

FLOAT PERSONNEL

Lawrence Spallitta, chairman.

PARADE MARSHALS

Marco DeStefano, chairman, Larry Battisti, Rocco Bellino, John DeBella, Nick Bianco, Pasquale Caputo, Ettore Di Vito, Neil Francis, Frank A. Lato, Mike Palello, Joseph Pantaleo, Anthony Pilas, Louis Rago, and Ron Onesti.

STAFF PHOTOGRAPHER

Sam Bruno.

WOMEN'S DIVISION

Marie Davino.

WEST SUBURBAN WOMEN'S DIVISION

Tina Amico.

YOUNG ADULT DIVISION

Ron Onesti.

COORDINATOR

Anthony Sorrentino and Marie Palello.

OFFICE VOLUNTEERS

Russell Anderson, William Travers, Joan Piraino, Rose Ann Rabiola, Jo-Anne Frisa Cole, Nancy Savino, Ann Sorrentino, Ann Yelmini, Josephine Ortale, Amadeo Yelmini, Lucille Brahill, and Rose Ortale.

NORTH CAROLINA STUDENT WINS PHYSICS OLYMPIAD HONOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

Mr. ROSE. Mr. Speaker, Philip Daniel Mauskopf, a recent high school graduate from Durham, NC, was one of five finalists to represent the United States at the International Physics Olympiad. It is a prestigious honor just to partake in the Olympiad which is widely recognized as an important event in Europe. Philip Mauskopf received a bronze metal for his outstanding performance. With so many serious questions existing today about the quality of education in the United States, it is reassuring to read about high school students who are extremely knowledgeable in physics and have the opportunity to compete against other students from various countries. Our education system needs to make sure that many more students are capable of reaching their maximum potential. This is recounted in an article entitled "US students gain bronzes in first crack at Physics Olympiad" in the September 1986 issue of Physics Today.

U.S. STUDENTS GAIN BRONZES IN FIRST CRACK AT PHYSICS OLYMPIAD

(By Irwin Goodwin)

Ask any American about the International Physics Olympiad and the response is likely to be a vacant stare. In Europe and some Far East countries, however, the event sometimes receives the recognition usually given the Olympic games. Modeled on those venerable and venerated Olympic contests for gifted athletes from all over the world, the Physics Olympiad was first run in 1967, but until last July no American has taken part. Now, however, US high school students are considered worthy competitors, for three young Americans have taken bronze medals in the Olympiad their first time out.

It is something to celebrate. "We are right to be proud of our team," says Jack M. Wilson, executive officer of the American Association of Physics Teachers, principal sponsor of the US team. "When the idea of entering the Physics Olympiad first came up a few years ago, many were skeptical. Someone even predicted we would end up sending a US team with 20 kids of Asian descent, all from the Bronx High School of Science."

That didn't happen. By 17 June, after three run-offs, there were 20 team members from a remarkable diversity of locations and origins. Among them were Bryan Beatty of Greer, South Carolina; Golda Bernstein of Tuscon, Arizona; Cathryn Carson of Chevy Chase, Maryland; Mason Ng of New York City; David Kreithen and Sanjoy Mahajan of Pittsburgh; David Norman of Bountiful, Utah; Mikael Thompson of Fort Worth and Ali Yegulalp of Teaneck, New Jersey. "When the team list came out, the critics were silenced," Wilson recalls.

The five finalists represented the US in its engaging pluralism:

Paul Graham, graduate of Cherry Creek High in Englewood, Colorado, a member of the Colorado Junior Academy of Science and a National Merit Scholarship winner, possesses among his distinctions a sharp wit. Asked in his application for any thoughts on physics, he wrote: "Reality is relative. Unfortunately, relatives are often reality."

Howard Haruo Fukuda, graduate of Iolani School in Honolulu, collects football cards, postage stamps and comic books, though his most prized hobby, he indicated on his application, is computer programming.

Philip Daniel Mauskopf, graduate of the North Carolina School of Science and Mathematics in Durham, spent the past two summers working in semiconductor labs, mainly in uv-visible sepectorscopy; he also is a violinist with the Piedmont Youth Symphony and several chamber groups. In his application he noted: "I find the most interesting facet of physics is the comparisons and examples of discrepancies. Physics diverages to the greatest extent from 'common sense' when dealing with very small or very large-scale phenomena, or very low or very high-energy phenomena, because these are not part of everyday experience. Quantum mechanics and cosmology pose problems that cause us to contemplate philosophical questions such as cause and effect (Schröinger's cat) and our own origin (Big Bang) in a new light, with a different viewpoint. That's why I enjoy physics, especially theoretical physics."

Srinivasan Sheshan, graduate of Thomas Jefferson School for Science and Technology in Alexandria Virginia, sent with his applicaton a page-long list of academic honors and accomplishments, including an IBM-Watson Scholarship, a University of California Regents Scholarship and an honor's award in the 1986 Westinghouse Science Talent Search. A resident of Reston, Virginia, Sehshan is working this summer at an IBM laboratory in nearby Manassas.

Joshua R. Zucker, 11th year student at Palisades High in Pacific Palisades, California, placed first in California's Science Day physics competition earlier this year and won a National Merit Scholarship to attend Stanford University this fall. At the age of 16 he was the youngest member of the US Olympiad team. An accomplished orator, he holds a 10-2 record in high school debating contests and placed fifth in statewide competition. His other specialties include Ultimate Frisbee, flute-playing, tennis, chess and computers.

The five finalists emerged after a grueling series of tests and trials. It is somwhat astonishing that the US fielded a team for the 17th International Physics Olympiad at all, considering its late start. The idea of entering the Olympiad was first broached by Wilson in late 1984 and brought before the Governing Board of the American Institute of Physics early in 1985. To explore the proposal the AIP board decided to send Ronald D. Edge, a physicist at the University of South Carolina, and Arthur Eisenkraft, a physics teacher at Fox Lane High School, Bedford, New York, as observers to the Physics Olympiad at Portoroz, Yugoslavia, in July 1985.

On their return, Edge and Eisenkraft wrote reports urging US participation. Despite their excitement, some board members expressed caution. Anthony P. French of MIT, for instance, examined the advantages and disadvantages of taking part in the Olympiad in a letter to board members. In it he observed that "Olympiad examinations are primarily a reflection of physics as taught in most European countries to students who have probably had at least three years of physics in high school, taught in a way to develop a high level of skill in analytical problem-solving. Similar examinations . . . have traditionally been used to select students for admission to universities. I myself came up through this route," explained French, who was born in Britain. "It was a demanding program for which I have always felt intensely grateful."

By contrast, French stated in his letter, "the high-school preparation that most students get in the US is not likely to equip them to compete successfully in such a contest. That is the main reason why, initially, I myself was quite opposed to the suggestion that the US might field a team; I could see them being clobbered. . . . Also, some people would say that the approach to physics represented by traditional European syllabuses inhibits curiosity and creative spirit, that it has little to do with learning about nature and is not the sort of example that the U.S. should follow. So far as the *general* teaching of physics is concerned, I would tend to agree with that position" (see article, page 30).

But the question is not whether precollege physics in Europe is different or better than in the US," worte French, "but simply . . . whether a group of five or six bright students can be found who, with the help of some extra training, can make a good showing in the competition." The performance of US students in the 1984 Chemistry Olympiad and the Canadian team in its first Phsyics Olympiad last year, French asserted, convinced him that an American group "would acquit itself creditably." There are plenty of competent physics students in the US, if only they can be identified. "And such youngsters, exceptionally talented to begin with, would, I believe, revel in such competitions." noted French.

A CATALYST?

US participation in the Olympiads was unlikely to influence pre-college physics teaching programs in the US in any major way,

French claimed, "except perhaps as a stimulus to improve their quality an quantity. So far as I am concerned, the chief consideration is what I now see as a great opportunity to increase the visbility of physics in the public eye . . . . We physicists generally do a miserable selling job on the merits of our profession and the rewards that it can bring. The public understands competitive success. We talk a lot about role models; what better role model for a teenager interested in science than someone only a year or two older who has made the headlines on that basis? We shouldn't be relinquishing all such kudos to the athletes!"

At the AIP board meeting last March, Edge and Eisenkraft gave persuasive oral accounts of the Olympiad they monitored in Yugoslavia. French remembers that "Eisenkraft's enthusiasm for the Olympiad was so contagious, we were infected there and then." A report by a special committee of The American Physical Society also recommended support for US participation. The committee, headed by Neal Lane of Rice University, suggested that AIP should take the lead in gaining wide support for the event, which already wide support for the event, which already had the backing of APS and AAPT (PHYSICS TODAY, March, page 107).

In the end those three organizations were joined in sponsoring US activites for the Olympiad by the American Astronomical Society, the Optical Society of America, the American Association of Physicists in Medicine, Ford Mortor Co, IBM, Exxon Corp, Duracell Inc, John Wiley and Sons, Worth Publishers the University of Maryland.

In late March Wilson sent 20,000 letters to high school teachers and administrators urging them to nominate at least one physics student for the first round of tests. He suggested that they refairn from just going ahead and nominating their best student currently in class, but rather choose only those they regarded as best compared against the best in the past decade or so. Some schools submitted two names. The Bronx High School of Science named three.

A month later the schools administered a multiple-choice test of 40 physics questions and 2 open-response problems drawn up by AAPT to nearly 200 students in their 11th and 12th years. The 50 top scorers took another written test. From these, AAPT found 23 who qualified for the special training session leading to the Olympiad.

Of those, three were already committed to the Chemistry or the Mathematics Olympiad and therefore could not participate in the physics meet. The reamaining 20 attended a ten-day training session in the physics building on the University of Maryland campus. They spent most of their days working over questions from prior Olympiads. There were also crash courses, such as a 2½-hour session on optics, which was the first time most of them had encountered the subject. "I never learned optics in school. It proved to be crucial in the Olympiad test," says Mauskopf. "I amazed myself by how much I remembered from the cram course." Zucker and Sheshan would have liked a longer training session to bone up for the Olympiad. "We felt queasy about not having more experience in the lab. We expected the Europeans to be better trained at lab work than we were," Zucker observes, "and that put us at a disadvantage." Recognizing a gap in his knowledge, Graham taught himself thermodynamics before going to Maryland.

While the group wanted to do well, perhaps even taken home some medals, Esienkraft advised the students not to worry about winning. "He told us the first year was basically a throwaway," recalls Graham. "But in our hearts we really wanted to win."

CAMARADERIE

When the Americans met the 100 young contestants from 20 other countries at the Harrow School, north of London, England, on 13 July, any thoughts of an intense rivalry fled. "We were among like-minded people, despite the different languages and cultures," says Sheshan. They debated Bell's inequality and the significance of the Einstein-Podolsky-Rosen paradox. Mauskopf played basketball with a youth from Poland who had been to the Olympiad in Yugoslavia the year before. The Cubans kept beating the US team members at pool. Zucker taught Bulgarians, Chinese, Cubans and Turks to play Ultimate Frisbee, resulting in one broken arm. They visited museums and historic places in London, saw the Cavendish Lab. in Cambridge and ate fish and chips as part of their British experience.

After the fun and games came the tests at Harrow. The tests took five hours on each of two days, The first test consisted of three lengthy questions drawn up by the British hosts and the second was administered under lab conditions. Mauskopf wrote the answers to one theoretical question over 20 pages, setting the record for length in this year's Olympiad, He also solved one problem with an elegant use of Lagrangian equations—the only contestant to employ this technique. In one lab test requiring rainbow angles to be detected by spectroscopy in a water droplet, Mauskopf was awarded a zero for measuring the supplements of the angles rather than the angles themselves. Einsenkraft and Edge argued that the answer was absolutely correct for the supplemental angles, and the judges finally gave Mauskopf 25% for the answer.

"We didn't have any notion of how we came out until the winners were announced on the last day," says Sheshan. That ceremony took place in Harrow's New Speech Room, a semicircular hall with stained-glass windows and a pipe organ. It came as no surprise that the USSR took three of the four gold medals, while the fourth went to a student from Romania. The Team from China won a silver and bronze. England and both Germanys took silver medals. Graham, Mauskopf and Zucker were awarded bronze medals, while Fukuda and Sheshan missed getting honorable mentions by less than two points overall.

"It was a satisfying, difficult competition," says Mauskopf. "If we had more experience and more training, we might have done a little better. Even so, we were happy to have done so well. To hear the other contestants tell it, in most of Europe, the Olympiad serves as a basis for a rigorous series of physics courses and exams. In our country we do things differently." "I'm glad I went and did so well," asserts Graham. He and Zucker will be attending Stanford this fall; Mauskopf is going to Harvard, Sheshan to the University of California at Berkeley and Fukuda to Carnegie-Mellon University.

Wilson, Eisenkraft and Edge are thrilled by the showing of the US team and preparing for next year's Physics Olympiad, to be held in Jena, East Germany. Says Eisenkraft: "I'm convinced the Physics Olympiad will excite both students and the system to aspire to greater achievements in much the same way that the Olympic games stimulate athletes to compete. In my mind's eye, I see physics becoming as glamorous as any competitive sport."

ADDRESS AT BROWN UNIVERSITY BY SENATOR J. WILLIAM FULBRIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, this weekend the leaders of the United States and the Soviet Union will sit sown to discuss matters of international security. Their perspective on each other, their understanding of each other's country, and their perception of world events, inevitably is shaped by the depth and breadth of their education enriched by their separate personal experiences in world affairs.

I know many of my colleagues share my hope that Secretary Gorbachev really does understand that we Americans seek, above all else, a peaceful world; that we really believe that the money we spend on our military might is not intended to inspire a war, but to prevent one; that our actions around the world are not intended to provoke violence, but to contain it. I wish I could host the Russian leader in my district in Arkansas so that he could see for himself what Americans are really like. I would like to think that he goes to Iceland with a knowledge of our people based on his own experiences, and not on a memorandum prepared by bureaucrats in the Kremlin or news summaries composed by the staff of Pravda. How many times can each of us recall instances in world history where fatal decisions were influenced more by ignorance and misconception than by truth and understanding?

Last month my friend, and our former colleague, the Honorable J. William Fulbright of Arkansas, delivered the keynote address at the Inauguration of the Institute of International Studies at Brown University. To many throughout the world Bill Fulbright is well known for his contribution to world peace through the Fulbright scholarships. He understood long ago that understanding of foreign cultures and governments is indispensable to the advancement of international cooperation. He actively encouraged young people from throughout the world to reach beyond that which is parochial and familiar into a world filled with diversity and change.

His message at Brown University is sobering. His words direct. As always, his thoughtfulness and compassion remind us of his many great acts of statesmanship and courage. So eloquent and enlightening is the message that I obtained a copy of his address so that others might have access to it. I commend to my colleagues this important address.

INTERCULTURAL EDUCATION

I do not easily find the words to express my appreciation of the honor you bestow on me this evening. It lifts ones spirits to be recognized by Brown University for any reason, but I am especially honored that in this instance your approval is related to the Educational Exchange Program and my role in its creation.

My pleasure on this occasion is enhanced by the fact that one of my favorite nephews, Kenneth Kelly, is presently in his second year on your campus and by my memories of good friends past and present, who are identified with your State and with this University. Among these are such names as Theodore Francis Greene, Claiborne Pell, John Pastore, John, Anne and Carter Brown whose ancestors were responsible for the creation of this magnificent institution. In addition to these fine people, one of the truly wise and generous benefactors of Brown, the Honorable Tom Watson, is also a friend and benefactor of my Alma Mater, the University of Arkansas. I had the honor of serving on the Board of Regents of the Smithsonian Institution with Mr. Watson for several years.

During those years I came to admire him and his charming wife Olive. Since then his service as our Ambassador in Moscow and his views about our relations with the Soviet Union have increased my appreciation of his wisdom and judgment.

On this 40th anniversary of the enactment of the Educational Exchange Program is an appropriate time to recall the circumstances of its origin and its purpose.

The year 1945 marked a profound break in the thread of human history. In the wake of the two world wars. Europe, hitherto the center of the world power and culture, lay ruined and demoralized, its preeminence lost, apparently, as it then seemed, beyond retrieval. Russia had suffered the loss of more than 20 million of its population; China had suffered similarly under the impact of both invasion and civil war; and the great cities of Japan were reduced to ashes. Most of this had taken place even before the dropping of the atomic bombs on two Japanese cities. The advent of nuclear weapons, made it abundantly clear—if it were not clear already—that warfare among great nations had become suicidally irrational and unacceptable to civilized peoples.

The past, in the wake of such great catastrophe, seemed unable to provide models for peace and world order, or indeed for the survival of human life and civilization. As Albert Einstein advised in the 1945, after the destruction of Hiroshima and Nagasaki, "Now everything has changed except our manner of thinking. Thus we are drifting toward a catastrophe beyond comparison. We shall require a substantially new manner of thinking if mankind is to survive."

Against this background it occurred to me (then a recently elected United States Senator from the state of Arkansas) that a substantial exchange of students between the various nations would help to promote, however modestly, the new manner of thinking referred to by Einstein. There were two significant precedents in American history for using public funds for international education as an adjunct to our diplomacy—the Boxer Indemnity Fund and the Belgian American Foundation. (Precedents are important in the Senate.) With these examples in mind, recalling too the demeaning fruitless wrangle over war debts after the first world war, as well as my own experience as a Rhodes scholar in the twenties, in September 1945, a few days after atomic bombs destroyed two Japanese Cities, I introduced a bill providing for the use of foreign credits accruing to the United States from the sale of surplus war property for the financing of educational exchange. For political reasons I thought it best not to invite attention to the larger purposes of the legislation and to the profound changes I hope it would help to advance in international relations. I emphasized instead its modest scope and cost so as not to invite opposition from suspicious colleagues still imbued with the attitudes of traditional American isolationism. The bill was passed by the Congress and signed by President Truman on August 1, 1946.

Since that time the program has been several times renewed and refunded, with substantial contributions coming from other participating governments as well as the United States, and it is now generally accepted if not fully appreciated by political leaders who control our foreign policy.

I say "not fully appreciated" because although the political leaders in Washington speak approvingly of the Exchange Program, they attribute to it a very low priority in the allocation of funds. It is true that during the past four years the Congress has increased the appropriations, but it is also true that the number of grantees is still fewer than it was 25 years ago. It is evident that the political authorities in Washington fail to recognize that the Exchange Program is more than just a laudable experiment, but is a positive instrument of foreign policy designed to mobilize human resources, just as military and economic policies mobilize physical resources. The introduction of nuclear weapons and their unprecedented destructive power require greater attention, than in the past, to the avoidance of the *miscalculations* which result in conflicts. The avoidance of mistakes requires diplomacy and judgment by people with a thorough understanding of the issues and circumstances involved, with a background of experience and knowledge of the parties. In a word, the emphasis *should* now *shift* from how to make and win a war to how to avoid it.

The personal benefits to the individual participants are readily recognized, but the effect of the scholarships upon the political relations of the nations involved are less obvious. As in other educational programs, it requires several years for the results of the educational experience to become apparent. It is only when the students have matured and assumed their places in society, often in positions of considerable importance, that they can influence the attitudes and policies of their respective communities. The participants in the early years of the program have only recently been coming into positions of influence. But each year their numbers and influence increase and will continue to increase. About 156,000 men and women have participated in the Exchange Program, approximately one-third from the United States and two-thirds from other countries. The largest numbers are from the developed countries including Great Britain, Germany, France and the Scandinavian countries, Japan, but many too have come from less developed nations including China and India.

A very important feature of the program is the bi-national commissions in some 42 countries giving these countries equal participation in the formulation of the content and the direction of the program in their respective countries. One consequence of this feature is that 28 of these countries share the cost of the program, in some cases contributing more than the United States.

From time to time the suggestion has been made by authorities in Washington that the program should be funded by the private sector. The distinctive quality of the program originally was that it was the first large educational exchange supported by the money and prestige of the government. I am quite certain that if the U.S. government withdrew its financial support other governments would also and the program would have a very dubious future.

This program, to be effective, must be for the long term. It is quite complicated to administer, and the uncertainty of private funding would undermine its credibility. Contributions to the program by private donors are welcome, but the basic administrative structure should be stable and its finances assured.

It is most unfortunate that exchanges have been minimal where they are the most urgently needed between the United States and the Soviet Union. But in spite of serious political obstacles, the small Russian program has been effectively administered with well qualified participants and can be expanded if we wish to do so.

Since the Soviet Union is the source of our principal concern about the security of our country, it occurs to me that the expansion of the educational exchange program is far more relevant to that concern than is the present escalation of the arms race. As one respected authority on the subject recently put it, war requires deliberate decisions on the part of national leaders and it requires calculations that the gains to be derived from war will outweigh the probable costs, they do not just happen like earthquakes or tornadoes. As Lord Grey wrote of the first World War in 1914, "Nations are always making mistakes because they do not understand each others psychology." If the leaders of the Soviet Union and the United States have had the experience themselves or the advice of people who have lived and studied in the others country, they are more likely to correctly calculate the risks of war and to avoid the kind of mistakes the leaders of Germany and England made in 1914, the Japanese in 1941, and more recently the mistake of President Johnson in 1964. Leaders who can correctly calculate the consequences of a nuclear conflict between the Super Powers are better insurance against a conflict than is a larger stockpile of nuclear missiles or a dubious S.D.I. system.

I do not believe we should rely primarily upon machines for our security, no matter how sophisticated the machines may be. Our security depends upon the wisdom and the judgment of the men who make the crucial decisions, and their judgment in turn is dependent upon their experience with and knowledge of the opposition.

We do not have to approve of the social and political system of the Soviet Union, but it is unrealistic and a mistake not to accept its status as a great power. It is an illusion to believe that we can intimidate the Russians by military superiority or that we can force them into bankruptcy by outspending them for military weapons. The plain fact is that there is no reasonable prospect that we can eliminate or neutralize their ability to injure us with nuclear weapons, but there is at least a possibility that we can, by persistent and carefully designed programs of confidence building joint ventures, persuade them as well as ourselves of the advantages of more cooperative relations between us. By maintaining parity of military power, we can engage in cooperative joint ventures with little or no risk to our security.

The real challenge to the leaders of the United States, a challenge which I believe this University and its distinguished patron Ambassador Watson recognize, is one of psy-

chology and education in the field of human relations. It is a challenge we should welcome in place of the costly drive for nuclear superiority which undermines the strength of our economy.

As I have said before, political leaders in the United States tend to regard intercultural education as marginal or too slow or irrelevant to the conduct of international affairs, but I am quite certain they are mistaken. Intercultural education through its participants in positions of influence has the possibility of modifying the preeminence of military power as the primary guardian of our national security. Nuclear weapons have compromised the traditional role and effectiveness of military power as the guarantor of our security, except in their function as the deterrence in the principle of Mutual Assured Destruction as accepted by our government in the A.B.M. Treaty of 1972. However, in recent months the dynamism of the U.S. military establishment, unhappy with the restraint of deterrence, is moving to abandon that policy and proceed to an incalculable escalation of the arms race into outer space. To restrain and control this tendency to unlimited expansion requires political leaders who have the experience and the courage to turn the super powers away from such dangerous competition to a policy of cooperative coexistence. The alumni of the exchange experience, through their influence in the schools and the media can alter the way people think about foreigners with ideas and beliefs different from ours and about how to deal with them.

In our large and complex society the relatively small number of Fulbright Program alumni have had a significant but limited influence upon public affairs compared to its impact upon such countries in Western Europe and upon Japan. One aspect often overlooked is that it has inspired the creation of many similar government supported programs in other countries some of which are now larger in size than ours. Within our own country the program has a "multiplier effect." For every university professor whose outlook has been broadened by study in another country, many thousands of students will acquire a more accurate international perspective. For every business person who has studied in another country, many associates are likely to gain some appreciation of the essential futility of nationalist economic policies and of the way in which an international division of labor benefits all countries. For every politician or diplomat who, through study abroad, has gained some appreciation of the world as a human community, many of his colleagues or associates will be influenced away from parochial chauvinism to broader, more fruitful perspectives.

The essence of intercultural education is the acquisition of empathy—the ability to see the world as others see it, and to allow of the possibility that others may see something that we have failed to see, or may see it more accurately. That, I should think, is the most pressing necessity in superpower relations. This is not to suggest that, if Americans and Russians knew each other better, all animosity and rivalry would disappear. It hardly needs emphasis that we in the western democratic tradition will continue to deplore the harshness, the secretiveness, the suppression of ideas and the denial of personal freedom that characterizes authoritarian societies both communist and anticommunist.

That, however, is not what empathy requires. What it does require—applied to Russia for example—is an appreciation of the deep-seated fear, rooted in a harsh and tragic history, that the Russians feel for their borders and their security. As a wise and experienced American diplomat observed, "in order to live in peace with the Russians, Americans must stop denying them the right to their own view of reality. Russian political culture reflects Russian history and embodies what the Russian people, mistakenly or not, believe is necessary for their survival."[1]

The Russian view of reality based on these experiences is not without justification, not only from remote historical conflicts, but also from more recent experiences in which we have participated. The American people, however, do not believe that our country threatens the security of Russia, although in recent years they have been and are being urged to believe that Russia is a serious threat to us. Clearly, both countries, as a result of continuing provocative rhetoric and periodic offensive actions, have escalated the distrust of each other intentions to a dangerous degree.

I can think of no better way to describe the purpose of the exchange program we initiated forty years ago than to erode this distrust. Its essential aim is to encourage people in all countries, and especially their political leaders to stop denying others the right to their own view of reality and to develop a new manner of thinking about how to avoid war rather than how to wage it. For a powerful nation especially, a less adversarial, a more cooperative approach to other countries is more likely to moderate their view of reality than is the implicit threat in building more nuclear weapons. The Exchange Program is not a panacea but an avenue of hope, probably our best hope and possibly our only hope, for the survival and further progress of humanity.

It is to the nourishment of that hope that the Exchange Program and I believe the Thomas Watson Institute are dedicated. Finally, may I once again express my deep appreciation for the recognition you have given the Exchange Program and for the honor you have bestowed upon me.

OBSERVATIONS OF MY CAREER IN THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LUNDINE] is recognized for 60 minutes.

Mr. LUNDINE. Mr. Speaker, during these last days before I retire from the House, I want to make a few observations about my work here and some of the major problems facing the Congress in the future.

This statement is intended to be neither a history of my legislative record, nor an analysis of the major public policy decisions of the Congress during this period. I simply want to make a personal statement to you and my other colleagues about some of the issues which have been of deep concern to me and which may confront the Congress in the future.

Most of my observations today will be about legislation, but I would first like to say that one of the great joys of this job is the opportunity to make a positive difference in people's lives. It has been a privilege and honor serving the people of our district these last 10½ years. Their confidence is particularly appreciated since I'm the first person of my party to represent most of this district in over 100 years. The special confidence expressed by the constituents who typically vote for candidates from the other party has been a real inspiration to me.

Effective representation is not a one person job. At the outset of these remarks, I want to express my deep appreciation to all of the staff who have worked with me through these years. Their dedication, competence and commitment have been my greatest asset as a Congressman.

When I arrived here in 1976, I was convinced that economic growth and opportunity must be America's first priority and that improving our country's productivity was the key element in achieving that objective. I remain convinced today.

We cannot improve our standard of living and we cannot achieve noninflationary economic growth without productivity improvement. Its decline in the last two decades has resulted in an erosion of America's competitiveness and a standstill in our living standard. Without the economic growth that a healthy rate of productivity improvement allows, we cannot achieve the social progress we desire or even the national security we require.

The basic factors which affect productivity are capital, technology, regulation and human factors. I recognized that all of these elements were important a decade ago.

It seemed to me that we had to take action to free up more capital for private sector investment and reduce the regulatory drag on our economy. One of the reasons I have usually supported tax cuts is founded on the conviction that we must encourage greater savings and investments. I supported President Reagan's 1981 tax cut program. I also supported President Carter when he launched an anti-inflation program with the capable monetary leadership of Federal Reserve Chairman Paul Volcker in October of 1979. This action "broke the back of inflation" and as a result, business investment in the 1980's has not been thwarted by fears that the value of investments will be eroded by inflation. I supported both Presidents in deregulation measures designed to improve the efficiency of our markets through greater competition.

To increase productivity, I realized that we needed to support basic research and provide a way of translating our discoveries into usable technol-

[1] John M. Joyce, who served in the U.S. Embassy in Moscow 1973-76, and 1981-83, in "The Old Russian Legacy," *Foreign Policy*, Summer 1984, p. 152.

ogy. While we were maintaining our edge in basic research, the United States was falling behind our major competitors in the areas of applied research and technology development. I felt that we had to reverse this trend. It was for this reason that I sought a seat on the Science and Technology Committee so that I would have the opportunity to move Federal science policy toward a greater emphasis on innovation.

During my years on the Science Committee, we have taken some important steps in the right direction. The Small Business Innovation Research Act was passed in 1982 to provide support for small businesses with innovative research ideas that have commercial potential. The National Science Foundation has encouraged cooperation between businesses and universities and supported important engineering research. And, in 1984, the House passed the Manufacturing Sciences and Robotics Research and Development Act to provide assistance to basic industries for the development and implementation of improved manufacturing technologies.

During this Congress, due to the difficult budget situation, I felt we should focus on ways to make the most of our presently funded research and development programs. For this reason, I introduced legislation, which passed the House and Senate just this week, to open the doors of our Federal laboratories to the private sector. This measure, the Federal Technology Transfer Act of 1986, will give business, industry, State and local governments, universities and others access to the technology currently bottled up in our Federal laboratories. It will help put Federal technology to work to solve problems and create jobs.

The Science and Technology Committee also provided me with a forum to bring increased attention to the most important component of productivity, the human factor. In 1981, I initiated and chaired 6 days of hearings by the Science, Research and Technology Subcommittee on the human factor in innovation and productivity. I felt very strongly that we could not ignore the impact of new technology on the workforce.

Even prior to these hearings, I identified the human factors affecting productivity as the most neglected and probably the most important. Education is the fundamental foundaton for human resource improvement. That is why I have always given educational expenditures the very highest priority during my terms in Congress.

We in the Congress made a great commitment in the mid-1970's to guarantee full employment. Yet to be a true society of opportunity, people must be ready for the jobs that are available. They must have fair chance to prepare to perform well and succeed in those jobs. Toward that end, I began to develop the concept of a human resources and demonstration program. This was the first major legislative proposal I advanced, based upon my experiences in labor-management cooperation and industrial revitalization while serving as mayor of Jamestown.

Out of this grand concept of a human resources program emerged the Labor-Management Cooperation Act of 1978. With the tremendous help of the late Senator Jacob Javits, I managed to get this bill passed on the last day of the session in 1978. It continues to provide seed money for labor-management cooperation to improve our human resources all across America.

My experience as a member of the House Banking Committee in helping to craft a response to the potential bankruptcy of Chrysler convinced me that America's industrial base was being threatened. Continuing to analyze these issues in the early 1980's, I became convinced that the country was seriously deindustrializing and that was needed a basic industrial strategy to deal with the cornerstone of our economy. The recession of 1981–82 devastated many communities and sectors of our economy and it soon became clear that many of industrial markets and jobs that were lost during that recession would never be regained.

As I began to focus more of my attention on the issues of industrial competitiveness, I realized that the problems went far beyond the recession and Chrysler. We were losing world market shares in 7 out of 10 high-technology products. Our national security interests were being threatened from lost market shares in machine tools and other sectors. Our trade deficit was escalating.

Government, business, and labor were still adversaries in America. While they were busy fighting each other, our international competitors were working with their governments to gain ground in the international competitivenes race. I believed it was crucial for Government, business, and labor to work together to develop a consensus strategy on how to approach our growing international competitiveness problem. That is why in 1982, together with DAVE BONIOR and LEE HAMILTON, I introduced legislation to create a National Industrial Development Board. This independent advisory board, comprised of equal representation from business, labor, Government, and the public sector, was intended to develop a strategy for keeping industrial America competitive.

This legislative proposal was the beginning of my strong advocacy for adoption in Congress of national industrial strategy legislation. Working as a member of the Economic Stabilization Subcommittee and with its Chairman, JOHN LAFALCE, we managed to pass legislation through the House Banking Committee. Our bill proposed an Economic Cooperation Council, which was similar to my original proposal, and a National Industrial Development Bank to work with the council to channel funds to badly needed industrial projects. While such legislation was not enacted during my tenure in the Congress, I am convinced that it is only a matter of time before the Congress will once again be debating this basic issue.

Our biggest problem in trying to pass industrial strategy legislation in 1984 was that we found little support from the private sector which seemed wedded to traditional notions about the role of Government, business, and labor in the economy. But even as I speak today, a change in attitude is taking place in the private sector on the competitiveness issue under the leadership of John Young of Hewlett Packard, the Business Higher Education Forum, and others. Under John Young, a council on competitiveness is being formed involving business, labor, and others to work with Government toward the goals we outlined as advocates for industrial strategy.

From industrial strategy, I turned my attention to trade. In this area, I owe a great debt to the late Gillis Long, for whom I will always have the deepest personal respect. He provided me with the opportunity to pursue more effectively, substantive interests. While he was chairman of the Democratic caucus, he created the Committee on Party Effectiveness which serves as a kind of executive committee for the caucus. Most importantly, Gillis formed smaller issue groups within the committee and gave them the challenge of developing long-term policies.

I was fortunate enough to have been asked by Gillis in 1983 to cochair with my colleague from Oregon, LES AUCOIN, a task force on trade. Our charge was to develop a policy statement on trade for the Democrats. After 18 months' work, the group issued a report to the caucus which contained five main recommendations to help reduce our trade deficit. First, the inflated value of the dollar had to be brought down. Second, we needed to increase exports by strengthening the Export-Import Bank, streamlining export regulations, and aggressively promoting U.S. agricultural products. Third, we proposed an industrial strategy for the future competitiveness of American industry. Fourth, we had to help those sectors of the American economy, which were losing markets and jobs, to adjust to changing economic conditions. Fifth, we identified the need to amend our trade laws to

ensure reciprocal treatment for U.S. industry in international trade.

This report provided the foundation for a trade resolution I offered in September 1985 which was approved by the Democratic caucus and which committed the House to enacting a comprehensive trade bill.

To turn this commitment into reality, I concentrated on developing the Banking Committee's contribution to the trade bill. Legislation I sponsored on exchange rates and international debt was approved by the House Banking Committee and included in the trade bill which the House passed in May 1986. In addition, my proposal to increase the protection of the intellectual property rights of American companies was also incorporated into the bill. This latter measure, so vital to high-technology enterprise, may yet reach the President's desk for signature into law this year.

The 99th Congress provided me with a unique opportunity to address the Third World debt crisis and its dramatic impact on our own economic well-being. As incoming chairman of the Banking Committee's Subcommittee on International Development Institutions and Finance, I began a series of hearings on the topic.

The conclusions of my subcommittee's hearings were embodied in a September 1985 report. The key finding of that report, in my view, is simply that we in the United States have tremendous economic self-interest in improving the economic lot of people in the developing nations. Today's global economy means that our economic fate is intimately linked with theirs. If they do not grow and prosper, they cannot buy our goods; they cannot be our future markets. Even worse, if they continue to be saddled with debt as they are today, they will try to pay that debt by exports which flood our markets and undercut our own industries. That translates into hundreds of thousands of lost American jobs.

It is my profound hope that the next Congress will finally come to grips with the debt and development crisis in the Third World. Comprehensive legislation is needed to help poor countries grow and improve the lives of their people, while simultaneously restoring a promising international future for our own economy, and, not least, to guarantee the safety and soundness of our own banking system which continues to be dangerously exposed to troubled international loans.

I am proud to say that I authored and won House passage this May of a bill which takes the first steps in that direction. My "International Debt, Trade, and Financial Stabilization Act," passed as part of the House trade bill, attempts to achieve those three vital goals. I also urge my colleagues in the next Congress to do more than move forward with legislation on this problem. I implore you to have the necessary courage and vision to stand up for an economically rational approach to foreign assistance and Third World development. We must educate our own constituents about international economic facts. No nation, not even the United States, is today an economic island that can afford to ignore the well-being of our fellow man elsewhere in this world.

One of my deepest disappointments during my service in Congress is the failure of the Senate to join the efforts of the House to approve a comprehensive trade bill during the 99th Congress. I believe that the current $170 billion annual U.S. trade deficit is unsustainable. The legislation passed in the House is a framework for reducing this disastrous trade deficit. Delaying action for another year under these circumstances is inexcusable. The 100th Congrees will surely be struggling with ways to reduce our trade deficit, for our entire economic future depends on it.

Mr. Speaker, one legislative area that is often ignored but which is vitally important to our economy is banking regulations. The lack of true progress in this area has been a source of frustration for me as a member of the Banking Committee. We have been unable to grapple with the fundamental task of modernizing the regulation of our Nation's financial services industry.

Over the last 2 years, I have attempted to bring this issue to the fore. In 1985, I introduced a broad reform measure that would have provided banks and other financial institutions with the ability to underwrite and sell such financial instruments as commercial paper, mortgage-backed securities, and municipal revenue bonds. My legislation also contained a nationwide mechanism to allow for interstate banking.

In addition to this comprehensive bill, last December, I introduced legislation that would have legitimized the establishment of consumer banks—institutions designed to focus on consumer lending services and increase access to financial services for low and moderate income people.

Finally, with TOM CARPER, I cosponsored the Depository Institution Examination Improvement Act which was passed by the House on September 29 of this year. This bill improves the compensation and training systems for Federal depository institution examiners.

While passage of this bill will go a long way toward improving the effectiveness, safety and soundness of our banking system, it does not address the fundamental regulatory problems with which we must deal. Since the enactment of the Banking Act of 1933—the Glass-Steagall Act—there have been changes in our domestic and international economies and advances in technology that would have been inconceivable to the lawmakers who drafted Glass-Steagall in the dark days of the depression. In the last few years, automated teller machines, split second transfer of funds, new money market instruments, and the participation of financial conglomerates have revolutionized the banking world.

I do not think that there is anything fundamentally wrong with these changes, or with new players entering the financial services business. In fact, the increase in competition that such participants engender benefits consumers. However, the current regulatory structure, which prohibits commercial banks from providing a broader range of services, does not contribute in any way to the safety and soundness of the system. If fact, I feel that such limitations are ultimately detrimental to the stability of our banking system.

Thus, there exists today a real need for a system of regulation that recognizes the realities of the marketplace, allows for increased competition, and maintains the safety and soundness of the banking system. The industry must be able to adapt to and utilize technological innovations in a safe and reasonably regulated environment.

I believe that one of Congress' priorities in the next year should be developing such a system. Resolving the problems that currently plague our financial services structure can only help to provide new stability to our economy and restore eroding confidence in our Nation's financial system.

Since the 1930's, our Federal Government has been committed to seeing that every American has a decent place to live. This is a proper and necessary role for a government such as ours. Being on the Banking Committee has enabled me to be an effective supporter of housing programs throughout my tenure in Congress.

During my first 4 years on the Housing Subcommittee, enormous strides were made in the challenging area of low and moderate income housing programs. In those days, the Carter administration was committed to improving the efficiency and effectiveness of these programs. A great many housing programs were expanded and refined. Since 1981, however, a different philosophy toward public housing has permeated the Federal Government. Since 1981, we have literally cut housing programs "off at the knees," reducing expenditures from approximately $31 billion in fiscal year 1981 to $9 billion today. Congress has not passed a housing authorization bill since 1983, and that bill was passed only because it was attached to IMF legislation the administration badly wanted.

Housing programs are not wasteful boondoggles—they are a sound and absolutely essential utilization of Federal resources. One of the basic responsibilities of our Government is to ensure that Americans have access to decent shelter. Even in these days of budgetary cutbacks, housing programs need to be preserved.

In rural areas in particular, the lack of an adequate number of housing structures make it very difficult for poor people, many of them elderly, to find an affordable place to live. Elderly people often are unable to remain in their homes which have become difficult to maintain.

I have tried to improve existing housing programs and enable more people to be housed without an extra cost to the Government. One example of such a program was my effort to reform the financing mechanism for section 515 programs administered by the Farmers Home Administration. Another more dramatic example was my amendment which more than doubled the number of units built with the section 202 elderly housing program with no increase of Federal subsidy.

One program of which I am very proud is the Preservation Grant Program. This program, included in the 1983 housing bill as a demonstration project and reauthorized since then, provides a means, through public and private cooperation, for rehabilitating existing structures. These grants turn existing but dilapidated structures into homes for low- and moderate-income families. This is an example of how we can provide housing without spending a great deal of money. One of the great failures of the last 5 years has been the inability of the two Houses of Congress to agree on an omnibus housing bill. This year, the House has passed such legislation twice. The Senate has yet to develop a housing bill, or to consider the House-passed legislation. This hurts thousands of needy Americans across the country.

Turning from issues where I have been directly involved through my committee assignments to more general areas of national concern, tax policy deserves to be highlighted. I have advocated tax reform since the first day I came to Congress. I am pleased that Congress has finally passed a genuine tax reform bill which eliminates or curtails many of the special preferences in our existing Tax Code.

In the late 1970's. I put together a tax proposal which would have done away with almost every existing tax break—including many that had been around for decades. When BILL BRADLEY and DICK GEPHARDT introducted their Fair Tax Act in 1982, I immediately signed on as a cosponsor. Their plan embraced a similar philosophy of pure tax reform, while also being politically more realistic.

President Reagan's leadership combined with DAN ROSTENKOWSKI's toughness enabled Congress to pass legislation that truly deserves the name of tax reform. Although there are many provisions I would not have supported individually, the overall effect of tax reform is to exchange our system of special tax breaks for one of general tax fairness. In my view, it is the most important legislation I have voted on in 10½ years in Congress.

Above all, tax reform should bring some needed stability to our Tax Code and end the annual scramble to enact new tax preferences for favored constituents. While the economy may dip into a recession, in accordance with normal business cycles, I hope that Congress will resist the temptation to blame the tax reform bill for an economic downturn. That would simply be caving in to the lobbyists who will use any excuse to get another tax break for their clients.

Instead, I hope that Congress will spend the next few years studying the effects of tax reform and analyzing the way the economy responds to our remaining tax incentives. In the early 1990's, Congress may want to revisit the Tax Code. At that time, Congress may want to continue the trend toward eliminating Government tax incentives and rationalizing our tax laws. Or, Congress may want to enact a few, well-crafted tax preferences, to improve our international competitiveness and enhance our national savings rate. But above all, Congress should not, as it has in the past, start giving away tax breaks without considering what will happen to all those Americans—mostly low and middle income people—who are unable to take advantage of these tax preferences.

Other than raising the necessary revenues for Government purposes and providing for the national security, one of the most important roles of the Congress in our system is to set a context in which State and local government can effectively meet the needs of our people. I am deeply disturbed that this Congress has upset the balance in our federal system by canceling the General Revenue Sharing Program. This will simply raise local property taxes and undermine the effectiveness of the Government which is closest to the people. I hope that legislation I sponsored in 1981, the State and Local Cost Estimate Act, will at least assist in reducing the mandated cost imposed from the national level on State and local government.

The protection of our environment and development of adequate energy resources are fundamental responsibilities of government at all levels. My own special environmental concern has been nuclear waste management. The adoption of the West Valley Nuclear Waste Demonstration Act in 1980 authorized the most significant project of its kind in history. I am proud that the West Valley project is proceeding on schedule and appears to be on the way toward a successful demonstration that nuclear waste can, in fact, be cleaned up. Using the experience I gained in obtaining a consensus from groups with fundamentally opposite points of view regarding the West Valley issue, I actively participated in drafting the National Nuclear Waste Policy Act. In particular, the mission plan requirement in this legislation should help in solving this most serious environmental problem.

It is crucial that we forge a constructive policy balancing our energy requirements and environmental protection. I am deeply disturbed that both have suffered during this decade. Our conservation efforts plus some good luck broke the back of the OPEC cartel in the 1980's. But, our negligence in virtually abandoning energy conservation and development during this period of lower oil prices will come to haunt us in the future. Our environmental progress has not been sustained in the 1980's. Problems such as groundwater contamination will cause this nation considerable difficulty in the future.

The most basic aspect of our environment relates to our ability to produce the food and fiber we need. As a Federal legislator from the third largest dairy State, my major concern with agriculture policy has been the dairy support program. Throughout my years in Congress, I have been an outspoken supporter of the small, family dairy farmer.

I spoke out in favor of a system of two-tier pricing whereby the Government would provide a reasonable level of support for the amount of milk which would meet estimated national consumption needs. For any additional milk produced, the Government would pay a much lower price and then aggressively sell this surplus on the world market.

In addition to a two-tier pricing system for milk, I strongly believe that because the milk-producing regions in this country are so radically different, our policy should be regionalized. I believe it is unrealistic to think that we can design a single dairy pricing mechanism which will be fair to farmers from California to New York, when supply and demand characteristics vary widely.

Most of all, I supported dairy programs flexible enough to allow new, young farmers to continue to enter the business. And I strongly supported necessary actions to resist the increasing concentration of farmland under the ownership or control of nonagricultural corporations.

To advance the interests of consumers, I also led the fight to reform the Federal Peanut Program. In 1981, I was successful in achieving the first legislative changes in 50 years in the bureaucratic structure of the Federal Peanut Support Program. My legislation was instrumental in bringing the price of peanut products back down to an affordable level for young people and senior citizens nationwide. Still, the peanut program remains the most anticonsumer of all Federal agriculture programs. I hope that Congress phases out the remnants of the medieval allotment system when the farm bill is next renewed.

Whether one considers the interest of agriculture, industry, or the general public, any objective assessment of the national condition in 1986 must conclude that our infrastructure is dangerously in decline. Roads and bridges are deteriorating. Water and sewer systems are seriously deficient. Urban transit systems and rural electric service are not being modernized. Later in this statement, I will propose a federal capital budget: one advantage of such a system would be to accord investments in our infrastructure a higher priority.

The highest priority of the Federal Government must always be our national security. Some of the most serious differences in the Congress at the present time relate to defense and arms control issues. Without getting into the details of these disputes, I sincerely hope that an effective, verifiable strategic arms control agreement will be an historic achievement during the next Congress. I have supported sensible weapons systems and feel that, with our allies, we actually should be doing even more to strengthen our conventional capability. Yet, arms control is essential both because it reduces the risk of a devastating nuclear exchange and because we must put some substantial restraint on the growth of military spending.

The defense spending binge of this decade is the most significant cause of our disastrous budget deficit. This imbalance of revenues and expenditures is the most difficult problem under the direct control of the Congress. We are painfully aware of the results of the fiscal irresponsibility which became national policy as a result of the Gramm/Latta substitute budget adopted in 1981. Our national debt has doubled in 5 years. Interest expenses, which amounted to less than 6 percent of the Federal budget in 1976 when I first came to the Congress, now cost more than 15 percent.

The United States simply cannot go on in this irresponsible fashion. Due to the predictable magic of compound interest, fully one-third of all Federal expenditures will go to pay interest on past debt in a very few years. Radical surgery should be performed on this fiscal cancer. The prospects for prosperity for our children will otherwise be dim. Even in the near term, a crisis of confidence in the dollar could cause economic disaster which would make the recession of 1982 look modest by comparison.

I know that some radical economists, mostly of the supply side perspective, have said that this mounting debt is not a major problem, arguing that our ratio of Federal debt to gross national product is less than at the end of World War II. However, there are several fundamental differences between our situation and the one we faced 40 years ago. First of all, then we owed the money to ourselves since American citizens had purchased bonds to finance the war. At that time, we were the unchallenged world industrial and agricultural leader. Today, our budget deficit is accompanied by a trade deficit of unparalleled proportions. Our agriculture and industry are slipping seriously. We are financing our current desires, public and private, by borrowing money from abroad. This artificially inflates the value of the dollar, further eroding our competitiveness.

The United States has become the world's largest debtor nation. The implications of this level of debt are uncertain. But they are certainly not positive. There is a certain skittishness to financial markets today. There is some evidence that the Japanese and others with hard currency are becoming reluctant to keep lending us funds as the dollar depreciates. The combination of the trade deficit and the budget deficit present an ominous climate for America's future prosperity.

In order to deal with the budget deficit, I voted in favor of the Gramm-Rudman law last December. It has not worked as I hoped. But the fact is that Federal expenditures, including defense spending which had been spiralling out of control, have moderated. We may be addressing the fiscal year 1987 deficit target with smoke and mirrors, but I'm convinced that the situation would be even worse without the Gramm-Rudman target.

I would never vote to hand the power to comply with budget limits over to the Office of Management and Budget. I strongly hope Congress resists this step toward executive branch autocracy in America. Instead, I hope that Congress will bite the bullet and take the big steps toward fiscal sanity next year. Make no mistake about it: 1987 will be the turning point in the battle of the budget. It will be tough to meet the deficit reduction target. But with a concerted effort to cut out unnecessary Federal activity, improve efficiency, and ask for genuine across-the-board sacrifices, I'm convinced that major deficit reduction is achievable.

I sincerely hope that President Reagan, if he will not agree to defense cuts, will then yield in his stubbornness and admit that additional revenues are therefore needed to pay for the current cost of our Government. In any case, it is essential to preserve Congress' power of the purse by limiting spending and raising the revenue necessary to pay for current costs.

There is also a crucial need to reform the budget process. The system is clearly out of control. I would recommend that serious consideration be given to a 2-year budget cycle with very tight time frames for separate appropriation bills. The other major budget reform which is vitally needed is to establish a real capital budget, distinguishing long term public investment from operating expenditures.

Turning to other reforms which are needed to make the budget an effective instrument, the practice of governing by continuing resolution must be ended at once. It is undemocratic, the hidden nature of the process contributes to wasteful spending, and it thwarts the possibility of setting sensible priorities. Reconciliation is an important process, but it must be restricted to budget cutting measures. Somehow, the House must remain firm that the other body not attach irrelevant, unnecessary Christmas tree ornaments to these measures or the debt ceiling increases.

It also seems important to me that the responsibility of the authorizing committees be restored. Housing is far from the only major governmental function which has not been specifically authorized in several years. This failure to review and reauthorize Federal programs is distorting the power balance within the House and destroying the expertise of these committees. As a result, sensible priorities in making public policy are not achieved. This was a very different institution in the 1970's—when, incidentally, budget deficits ranged from $29 billion to $66 billion. The evolution in congressional procedure does not serve the interests of most Members. More importantly, it doesn't serve the public interest. The House leadership in the next Congress must restore the integrity of the authorizing process.

Even more radical changes in House and caucus rules probably deserve serious consideration. For example, I think that the selection of committee chairmen should not require rejection of the most senior member before selecting the best leader. I am well aware of the danger that members will become more destructively competitive and that leadership will become a popularity contest. Nevertheless, change is needed in the way the House selects those members who exercise special responsibility.

For any criticism these remarks may have conveyed, I want it understood, Mr. Speaker, that I have felt privileged to serve in this great institution. The Congress is the essential element in the greatest experiment in democracy the world has ever known. The House is made up of some wonderful people. I appreciate the wisdom that you, Mr. Speaker, have so often provided in this last decade.

I will miss working with colleagues to achieve mutual goals. Whether it's MATT MCHUGH working to achieve special help for the starving people of sub-Saharan Africa, or MARY ROSE OAKAR working to end discrimination against women, I will miss the collaboration with my colleagues.

In fact, it is sad to be leaving this House at a time when our Nation is at a crucial juncture. In my judgment, American industry and agriculture are threatened as never before. We need national attention to these essential elements of our economy. We also need to fashion a national defense which keeps our country secure but achieves meaningful arms limitation. This is essential so that our ultimate responsibility as leaders—to preserve this planet—is fulfilled. I am somewhat sorry to be leaving at a time when the Congress must face up to its most challenging budget problem and rectify the fiscal irresponsibility of these last several years. These are challenges which future Congresses can and must meet.

However, in the transition I am planning in my own public service career, there are also exciting, new opportunities. I hope to play an effective role in the executive branch of State government in New York. I hope that some of the things I've been working on in the Congress without completely fulfilling can be achieved at the State level. In any case, my experience here has been a great honor. Thank you, Mr. Speaker, and thanks to all of my fellow Members of Congress.

□ 2250

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, I want to commend the gentleman from New York for his lucid, comprehensive, and very thoughtful statement and review, I think, of the major public policy issues facing this country, and also to commend him for his outstanding service, not only to his district, but to his State and to the Nation.

As the gentleman knows, he represents the district to my north in Pennsylvania, and he has alluded, the district is primarily a Republican district, and the fact that you have served that district with such distinction for a long period, I think, is to your credit. It is also, I think, to the credit of your constituents, who, though they might be in the majority Republican, recognize a person of quality and a person of rare distinction.

I think that that was evidenced very early on as you alluded to the fact that I knew when you were mayor of the city of Jamestown and were managing that city with great skill.

The Labor Management Council, which you innovated and which has become a model for other cities and towns throughout the country, I think is exemplary.

I want to just allude to one of the items that you mentioned in your remarks this evening. That is the very pressing need we have in this country for a reordering of our budget priorities and the very pressing need we have to develop a Federal capital budget.

The infrastructure of this country is decaying and wearing out faster than we are replacing or repairing it. I think that unless we change our whole budget priorities and recognize that a Federal capital budget is essential in order to do that, we are going to see our infrastructure continue to decline and fail.

I think this is just one example of the creativity that you have brought to your position as a Member of this Congress.

I particularly also want to commend you for the pioneer work that you have done in the area of productivity. You have recognized that it is in our ability to improve our productivity in this Nation that we will be able to compete. We are going to be required to compete in a world market from now until the end of time.

So, your efforts, very, very strong efforts, to provide the mechanism for the increase in productivity and, therefore, our ability to be more competitive in the world, I think are to be commended.

This is a key issue. The gentleman from New York has been a thoughtful, innovative, and a very constructive Member of this body and as you move on to what I know are going to be even greater contributions in the public sphere, we thank you for your contributions here.

On behalf of myself, and I know on behalf of all of our colleagues, we will miss you very much.

Mr. LUNDINE. Mr. Speaker, I thank the gentleman.

The gentleman from Pennsylvania [Mr. CLINGER] is my friend and neighbor, literally. Our districts serve as the border between New York and Pennsylvania.

I commend him for the work he has done on a capital budget issue over the years. I think it is ironic as a local mayor, you distinguish between operating expenditures and those things that you do borrow for. If you build a new city hall or a courthouse, you pay for it as you use it, over time. But certainly with regard to operating expenses, you exercise a degree of prudence, not spending more than you are prepared to tax.

The gentleman has been a great leader in the area of capital budget reform, and I do think that the adoption even further than the measure that the gentleman has sponsored of the real meaningful capital budget would be one of the more progressive things that happen in this country.

We would be required in defense and nondefense areas to distinguish between what we are paying for what we are going to need today and what is an investment that we will use and that our children will use.

I do appreciate the bipartisanship with which this gentleman and so many of my other colleagues approach these questions and appreciate his kind comments.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, I was sitting in my office signing mail, as we often do at this late hour, and I was watching my television. I saw the beginning of "LUNDINE's farewell address."

I just could not miss the opportunity to come to the floor here because, as you take leave of this House in your quest for an expanded role in serving the family of New York, I want to wish you well.

□ 2400

It has been my privilege for the past 4 years to work with you. Now, some people might be surprised that the two of us in competing parties from the same State would be here today and that I would say good things about the gentleman, but I say good things about the gentleman from New York [Mr. LUNDINE] because he deserves to have good things said about him.

I am particularly interested in the gentleman's fine work in education and economic development and in the environment. Those are three areas of particular concern to me also.

There have been many occasions when the spirit of bipartisanship has found us working together for the common interest, not just for New York, but for all of the United States.

I am reminded that the greatest accomplishments come from this institution when we forget that there is a dividing line down the center aisle and we put our heads together to work for something that is worthy for America, not for the Republican Party or the Democrat Party, but for America.

I have been privileged to work with the gentleman in the Science and Technology Committee, which I think

has a reputation for being a nonpartisan or a bipartisan committee.

I am particularly mindful of the work the gentleman did with the minority leader of the House of Representatives this year to see to it that a technology transfer bill was passed. That is the type of bipartisan cooperation that produces fine results for this country.

So as I say to the gentleman bon voyage, in a way, and as I wish the gentleman well, I do not do that as an endorsement for any one of the gentleman's ventures, but I do it as a sincere wish that life has in store for the gentleman all good things, because the gentleman deserves them. He has earned it.

Mr. LUNDINE. Mr. Speaker, I thank the gentleman very much. Now that he has informed me that he does not have an opponent, I was prepared to give him an endorsement this year.

Seriously, I have deeply appreciated working with the gentleman from New York on the Science and Technology Committee. It is true that we have worked very closely and carefully together in a spirit of bipartisan cooperation to accomplish many of these things.

I feel a whole lot better about the future of this country because there are people like the gentleman and his colleague from Pennsylvania who really are looking at these problems that I have talked about and some that I have predicted will come up and bite us in future years, with such dedication and such a spririt of positive problem solving.

I deeply appreciate the gentleman coming over.

Now if we were Cinderella, the hour is such that I think not only is my 60 minutes up, but the time for remarks has expired.

I thank the gentleman so much for coming over and particiapting in this special order, which because of commitments elsewhere I suspect will probably be the last time that I will address the House, but certainly will be the last major statement that I will give to the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOLAND (at the request of Mr. WRIGHT), for today, after 1 p.m., on account of an illness in the family.

Mr. BATEMAN (at the request of Mr. MICHEL), for today until 5:30 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PACKARD) to revise and extend their remarks and include extraneous material:)

Mr. NIELSON of Utah, for 30 minutes, on October 15.

Mr. JEFFORDS, for 5 minutes, on October 14.

Mr. STANGELAND, for 30 minutes, on October 10.

Mr. SILJANDER, for 60 minutes each, on October 10, 14, and 15.

Mrs. BENTLEY, for 60 minutes each, on October 14 and 15.

(The following Members (at the request of Mr. LUNDINE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSE, for 5 minutes, today.

Mr. BRYANT, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. DICKS, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, on October 10.

Mr. DANIEL, for 60 minutes, on October 14.

Mr. LAFALCE, for 60 minutes, on October 10 and 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MARLENEE, on the de la Garza amendment to H.R. 3810, in the Committee of the Whole today.

(The following Members (at the request of Mr. PACKARD) and to include extraneous matter:)

Mr. BEREUTER in two instances.

Mr. DREIER of California.

Mr. GOODLING.

Mr. DANNEMEYER.

Mr. HYDE.

Mr. KEMP.

Mr. MCCANDLESS.

Mr. DENNY SMITH.

Mr. CRANE.

Mr. BROOMFIELD.

Mr. LUJAN.

Ms. SNOWE.

Mr. SAXTON.

Mrs. JOHNSON.

Mr. GILMAN in three instances.

Mr. TAUKE.

Mr. WORTLEY in two instances.

Mr. PACKARD in two instances.

Mr. DUNCAN.

(The following Members (at the request of Mr. LUNDINE) and to include extraneous matter:)

Mr. ROSTENKOWSKI.

Mr. MARKEY.

Mr. COELHO in four instances.

Mr. SKELTON.

Mr. COLEMAN of Texas.

Mr. DWYER of New Jersey.

Mr. FLORIO.

Mr. SMITH of Florida.

Mr. BERMAN.

Mr. YATRON in three instances.

Mr. DARDEN.

Mr. MINETA.

Mr. MONTGOMERY.

Mr. KASTENMEIER.

Mrs. SCHROEDER.

Mr. EVANS of Illinois.

Ms. OAKAR.

Mr. TRAFICANT.

Mr. MORRISON of Connecticut in two instances.

Mr. MATSUI.

Mr. LEVINE of California in two instances.

Mr. HUBBARD.

Mr. EDGAR in two instances.

Mrs. BOXER.

Mr. O'NEILL.

Mrs. BURTON of California.

Mr. LELAND.

Mr. PEASE.

Mr. RANGEL.

Mr. KOLTER in two instances.

Mr. WOLPE.

Mr. PANETTA.

Mrs. KENNELLY.

Mr. VENTO.

Mr. FEIGHAN.

Mr. LEHMAN of California.

Mr. LEHMAN of Florida.

Mr. STARK.

Mr. DIXON.

Mr. MURTHA.

Mr. WISE.

Mr. WHEAT.

Mr. MANTON.

Mrs. COLLINS in two instances.

Mr. DYSON in two instances.

Mr. BONKER.

Mr. FRANK.

Mr. BORSKI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 334. An act for the relief of Bobby Lochan; to the Committee on the Judiciary.

S. 521. An act for the relief of Suzy Huf Hui Chang and Lee Lo Lin and Lee Juo Jui; to the Committee on the Judiciary.

S. 567. An act to convey Forest Service land to Flagstaff, AZ; to the Committee on Interior and Insular Affairs.

S. 767. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 977. An act to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1026. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program; to the Committees on Interior and Insular Affairs and Science and Technology.

S. 1076. An act for the relief of Denise Glenn; to the Committee on the Judiciary.

S. 1212. An act for the relief of Olga Sellares Barney and her children Christian Sellares Barney, Kevin Sellares Barney, and Charles Sellares Barney; to the Committee on the Judiciary.

S. 1374. An act to establish the Blackstone River Valley National Heritage Corridor in

Massachusetts and Rhode Island; to the Committee on Interior and Insular Affairs.

S. 1534. An act for the relief of Masayoshi Goda, his wife Nobuko Goda, and their children Maki Goda and Eri Goda; to the Committee on the Judiciary.

S. 2004. An act to require the President to submit to the Congress an annual report on the management of the executive branch of the Government; to the Committee on Government Operations.

S. 2216. An act to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day", and to make such day a legal public holiday; to the Committee on Post Office and Civil Service.

S. 2536. An act to provide for block grants to States to pay the costs of immunosuppressive drugs for organ transplant patients; to the Committee on Energy and Commerce.

S. 2723. An act to amend title 39 of the United States Code to restore limited circulation second-class rates of postage for copies of a publication mailed to counties adjacent to the county of publication, and for other purposes; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2005. An act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes;

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona;

H.R. 4021. An act to extend and improve the Rehabilitation Act of 1973;

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes;

H.J. Res. 678. Joint Resolution to designate October 1986 as Crack/Cocaine Awareness Month"; and

H.J. Res. 750. Joint Resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and joint resolutions of the House of the following title:

On October 8, 1986:

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 555. Joint resolution to designate the week beginning November 24, 1986, as "National Family Caregivers Week";

H.J. Res. 671. Joint resolution designating 1987 as the "Year of the Reader";

H.J. Res. 741. Joint resolution to designate March 1987, as "Developmental Disabilities Awareness Month";

H.R. 5166. An act to designate certain lands in the Cherokee National Forest in the State of Tennessee as wilderness areas, and for other purposes;

H.J. Res. 748. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the 99th Congress;

H.R. 5362. An act to extend the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.R. 5548. An act to amend the Export-Import Bank Act of 1945;

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards, and for other purposes;

H.R. 4718. An act to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes; and

H.J. Res. 635. Joint resolution to designate the school year of September 1986 through May 1987 as "National Year of the Teacher" and January 28, 1987, as "National Teacher Appreciation Day."

On October 9, 1986:

H.R. 2005. An act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

ADJOURNMENT

Mr. LUNDINE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 4 minutes a.m.) the House adjourned until today, Friday, October 10, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4324. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a listing of contract award dates for the period November 1, 1986 to December 31, 1986, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

4325. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985; and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Government Operations.

4326. A letter from the Secretary of Commerce and the Attorney General of the United States, transmitting a draft of proposed legislation to create criminal penalties for the use for private gain of sensitive economic indicators generated by the Department of Commerce and to authorize the Secretary of Commerce to promulgate regulations deemed necessary to protect such sensitive information prior to public release; jointly, to the Committees on the Judiciary and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Consultative Examinations Investigation (Rept. 99-981). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Homeless Families: A Neglected Crisis (Rept. 99-982). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on passenger security at Dulles International Airport: FAA oversight (Rept. 99-983). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4046. A bill to set aside certain surplus vessels for use to provide health and other humanitarian services in developing countries, and for other purposes; with amendments (Rept. 99-984). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on training of workers involved in the highway transport of hazardous materials: DOT Overnight (Rept. 99-985). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. H. Res. 583. Resolution providing for the consideration of House Joint Resolution 751, a joint resolution making further continuing appropriations for the fiscal year ending Sept. 30, 1987, and for other purposes; (Rept. 99-986). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5679. A bill to extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Mr. BIAGGI, Mr. GREEN, Mrs. BYRON, Mr. ROBINSON, Mr. CROCKETT, Mr. SPENCE, Mr. WALDON, Mr. HAYES, Mr. ATKINS, Mr. ACKERMAN, Ms. KAPTUR, Mr. MITCHELL, Mr. MARTINEZ, Mr. MRAZEK, Mr. WEBER, Mr. OWENS, Mr. HOWARD, Mr. HORTON, Mr. EDWARDS of California, Mr. COELHO, and Ms. MIKULSKI):

H.R. 5680. A bill to establish a quality assurance system for homecare services provided under Medicare and Medicaid Programs, the Social Services Block Grant Program, and the Older Americans Act of 1965; jointly, to the Committees on Ways and

Means, Energy and Commerce, and Education and Labor.

By Mr. GILMAN:

H.R. 5681. A bill to establish a commission on back injuries; to the Committee on Education and Labor.

By Mr. DYSON (for himself, Mr. BARNES, Mrs. BENTLEY, Mrs. BYRON, Mrs. HOLT, Mr. HOYER, Ms. MIKULSKI, and Mr. MITCHELL):

H.R. 5682. A bill to authorize the Secretary of the Navy to make a certain conveyance of real property; to the Committee on Armed Services.

By Mr. BROOMFIELD (for himself, Mr. FASCELL, Mr. YATRON, Mr. SOLOMON, Mr. HERTEL of Michigan, Mr. COBEY, Mr. COBLE, Mr. DANNEMEYER, and Mr. DIOGUARDI):

H.R. 5683. A bill to deny Most-Favored-Nation treatment to imports from Yugoslavia; to the Committee on Ways and Means.

By Mr. COELHO (for himself, Mr. PANETTA, Mr. ZSCHAU, Mr. LEHMAN of California, Mr. FAZIO, Mr. LAGOMARSINO, Mr. EDWARDS of California, Mr. HAWKINS, and Mr. MATSUI):

H.R. 5684. A bill to strengthen the enforcement of plant and animal quarantine laws by prohibiting the use of any class of first-class mail for the transport of plant materials unless the person who submits the mail agrees to allow agricultural inspection of its contents in order to prevent the introduction of destructive plant and animal diseases and pests and noxious weeds; jointly, to the Committees on Agriculture, and Post Office and Civil Service.

By Ms. OAKAR:

H.R. 5685. A bill to amend title 5, United States Code, to provide that members of the U.S. Park Police and the U.S. Secret Service Uniformed Division shall, for purposes of premium pay, be treated in the same manner as other employees of the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI (for himself, Mr. GIBBONS, Mr. DUNCAN, Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. GEPHARDT, Mr. DOWNEY of New York, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. MATSUI, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mrs. KENNELLY, Mr. VANDER JAGT, Mr. FRENZEL, Mr. SCHULZE, Mr. GRADISON, Mr. MOORE, Mr. CAMPBELL, and Mr. THOMAS of California):

H.R. 5686. A bill relating to certain tariff and customs matters; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 5687. A bill to amend title 11 of the United States Code to give priority to certain unsecured claims of retired former employees of the debtor; to the Committee on the Judiciary.

By Mrs. BENTLEY (for herself, Mr. MURTHA, Mr. KASICH, Mrs. JOHNSON, Mr. RAHALL, Ms. OAKAR, Mrs. BYRON, Mr. CLINGER, Ms. KAPTUR, and Mr. DYSON):

H.R. 5688. A bill to require the posting of a surety bond with respect to products manufactured in foreign countries or customs unions; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.J. Res. 751. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. OBERSTAR, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. REID, Mr. FEIGHAN, Mr. MACKAY, Mr. UDALL, Mr. GARCIA, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. BEREUTER, Mr. SILJANDER, Mr. ZSCHAU, Mr. DEWINE, and Mr. MCCAIN):

H. Con. Res. 406. Concurrent resolution expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes; to the Committee on Foreign Affairs.

By Mrs. COLLINS:

H. Con. Res. 407. Concurrent resolution expressing the sense of the Congress that, during the upcoming meeting between President Ronald Reagan and General Secretary Mikhail Gorbachev, the President should insist that the Soviet Union safeguard the human rights of its citizens, allow additional Jewish emigration, and protect cultural and religious rights within its borders; to the Committee on Foreign Affairs.

By Mr. FRANK (for himself, Mr. MOAKLEY, Mr. STUDDS, Mr. MARKEY, Mr. HAMMERSCHMIDT, Mr. EARLY, Mr. SOLARZ, Mr. MAVROULES, Ms. SNOWE, Mr. ROYBAL, Mr. RINALDO, Mr. BONKER, Mr. ATKINS, Mr. BOLAND, Mr. JEFFORDS, Mr. DOWNEY of New York, Mr. CONTE, Mr. PICKLE, Mr. SMITH of New Jersey, Mr. VENTO, Mr. FUSTER, Mr. MORRISON of Connecticut, and Mr. HEFNER):

H. Con. Res. 408. Concurrent resolution to express the sense of Congress regarding efficient and compassionate management of the Social Security Disability Insurance [SSDI] Program; to the Committee on Ways and Means.

By Mr. WRIGHT:

H. Res. 582. Resolution designating room H-324 of the Capitol as the "Thomas P. O'Neill, Jr. Room"; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. STRANG introduced a bill (H.R. 5689) for the relief of Dan V. Iuga; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1916: Mr. HENDON and Mr. BARNARD.

H.R. 2015: Mr. MARTINEZ.

H.R. 2543: Mr. SYNAR, Mr. STAGGERS, Mr. SWINDALL, Mr. BARNES, Mr. HENDON, Mr. CLINGER, and Mr. DASCHLE.

H.R. 3968: Mr. KOSTMAYER and Mr. FRANK.

H.R. 4336: Mr. HUTTO.

H.R. 4439: Mr. KINDNESS and Mr. MACKAY.

H.R. 4482: Mr. SPENCE, Mr. CARPER, Mr. GEKAS, Mr. ST GERMAIN, and Mr. COUGHLIN.

H.R. 4523: Mr. FIELDS and Mr. FROST.

H.R. 4872: Mr. YATRON.

H.R. 4890: Mr. KANJORSKI.

H.R. 4922: Mr. BROWN of California.

H.R. 4934: Mr. LIVINGSTON.

H.R. 4972: Mr. SHUMWAY.

H.R. 5039: Mr. PASHAYAN.

H.R. 5189: Mr. MARLENEE.

H.R. 5235: Mr. TORRICELLI, Mr. HAYES, Mr. WEISS, and Mr. SEIBERLING.

H.R. 5291: Mr. SMITH of New Hampshire, Mr. KILDEE, and Mr. VENTO.

H.R. 5432: Mr. ATKINS and Mr. RUSSO.

H.R. 5497: Mr. BLILEY.

H.R. 5509: Ms. KAPTUR, Mr. CHANDLER, Mr. WEISS, Mr. KLECZKA, Mr. GARCIA, Mr. WISE, and Mr. HOWARD.

H.R. 5532: Mrs. BOXER.

H.R. 5538: Mr. TORRICELLI.

H.R. 5549: Mr. WILLIAMS.

H.R. 5587: Mr. DE LUGO, Ms. KAPTUR, Mr. ROSE, and Mr. SMITH of Florida.

H.R. 5596: Mr. WATKINS, Mr. WILSON, and Mr. SHUMWAY.

H.R. 5620: Mr. DUNCAN.

H.R. 5627: Mrs. SCHROEDER, Mr. OWENS, and Mr. DOWNEY of New York.

H.R. 5665: Mr. MAZZOLI and Mr. LUNGREN.

H.J. Res. 244: Mr. GARCIA and Mr. BOEHLERT.

H.J. Res. 410: Mr. VENTO.

H.J. Res. 417: Mr. DURBIN and Mr. DORNAN of California.

H.J. Res. 677: Mr. SIKORSKI, Mr. COUGHLIN, Mr. LUJAN, Ms. OAKAR, Mr. RICHARDSON, Mr. MARTINEZ, Mr. DIOGUARDI, Mr. STOKES, Mr. BARNES, Mr. DAVIS, Mr. AKAKA, Mr. LEVINE of California, Mr. NIELSON of Utah, and Mr. DWYER of New Jersey.

H.J. Res. 706: Mr. FROST, Mr. BONER of Tennessee, Mr. SMITH of New Hampshire, Mr. WALGREN, Mr. SHAW, and Mr. VENTO.

H.J. Res. 740: Mr. MILLER of California.

H. Con. Res. 393: Mr. PORTER, Mr. MCCOLLUM, Mrs. BOXER, and Mr. MRAZEK.

H. Con. Res. 396: Mr. ABERCROMBIE, Mr. SKELTON, Mr. FUQUA, Mr. EDWARDS of California, and Mr. JEFFORDS.

H. Con. Res. 403: Mr. GORDON, Mr. MCCOLLUM, Mr. TORRES, Mr. WORTLEY, Mr. LUNDINE, and Mr. LEHMAN of California.

EXTENSIONS OF REMARKS

FILM TO DOCUMENT THE 200 YEARS OF THE U.S. CONGRESS

HON. LINDY (MRS. HALE) BOGGS
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mrs. BOGGS. Mr. Speaker, on September 11, 1986 the first major bicentennial project to commemorate the 200th anniversary of the U.S. Congress was announced. The project, a grant by the Ameritech Corp., will fund the production of a documentary film on the Congress as well as the publication of a companion volume. The film will be produced by the noted producer, Ken Burns of Florentine Films, in cooperation with WETA television.

Senators THURMOND and DOLE participated in the projects announcement, as did Representatives WRIGHT and MICHEL. Other participants included William Weiss, chairman of Ameritech, and Ward Chamberlain, president of WETA-TV.

The proceedings of that announcement follow:

Mr. THURMOND. Senator Dole, the distinguished and able majority leader of the Senate, Congressman Michel, the able and distinguished minority leader of the House, and other distinguished colleagues from the House and Senate, members of the press, and ladies and gentlemen.

It is a pleasure for me to be here today to participate in a very important announcement relating to the Bicentennial of the Congress. I am privileged to say that as Chairman of the Commission, established to coordinate the celebration of the bicentennial of the Senate.

The product that is to be unveiled today is exactly the kind that is needed to make the bicentennial of the House and Senate a resounding success.

I believe it is very exciting to see private enterprise, in this case, the fine Ameritech Corporation, recognizing the importance of this bicentennial and stepping forward to provide generous funding for a major project.

I look forward to learning more about the details of the project. I now want to yield to my charming and distinguished friend, the Chairman of the House Bicentennial Commission, Representative Lindy Boggs.

Mrs. BOGGS. Thank you very much, Senator Thurmond. I welcome you as the Chairman of the House Bicentenary Commission and as a member of the U.S. Commission on the Bicentennial of the Constitution.

I'm very proud to be here with you today on an occasion that I think is very important for both the Senate and the House of Representatives. What we are announcing today is the first major effort for the celebration of the 200th anniversary of the United States Congress that is funded by the private sector.

The House and the Senate Bicentenary Commissions were established to celebrate the various commemorations of the 200th anniversary of the U.S. Congress, and to give a clearer understanding of the national legislature, the first branch of government that was established by the framers of the Constitution.

The U.S. Congress is rich in history and in tradition. Through this project sponsored by Ameritech, millions of Americans and others throughout the world will be able to share in the experience of our history and our traditions. We are very grateful to the employees, management, and stockholders of Ameritech for making this project possible.

It's with a great deal of pleasure that I present to you, my colleague, the Minority Leader of the House of Representatives who is a valued member of the House Bicentenary Commission, Bob Michel will in turn, introduce Mr. Weiss and other officials of Ameritech, whom we salute today for this major contribution to the bicentennial celebration of the Congress of the United States. The gentleman from Illinois, Mr. Michel.

Mr. MICHEL. Thank you very much, Lindy Boggs and Senator Thurmond and Senator Dole, and I know my colleague, Jim Wright certainly wants to be here, currently held up on the debate on the drug bill over in the House of Representatives. But I'm extremely pleased to be here to join my colleagues and Ameritech in unveiling the plans for the documentary of the 200th anniversary of the Congress.

Ameritech happens to be an Illinois corporate entity, and so we're particularly proud that they have come forward to support this extremely worthwhile endeavor.

As for my part, this is my 30th year in the House of Representatives. Practically all my adult life has been spend in this institution, so I have a real great respect for it and what this anniversary means to all the American people.

Unfortunately, my only regret is that I have the dubious distinction now with Congressman Broomfield of Michigan, of, without announcing any plans to retire or leave this body, that already at this juncture, we hold the record for consecutive years as members of the minority party, and unfortunately, throughout the history of our country. That's a dubious distinction to have.

But nevertheless, it is a wonderful experience to be serving in this body.

Ameritech should be lauded certainly for its full-fledged support for such an ambitious undertaking. Attempting to capture 200 years of the Congress' impact on history as well as the personalities, and related anecdotes will certainly be a great challenge, even to Ken Burns and WETA.

It's a distinct pleasure then for me at this juncture in these proceedings to introduce to you the Chairman and Chief Executive Officer of Ameritech, Mr. Bill Weiss. [Applause.]

Mr. WEISS. Thank you very much, Representative Michel.

This is an exciting day for us. And I must tell you that I am very proud to represent the American family of companies, the five Bell companies serving Illinois, Indiana, Michigan, Ohio and Wisconsin, and our several other companies at a place where so much American history has been made, and to announce the manner in which Ameritech will honor the bicentennial of the Congress of the United States.

The Ameritech Foundation will provide a $750,000 grant to WETA-TV to produce a documentary film on the history of Congress. The film will air over the Public Broadcasting System in March of 1989. We hope on March 4, the day marking the 200th anniversary of the first seating of Congress.

But equally important, we think, is the value the film will have for secondary uses in school systems. In addition, the project calls for the publication of an illustrated companion book that we think will be an impressive collector's item.

One of the primary objectives of the Ameritech Foundation's philanthropic activities has been to make people more aware of the impact of public policy on our lives.

How public policy is shaped and how we in the private sector as private citizens or as representatives of a business enterprise can become involved in the public policy debate.

To encourage greater awareness, civic awareness in this country, we think it is hard to find a more appropriate starting point than the topic of Congress. Clearly, no other group has had more influence on public policy. Its many contributions should be understood and appreciated by all Americans.

And the best way to understand any institution is to examine its heritage.

In the case of Congress, that heritage is rich indeed, and worthy of being expressed by a chronicler for international statute, I'm proud to announce that the individual who will produce and direct the film more than fits this description. He is the award-winning documentary producer, Ken Burns, who is best known for film documentaries on subjects such as the Statue of Liberty, Huey Long, and the Shakers.

In these works, Ken has demonstrated a deep reverence for the past and an unmatched ability to bring history to life.

As the premier supplier of telecommunication services, Ameritech wants to be associated with the highest standards of excellence. Given the choice of Ken and his team, and the outstanding capabilities of Ward Chamberlin and WETA, we know our standards will be met.

Once again, on behalf of the Ameritech family of companies, let me express our pride in underwriting this very deserving project. We're confident that it will be a major contribution to the Congressional bicentennial celebration, and one of the highlights of the PBS schedule in 1989.

We also believe it will serve as an important educational resource for years to come, and that's very important to us.

Now it is my pleasure to introduce Ward Chamberlin, President of WETA, who will discuss the station's role in bringing this project to fruition. Ward? [Applause.]

Mr. CHAMBERLIN. Thank you Bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Distinguished members of the Senate and House, Bill Weiss. This is a happy occasion. We think that public television stands for quality programs on television and we know that Ameritech stands for quality products for this country. So that the partnership with Ameritech in bringing a very significant program to public television to be broadcast on stations across this country, is of enormous significance. And as Bill indicated earlier, it's not only significant for the initial broadcast on all of our public television stations across the country, but for its use over many years in schools and colleges in this country.

We've not been very good in this country about using television in the teaching process, but we're getting better at it. And the schools and colleges are getting better as the equipment that they have makes it easier to bring parts of programs, and not the whole hour or the whole half hour at the same time to their students. So it's particularly appropriate that this program which will have a long shelf life, is going to be with us in another year and a half.

Ameritech has already helped WETA very considerably in its local programming here and for that we are very grateful indeed.

Now, every television program really depends on who produces it, who is that individual, the team that he puts together, and we're, as Bill has said, we're tremendously fortunate to have a man who I think is one of the most creative and brilliant television producers in this country to produce this program for public television and for Ameritech, and so it's my pleasure and privilege to introduce Ken Burns. [Applause.]

Mr. BURNS. Thank you very much. I'm on the wrong side of the camera today, and I won't speak very long because I should get on to the business at hand, which is making our one-hour history of the Congress of the United States. This is a daunting, challenging task. Florentine Films is delighted to have this opportunity.

The Congress is the great engine of our democracy. We are standing in the house where it all happens and we are interested in this one hour not to tell everything that happened, not to get in every little argument and decision, but to really put our arm around what happened over the last 200 years, to lift up the dome and see who's inside it, from shoeshine men to senators and congressmen, characters, anecdotes.

I think our film will be lively and informative and I am deeply moved by the faith and the trust that Ameritech has placed in us to produce this film and grateful to the Congressional leadership for the assistance in getting this all started. [Applause.]

Mrs. BOGGS. We are most honored to have with us the majority leader of the Senate, and before he comes to the rostrum, I would like to acknowledge the presence of one of the really talented members of the House Bicentenary Commission, Phil Sharp. [Applause.]

Senator Dole, we are very honored to have you with us and would you please come and address us now.

Mr. DOLE. I'll just take a moment. I understand the House may be voting and the distinguished majority leader may want to do that, my good friend, Jim Wright.

I'm very pleased we're having this ceremony in this room. I was elected majority leader here, so this room has special signficiance. That was in November of 1984 and I had a seat on the back row where I could make a quick exit, in either event. But I'm very pleased to be here.

And I know that 1989 seems like a long way off, but I would guess, that as anyone would say then and would say now, one thing that is certain to remain constant is the critical role that Congress plays in the nation's day-to-day life and its future, and that's been stated by other members who have spoken.

I think the public is certainly aware of Congress. I guess when they take polls we get about a 15 out of a hundred, when they rate the Congress. When they rate individual members of Congress, it goes up to 50, 60, 70; and in Lindy and Jim and Bob's case, it goes up to a 95 or 100 percent approval rating.

But Mr. Burns will find all that out as he's digging around in the archives.

But I do believe that the film is a great opportunity for better understanding what Congress does. Now we have C-Span in the Senate, and they've had TV in the House for a number of years. I think there's a little better understanding as a result; but again, what has Congress done for the past 200 years, and how has Congress developed, and what will Congress do in the future, and how does it affect someone in—let's just pick out one of the Metropolitan areas, Russell, Kansas—for example.

Or maybe even Los Angeles or Bill's home in Chicago. Wherever it may be. And I do believe that that's certainly going to be a challenge and one that we're happy to participate in.

So I'm hopeful that what happens here today will be the beginning of more information being developed, not only for this generation, but the next generation. New members of Congress come and go, the world changes, the landscape changes, and I can't think of a more fitting tribute and a better way to start things off than with this gift by Ameritech. Of course, I know WETA will do a superb job, so I want to thank all the people who are here, all those participating, particularly Ameritech, for its foresight and its generosity. And I would challenge others in the private sector to take a look at what they might do in this bicentennial celebration.

There are literally hundreds and hundreds of opportunities for the American people—and for that matter people around the world—to have a better understanding of what happens in this place. And I mean by "in this place" in the nation's capitol.

So, Bill, we thank you very much.

Now, I'm going to introduce Jim Wright. He's a good friend of mine. We served together in the House. He is the majority leader of the House of Representatives, and I have some indication he's probably going to be the next Speaker of the House. [Applause.]

Mr. WRIGHT. What a wonderful thing it is that Ameritech undertakes to bring to the American public, and to those who in future years will have the privilege of seeing this documentary, the essence of what the Congress is all about.

It is, I am convinced, the most fascinatingly human institution on earth. It can rise to heights of sparkling statesmanship and it can sink of levels of crass mediocrity.

But in both postures, it's human and maybe the best description, Lindy, that I've ever heard of the Congress is one that was given by your late husband and my great friend, Hale Boggs, who when he was the majority leader, once said that the Congress is a collection of ordinary men and women, grappling with extraordinary problems.

Whatever it is, it has endured, and this system of ours has managed to work, imperfectly, but continuously, and surely better than any other system, for 200 years. I was startled, some few years back, when the prime minister of Ireland, addressing our Congress, said that he brought greetings from an old country and a new republic, to a new country, a young country, which was, he said, the oldest republic on earth. It startled me to have the sudden realization that in point of continuous operation that is exactly what we are. And I think the reason is because of the tripartite system of government we've had.

And I know that you have a great challenge to try to capture that and to distill the essence, the strengths and the weaknesses, the faults and the virtues, of the people who have strode through these chambers.

They distill and mirror the thoughts, strengths, weaknesses and virtues of the American nation. That's what we are, we're a kind of a mirror of the nation.

Today, in the House chamber, a joint session heard President Jose Sarna of the Republic of Brazil. He said we should keep in mind what Sir Denis William Brogan, the British political scientist, said: that at the time the Constitution was drafted—think about this—there still ruled a French monarchy, a Roman emperor, a Venetian republic, and a German republic, an autocracy in St. Petersbury, and caliph in Constantinople, a divinely invested emperor in Peking, and a Shogun in what was then a weak and little known Japan.

All the changes that have rushed across the scene of world affairs, the nations, empires that have risen and wained, strutted momentarily across the stage, have done so during the brief 200 years of time—the flicker of an eyelid in the view of history—that this Congress and this government have held together.

What a challenge you have. And we salute you all in undertaking it. And as members of this very human institution, we're gratified that you would want to say something about the Congress. Thank you.

Mrs. BOGGS. Here with us today, John Rhodes of Arizona. [Applause.]

Mr. RHODES. Well, thank you, Lindy. Since I left these hallowed halls, I have gotten in the habit of seeing very little of the Congress, a habit which I probably should have practiced earlier in my career.

But nevertheless, I am proud and pleased to be here with my former colleagues and those who are gathered to recall the fact that coming up soon is a very important anniversary.

The structure of the legislative branch which was founded by the Constitution is quite unique in many ways. It is the product of a lot of compromise, a lot of fears, because our forefathers did have the fear that some of the mistakes that had plagued England might plague us also in the future.

But nevertheless, they wrought well and possibly even better than they thought because when you compromise, I think that afterward you always have second thoughts and I'm sure that they did about many things.

The Congress is far from a perfect institution. But it just happens to be the best one in the world. And it certainly is not only worth preserving but it's worth commemorating, and I'm pleased to have my part, with my good friend Lindy and all of the other members of this all august body, present and past, in supporting the commemoration of a great institution. Thank you. [Applause.]

POLL REVEALS PUBLIC SUPPORT FOR PARENTAL LEAVE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. CLAY. Mr. Speaker, over the past several months, Members of Congress have begun to consider the need for a national policy providing minimum job protection when workers need to take leave for pressing family responsibilities and medical emergencies. While there has been intensive lobbying on this issue, I think it is important to point out a voice not always heard here in the Capitol—that of the voting public. They don't always lobby and they don't have political action committees, but they do vote. Before we act on behalf of working Americans, we have an obligation to seek out and listen to the views of average Americans, the people too busy trying to balance jobs and families to take time to lobby for Federal legislation.

With that in mind, I commend to the attention of my colleagues, an article which appeared in the July 31, 1986, Wall Street Journal. The Journal conducted a national poll, in conjunction with NBC News, on the issue of parental leave. Fifty-two percent of the respondents agreed that "companies should be required by law to let men and women take up to 18 weeks of unpaid leave from their work after the birth or adoption of their child." Seventy-two percent agreed that such leave should be available to parents to care for seriously ill children. The article notes that the issue of job protected family leave is supported by a profamily coalition, including the U.S. Catholic Conference and the National Organization of Women, as well as by a majority of the American public.

The article follows:

[From the Wall Street Journal, July 31, 1986]

BILL REQUIRING FIRMS TO PROVIDE PARENTAL LEAVES GAINS SUPPORT AS MORE WOMEN JOIN WORK FORCE

(By Cathy Trost)

WASHINGTON.—The U.S. Catholic Conference and the National Organization for Women have long been bitter foes over abortion issues. But the politics of work and families has drawn the two groups into an unusual alliance.

They're supporting—in concert with other women's and labor groups—legislation that would require employers to give eligible workers as many as 18 weeks of unpaid leave after the birth or adoption of a child and a guarantee they can return to the same or similar job.

"Some of the women's groups seemed a little surprised at the beginning to see us," says Sharon Daly, a staff specialist for the conference. But "we think it's a pro-family issue," she says. "It's a natural continuation of protecting unborn children to also protect newborn children."

The legislation accents a growing concern nationally about the effect on families of the revolutionary surge of women into the work force. By casting the bill as important not only to women but to families, too—and highlighting the demographics of the new workplace—supporters have cut across traditional alliances.

NATIONAL POLL RESULTS

A national poll of 1,600 adults conducted July 14-15 by The Wall Street Journal and NBC News showed that 52% of Americans think companies should be required by law to let men and women take as many as 18 weeks of unpaid leave from their work after the birth or adoption of a child. More decisively, 72% think that such leave should be available to parents to care for seriously ill children.

In Congress, supporters link the legislation to the needs of the new work force, which is nearly 44% female. "In this day and age, we're not saying that you've got to pay them but you've got to give them time off without prejudice," says Rep. Stewart McKinney, a Connecticut Republican who was one of the original co-sponsors.

Although supporters hope to get a House vote this session, success is by no means assured, and the legislation seems certain to face compromises on the floor. Similar legislation has been introduced in the Senate, but hearings haven't yet been scheduled.

Critics, led by the U.S. Chamber of Commerce and other business and conservative groups, blast the bill as the first step toward a national system of mandatory paid leave benefits and unprecedented federal involvement in employee relations. By mandating benefits, the bill would destroy business flexibility, hobble small concerns and foster discrimination against women, critics charge.

Leave policies are "excellent benefits," but the point is that "Congress shouldn't dictate them," says Virginia Lamp, labor relations attorney for the chamber. Dick Dickson, vice president of personnel for nonunion Russell Corp., an Alabama-based manufacturer where women constitute nearly 70% of its 9,000 workers, says a directive from Congress "is simply wrong"; the specter of mandatory paid leave "frightens the living fool out of everybody." And conservative Phyllis Schlafly's Eagle Forum calls the legislation "unfair and discriminatory."

The Reagan administration opposes the bill. "In our view, there really is a question about the logic of having one mandated approach on the part of the federal government for all companies," says Labor Secretary William Brock. But he acknowledges that the general debate will continue because "the feminization of the work force is real" and the country hasn't "really effectively addressed the effect on the American family."

Counters Rep. Patricia Schroeder, the liberal Colorado Democrat who has been the force behind development of the bill: The administration "has been talking family, family, family and doing nothing about it."

The legislation, which cleared the Democratic-led House Labor Committee in a 22-10 vote in June, requires employers to grant parents as much as 18 weeks of unpaid leave after the birth or adoption of a child and also for the serious illness of a dependent child or parent. The law also mandates as much as 26 weeks of unpaid medical leave. It would require in all cases that employers restore the same or an equivalent job with continued benefits and seniority. The only exemptions granted are to companies with fewer than 15 employees.

THE TIME IS NOW

But the bill was criticized by some committee Republicans as too far-reaching. Though Rep. Marge Roukema (R., N.J.) believes the "time is now at hand to develop a pro-working family leave policy," and though it was her idea to add ill parents to the bill, she supports her own substitute, which reduces the leave period, increases the number of exempted employers and makes other accommodations to business. Some fear that such efforts to revise the bill will disable it.

The reality of family and workplace arrangements in America has changed dramatically in recent years. A recent Census Bureau report showed that nearly half the nation's new mothers hold jobs or are looking for jobs within a year of the birth of their child. More than 48% of all new mothers aged 18 to 41 are in the work force, up from 31% a decade ago. And women are continuing to pour into the work force. The Labor Department says they will account for the majority of labor-force growth between now and 1995. By then, more than 80% of women in their primary child-bearing years are expected to be working.

Federal law requires that employers treat pregnancy just as they do any other short-term health disability. Most big companies offer some kind of leave. A survey by Catalyst, a New York research group, showed 95% of 384 large companies offer paid disability leave of five to eight weeks for pregnancy, 52% gave longer unpaid leaves to women after that and 37% offer them to men. Among those pace-setters with comprehensive policies are Merck & Co., American Telephone & Telegraph Co., Levi Strauss & Co., and Corning Glass Works.

Yet only about 40% of working women have maternity leaves that are at least partially paid for a minimum six to eight weeks and job-guaranteed, according to figures compiled by Sheila Kamerman of Columbia University. Policies are especially haphazard in smaller concerns, where most women workers are concentrated. Supporters argue that the U.S. stands alone among industrialized nations without a comprehensive policy on parental leave and that the pending legislation would provide a minimum labor standard. The best selling point to Congress on the current legislation "is how modest it is," says Dana Friedman of the Conference Board, a New York business research group.

Experts say such policies are needed to allow parents and children to develop secure attachments and so strengthen families. Dr. T. Berry Brazelton, a noted pediatrician, has films of parents and babies responding rhythmically to each other during the first months of life. Without that time, he says, "they never learn enough about each other to feel 'that's my mommy' and 'that's my baby' and be willing to fight for that attachment."

H.R. 5546, VACCINE COMPENSATION; INSURING A STABLE SUPPLY OF VACCINES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. WALGREN. Mr. Speaker, before the 99th Congress completes its business, I hope we are able to act on the National Childhood Vaccine Injury Act of 1986—H.R. 5546—a bill I cosponsored that addresses the dual prob-

lem of a vaccine shortage and compensation for people injured.

The benefits of vaccines have been enormous. Smallpox has been eradicated; vaccines for it are no longer required. Incidents and death rates of other diseases, such as whooping cough, polio, diphtheria, and measles have dropped dramatically.

Not only do we save lives and prevent disease by vaccination, we avoid expensive treatment. Saving dollars is important, but what is far more important is saving human lives—unquestionably and inarguably. With the virtual eradication of many diseases in this country, it is easy to forget that diseases like whooping cough and polio kill and cripple.

Nevertheless, vaccines are not problem-free. Millions of children are immunized yearly and of these, a small percentage have adverse reactions, of which the most serious are retardation and death. Injuries are rare, but they do occur, and the inadequacy of the current system to deal with these has contributed to the current vaccine crisis.

Currently, parents of children who have been seriously affected by vaccines can bring suits against drug manufacturers, but cases tend to drag on for a long time during which time parents bear the burden of heavy medical costs. Also, the results are uncertain.

Some people believe that "a litigious atmosphere" has made insurance companies increasingly reluctant to provide liability coverage for vaccine producers. The inability of manufacturers to obtain reasonable-priced coverage has caused some to raise prices. Between 1985 and 1986, the Center for Disease Control faced a 94-percent increase in oral polio vaccines. Immunization for measles, mumps, and rubella have risen from $2.71 to $8.47 since 1980.

Some companies have dropped out of the market entirely, leaving in the case of one vaccine, only one manufacturer to meet the needs of the entire Nation. Clearly, for something that we must rely on as a staple in our preventive health system, we should not have such an uncertain supply or exorbitant prices.

H.R. 5546 is an admirable and carefully crafted solution to the problem. Under this bill, parties seeking compensation would file a petition with a special master of the U.S. district court and would, if the injury is recognized under law, automatically receive compensation. Petitioners who are dissatisfied with their award have the option of rejecting it and filing a civil action suit, in which they must prove negligence or failure on the part of the manufacturer to comply with applicable standards. The bill thus provides a no-fault compensation system that is fair and expedient, without denying the injured access to traditional tort law. Another important provision of H.R. 5546 establishes the National Vaccine Program to aid the development, production, and distribution of new, even safer vaccines.

In searching for a solution that is fair to all, we must not let our primary concern—the health of our children—be obscured. We must ensure that no child suffers needlessly from disease. The American Public Health Association, the American Nurses Association, and the American Academy of Pediatrics agree that this proposal accomplishes that goal. The injured can be compensated, and society is assured of the continued availability of vaccines. The high quality of American health care in general, and of vaccines in particular, is maintained, and most important of all, the health of America's children is well protected.

VACCINE SHORTAGE

The compensation bill is a second and necessary complement to H.R. 5546, which the House has already approved, with my support. H.R. 5546 would continue the current program that helps States purchase vaccines. It also requires the Secretary of the Department of Health and Human Services to stockpile vaccines to help prevent potential shortages.

We rejected the Reagan administration's proposed reductions in the vaccine budget. The cuts could have meant, for example, that only half the oral polio vaccines would be available next year. Fifty percent of the Nation's children are immunized because of this public health program.

Vaccinating children is hardly a place to cut when setting priorities for the Federal budget. It cannot be put better than it was by Dr. Louis Cooper of the American Academy of Pediatrics: "The cost of care for just 50 rubella damaged children per year exceeds the Federal immunization budget."

A TRIBUTE TO ELLIOTT AND ADRIENNE HORWITCH ON THEIR 20TH WEDDING ANNIVERSARY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. LEVINE of California. Mr. Speaker, it is my pleasure to rise today in honor of Mr. and Mrs. Elliott Horwitch who will celebrate the joyous occasion of their 20th wedding anniversary on November 20.

Mr. and Mrs. Horwitch, who met in New York City and now reside in Beverly Hills and Malibu, CA, are active members of the community. Elliott Horwitch is on the board of directors for the American Cancer Society. Mr. and Mrs. Horwitch are founders of the Museum of Contemporary Art and Adrienne Horwitch is very active in the Ceders/Sinai Women's Guild and the Costume Council for the Los Angeles County Museum.

Mr. and Mrs. Horwitch have been blessed with two lovely children, a daughter CeCe, born in 1968, and a son Jason, born in 1969.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in sending anniversary greetings to this special couple and that they wish them many more years together, rich in happiness and health.

KGO ON AIR SAFETY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. EDWARDS of California. Mr. Speaker, air safety is of great concern to many Americans. As a reflection of this interest, the bay area's KGO Radio recently aired a three-part series of editorials on this topic. I am submitting these views, as they were presented by Michael Luckoff of KGO, to you and to my other distinguished colleagues:

LIFE NOT DEATH IN THE SKY

It's time for hard facts: the Federal Government is dragging its feet in the quest for more safety in the skies. It is hoarding most of a ten billion dollar fund set aside years ago for that purpose. It is neglecting a decade old project to perfect an air-collision avoidance system recomomended by Congress in the 70's that should be in place by now to avert tragedies like the one near Los Angeles.

Such failures are an urgent concern for California. We are aviation's most important state. Our skies are the busiest in the Nation, with ten million take-offs and landings a year at our 200 airports, seven of which, in the Bay Area and L. A. Basin, handle much of the heaviest congested traffic in the world.

Against such odds, the Federal Aviation Administration is seriously undermanned and under-funded. It's time for our State Government to step into this mess to help bring ironclad safeguards to both commercial and private planes. And that's exactly what it's about to do, as we'll detail in our next editorial.

THE ROAD AHEAD FOR AIR SAFETY

California's Legislature, alarmed over the Federal Government's failure to improve air safety in the wake of the worst year in airline history, has just made two important moves on its own despite Federal jurisdiction over the skies.

Last week Sacramento established the first State Aviation Commission in the country, to probe the faults and then pressure Washington to "Get off the Dime". Then it called on Congress to require better safety equipment on California's 42,000 private planes.

KGO Radio supports these actions, since our state has the most centers of dangerous sky congestion of any state, with recorded and non-reported collision near misses occurring continuously, at a rate that has doubled in five years!

But total solution can't be achieved unless and until the Federal Administration restores the power to modernize the air traffic control system with monies tied up in the multi-billion dollar "Aviation Trust Fund" which you and I help pay for with taxes on every airline ticket we buy.

The story behind that roadblock reaches straight into the White House, as we'll show in our next editorial.

THE WHITE HOUSE BARRIER TO AIR SAFETY

Washington in 1982 launched a ten year, $11.9 Billion "Airways Space Plan" to update all aspects of aviation safety, both commercial and private, by 1991. As of today, it is perilously behind schedule.

The program's heart is the "Aviation Trust Fund". It's created by every citizen who flies, with taxes they pay on airline tickets, international flight departures, and the gasoline that flies our quarter-million private aircrafts.

The OMB, Office of Management and Budget, within the White House, has tied up the bulk of these assets in a bookkeeping sham. It preserves them on paper, to make the huge National Deficit look smaller than it actually is! This is hazardous trickery.

The result? The fund cannot be freely spent where needed for safety projects, like the stalled plan to give jet-liners a "Collision Avoidance System" known as "T-Cas-3" which top aviation experts say could stop 85% of mid-air crashes.

San Jose Congressman Norman Mineta tried months ago to break this blockade by taking the Trust Fund out of the Presidential Budget process. He failed by 7 votes. He tells KGO Radio he will try it again:

"I will introduce similar legislation to that which was narrowly defeated to take the aviation trust fund out of the budget process. I will do that at the beginning of the new Congress in January 1987."

If you ever wrote your representative in Congress, this is the time! Tell them to restore the Aviation Trust Fund to its original purpose.

RETIREMENT OF SPEAKER OF THE HOUSE OF REPRESENTATIVES THOMAS "TIP" O'NEILL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. GARCIA. Mr. Speaker, I find it very difficult to put into words the great affinity and respect that I have for our Speaker, THOMAS "TIP" O'NEILL. As far as I am concerned, Speaker O'NEILL will go down in history as one of our greatest Speakers in the history of our great Republic. During his tenure as Speaker, he has been able to keep this ever-changing august body on a steady course in governing our Nation.

The following article from the October 8, 1986, Wall Street Journal chronicles the very distingished career of our great Speaker:

[From the Wall Street Journal, Oct. 8, 1986]

TIP O'NEILL WILL LEAVE THE HOUSE A SPEAKERSHIP THAT IS RESHAPED BY HISTORY AND HIS PERSONALITY

(By David Rogers)

WASHINGTON.—He is the only House speaker most of Congress has ever known, and long after the last sound of his gavel, Thomas P. O'Neill's imprint will remain on the chamber in which he has served for a third of a century.

Just as he once lived in the shadow of Sam Rayburn, the 73-year-old Mr. O'Neill now casts his own forward. When Congress adjourns this month and he retires, Mr. O'Neill will leave a speakership reshaped by his personality and the historic circumstances under which he served. "He is the first truly modern speaker," says Majority Whip Thomas Foley. "Future speakerships will be judged against his record of the last 10 years."

Television gave "Tip" O'Neill—with his bulky figure and thatched white hair—unprecedented visibility. Satirized as a caricature of the past, he is a leader who has been instrumental in House changes that broke the grip of powerful chairmen and instituted a landmark ethics code in the 1970s. An early critic of the Vietnam War, he was able to bridge the cultural and generational divide among House Democrats, and in the aftermath of the war and Watergate, he healed for many their own breach with government.

"O'Neill will be remembered more kindly than people would have thought in 1981," says Republican political analyst Kevin Phillips. Then, a newly elected Ronald Reagan steamrollered House Democrats, winning budget and tax cuts and waging a fight to "topple Tip."

Fiercely partisan, Mr. O'Neill would leave the safety of his high backed chair and enter the fray on the House floor, "He came off the rostrum too much for me," says Minority Leader Robert Michel, and Mr. O'Neill was the first speaker in scores of Congresses to be officially reprimanded in debate.

TENURE WAS UNIQUE

More than any time in modern politics, the unique role of the speakership was evident in its full power, with Mr. O'Neill as the leader of the sole branch of government controlled by his party and the nation's highest-ranking Democrat. The past six years under Ronald Reagan saw the speaker drawn into deeply personalized battles that brought him both humiliation and triumph.

"I underestimated the president, there's no doubt about it," Mr. O'Neill says. The White House, in turn, misjudged the speaker's durability. He commands strong personal ratings in national polls. On issues, Congress has moved back toward his priorities, voting to increase education and health funding while trimming the Pentagon.

"He's like a Boston clipper," says Robert Peabody, an expert on congressional leaders, "He weathers well."

For Republicans, Mr. O'Neill was an eye-catching symbol of the excesses of government, a listless hulk, the fat man run out of gas. For Democrats, he proved to be the last bulkhead against the most serious challenge to liberalism since the advent of the New Deal.

UNWILLING TO PULL THE LEVERS

"He held his finger in the dike and protected a whole lot of values that the country is glad now he protected," says Rep. David Obey (D., Wis.). "He never forgets the whole purpose of policy is to have a positive impact on human beings. That's what he shames people into being mindful of time and time again."

Rules changes adopted in the mid-1970s gave Mr. O'Neill—who succeeded Carl Albert as speaker in 1977—more institutional power than any speaker since the turn of the century, but he has been reluctant to use it in a party caucus fragmented by ideological and generational differences. Critics argue that Speaker O'Neill allowed friendships and caution to diminish his impact.

"He was unwilling to pull the levers," says one observer. The speaker's power to shape policy through committee assignments was diluted and sometimes ignored under Mr. O'Neill who chose to rely more on his personal—than institutional—authority. "He had one flaw, he thought he could persuade anyone," says Richard Bolling, a friend and former House Rules Committee chairman.

"It's backroom, smoke-filled-room politics," Mr. O'Neill said of the maneuvering inside the Democrats' Steering and Policy Committee. But his frustration may have been better expressed in a 1981 caucus. When some Democrats complained that the speaker hadn't lobbied them to support the Democratic budget position, he answered: "Sam never had to ask for me to know what to do."

Sam Rayburn, the son of a Confederate cavalryman, was Mr. O'Neill's first Democratic leader, and the contrast between the two illustrates much about the changing speakership. The Texan, with his great bald head, powerful torso, and blunt voice, was a man who remained in the shadows of the House. "Mr. Sam's" control over the chamber is exaggerated with his legend, but his image is still one of power—constant, austere, remote.

If Mr. Rayburn seemed above the House, Mr. O'Neill is of the House. Northern, ethnic, urban, he came as a "Tuesday through Thursday" man whose short week and motto—"All politics is local"—reflected the parochialism of the place. Mr. O'Neill was never a chairman or dominant force on the Rules Committee where he served, yet the same qualities made him particularly attuned to the dynamics of the institution often called the "peoples" chamber.

"Say yes to a change", he asked the House in a final appeal for the sweeping tax-overhaul bill last month, and he had chosen the same theme for his career. He broke with Lyndon Johnson as early as 1967 on Vietnam. He played a critical role behind House procedural "reforms" that broke the power of committee chairmen. As speaker, he brought television into the chamber and an ethics code that sharply restricted outside earnings by members.

For Mr. Rayburn, Republicans were oppressors from outside, the party of Reconstruction, of railroads, and tariffs. Mr. O'Neill was the grandson of Irish immigrants, and his partisanship grows from having been on the outside himself; politics was a means to break down the barriers of a Yankee establishment. At 37, he was chosen the first Democratic speaker of the Massachusetts Legislature, and half a lifetime later the memory of then-GOP legislator Christian Herter locking out the Democrats during a statehouse vote remains fundamental to his outlook.

He can be a pessimist—a crepe-hanger—about his own election-night fortunes, a wary man whose favorite movies include John Ford's "The Informer," a Dublin story of betrayal. In Harvard yard, he jokes of days when he cut the lawn there and seems wary of the warm reception after years of snobbishness. In conversations, "I knew his father" is his own clannish sign of acceptance, and at a reception in Brighton—the Boston ward that tipped the 1952 election in his favor—there is emotion in his voice when he hugs two elderly women. "I love to be with my own," he says.

Mr. O'Neill's father was an established figure in Cambridge government; his sister the first woman principal in the city's public schools; his brother a Harvard-educted lawyer. And behind the gregarious Tip O'Neill's image of the affable Irishman is a mind that is competitive.

RARELY SERVED UNDER HIS OWN

"He's not St. Nick, he's tough," says a close observer, and fellow lawmakers have felt his bluntness. "Jamie," he warned veteran House Appropriations Committee Chairman Jamie Whitten of Mississippi in a recent private meeting, "You're standing out like a sore thumb and nobody agrees with you."

As Massachusetts speaker, Tip O'Neill served under a strong Democratic governor, Paul Dever. Washington never gave him the same opportunity. Of his 16 years in the House leadership, only four were under a Democratic administration and those were unhappily with Jimmy Carter. The two men developed a respect for one another, but even when he could play a crucial role in promoting the Georgia Democrat's energy

program, Mr. O'Neill saw it largely undone by fellow Democrats in the Senate.

When he speaks of favorite legislation—the GI bill or Medicare—it is from another period entirely. While hungering for a strong executive, his leadership role as a legislator has inevitably been a defensive or negative one. He sought Richard Nixon's impeachment; he battled with his friend Gerald Ford. "Nothing is fun around here anymore," he said after the 1980 elections, and while the Democrats regained a working majority in the House in 1982, Mr. Reagan more often has controlled the agenda.

It has been easier for the House Democrats to say no than to accomplish their own initiatives. Until this summer, for example, the leadership blocked U.S. arms shipments to Nicaraguan guerrillas. In the same period, the House Democrats failed to advance their own proposals on new taxes in the face of huge deficits, but when the president was prepared to move, they put their stamp on historic tax overhaul.

Even as he challenged Mr. Reagan in a war of words, the speaker would satirize himself. "Statement by Speaker Thomas P. O'Neill," he would read preceding his daily news conferences. "I've been in transition all my life," he says of his increased visibility. "I've always had a foot in the bucket ahead of me."

"Timing was everything," says Leo Diehl, a longtime aide looking back and now trying to explain the speaker's decision to retire. "If anyone knew about timing, he does, and he knew it was his time."

SUFFERING CHILDREN IN WAR-TORN LEBANON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FEIGHAN. Mr. Speaker, greater Clevelanders concerned about suffering children in war-torn Lebanon have formed a national organizaton to raise money for food and other aid for those children. This new organization—the Lebanese Children's Foundation—has its headquarters in Parma.

Fares J. Francis, a Lebanese-American insurance agent and founder of the foundation, knows that thousands of children in Lebanon have never known a day of peace and desperately need food, clothing, shelter, and other help. Mr. Francis plans to raise money in greater Cleveland and across the Nation and the assistance provided by that money will be given to those in need—regardless of political or religious beliefs. He will also establish an office in Beirut to distribute money and materials.

Mr. Speaker, children born 13 years ago when the civil war began in Lebanon, are among the greatest victims of the war. Many are crippled, ill, orphaned, and suffer mental problems. They need the help of Americans who share a close bond with the Lebanese. The suffering of the children and other people of Lebanon is one of the world's best-kept secrets. Since 1975, 4,785 children have been killed and 578 reported missing. There are 1,750 children totally disabled from the war. The war has also produced 125,000 dead, 4,500 widows, and 21,000 orphans in a country of only 3 million people.

Mr. Francis came to the United States in 1976 to escape the war and start a new life with an education and a profession. He lost his brother in the war recently, and when he went home for the funeral, he was appalled at how much worse the condition of children had grown in the years he had been gone from Lebanon. With his nonprofit Lebanese Children's Foundation, he is determined to help those who are not as fortunate as he is to live in the Unted States.

I commend Mr. Fares Francis for his unselfish commitment to the children of Lebanon.

TRIBUTE TO CONGRESSMAN AND MRS. LANTOS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. HOYER. Mr. Speaker, as cochair of the Helsinki Commission I had the great privilege this morning to participate in the dedication ceremony placing a plaque beside Raoul Wallenberg Place—formerly part of 15th Street SW—here in Washington, DC.

Renaming that roadway for Roaul Wallenberg, one of the true heroes of the 20th century, was mandated by legislation adopted by Congress last year. One of the guiding forces behind that bill, along with the principal sponsor Representative BILL LOWERY, was Congressman TOM LANTOS.

Mr. Speaker, we hear a lot in this House about courage, and we are blessed with having in our midst two people of extraordinary courage, Congressman TOM LANTOS and his wife, Annette Lantos.

Both Annette and TOM were among those saved by Raoul Wallenberg. They have been a major force in the movement to recognize Raoul Wallenberg's heroism and to find and free him. Mrs. Lantos is the founder and chairman of the International Free Wallenberg Committee. A significant part of their effort was the awarding to Raoul Wallenberg in 1981 of honorary U.S. citizen. That gesture of recognition was made possible by Congressman LANTOS, sponsor of the enabling legislation, which was his first bill enacted by Congress. His partner in gaining passage of the bill, as in so many other things, was Annette Lantos.

Mr. Speaker, we should not cease in our efforts to find the truth about the fate of Raoul Wallenberg, and to continue to recognize his great heroism in saving thousands of Jews. As we continue that recognition, let us not forget two people who have done so much to foster it, two heroes in our midst, TOM and Annette.

LITTLE LEAGUE ALL STARS OF BRUNSWICK, MD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mrs. BYRON. Mr. Speaker, I wish to bring to the attention of Members the outstanding play this year by the Little League All Stars of Brunswick, MD. Managed by Rob Dawson, and coached by Kenny McClain, the team capped an outstanding season by placing seventh in the Little League World Series at Johnstown, PA.

The team was paced by pitcher Joey Lucas. Joey pitched seven games during tournament play. Of those seven games, he threw five shutouts, three no-hitters, and two perfect games. He helped lead the team to victories in the district, sectional, State, and eastern regional tournaments. The team's play, however, was not a one man effort. As a team, Brunswick hit over .400. Scott Frye, Chad Sowers, Chad Riland, Jeff Cox, Mark Myers, Matt Domer, Jeff Oden, Milt Gue, Jason Frushour, Jeff Nuse, Pat Smith, Troy Taylor, Kenny McClain, and Joey Lucas all displayed a solid effort in the field and on the base paths.

Brunswick, known through the area as a baseball town, has produced many good teams over the years. Although this was their first trip to the world series, the little league has previously had 15 State championship clubs. The success has not only been on the baseball diamond. Manager Dawson has stated that he is most proud of how well the team acted on and off the field. This shows that the Brunswick Little League organization, as well as the parents who support it, has taught the boys more than the fundamentals of baseball. They have proven that success can be accomplished within the context of good sportsmanship. This is the Brunswick Little League's greatest accomplishment of all.

A BAD DECISION BY THE NLRB

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. VENTO. Mr. Speaker, Kenneth P. Prill, a truckdriver for Meyers Industries, Inc. of Tecumseh, MI, was driving through Tennessee in July 1979 when his truck's brakes malfunctioned and the truck was involved in an accident. Prill's supervisors told him to get the truck back to Michigan. But before returning to Michigan, Prill called the Tennessee Public Service Commission and arranged for an inspection of his truck. The inspection revealed violations of several Federal safety regulations for which Meyers Industries was cited. Tennessee officials also ordered that the truck not be moved until its trailer, brakes, and damaged hitch were repaired. Before being fired, Prill had filed several complaints with his supervisors about the poor condition of the steering and brakes on the truck, which was being used to deliver boats from the Meyers

Industries' plant in Michigan to dealers around the country. Prill was subsequently fired by his employer.

Mr. Prill appealed his firing to the National Labor Relations Board [NLRB] which originally dismissed his case in 1984. The U.S. Court of Appeals for the District of Columbia, however, remanded the case to the NLRB after finding the Board had misinterpreted a provision of the Taft-Hartley Act. The NLRB has now once again ruled against Mr. Prill by finding that the Taft-Hartley Act only protects collective actions by workers rather than "activities solely by and on behalf" of an individual employee. In effect, the NLRB will now condone the firing of individual employees under the Nation's labor laws who exercise the right to report violations of Federal safety statutes to the Government.

In attempting to justify this bad decision, the NLRB states that "Although we may be outraged by a respondent who may have imperiled public safety, we are not empowered to correct all immorality or illegality arising under all Federal and State statutes."

This disingenuous rationale for what is clearly an outrageous decision is but another example of why working men and women have so little faith in the ability of the NLRB to interpret and apply our Nation's labor laws. The consequences of violations of safety regulations by employers are no different regardless of whether this fact is brought to the attention of the appropriate Federal or State authorities by an individual employee acting alone or by a group of employees acting collectively. The fact that the NLRB is unable or simply unwilling to discern this point of logic says much about what has happened to the NLRB during the past 5 years. The Board's decision in the Prill case effectively reverses a policy adopted by the NLRB in 1975 when it ordered the reinstatement of a California worker who was fired for reporting safety violations at his plant to the Occupational Safety and Health Adminstration [OSHA]. The fact is that the NLRB ought to be supportive of such a worker—not pulling the rug out from under him.

I hope that Mr. Prill and his attorneys will appeal this decision to the Supreme Court. The NLRB decision should be reversed either through the Court or through clarifying legislation.

NLRB Backs Firing for Safety Report

By Matt Yancey

A company can legally fire an individual under the nation's labor relations laws for reporting violations of federal safety statutes to the government, the National Labor Relations Board said yesterday.

In its ruling, the NLRB upheld its 1984 decision dismissing a complaint by a nonunion Michigan truck driver who claimed he was fired illegally under the Taft-Hartley Act for arranging an inspection of his rig after it was in an accident because its brakes malfunctioned.

The U.S. Court of Appeals for the District of Columbia last year ordered the NLRB to reconsider the case. In a 2-to-1 decision, the court said the agency erred in stating that Taft-Hartley restricts "concerted activity" to those actions engaged in with, on behalf of, other employes.

In its ruling released yesterday, which NLRB officials predicted would reach the Supreme Court, the board agreed that its narrow definition of concerted activity is not mandated by the 1947 law.

But it said that its definition is a "reasonable construction" because the law is aimed at protecting collective actions by workers rather than activities "solely by and one behalf of" and individual employee.

The board said that the truck driver, Kenneth P. Prill, was not protected from being fired by Meyers Industries. Inc. of Tecumseh, Mich., because he took action on his own and did not try to enlist the support of coworkers.

"Although we may be outraged by a respondent who may have imperiled public safety, we are not empowered to correct all immorality or illegality arising under all federal and state statutes," the NLRB said.

The latest board ruling effectively reverses a policy adopted by the NLRB in 1975 when it ordered the reinstatement of a California worker who was fired for reporting safety violations at his plant to the Occupational Safety and Health Administration.

Before he was fired, Prill had lodged several complaints with supervisors about the poor condition of the steering and brakes on the truck, which was used for delivering boats from Meyers' plant Tecumseh to dealers around the country.

While driving through Tennessee in July 1979, Prill was in an accident caused by the truck's malfunctioning brakes. When he was told by supervisors to get the vehicle back to Tecumseh the best way he could, Prill instead called the Tennessee Public Service Commission to arrange for and inspection of the truck.

The Tennessee officials cited the vehicle for violations of several federal safety regulations and said it could not be moved until its trailer brakes and damage to the hitch area were fixed.

LOW-INTENSITY CONFLICT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. ATKINS. Mr. Speaker, United States policy toward Nicaragua continues to be a major issue of debate on the floor of the House of Representatives. One strategy that has recently emerged is "Low-Intensity Conflict." Low-intensity conflict combines the unconventional tactics of revolutionaries on a variety of fronts rather than relying solely on a military approach. Political, economic, and psychological campaigns are given greater weight under this strategy than is military warfare.

Sara Miles recently wrote two articles, that appeared in the Berkshire Eagle, regarding the low-intensity strategy. At this time, I would like to place these articles in the CONGRESSIONAL RECORD.

[From the Berkshire Eagle, July 24, 1986]

Low-Intensity Conflict—I: Intervention in Central America

(By Sara Miles)

NEW YORK.—A new kind of war has been launched by the Reagan administration, one redefining the battlefields of Central America. It reflects a developing strategy of prolonged anti-popular warfare that Pentagon planners call "low-intensity conflict." Congress is signing on to underwrite the experiment with our tax dollars. (Unless the Senate votes otherwise, this summer's "contra-plus" authorization provides $100 million for the contras and $300 million to continue the war by other means in the region. In addition, *Newsweek* reports that the CIA will make covert services worth $400 million available to the contras.) According to Ambassador to Costa Rica Lewis Tambs, the strategy could mean a war in Central America of "perhaps decades duration." Other parts of the Third World await the results.

The strategy shift to uncoventional war was obscured by the invasion of Granada in 1983. For many, the event confirmed that similar U.S. interventions were imminent against Nicaragua's Sandinista government and/or against the Farabundo Marti National Liberation Front (FMLN) in El Salvador. In fact, however, a very different kind of intervention was underway in Nicaragua and El Salvador.

Low-intensity conflict is not simply a scaled-down version of a conventional war, nor just a preliminary stage to "real" conflict. "This kind of conflict is more accurately described as revolutionary and counterrevolutionary warfare," explained Col. John Waghelstein, currently commander of the Army's Seventh Special Forces. "It involves political, economic and psychological warfare, with the military being a distant fourth in many cases. . . . It is total war at the grassroots level."

Low-intensity conflict—"post-Vietnam counterinsurgency doctrine"—has evolved as a response to the growing challenge of popular nationalist revolutionary movements throughout the Third World. Proponents of low-intensity conflict have learned from, and now attempt to "mirror," the politico-military strategy of revolutionaries, combining unconventional tactics of revolutionaries on a variety of fronts instead of relying on conventional military force alone. As the United States learned in Vietnam, according to Army Secretary John Marsh, "The roots of insurgencies are not military in origin, nor will they be military in resolution."

U.S. military strategists may have been, after all, less paralyzed by the past than those who oppose the war in Central America were, frozen by conviction that history was bound to repeat itself. While some spoke of Nicaragua and El Salvador as "another Vietnam," the Pentagon set out insuring that they would not be. Key concepts embodied in today's emerging science of counterrevolution—drawn from Vietnam, from colonial experiences of European nations, and from diverse interventions in the Third World—are expressed as follows:

Population, not territory, is the strategic objective.

Military escalation is often counterproductive; overkill can win battles but lose wars.

Tactically, low-intensity conflict targets the rearguard—economic, political, social and logistical—rather than the main force units of the enemy's army.

Counterinsurgency operations against guerrillas are ineffective unless combined with the construction of an alternative, counterrevolutionary social system—a process known as "nation-building." The task is not to outfight, but rather to outadminister, the revolutionary forces.

"Humanitarian aid," "refugee relief" and "development" are thus an essential front of this unconventional war. As a prominent

Army spokesman, Lt. Col. James A. Taylor, put it: "Humanitarian aid in low-intensity conflict is as defense-oriented as the providing of training and technology. It is in no way soft."

Use of U.S. combat forces—while never an option that can be completely rejected—is likely to significantly decrease the chances of U.S. victory. The United States should, instead, play a training role and "clean up" client forces so that corruption and abuses do not alienate the population from nation-building.

This kind of warfare must be fought to win the U.S. population, as well as the foreign target population. As George Tanham, an expert on low-intensity warfare, wrote: "Out most pressing problem is not in the Third World, but here at home in the struggle for the minds of the people."

[From the Berkshire Eagle, July 25, 1986]

LOW-INTENSITY CONFLICT—II: A NEW ROUTE TO THE JUGULAR

(By Sara Miles)

NEW YORK.—Adaptation of a modern low-intensity-conflict framework by U.S. military strategists meant that they would not expect to win by out-fighting their enemy in battle. In Central America (as at home), they would aim to separate their foes from the civilian population, and neutralize enemy social structures—whether embryonic ones in FMLN zones of control in El Salvador or in the institutionalized kind in revolutionary Nicaragua. The Pentagon, CIA, Agency for International Development and State Department would coordinate their efforts to hold the insurgent forces at bay while the United States could construct "democratic" regimes and alternative, counterrevolutionary institutions—political, economic and social—for the region.

The low-intensity strategy for Central America was to combine both "active" and "preventive" measures: determined roughly by whether an armed insurgency already existed within the target country. In turn, plans for each country were designed to bear on the overall thrust of U.S. strategy at the regional level. At the same time, low-intensity advocates hoped that the terms of their doctrine, which explicitly favored keeping U.S. troops out of combat, would preempt public opposition to the war.

On the ground, the United States would seek the collapse of insurgent movements and revolutionary governments through a flexible combination of economic sabotage, political attacks, psychological warfare and military pressure. Military tactics would emphasize the guerrilla nature of the war and would attempt to mirror the integrated politico-military approach of the revolutionaries.

The U.S. choice of methods, whether planning counterinsurgency or initiating insurgency of its own, would depend not on vague moral constraints against the use of force, but on a careful assessment of the most effective combination of tactics to win particular battles. If the U.S. military has held back, since 1983, from using its full might in Central America, it is not because of any pacifist tendencies but because this time it intends to win.

At the heart of current U.S. strategy is the belief that winning low-intensity conflicts means changing the way people think about the world—at the grassroots level in Central America, and here, in the U.S. "rearguard." At the American Enterprise Institute on his return from heading the U.S. military advisers in El Salvador, Col. John Waghelstein spoke of enlisting public sympathies: "I think we've also got to begin to do counterinsurgency training here in the U.S., not just on the military reservations where it's been for the last few years, but out in the countryside," he said. "We've got to recondition our populace again, so that a soldier practicing for war, for this type of war, is seen as a regular and necessary thing."

Other major propaganda campaigns have been developed by the Reagan administration to alter and redefine public perception of the war. Overthrowing governments like Nicaragua's is painted as a justifiable defense against "terrorism"; at the same time, efforts by the U.S. military to control local populations are portrayed as "humanitarian assistance" or charity. For better or for worse, the U.S. people are participants in the war that is being played out in Central America.

It is a difficult time for ordinary citizens to plan an effective opposition to the war in Central America and to project an anti-war strategy past the short term. Washington has learned that in most cases revolutions cannot be stopped simply by murdering potential insurgents. Instead, the architects of such conflicts will often seek to avoid the direct use of U.S. troops. They will seek to restructure the target society—while, in the interests of long-term control and stability, avoiding the old-fashioned military dictatorships backed in the past. Low-intensity advocates urge that emphasis be given to economic over military aid, and that gross human rights violations be "cleaned up."

A narrow focus on conventional military indicators can misinterpret this dynamic, making it hard to see the real war. Without a context for their work, opponents of the war risk confusing tacts—or demands that apply to a specific moment—with principles. It is possible, for example, for Washington to "stop the bombing" in El Salvador—but such a shift in tactics would not mean an end to the war, nor necessarily a shift in goals. Similarly, a call for economic assistance intead of military aid misreads the nature of a war in which economic development programs, as a former CIA official writes, are "the civilian front of an unconventional war which could not be prosecuted with out the aid programs."

Calls for "talks not troops" fail to come to grips with the total, unconventional war not being fought in Central America. Instead, they lead to a false dichotomy between invasion and negotiations, at a time when Washington's real war has escalated in a manner designed precisely to avoid both talks and troops, both "giving in" and "going in."

The new doctrine of war in the Third World challenges conventional opposition responses as well as conventional military attitudes. To frame the issues of peace and war as a contest between talks or troops ignores the comprehensive nature of the struggle. It permits the United States to present its true strategy of low-intensity conflict as a moderate alternative, and allow the real war to be sold to the American public as a "third option," as a compromise between the extremes of invasion and surrender.

DON FORTIER

SPEECH OF

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 25, 1986

Mr. COLEMAN of Missouri. Mr. Speaker, recently, a friend and valued expert on national security policy died at all too young an age. Don Fortier's passing left all of us stunned and saddened by the loss of such a good and talented man.

On September 25, I sponsored a special order with several other colleagues in honoring Don and his contribution to the formulation of our Nation's foreign policy.

I am submitting for the RECORD the following statements made by friends of Don Fortier at his memorial services.

REMARKS OF THOMAS LAIRD JONES AT THE FUNERAL SERVICE FOR DONALD ROBERT FORTIER AT ARLINGTON NATIONAL CEMETERY, AUGUST 27, 1986

MEDITATION

I cry out "Why," "Why," "Why?"—perhaps so do you.

My limited, finite mind knows it cannot understand or comprehend—yet it keeps on asking: "Why", "Why", "Why?"

In excruciating ways it asked "why?" some years ago when our daughter died at the age of twelve;

It asked "why?" when my best buddy died in a bicycle wreck when we were in the sixth grade;

My mind asked "why?" "why?" when Art was twenty-seven and I was twenty-seven and we lived next door and had small children the same age and he fell over dead one night as we played ping-pong;

My mind asked "why?" "why?" when my father died;

This summer my mind has contined to ask "why?" "why?" when the friend of each of us here, Don Fortier, was diagnosed "cancer"—aggressive cancer—and rather quickly died. This summer I have never left one of my frequent meetings with Don both at home and hospital that my confused mind was not hasseling the question "why?" "why?".

After I left Alison last Saturday night after Don's death I went home. In spite of the fact that I knew I had to get up at 6:00 to go lead worship, I could not sleep. I just sat up and rocked and asked "why?"

It does not seem fair; it does not seem smart: a brilliant mind, thoroughly prepared for his vocation, deeply committed to public service of our whole society, a kind of goodness and integrity we so desperately need—taken away from us with so many prime years remaining.

Yet in spite of finite limitations toward understanding the infinite, when I'm honest with myself, in incomplete ways I think I know some of the answers to the whys.

God gives us life—but God gives us freedom. In a sense, God chose to limit God's power in giving humanity freedom. God loves us and respects us so much that even when humanity misuses the freedom, God does not renege on the freedom of humanity by selective intervention. So "the rain falls on the just and unjust." And humanity continues to muck up. And who knows why we haven't discovered answers to a detestable disease called cancer? There are other

ways to articulate some of the finite minds' ways of answering "why?".

But we gather to go beyond the finite "whys?"—for God goes beyond what happens in the short span of this earthly existence: The God who creates us, who grants us freedom in this life, remains ultimately in control. God cares for us beyond the bounds of our vision and beyond the small limits of our understanding. What we call "death" is not a dead-end alley, but an openness and release to a new thoroughfare.

I want to testify not just a mindful answer, but a personally experienced truth: God does love us, and provides for us and grants us life eternal/everlasting in a relationship with God and with each other. The ancient Apostles' Creed climaxes the truth: "I believe in the life everlastng. Amen."—"Amen" means "So Be It!" And in that truth *is* the peace which passes all understanding. I know that is true. I witness that not as something learned in seminary, but as experienced in my life, and pray that you will do the same.

1. So in faith we gather, not as those without hope, but we gather for other reasons. We gather to express thanks to God for the life of Don Fortier:

For his love of family and friends;

For his commitment to make this world a better place to live;

For his selflessness in a predominately selfish society;

For his goodness, kindness, gentleness, and for his toughness; and

We give thanks to God even for his tenaciousness on the golf course which made him better than most of us even there!

We are here to say thanks to God for the continuing influence of Don. And we are here to say "Thanks be to God" for the eternal life and for the peace which now is his, free from any of the limitations of pain, disease, finiteness. We are here to say thanks be to God who gives us the victory!

2. And we also gather to seek help for ourselves—to open ourselves that God might provide strength, comfort, hope, peace to face these terrible-seeming hours.

3. And we also gather to give special support and care to Alison and Graham and others in the family. Alison, we do not know the proper words to say or the right things to do at times such as these. But we want you to know our deepest feelings of love, care, and compassion. And we promise our support to you in all ways.

4. And I trust we gather to examine our own values and to make some commitment about how we will use whatever life on this earth we have left to fill voids left by Don's death and to use every opportunity to strive to use our God-given life and freedom for the betterment of this world.

One of the ways God helps us at times such as these is through the Scriptures.

Robert McFarlane's Remarks in Memoriam of Don Fortier

When all is said and done, it is memories and lessons. It is how we live for having been his friend; it's whether we have understood and absorbed his creed:

Believe in God.
Love your family.
Serve your country.

What better legacy could there be but to have influenced others to be better than they are; to have those you leave behind remember what you did and because of it, be better than they were?

He was such a friend; such a sparkling example of what men and women can be if they care enough and accept their obligation to others.

Never give up, never stop caring about others; never stop listening; never stop learning. Never dominate but always lead.

So tomorrow and through all tomorrows what will we do? Shall we be content to say, too bad; what a loss? If we truly loved him, as he loved us, if we understand what moved him and should move us, then there must be more than memories and it must be reflected in our lives. That challenge is Don's gift to us.

Excerpt From "A Lone Stiker"

He knew another place, a wood,
And in it, tall as trees, were cliffs;
And if he stood on one of these,
'Twould be among the tops of trees,
Their upper branches round him wreathing,
Their breathing mingled with his breathing.
If—if he stood! Enough of ifs!
He knew a path that wanted walking;
He knew a spring that wanted drinking,
A thought that wanted further thinking;
A love that wanted re-renewing.
Nor was this just a way of talking
To save him the expense of doing.
With him it boded action, deed.

The factory was very fine;
He wished it all the modern speed.
Yet, after all, 'twas not divine,
That is to say, 'twas not a church.
He never would assume that he'd
Be any institution's need.
But he said then and still would say,
If there should ever come a day
When striving seemed like to die
Because he left it in the lurch,
Or even merely seemed to pine
For want of his approval, why,
Come get him—for he knew where to go.—
Robert Frost.

Don Fortier Memorial Service—Remarks by Ambassador Paul D. Wolfowitz

On the desk of the President whom Don Fortier admired so much and served so well, there is a small sign that reads: "There is no limit to what a man can do, as long as he doesn't care who gets the credit." In some ways that maxim fits the surface that Don presented to the world and the style with which he went about his work, but that surface was only a partial reflection of the complex and extraordinary human being that lay behind it.

Don Fortier was an unusually nice guy. In a line of work where ambitions and animosities often get the better of people, he was generous, straightforward, modest, and uncommonly decent.

Don was particularly thoughtful of the people who worked for him and of the younger associates who, in many ways, became his students and are part of his legacy.

But Don did not accomplish the things he did just by being nice. Don combined unusual ambition, a powerful mind, a deep love for family, friends, and country and a strong faith in God, in a way was very rare and that leaves behind him a large void.

Don's heroes were Abraham, Lincoln and Winston Churchill and he did not merely admire them from a distance. He aspired to be like them, to be able to help his country in a time of great danger. He was constantly seeking to grow, to acquire new knowledge, new skills and new experience, in order better to prepare himself.

Don had enough perspective to view this ambition of his with a certain degree of humor, but deep down he took it very seriously. And with the opportunities that were available and with the considerable abilities he possessed, he did everything in his power to make this a safer world and to make this country and what it stands for more secure.

I knew Don for more than 10 years, starting when he was still a student of Albert Wohlstetter's at the University of Chicago. I confess that his quiet manner led me, like so many others, to underestimate him at first. But as I watched what he accomplished in public life, I quickly learned not to be surprised by what Don could do.

Don first made his mark from a position that few would consider one of great influence. It's not that Members of the House of Representatives do not sometimes have a large influence over foreign policy—and certainly everyone knows how influential congressional staff are. But to be a Republican staffer in the House of Representatives really should have been too much of a handicap. Undaunted, Don persevered and had a large impact in many areas. One was arms control in general, and particularly the Nuclear Non-Proliferation Act of 1978, many of whose important features were Don's handiwork. Another was the landmark action by the Congress that same year to lift the arms embargo on Turkey. Early on, Don recognized the vital importance of that issue, and with the persistence and tenacity that were among his trademarks, worked to persuade Congress Members of the importance of the interests that were at stake. Don had great faith in the power of reason, even through he knew how many other things come into play in politics. When he felt that some of the most important arguments in this debate weren't being adequately heard, he had some large charts made up to illustrate the points with graphs and maps. On the day of the vote, the charts were displayed prominently in the cloak room. At least in this case, Don's faith was vindicated and the embargo was lifted by a handful of votes.

It was my privilege to have Don work with me when he joined the State Department about 6 years ago as Deputy Director of the Policy Planning Staff. His contributions were large on Subjects as diverse as human rights policy and the President's Middle East peace initiative. It was at State also that Don began to work on Central America, on Libya, on Indo-Pakistani nonproliferation and on a number of other issues that he later pursued so effectively when he moved on to the NSC.

This range was one of the remarkable things about Don, the way he could keep mastering new subjects and extending his reach. More and more, he was able to see the different pieces of the foreign policy picture in a strategic whole and articulate the broad relationships between arms control and regional conflict or between the U.S. interest in democracy and the more concrete concerns of our foreign policy.

But while Don picked up new interests, he always retained the old ones. Once he grasped something he rarely dropped it. For tenacity was one of Don's trademarks. Tenacity and courage. He had the courage to pursue subjects that others might consider unfashionable, just because he was convinced they were important. He had the courage to hold dissenting views, even though the goal he always sought was a reasoned consensus.

Don showed the same courage in facing the trial of the last few months. Despite his terrible illness, his spirit was still the same—not bitter or complaining as he had every right to be but persistent. Tenacious, deter-

mined to keep working and to keep fighting. And with an indomitable sense of humor.

Don married well. His dedication, his decency, and his courage are shared by Alison, who shared so many joys with Don. It is Alison and the children who have lost the most with the death of this wonderful man. Perhaps it will be of some consolation to know how deeply that loss is felt by so many others.

THE ENVIRONMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 8, 1986 into the CONGRESSIONAL RECORD.

THE ENVIRONMENT

The immediate tasks of improving the environment are clear. Abandoned hazardous waste sites have been ignored for years, and 250 million tons of new hazardous waste are produced annually in America. Water resources are threatened by runoff, pesticides, herbicides, and maritime spills. Drinking water is threatened by chemical poisons that are slowly leaking into the soil as a result of dangerous waste disposal practices. Thousands of potentially unacceptable pesticides and chemicals are still in use, exposing farm and factory workers and the people who eat and use their products. A thousand new chemicals are introduced annually, but we cannot regulate more than a few dozen each year. Acid rain has poisoned lakes and forests all over the country. Scores of cities are not meeting the standards and deadlines of the Clean Air Act or the Clean Water Act. Manmade pollutants accumulating in the upper atmosphere could seriously disrupt future climatic patterns. Wilderness areas are threatened, and soil erosion continues at unacceptable rates. Through development, some 250,000 acres of wetlands are lost each year that provide wildlife refuge as well as recreation, livelihood, and water supply for millions of Americans.

Every year there is more pollution, but there is not more air, land, or water. Intelligent and sensitive concern for the environment becomes steadily more essential. I have always found strong support for cleaning up our air and water. Most public opinion polls consistently show that Americans favor greater spending to clean up the environment. Few argue that we should cut back on our environmental investment. Most Americans ask what will we do when we need safe water in the future if we do not act now to protect our surface and ground water. They have learned how enormously expensive it is to clean up Love Canal and other toxic waste sites compared to what it would cost to dispose of those chemicals properly to begin with. They know that if we do not control now the toxins in our air and water that have a slow cumulative effect, we will only bring more suffering to ourselves in the future.

Our country has been blessed with a bountiful environment which has nourished our prosperity. Americans feel the need for responsible and productive stewardship of our land and resources. yet my sense is that the promise of a clean environment remains unfulfilled. Environmental policy-making is slowing down to a near paralysis. Key legislation is in limbo, and every proposal meets bitter opposition. It has been very difficult in the Congress to develop a consensus on the means, pace, and financing of cleaning up the air, land, and water. Major legislation has stalled on hazardous waste cleanup, clean water programs, acid rain, and pesticide review, and final action is uncertain. Part of the delay is due to strong disagreements between Congress and the President over policy and funding issues. Government has a special difficulty acting on slowly-developing problems, such as the "greenhouse effect", in which the problem develops almost imperceptibly, but eventually could produce a crisis. Environment laws are enforced unevenly, pollution control standards are issued slowly or not at all, and the vigor of the Environmental Protection Agency has decreased. Many of the rules issued by the EPA are challenged in court, and it frequently experiences extended delays in putting anti-pollution efforts into effect. There is also growing evidence that voluntary compliance with environmental laws, the cornerstone of any law enforcement program, is slackening. The entire process has slowed down. We are not dealing effectively with the problems. Several changes must be made.

We need to improve environmental decisionmaking. Part of the difficulty is the complexity of environment problems, but the stalemate can only be broken if there is confidence that governmental efforts to carry out environmental laws will be done equitably, and if the mistrust and polarization between environmental groups and industry is reduced. The process of dealing with pollution has become bogged down; decision-making drags out for years. Process is substituting for decisions, and the result is that the environment is not getting cleaned up. No one wants to see an environmental czar, but there has to be a better way to make timely decisions that have some finality. We must move away from litigation and confrontation. We must develop an environmental agenda and pursue it virorously. Moreover, we must improve our capability to anticipate and cope with slowly emerging envoronmental problems.

Our efforts will be more effective if we are careful to state clear and realistic goals. We spend a lot of money in this country—one estimate putting it as high as $70 billion a year—to control air, water, and land pollution, but I do not think we really know whether we are getting our money's worth. It is hard to find out whether we are making progress, how fast we are making it, where we are not making progress, and why we are not.

The credibility of our environmental protection agencies must be maintained. Environmental protection should be non-partisan and non-political. Voluntary compliance with environmental rules is essential and so is improved implementation. Using economic incentives in non-crisis situations could also improve enforcement. We must identify the problems, carefully review the scientific evidence, and involve all of the parties in order to produce a good solution. Regulations and rules should not be arbitrary, but based on the best available scientific information.

A clean enviroment and a productive economy are not contradictory goals. A vital economy depends on the well-being of the labor force and the availability of high quality resources. Even with severe budgetary constraints, the immediate costs of pollution prevention and quick action to clean-up our environment are small compared to the future costs of curing the effects of today's negligence. We must be concerned not just for the present but also for the future. A clean environment is desirable, practical, possible, and essential. But it does require tough choices and decisive action.

TRIBUTE TO HOWARD C. MENZEL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to Howard C. Menzel, the county clerk-recorder of Santa Barbara County, CA, who will retire next January after nearly 30 years of service to the county.

Howard has been county clerk since December 1, 1973, and has presided over all of my elections to Congress in Santa Barbara County, for which I can only say, "thank you." Howard himself has been elected to three terms to that office, in 1974, 1978, and 1982. Prior to assuming that office, he was assistant county clerk for 15 years, having risen to that position from an administrative analyst position in the clerk's office.

Howard is an alumnus of the University of Wisconsin, from which he earned three degrees, bachelor of philosophy, bachelor of law, and doctor of laws. He was on active duty in the U.S. Army during World War II, serving 1½ years overseas. He retired from Reserve duty as a major in 1967.

Howard has been active in civic organizations, and is a past master of La Cumbre Masonic Lodge of Santa Barbara, past president of the Santa Barbara County Chapter of the American Heart Association, and past president of the Kiwanis Club of Santa Barbara Suburban. Professionally, he has been president of the County Clerks Association of California, 1983–85, director of the California Public Emoloyees Federation, 1970–73, and chairman of the board of directors of the Santa Barbara County Employees Retirement Association, 1971–74.

Mr. Speaker, Howard Menzel has served his Nation, and the county, in exemplar fashion, and I am certain will enjoy a pleasant and distinguished retirement with his wife, Maria, and in the company of his three sons and grandchildren. And I would like to extend on behalf of the Congress our best wishes for his continued health and happiness.

INTRODUCTION OF THE "PENSION LOSERS" BILL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. CLAY. Mr. Speaker, today I, along with 22 of my colleagues, am introducing the Pension Restoration Act of 1986, better known as the "Pension Losers" bill.

Across the country there are approximately 80,000 workers who had earned the right to pension benefits from their employers, but whose pension plans terminated before 1974 without providing them with the retirement income for which they had worked. Although their employers had promised pensions to them upon their retirement, abuse and mismanagement had all too often left insufficient assets to fulfill these promises.

It was the heartrending stories of these workers which led Congress in 1974 to enact the Employee Retirement Income Security Act [ERISA] which established minimum standards for the protection of workers covered under private pension plans and set up the Pension Benefit Guaranty Corporation [PBGC] to federally insure the pension benefits of vested workers whose pension plans terminated after 1974. Unfortunately, ERISA did not take effect until its date of enactment, September 1, 1974. This left the pensions of the thousands of retired vested workers whose pension plans had terminated before September and whose stories had led to the enactment of ERISA unprotected by the new Federal law.

This bill seeks to remedy this inequity by assisting those workers whose pension plans terminated prior to 1974. Under the Pension Restoration Act, the finite number of retirees who had earned the right to pension benefits under their pension plans and whose pension plans terminated before September 1, 1974, would receive an annual annuity of $75 multiplied by the number of years they had worked toward a pension. For example, a worker who had 20 years of service under a pension plan would be entitled to an annual payment of $1,500. This relief is minimal compared to the contributions these workers made to their pension plans and which they would have received if their pension plans had not been terminated. The bill provides needed income to these workers while realistically taking into account current Federal financial resources.

The beneficiaries of this legislation worked long and hard to earn pension benefits. They looked forward to and planned for their retirement based upon the income their pensions would provide. Through no fault of their own their pension plans were terminated. As we are all too well aware, the high cost of living has affected the lives of all Americans, but it has had a particularly severe impact on the thousands of retirees who had earned a right to a pension from their employers, but who have not received it. Social Security is not enough to be the sole source of an individual's retirement income, yet for 80,000 pension losers a Social Security check constitutes their total monthly income.

The Federal Government is the only entity which can provide relief for these individuals. The Pension Restoration Act offers minimal, yet needed relief, to these hard-working Americans.

EXPLANATORY STATEMENT ON THE PROPOSED COMPROMISE AGREEMENT ON H.R. 5299

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MONTGOMERY. Mr. Speaker, yesterday the House passed and sent to the Senate House amendments to the Senate amendments to H.R. 5299, the Veterans' Benefits Improvement and Health Care Authorization Act of 1986. The House amendments to the Senate amendments comprise the proposed compromise agreement reached with the leadership of the Senate Veterans' Affairs Committee on some 70 items relating to benefits and services for veterans.

Yesterday, during debate on the bill, Mr. HAMMERSCHMIDT and I discussed the major provisions of the agreement and at this time I would like to share with my colleagues a more detailed statement on the issues involved:

EXPLANATORY STATEMENT ON THE PROPOSED COMPROMISE AGREEMENT ON H.R. 5299, THE PROPOSED VETERANS' BENEFITS IMPROVEMENT AND HEALTH CARE AUTHORIZATION ACT OF 1986

This document explains provisions of various measures (listed below) passed by the Senate and House of Representatives and the provisions of a compromise agreement between the Senate and House Committees on Veterans' Affairs on those provisions, which will be offered as a proposed House amendment to H.R. 5299 as amended and passed by the Senate on September 30, 1986. The differences between these various bills and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The bills referred to above are as follows:

H.R. 2343, the proposed "Veterans' Compensation Benefits Amendments of 1985", as passed by the House on May 20, 1985 (hereinafter referred to as "H.R. 2343").

H.R. 2344, the proposed "Veterans' Housing and Memorial Affairs Amendments of 1985", as passed by the House on May 20, 1985 (hereinafter referred to as "H.R. 2344").

S. 1887, the proposed "Veterans' Compensation and Benefits Improvement Act of 1985", as passed by the Senate on December 2, 1985 (hereinafter referred to as "S. 1887").

H.R. 4345, a bill to authorize the establishment of a national cemetery in or near Cleveland, Ohio, as passed by the House on June 10, 1986 (hereinafter referred to as "H.R. 4345").

H.R. 2798, a bill to prohibit discrimination against members of the Reserves in hiring, as passed by the House on June 17, 1986 (hereinafter referred to as "H.R. 2798").

H.R. 4384, a bill to modify the authority for veterans' readjustment appointments, as passed by the House of June 17, 1986 (hereinafter referred to as "H.R. 4384").

H.R. 5047, a bill to eliminate gender-based language distinctions in title 38, as passed by the House on August 4, 1986 (hereinafter referred to as "H.R. 5047").

H.R. 5299, the proposed "Veterans' Compensation Amendments of 1986", as passed by the House on August 4, 1986 (hereinafter referred to as "H.R. 5299").

H.R. 4333, a bill to create presumptions of service connection for certain disabilities of former prisoners of war, as passed by the House on August 6, 1986 (hereinafter referred to as "H.R. 4333").

H.R. 4623, the proposed "Veterans' Health-Care Amendments of 1986", as passed by the House on August 6, 1986 (hereinafter referred to as "H.R. 4623").

S. 1887, as amended and passed by the House on August 15, 1986, (hereinafter referred to as the "House-passed S. 1887").

H.R. 4345, as amended and passed by the Senate on September 20, 1986 (hereinafter referred to as the "Senate amendment to H.R. 4345").

S. 2422, the proposed "Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986", the text of which was agreed to by the Senate on September 30, 1986, as an amendment to H.R. 5299 (hereinafter referred to as "S. 2422").

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

Disability compensation

H.R. 5299 (sections 101–103) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability, to increase the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30-percent or more disabled, and the annual clothing allowance for certain disabled veterans. The House bill would increase such rates and allowances by 2 percent. S. 2442 (section 101), in a freestanding provision, would require the Administrator of Veterans' Affairs to adjust these rates by the same percentage as that provided to Social Security recipients and VA pension beneficiaries effective December 1, 1986. Both the House and the Senate bills would require that increases be rounded to the nearest dollar and would be effective December 1, 1986.

The compromise agreement (sections 101 through 103) would, if a Social Security increase is granted effective December 1, 1986, amend chapter 11 to increase, effective December 1, 1986, such rates and allowances by 1.5 percent, with increases rounded to the nearest dollar.

The Committees note that the first concurrent Budget Resolution for fiscal year 1987, approved by the Congress on June 27, 1986, assumes a Social Security cost-of-living adjustment of 2 percent. The most recent economic assumption of the Congressional Budget Office released in August 1986, relating to the Consumer Price Index from the third quarter of fiscal year 1985 through the third quarter of fiscal year 1986, anticipates an increase of 1.3 percent. The Committees agreed that an increase of 1.5 percent in these rates and allowances and the DIC rates would provide an increase consistent with their assessment of the likely increase in the cost of living.

Dependency and indemnity compensation

H.R. 5299 (sections 104 through 106) would amend chapter 13 of title 38, relating to dependency and indemnity compensation for service-connected deaths, to increase, effective December 1, 1986, rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected. The House bill would increase such rates

by 2 percent. The Senate bill (section 101 of S. 2422), in a freestanding provision, would require the Administrator of Veterans' Affairs to adjust the rates by the same percentage as that provided to Social Security recipients and VA pension beneficiaries effective December 1, 1986. Both the House and Senate bills would require that increases be rounded to the nearest dollar and would be effective December 1, 1986.

The compromise agreement (sections 104 through 106) would, if a Social Security increase is granted effective December 1, 1986, amend chapter 13 to increase, effective December 1, 1986, such rates by 1.5 percent, with increases rounded to the nearest dollar.

Improved benefits for former prisoners of war

Both H.R. 4333 and S. 2422 (section 102) would amend section 312(b) of title 38, relating to disabilities of former prisoners of war which are presumed to be service connected for purposes of disability compensation if they become 10 percent disabling, even though there is no record of the disability during the veterans' service. The House bill would add the organic residuals of hypothermia, spastic colon, and arthritis due to trauma to the list of disabilities which are presumed to be service connected and would amend section 612(b)(1)(G) of title 38, relating to dental care for a former prisoner of war, to reduce, from 6 months to 90 days, the period a former prisoner of war must have been detained or interned in order to receive the dental services specified in section 612(b)(1). The Senate bill would add the residuals of frostbite (in the case of veterans held in conditions where frostbite was possible), post-traumatic osteoarthritis, and, in the case of former POW's with a service-connected, compensable psychiatric condition, irritable bowel syndrome to the list of disabilities which are presumed to be service connected.

The compromise agreement (section 108) contains the Senate provision except that the reference to irritable bowel syndrome is deleted.

Special consideration for loss of paired organs or extremities

H.R. 2343 (section 3), but not Senate bill, would amend section 360 of title 38, relating to special consideration of certain non-service-connected disabilities as service-connected when the service-connected loss of one organ is combined with the non-service-connected loss of the paired organ. Under current law a veteran with service-connected blindness in one eye, loss or loss of use of a kidney, or total deafness in one ear, who also sufferes the non-service-connected blindness, total deafness, or loss or loss of use of a kidney in the matched organ will receive compensation as though the loss of both is service connected. In the case of kidneys. the service-connected loss must severly involved the other kidney and the combined disability must result in total disability.

The House bill would add the following disabilities to the conditions given this special consideration: First, lungs, if the service-connected disability is at least 50 percent disabling and permanent; and, second, the service-connected loss of a hand or foot when matched with the non-service-connected loss of the paired hand or foot. In addition, in the case of kidneys, the House bill would eliminate the current requirements that the combined disability be total, and require only that there be involvement between the service-connected and non-service-connected loss or loss of use. The House bill would also repeal section 314(t) of title 38, which provides special monthly compensation to veterans with the service-connected loss or loss of use of an extremity when combined with the non-service-connected loss of the paired extremity and provides that an increase in compensation paid under section 314(t) be withheld in the case of a veteran who receives a judicial award or a non-judicial settlement for damages for the non-service-connected disability.

The compromise agreement (section 109) contains these provisions with an amendment making applicable to all awards made under section 360 after the date of enactment a provision similar to the provision in section 314(t) requiring withholding of the increase where the veteran has received a judicial award or a non-judicial settlement. This withholding provision would, by virtue of its reenactment in section 360, apply continuously to "paired extremity" cases (currently awarded under section 314(t)).

Taxation of compensation

Both H.R. 2343 (section 4) and S. 1887 (section 108) would express the sense of the Congress that payments to veterans as compensation for service-connected disabilities remain exempt from Federal income tax. The House bill would also urge the President to reject taxation of compensation as part of any proposal for tax reform.

The compromise agreement does not contain this provision.

The Committees note that neither the President's tax reform proposal nor H.R. 3838, the Tax Reform Act of 1986 passed by the Congress in September 1986, provide for the taxation of compensation.

TITLE II—HEALTH CARE AND MEDICAL FACILITIES

PART A—HEALTH-CARE PROGRAMS

Respite care pilot program

Both H.R. 4623 (section 2) and S. 2422 (section 203) contain provisions relating to the provision of respite care for certain veterans.

The House bill would amend section 610 of title 38, relating to eligibility for hospital, nursing home, and domiciliary care, and section 612 of title 38, relating to eligibility for outpatient care, to authorize the Administrator to provide respite care to certain veterans. Under the House bill, the Administrator would be authorized to provide respite care, defined as hospital care, nursing home care, or hospital-based home care furnished on an intermittent or temporary basis, to a veteran who is suffering from a chronic illness and who is receiving care at home or in a hospice program.

The Senate bill would amend subchapter II of chapter 17 of title 38, relating to eligibility for hospital, nursing home or domiciliary care and medical treatment, to add a new section 620C to authorize the Administrator to conduct a pilot program, during the period October 1, 1986, through September 30, 1990, under which the VA could furnish respite care services to any veteran who has a service-connected disability which is compensable in degree and who is receiving VA medical services. Under the Senate bill, respite care is defined as hospital or nursing home care which (1) is of limited duration, (2) is furnished in a VA facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home, (3) is intended to help the veteran continue to reside at home, and (4) does not adversely affect the range of services, the quality of care, or the priorities for care furnished to other veterans. The Administrator would be required, if the pilot program were implemented, to evaluate the medical and health-related efficacy and cost-effectiveness of furnishing respite care and submit to the Committees by February 1, 1990, a report on the experience under the program.

The compromise agreement (section 201) would amend subchapter II of chapter 17 of title 38, relating to hospital, nursing home, and domiciliary care and medical treatment, to provide the Administrator with the authority during the period October 1, 1986, through September 30, 1989, to furnish respite care services to veterans otherwise eligible for VA hospital, nursing home, or domiciliary care. Under the compromise agreement, the definition of respite care would follow the first three criteria of the Senate bill and, as under the Senate bill, the Administrator would be required to submit, by February 1, 1989, to the Committees a report on the implementation of this authority.

The Committees emphasize that the provision of respite care services is not intended to affect adversely the range of services, the quality of care, or the priorities for care furnished to other veterans.

Home health services

S. 2422 (section 201), but not the House bill, would amend section 601 of title 38, which sets forth definitions for purposes of chapter 17 of title 38, relating to VA health-care eligibility, to specify that, in the case of a veteran who is not residing in either a VA facility or in the veteran's home, the term "home health services" includes services furnished to a veteeran in any setting in which the veteran is residing but does not include the furnishing of any structural improvements or alterations in such setting. The Senate bill would also, in a freestanding provision, restate the VA's existing authority to contract for home health services. The Administrator would be required to submit, 6 months after the date of enactment, a report to Congress on the current and proposed use of these authorities.

The compromise agreement (section 202) is derived from this provision. It permits the Administrator to furnish home health services in any setting in which the eligible veteran is residing. The compromise prohibits the provision of such services in a manner so as to relieve a contractural obligation to provide such services and the furnishing of structural improvements or alterations in any setting other than the veteran's home.

The Committee understands that the services provided under this authority may include the training, by home health services providers, of veterans receiving home health services to enable such veterans to live more independently. Such training may include training in personal care, nutrition, cooking, and other matters.

The Committees intend that where a VA home health services team finds it necesary to furnish a veteran in a contract facility with services that the facility is expected to furnish in the normal course (such as general nursing services furnished in a community nursing home), the VA consider seeking a reduction in the per diem it is paying for that patient or review the advisability of continuing to place veterans in that facility.

Continuation of certain counseling services for a deceased veteran's family members

S. 2422 (section 206), but not the House bill, would further amend section 601 of

title 38, relating to the definition of "medical services" for the purposes of VA health care, to authorize the VA, in cases in which a veteran's family members were receiving counseling or other mental health services from the VA in connection with the veteran's care and the veteran dies unexpectedly or while participating in a VA hospice program, to continue to furnish such counseling services for up to 6 months after the veteran's death.

The compromise agreement (section 203) contains this provision with an amendment specifying that the counseling may be furnished for "a limited period of time" following the veteran's death and also authorizing such services for family members of veterans who were receiving counseling prior to the veteran's death when the veteran was receiving services similar to hospice service.

The Committees note that the VA would be authorized to offer such services after a veteran's death only to family members who had been in a formal counseling relationship with the VA prior to the veteran's death.

Transition period for readjustment counseling centers

Both H.R. 4623 and S. 2422 include provisions relating to the status of the VA's readjustment counseling program which is carried out pursuant to section 612A of title 38. H.R. 4623 (section 3) would extend by 1 year, until September 30, 1989, the date by which the Administrator would be required to complete a one-year transition of the readjustment counseling program, as required by section 612A(g), from a program offered primarily in free-standing facilities, known as "Vet Centers", to a program offered primarily in VA medical facilities. The House bill would also extend by 1 year, until April 1, 1988, the date by which the VA is required to have completed and sent to the Congress a report on an evaluation of the effectiveness of readjustment counseling services and would extend by 1 year, until July 1, 1988, the date by which the VA is required to have completed and sent to the Congress a report on the plans for the required one-year transition of the readjustment counseling program.

S. 2422 (section 210) would extend the transition period from 1 to 2 years, ending on September 30, 1989, and require that the transition be carried out gradually over the 2-year period. The Senate bill would also extend by 1 year, to October 1, 1987, the deadline for a report on the study, as mandated by Public Law 98-160, of the prevalence and incidence in Vietnam veterans of post-traumatic stress disorder (PTSD) and other post-war psychological problems. In light of the change in the due date for the report on the study, the Senate bill would also modify the two reporting requirements described above to specify that, if the results of the PTSD study are not available by the due dates of those studies (April 1, and July 1, 1987), they are to be prepared and submitted taking into consideration whatever information from the study is then available. The Senate bill would further amend the April 1, 1987, study provision to require the Administrator to provide an evaluation as to whether or not veterans of other wars have needs that would be met by services offered under section 612A. The Senate bill would also add to section 612A(g) a new report from the Administrator to be submitted to the two Committees on Veterans' Affairs by February 1, 1989, on the experience under the first year of the transition, together with any recommendations for change to the transition requirement.

The compromise agreement (section 204) contains a provision derived from these provisions. Under the agreement, the transition period would be extended from 12 months to 24 months ending on September 30, 1989, and the transition would be required to be gradual. The agreement also would modify the two reporting requirements described above to specify that, if the report, as mandated under Public Law 98-160, of the prevalence and incidence of post-traumatic stress disorder and other post-war psychological problems in Vietnam veterans is not completed by the due dates, the reports are to be prepared and submitted taking into account whatever information from that study is then available. The agreement would further require the Administrator, not later than February 1, 1989, to submit to the Committees a report on the experience under as much of the transition as was carried out prior to September 30, 1988, including such recommendations, if any, as the Administrator considers appropriate in light of that experience.

Effect of payment for therapeutic and rehabilitation activities on pension entitlement

S. 1887 (section 503), but not the House bill, would amend section 618 of title 38, relating to therapeutic and rehabilitative activities, to exclude any remuneration provided to individuals as a result of their participation in such activities, from being considered as income in determining eligibility for, or monthly rates of, non-service-connected disability pension paid under Chapter 15 of title 38.

The compromise agreement (section 205) is derived from this provision and would identify funds received by such individuals as a result of their participation in therapeutic or rehabilitative activities carried out under section 618 as "distributions" and provide that, for purposes of chapter 15 of title 38, these distributions be considered as donations from public or private relief organizations which under section 503(a)(1) of title 38 are not considered income for pension purposes.

The Committees expect that the VA will implement this provision in such a way as to not reduce the therapeutic and rehabilitative value of participation in the program to the veteran and will not alter any VA regulation, directive, policy, or practice relating to paying veterans for their participation in these activities.

Contracts and grants for medical care for United States veterans in the Republic of the Philippines

Both H.R. 4623 (section 4) and S. 2422 (section 208) would amend section 632 of title 38, relating to the furnishing of medical care to veterans in the Republic of the Philippines, to extend for 3 years, from October 1, 1986, through September 30, 1989, the VA's existing authority to contract with the Veterans Memorial Medical Center (VMMC) in Manila for the care and treatment of United States veterans in the Republic of the Philippines and would extend the VA's authority to make grants of up to $500,000 annually to the VMMC for the replacement and upgrading of its equipment and the rehabilitation of the physical plant and facilities. Under the Senate bill, any grants would be required to be made semi-annually at six month intervals. The VA would be required to submit the Committees a report on the use and expenditure of the grant funds provided in the most recent 6-month period prior to providing any additional funds for the subsequent 6-month period.

The compromise agreement (section 206) contains a provision derived from these provisions which would extend the VA's authorities by 3 years. The compromise agreement would require the Administrator to submit to the Committees by February 1, 1987, 1988, and 1989, reports on the previous fiscal year's expenditures of the grant funds and would ratify any action taken by the Administrator in contracting for the care and treatment of veterans in the Philippines during the period from October 1 to the date of enactment.

PART B—HEALTH-CARE ADMINISTRATION

Enforcement of State and local traffic laws by Veterans' Administration police officers

S. 2422 (section 211), but not the House bill, would amend section 218 of title 38, relating to laws and regulations enforced by VA police officers on VA property, to provide the Administrator with the authority to enter into agreements with State and local governments pursuant to which VA police officers would be able to enforce State and local traffic laws by issuing citations for any violations of these laws occurring on VA property.

The compromise agreement (section 211) contains this provision.

Regional Medical Education Centers

H.R. 4623 (section 7), but not the Senate bill, would amend section 4121 of title 38, relating to the designation of the VA medical centers as Regional Medical Education Centers (RMEC) for the continuing medical education and training of VA health care personnel, so as to make RMEC program permanent. The House bill would also delete the current requirement that RMEC training be conducted only on an "in-residence" basis and would clarify that RMEC training may be made available to other than direct-care providers, such as counseling psychologists and vocational rehabilitation specialists who are not technically direct care providers. The House bill would also allow the Administrator to enter into reciprocal training agreements for RMEC training with public and nonprofit private entities and would delete the current provision which requires that the VA be "fully reimbursed" for training provided to non-VA personnel and provide instead for giving credit for any other type of contribution by the organization sponsoring such participants.

The compromise agreement (section 212) contains this provision with an amendment permitting reimbursement in the form of reciprocal training of other than direct-care providers.

Period of obligated service under scholarship program

H.R. 4623 (section 8), but not the Senate bill, would amend section 4142(e) of title 38, relating to the obligated-service agreement which each participant in the VA's Health Professional Schorlarship program must execute, so as to change the method of calculating the period of obligated service required for part-time student-participants by requiring 6 months of service as a full-time employee for each calendar year or part of a calendar year in which the participant received scholarship support.

The compromise agreement (section 213) contains this provision.

Period of appointment of certain temporary and part-time health-care personnel

A. Temporary and Part-time Appointments

S. 2422 (section 216), but not the House bill, would amend section 4114(a) of title 38, relating to temporary full-time appointments and part-time appointments, to authorize the Administrator, under certain circumstances, to make temporary and part-time appointments for more than 1 year of certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses.

The compromise agreement (section 214(a)) contains this provision.

B. Licensure of psychologists

S. 2422 (section 213), but not the House bill, would amend section 4105(a) of title 38, relating to the qualification of Department of Medicine and Surgery employees, to provide the Administrator with the authority to waive the licensure or internship requirements, or both, for VA research psychologists who are to have no direct patient-care responsibilities.

The compromise agreement (section 214(b)) contains a provision derived from this provision. The compromise agreement would amend section 4114(d) of title 38, relating to temporary full-time and part-time appointments, to provide the Administrator with the authority to waive the licensure requirement for VA psychologists employed on a less-than-permanent, full-time basis in a research or academic position or in a position with no direct responsibility for the care of patients.

The Committees stress that no psychologists employed by the VA pursuant to this authority are to have any patient-care responsibilities.

Report on national drug file

S. 2422 (section 217), but not the House bill, contains a provision requiring the Administrator to report to the Committees within 90 days on the VA's plans to establish and maintain a national drug file.

The compromise agreement (section 215) contains this provision.

Study of Vietnam-era veterans psychological problems

S. 2422 (section 210), but not the House bill, would amend section 102 of Public Law 98-160 regarding the study of Vietnam veterans' postwar psychological problems by requiring the Administrator to pay an appropriate stipend to each individual participating in the study in order to promote the participation of a sufficient number of study subjects.

The compromise agreement (section 216) contains this provision.

PART C—FACILITY CONSTRUCTION AND PLANNING

Consideration of sharing Department of Defense facilities

S. 2422 (section 222), but not the House bill, would amend section 5004 of title 38, relating to the Committees' approval of the construction of VA facilities, to require the Administrator to describe in any prospectus submitted to the Committees in which the construction of a new or replacement facility is proposed what consideration was given to VA-DoD health-care resources sharing as a full or partial alternative to the new or replacement medical facility.

The compromise agreement (section 221) contains this provision with an amendment adding a requirement that the VA give consideration to VA-DoD sharing arrangements before initiating any major VA construction project.

Annual report on facilities construction

H.R. 4623 (section 9), but not the Senate bill, would amend section 5007(a) of title 38, relating to the Administrator's annual report on the construction, replacement, alteration, and operation of medical facilities, to require that that report be based upon the plans and recommendations of the Chief Medical Director.

The compromise agreement (section 222) contains a provision derived from this provision requiring that, before submitting the report, the Administrator consider the analysis and recommendations of the Chief Medical Director.

The Committees believe that the Chief Medical Director should have a major role in the VA medical facility construction planning process and sufficient staff resources to carry out this important function. The Committees note that the Chief Medical Director, with the support of the Department of Medicine and Surgery facilities planning staff, has traditionally developed the construction report to Congress.

Parking facilities

S. 2422 (section 221), but not the House bill, would amend section 5009 of title 38, relating to parking facilities at VA medical facilities. Under the Senate bill, the VA would be required to establish and collect reasonable parking fees at all parking facilities used in connection with a VA medical facility where a garage is constructed, acquired, or altered at a cost of more than $500,000 (or leased for more than $100,000/year), and opens or is completed after September 30, 1986. Paid parking would be discretionary at all other VA medical facilities. Where a fee schedule is established, all individuals would be charged for parking, except for veterans and other eligible individuals seeking treatment, volunteer workers, and employees covered by certain existing union contracts that prohibit the charging of parking fees. Where mandated, fees should be required to recover, at a minimum, the operation of maintenance costs of all parking facilities at a VA medical facility.

The Senate bill would authorize the appropriation of funds into a parking revolving fund to finance parking facility construction, alteration, acquisition, and operation and maintenance costs. After September 30, 1986, the source of funds to be expended for construction, alternation, or acquisition of a garage would be limited to the revolving fund, except for construction planning costs and construction projects for which funds were appropriated prior to fiscal year 1987, which would continue to be funded from construction appropriation accounts. Operation and maintenance costs would be funded from either the revolving fund or from the medical care appropriation account. The Senate bill also would provide transition provisions for employees covered by collective bargaining agreements that, on the date of enactment of the bill, prohibit the VA from charging parking fees.

The compromise agreement (section 223) contains this provision with the following modifications: References to the charging of minimum fees sufficient to recover operation and maintenance costs of parking facilities and the authorization of appropriations to, the expenditure of funds from, and the establishment of a separate checking account in, the revolving fund for operation and maintenance costs for parking facilities, are deleted. The provision which would mandate paid parking is also modified so that paid parking would be required only where parking facilities are built with funds from the parking revolving fund.

The Committee has received information from the Veterans' Administration in connection with the VA's draft proposal for a paid parking program at certain VA medical centers that it intends, if Congress requires some paid parking, to establish a minimal monthly parking-fee-of $20 per parking space for its employees. This proposal is premised on the VA's intent not to charge visitors a fee for parking. The Committees want to emphasize that section 5009 of title 38 as revised by the compromise provision would not exempt visitors from being charged fees for parking where a fee-parking program would be established, because the Committees feel that the costs of fee parking should be shared by visitors, as well as employees. The Committees also emphasize that the VA is authorized to adjust the rates to be established in fee schedules prescribed by the VA to take into account the special circumstances of frequent visitors to long-term patients, the desirability of encouraging employee car/van pools, varying employee pay levels, and night and weekend parking.

Revision of State Veterans' home construction grant program

Both H.R. 4623 (section 10) and S. 2422 (section 223) would amend section 5033 of title 38, relating to the State Veterans' Home construction grant program, to extend for 3 years, through September 30, 1989, the authorization of appropriations for grants to States for the construction, renovation, or acquisition of State Veterans' Home facilities. The House bill would authorize appropriations of $50 million for fiscal year 1987; $60 million for fiscal year 1988; and $65 million for fiscal year 1989. The Senate bill would authorize such sums as may be necessary for the program. The House bill would also remove the restriction of current law (section 5035(d)(2) of title 38) that a State may receive no more than one-third of the amount appropriated in any fiscal year for grants for State home facilities. Further, the House bill would require that priority be given State home grant applications from States which have appropriated sufficient funds for the State share of the project for which the grant application is made and from States which have no State home.

The Senate bill would eliminate the basis for a VA interpretation that current law requires the VA to use a "first-in/first-out" basis for awarding the grants and require the Administrator to prescribe regulations specifying a methodology to prioritize State home grant applications. The Senate bill would also repeal the authority for grants for the expansion of State home hospital facilities and (section 209) specify that VA State home per diem payments are not third party liabilities for Medicaid program purposes.

The compromise agreement (section 224), which is derived from these provisions, would extend for 3 years, through September 30, 1989, the authority for the appropriation of "such sums as are necessary" for State home facility grants; would remove the restriction that a State may receive no more than one-third of the amount appropriated for grants in any one fiscal year; and would eliminate the basis for a VA interpretation that current law requires grants to be awarded in order of the date on which appli-

cations are received. The agreement would also require that, effective July 1, 1987, the Administrator award grants according to a list of approved grant applications, in priority order, established as of July 1, of each year for awards to be made for the subsequent fiscal year. The priorities would be required to be as follows: First, applications for which the State portions of the funding for the projects have been appropriated and are available; second, applications from States that do not have any State home facilities; third, applications from States that have the greatest need for nursing home or domiciliary beds as determined by criteria and procedures specified by the Administrator in regulations; and, fourth, applications meeting any other criteria as determined by the Administrator and specified in regulations. Also, under the compromise agreement, a grant for a hospital-expansion project could be awarded only after all nursing home and domiciliary projects are funded. The Administrator would be required to prescribe regulations, not later than April 1, 1987, for the implementation of the State Home provisions in the compromise agreement.

The Committees intend that a State be considered to meet the requirement for the first priority (having appropriated funds) if sufficient funds have been made available by the State so that construction or acquisition of the facility may proceed upon the approval of the grant without further action by the State in providing funding for the project. In addition, the Committees note that they intend no change in the implementation of present paragraph (2) of section 5035(b) of title 38 (paragraph (5) of section 5035(b) as proposed to be amended) regarding deferral of a current fiscal year approval of an application when the State has not provided adequate financial support for construction of the project by July 1.

PART D—MISCELLANEOUS

Modification of certain reporting requirements

Both H.R. 4623 and S. 2422 would repeal or modify certain provisions of title 38, requiring reports to be submitted to the Congress or the President by the Administrator of Veterans' Affairs. The House bill (section 6) would extend from 2 to 4 years the interval between VA reports on pay comparability for VA physicians and dentists required under section 4117(g)(2) of title 38. The Senate bill would extend that interval from 2 to 3 years. The House bill (section 14) would repeal the requirement under section 612(b)(4) of title 38 for the Administrator to report on contract dental expenditures. The Senate bill would eliminate this report for any year for which the information on expenditures for this program is included in the VA portion of the President's budget. The House and Senate bills would delete the requirement, in section 5057 of title 38, of a report on the exchange of medical information programs authorized under section 5054 of title 38. The Senate bill, but not the House bill, would eliminate the report required under section 201(c)(3) of title 38 on equitable relief.

The compromise agreement (section 231) contains the House provision on the special pay report and the Senate provision on the contract dental care report and would eliminate the requirement for a report on the VA's exchange of medical information program. The agreement does not contain the Senate provision to eliminate the reporting requirement concerning equitable relief.

Ionizing radiation registry

Both H.R. 4623 (section 11) and S. 2422 (section 212) contain provisions requiring the Administrator to establish and maintain an "Ionizing Radiation Registry" which would include the names of veterans who were exposed to ionizing radiation during their participation in the U.S. atmospheric nuclear weapons test program or the occupation of Hiroshima or Nagasaki after World War II who apply for VA health care or compensation (or whose survivors apply for dependency and indemnity compensation (DIC) based on such exposure). Under both bills, the Registry would include certain medical data, compensation claims data, and radiation dose-estimate information related to each veteran listed in the Registry. The Administrator would be required to compile and consolidate for inclusion in the Registry information from the Department of Medical and Surgery, Department of Veterans' Benefits, Defense Nuclear Agency, and other relevant VA or Department of Defense offices.

The compromise agreement (section 232) contains this provision.

The Senate bill, but not the House bill, would specify that, unless a veteran or the veteran's survivor makes a specific request, the Administrator is not required to include in the Registry the name of any veteran who applied for VA health-care services or filed a claim for compensation or whose survivor filed a claim for DIC prior to the date of enactment.

Under the compromise agreement, the Administrator would be required to include, to the extent feasible, the name of any veteran who may have been exposed to ionizing radiation even though the veteran applied for health-care services or compensation benefits (or the veteran's survivors filed a DIC claim) prior to the date of enactment and did not request that his or her name be included in the Registry.

The House bill, but not the Senate bill, would require the Administrator to conduct outreach to provide those veterans exposed to ionizing radiation with information regarding the Registry.

The compromise agreement does not contain this provision.

It is the Committees' intent, however, that the Administrator exercise his authority under section 241 of title 38 to provide outreach services to these veterans to provide them with information about the Registry.

Requirement for Medicare hospitals to participate in Veterans' Administration contract health-care program

S. 2422 (section 214), but not the House bill, would amend section 1866(a)(1) of the Social Security Act, relating to the terms to which hospitals must agree in order to receive Medicare payment for inpatient care provided to Medicare beneficiaries, to add a requirement that, for inpatient care provided in connection with hospital admissions after January 1, 1987, such hospitals accept as payment for VA fee-basis patients amounts to be determined by the Secretary of Health and Human Services and the Administrator of Veterans' Affairs. The Secretary of Health and Human Services would be required to report to the Congress periodically on the number of hospitals that, as a result of this new requirement, terminate their eligibility to receive Medicare payments and the Administrator of Veterans' Affairs would be required to report by April 1, 1987, to the Veterans' Affairs Committees regarding the implementation of this new provision. Thereafter, the Secretary and Administrator would be required to notify the Committees if a hospital's eligibility to receive Medicare payments were, as a result of this new requirement, to be terminated. In H.R. 3500, the House-passed legislation which became the Consolidated Omnibus Budget Reconciliation Act of 1985, now Public Law 99-272, section 10024 contained similar provisions without the requirement for joint regulations.

The compromise agreement (section 233) contains this provision with a revised effective date of June 30, 1987. The Committees expect the Adminstrator and the Secretary to work together to ensure that payment amounts are adequate.

Prohibition against excessing certain Veterans' Administration properties

H.R. 4623 (section 13), but not the Senate bill, would prohibit the Administrator from declaring as excess or taking any other action to dispose of certain specified real property located at two VA medical centers in California. The House bill would also provide that if any of the property is under the jurisdiction of another federal agency on the date of enactment the property must be transferred back to the VA.

The compromise agreement (section 234) is derived from this provision. The compromise agreement would render ineffective any VA action taken before January 1, 1988, in connection with declaring the properties as excess, or with transferring them, relinquishing the VA's interest in them, or disposing of them.

Report on treatment and services for chronically mentally ill veterans

S. 2422 (section 202), but not the House bill, would amend subchapter II of chapter 17 of title 38, relating to hospital, nursing home, and domiciliary care and medical treatment, to add a new section 620B to provide the Administrator with the authority to contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for certain eligible veterans suffering from chronic mental illness. A veteran would be eligible to receive such care if, at the time of referral to a contract facility, the veteran (1) was receiving VA hospital, nursing home or domiciliary care for a chronic illness disability, or (2) had a service-connected disability rated at 50 percent or more and has a chronic mental illness disability. The Administrator would be required to approve the quality and effectiveness of the program in a facility before referring veterans to it and to designate a VA health-care employee to provide case-management services for each veteran receiving care under this authority. The Administrator would also be authorized to provide in-kind assistance to a contract facility provided that the VA was reimbursed for the assistance. The Administrator would be required, 3 years after the date of enactment, to submit to the Committees a report on the experience under these authorities.

The compromise agreement is generally derived from this provision. The compromise agreement (section 235) requires the Administrator to submit, not later than December 15, 1987, a report to the Committees on the implementation of the VA's existing contract care authorities and the VA's expanded home health services authority (section 202 of the compromise agreement) for eligible chronically mentally ill veterans.

The Committees support the VA's development of a demonstration project in Region 1 of VA's Department of Medicine and Surgery to provide, when medically appropriate and otherwise feasible, community-based treatment services for eligible chronically mentally ill veterans and expect that the report required by the compromise agreement will include information about the implementation of such a demonstration project. The Committees note that in a June 20, 1986, letter they requested the VA, among other things, to conduct two reviews and evaluations. The first would involve a review of the VA's patient population, particularly elderly veterans and chronically mentally ill veterans, currently receiving services in VA facilities to determine what percentage, if any, of the patients could receive needed care in noninstitutional settings if appropriate alternatives were available. The second review would be of the types of health and health-related services and alternative health-care settings that would enable veterans to avoid the institutional care that the VA would otherwise furnish them. The Committees direct the Administrator to take into account the findings of the reviews and evaluations in implementing the contract care and home health services authorities.

Designation of Veterans' Administration Medical Center in Phoenix, Arizona

SD. 1887 section 511, but no House bill, would name the Veterans' Administration Medical Center in Phoenix, Arizona, the "Carl T. Hayden Veterans' Administration Medical Center".

The compromise agreement (section 236) contains this provision.

PROVISIONS NOT INCLUDED

Disciplinary boards for medical personnel

H.R. 4623 (section 5), but not the Senate bill, would amend section 4110(a) of title 38, relating to disciplinary boards for medical personnel, to limit the use of such boards to cases involving proposed disciplinary actions involving (1) suspensions exceeding 14 calendar days, (2) demotions involving a loss of grade or pay, or (3) discharges of employees.

The compromise agreement does not contain this provision.

Pilot program on hospital management efficiency

H.R. 4623 (section 12), but not the Senate bill, would require the Administrator to carry out a 3-year pilot progam under which the directors of 5 medical centers, to be selected by the Administrator in consultation with the Committees on Veterans' Affairs of the Senate and House of Representatives, would have the authority to waive or alter laws or regulations, specified in each case by the directors, relating to the operation of VA medical centers. The Administrator would be required to submit to the Congress annual reports on the program.

The compromise agreement does not contain this provision.

Outpatient clinic, New Jersey

H.R. 4623 (section 16), but not the Senate bill, would require the Administrator to establish and operate a VA outpatient clinic in central or southern New Jersey.

The compromise agreement does not contain this provision.

Pilot program of noninstitutional alternatives to institutional care

S. 2422 (section 204), but not the House bill, would require the Administrator to conduct a 4-year pilot program, at not less than 5 nor more than 10 demonstration projects, under which veterans eligible for and otherwise in need of VA hospital, nursing home, or domiciliary care, would instead receive care, including health-related services from non-VA entities, in non-institutional settings. Priority for participation in the program would be accorded to veterans with service-connected disabilities, to veterans who are 65 or older, to veterans who are totally and permanently disabled, to veterans who, by reason of blindness in both eyes, have only light perception or are in need of regular aid and attendance, and to veterans who are suffering from dementia, including Alzheimer's disease. The VA would be required to provide case-management services for all veteran-participants.

The compromise provision does not contain this provision.

Services to overcome service-connected disability affecting procreation

S. 2422 (section 205), but not the House bill, would amend section 601 of title 38, relating to the definition of "medical services" for purposes of VA health care, to provide the Administrator with the authority to furnish medical services to a service-connected veteran or the spouse of a service-connected veteran to achieve pregnancy in cases in which the veteran's service-connected disability causes the veteran's inability to procreate.

The compromise provision does not contain this provision.

The Committees note that the House Committee intends to explore the need for such authority in hearings next year.

Eligibility for domiciliary care

S. 2422 (section 207), but not the House bill, would amend section 610(b) of title 38, relating to eligibility for domiciliary care, to provide the VA with the authority to provide such care to veterans who are in need of domiciliary care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

The compromise provision does not contain this provision.

Organization of the department of medicine and surgery

S. 2422 (section 215), but not the House bill, would amend section 4103(a) of title 38, relating to the organization and staffing of the Office of the VA's Chief Medical Director, to establish one new position in that office (a second Associate Deputy Chief Medical Director), to allow new flexibility in the appointment of health-care professionals other than physicians to positions in that office, and to require that appointees to positions in that office be qualified in the administration of health services.

The compromise agreement does not contain this provision.

The Committees note that the House Committee intends to puruse this issue in hearings next year.

TITLE III—EDUCATION AND EMPLOYMENT

PART A—EDUCATION

Apprenticeship or other on-job training under the new GI bill

S. 1887 (section 201), but no House bill, would amend section 1402 of title 38, relating to the definition of a program of education for purposes of chapter 30 of that title, the New GI Bill, to permit individuals training under the New GI Bill to pursue programs of apprenticeship or other on job-training. During the first 12 months of a veteran's participation in such training, the veteran's training allowance would be paid in an amount equal to the full amount of the veteran's educational assistance allowance. For such training pursued beyond that 12-month period the allowance would be paid at the rate of one-half of the full amount of the educational assistance allowance. The veteran's entitlement would be charged based on the amount of the allowance paid.

The compromise agreement (section 301) contains this provision with an amendment to provide that benefits are paid at 75 percent of the full-time rate during the first six months of training, 55 percent of the full-time rate during the second six months of training, and 35 percent of the full-time rate during any subsequent months of training.

The Committees note that section 101 of H.R. 3747, the proposed "Veterans' Education Amendments of 1986", as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986, contained a comparable provision.

Educational assistance for correspondence courses under the new GI bill

S. 1887 (section 203), but no House bill, would amend section 1434 of title 38, relating to the administration of the New GI Bill program, to permit individuals training under the New GI Bill to pursue a program of education through home study.

The compromise agreement (section 302) contains this provision.

Advisory committee amendments concerning new GI bill; provisions relating to reduction of pay

S. 1887 (section 204), but no House bill, would amend section 1792 of title 38, relating to the VA's advisory committee on education, to add to the responsibilities of the committee responsibility for making recommendations to the Administrator with respect to the New GI Bill.

The compromise agreement (section 304) contains this provision with an amendment to name the committee the "Veterans' Advisory Committee on Education". The naming provision is derived from section 104 of H.R. 3747, the proposed "Veterans' Education Amendments of 1986", as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986, which would similarly expand the responsibilities of the advisory committee.

S. 2422 (section 113), but no House bill, would further amend section 1792 of title 38, to delete a requirement that the advisory committee include representatives of veterans of World War II and the Korean Conflict.

The compromise agreement does not contain this provision.

In addition, the compromise agreement (section 303) contains a provision clarifying that the difference between the amount of basic pay received by a participant in the New GI Bill and the basic pay received by other new servicemembers, shall revert to the Treasury and shall not be considered as ever having been received by the new GI Bill participant or to have been within the participant's control. This provision would take effect with respect to reductions made after December 31, 1985, and is derived from section 103 of H.R. 3747, relating to the establishment of a New GI Bill Educational Assistance Fund, as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986.

Certification under new GI bill

For a discussion of this provision in the compromise agreement (section 305), see discussion of section 319, below.

Bar to duplication of benefits

S. 2422 (section 112), but no House bill, would amend present section 1433(a)(1) of title 38, relating to the bar to duplication of VA educational assistance paid to a veteran eligible for benefits under the New GI Bill, to extend the bar to prohibit a veteran from concurrently receiving benefits under that program of educational assistance and under the Hostage Relief Act of 1980.

The compromise agreement (section 306) contains this provision with an amendment that would require individuals who serve in the Selected Reserve and who establish eligibility for benefits under the New GI Bill and under a program of educational assistance established under chapter 106 of title 10, United States Code, to elect under which program of benefits service is to be credited. This amendment is derived from section 106 of H.R. 3747, as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986. The Committees note that section 110 of H.R. 3747 contains a provision comparable to the Senate provision.

Adjustment of delimiting period for individuals entitled to certain combined benefits

S. 1887 (section 202), but no House bill, would amend section 1411(a)(1)(B) of title 38, relating to the period of time in which benefits earned under the New GI Bill may be used, to provide that, in the cases of individuals who are eligible for educational assistance under both the Vietnam-era GI Bill (chapter 34 of title 38) and the New GI Bill and who had left active duty after December 31, 1976, and reentered prior to the enactment of the New GI Bill on October 19, 1984, the delimiting periods for their use of the combined form of chapter 30/chapter 34 benefits (under section 1415(b) of title 38) would be reduced by the amount of time they had been out of the service.

The compromise agreement (section 307) contains this provision.

Work-study allowance under the new GI bill and the post-Vietnam era veterans' educational assistance program

S. 1887 (section 205), but no House bill, would further amend section 1434 of title 38 and also amend section 1641 of title 38, relating to the administration of the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) (chapter 32), and section 1685, relating-to-the VA's work-study program, so as to permit veterans training under the New GI Bill or VEAP to participate in the work-study program.

The compromise agreement (section 308) contains this provision.

Termination of enrollments in the post-Vietnam era veterans' educational assistance program

The House amendment to S. 1887, as passed by the House on August 15, 1986, would amend chapter 32 of title 38, the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP), to terminate that program for new enrollments, effective July 1, 1985.

The compromise agreement (section 309) contains this provision with an amendment providing that, notwithstanding the termination of VEAP, any individual on active duty in the Armed Forces who was eligible to enroll in VEAP on June 30, 1985, may enroll in this program prior to April 1, 1987, and requiring the Department of Defense to notify servicemembers, to the maximum extent feasible, of this extended opportunity for participation in VEAP.

On-job training under the post-Vietnam era veterans' educational assistance program

S. 1887 (section 206), but no House bill, would amend various provisions of chapter 32 of title 38, relating to VEAP, and add to that chapter a new section 1633, entitled "Apprenticeship or other on-job training", to permit individuals training under VEAP to pursue programs of apprenticeship or other on-job training with benefits paid in a manner similar to that proposed for under the New GI Bill (see discussion of section 301, above).

The compromise agreement (section 310) contains this provision with an amendment relating to the rate at which benefits are to be paid to conform with the manner in which benefits are to be paid for this type of training under the New GI Bill (see the same discussion).

Duration of and limitations on entitlement to post-Vietnam era veterans' educational assistance

S. 1887 (section 207), but no House bill, would amend section 1632 of title 38, relating to the delimiting period for the use of VEAP benefits, to provide, in the case of a veteran who has been prevented from initiating or completing a program of education under VEAP because of a physical or mental disability not the result of the veteran's own misconduct, for the extension of the basic 10-year delimiting period by an amount of time equal to the amount of time that the disability prevented the veteran from pursuing a program of education.

The compromise agreement (section 311) contains this provision.

Educational and vocational counseling

S. 1887 (section 208), but no House bill, would amend section 1663 of title 38, relating to educational and vocational counseling under various VA educational assistance programs, to require that veterans rated incompetent by the VA be provided with educational and vocational counseling prior to their selection of a program of education or training under chapter 30, 32, or 34.

The compromise agreement (section 312) contains this provision.

Delimiting period under the survivors' and dependents' educational assistance program

S. 1887 (section 209), but no House bill, would amend section 1712 of title 38, relating to the period of time during which benefits may be paid to an eligible spouse under the Survivors' and Dependents' Educational Assistance Program (chapter 35), to allow an eligible spouse to elect, subject to the Administrator's approval, a date for beginning the 10-year period of chapter 35 eligibility that is earlier than the date on which the VA made the eligibility determination but not earlier than the date of the event that created the spouse's eligibility.

The compromise agreement (section 313) contains this provision.

Elimination of the requirement for an education plan for survivors and dependents

S. 1887 (section 210), but no House bill, would amend section 1720 of title 38, relating to educational and vocational counseling for survivors and dependents training under the chapter 35 program, to delete the requirement that an educational plan be submitted by a parent or guardian on behalf of a child before benefits are awarded to the child.

The compromise agreement (section 314) contains this provision.

Measurement of certain noncollege degree courses

S. 1887 (section 211), but no House bill, would amend section 1788 of title 38, relating to the measurement of courses as full time or part time for the purposes of payment of VA educational assistance allowances, to permit measurement in a manner comparable to courses or individual classes that are part of programs leading to a standard college degree of both (1) a non-college degree program that is offered by an accredited institution of higher learning and is in the same general field with predominantly the same curriculum as a degree program offered by the same institution, and (2) individual classes leading to a standard college degree that are required as part of a non-college degree program.

The compromise agreement (section 315) contains this provision with an amendment permitting only courses offered by a fully-accredited institution to be measured in this manner.

Payment of educational assistance for certain less-than-half-time training

S. 1887 (section 212), but no House bill, would amend section 1780 of title 38, relating to payment of VA educational assistance allowances for less-than-half-time training, to require that payment of educational assistance allowances for less-than-half-time training be made not later than the end of—rather than during—the month following the month in which an enrollment certification is received.

The compromise agreement (section 316) contains this provision.

Prohibition of benefits under more than one educational assistance program

S. 1887 (section 213), but no House bill, would amend section 1781(b) of title 38, relating to certain restrictions on educational assistance benefits, to bar concurrent receipt of benefits for different programs of education pursued under two or more VA-administered educational assistance programs.

The compromise agreement (section 317) contains this provision.

The Committees note that section 110 of H.R. 3747 contains a provision comparable to the Senate provision.

Reporting requirements for educational institutions

S. 1887 (section 214), but no House bill, would amend section 1784 of title 38, relating to certain reporting requirements applicable educational institutions under VA educational assistance programs, to permit the institutions to delay until the end of the term, quarter, or semester in submitting the certification of the enrollment of eligible VA students in the case of independent study pursued on a less-than-half-time basis, when there is no feasible means for the institution to monitor changes in or termination of enrollments.

The compromise agreement (section 318) contains this provision with an amendment requiring an educational institution to notify veterans at the time of enrollment if such a procedure is being used.

Prohibition of a term-by-term certification requirement

S. 1887 (section 215), but no House bill, would further amend section 1784 of title 38 to prohibit the implementation of any requirement that an educational institution

certify the enrollment of VA students every term or semester for purposes of receipt of VA educational assistance.

The compromise agreement (section 319) contains this provision.

The compromise agreement (section 305) also amends section 1434 of title 38, relating to program administration under the New GI Bill, to conform to this prohibition. This amendment is derived from section 105 of H.R. 3747, as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986, which would prohibit the VA from requiring monthly certifications of enrollments of VA students under the New GI Bill.

Commission To Assess Veterans' Education Policy

S. 1887 (section 216), but no House bill, would establish a Commission on Veterans' Education Policy (with representatives of the education community, the VA, the VA's Advisory Committee on Education, and the Congress) to study, and to submit within 18 months a report on, issues relating to the administration of VA educational assistance programs, including, but not limited to (1) the need for distinctions between certificate and degree courses, (2) measurement of the pursuit of training, (3) the vocational value of correspondence training, and (4) innovative and nontraditional programs of education.

The compromise agreement (section 320) contains this provision with an amendment requiring that the members of the Commission be appointed by March 1, 1987, and that the Commission's study and report include consideration of courses that result in the achievement of continuing education units.

Technical and clerical amendments

S. 1887 (section 217) would make a series of minor technical amendment to provisions of title 38 relating to VA programs of educational assistance.

The compromise agreement (section 321) contains these provisions with an amendment adding certain other technical amendments. The latter amendments are derived from section 110 of H.R. 3747, as ordered reported by the House Committee on Veterans' Affairs on July 29, 1986.

PART B—EMPLOYMENT AND OTHER PROGRAMS

Employment Rights of Certain Individuals

H.R. 2798, but no Senate bill, would amend Section 2021(b)(3) of title 38, relating to retention in employment or promotion of individuals who are members of a Reserve component of the Armed Forces, to provide protection against discrimination for such members in initial employment.

The compromise agreement (section 331) contains this provision.

Veterans' readjustment appointments

H.R. 4384 and S. 2422 (section 104) would amend section 2014(b) of title 38, relating to veterans' readjustment appointments, to extend the authority for such appointments. H.R. 4384 would extend the authority through December 31, 1991. S. 2422 would extend the authority through September 30, 1988. In addition, H.R. 4384 would increase the maximum grade level at which appointments may be made from GS-9 to GS-11, eliminate the 14-year education limitation applicable to Vietnam-era veterans who do not have a service-connected disability, and provide that a service-connected disabled veteran of the Vietnam era who has more than 14 years of education shall be given preference for an appointment over other Vietnam-era veterans who have more than 14 years of education.

The compromise agreement (section 332) contains a provision extending the authority for veterans' readjustment appointments for 3 years and 3 months, through December 31, 1989, with no further changes in the program.

Extension of program of independent living services and assistance

S. 2422 (section 103), but no House bill, would amend section 1520(a) of title 38, relating to the VA's pilot program of independent living services and assistance, to extend the program for 3 years (fiscal years 1987 through 1989) for veterans who have service-connected disabilities so severe that achievement of a vocational goal is *currently* not reasonably feasible, make certain conforming changes, and require the Administrator to provide statistical data to the Committees on Veterans' Affairs, not later than February 1, 1989, regarding participation in the program by veterans during fiscal years 1987 and 1988, along with any recommedations for administrative or legislative action.

The compromise agreement (section 333) contains this provision. In addition, the compromise agreement would remove the word "pilot" from the title of the program.

TITLE IV—HOUSING PROGRAMS AND NATIONAL CEMETERIES

PART A—HOUSING

Specially adapted housing

Both S. 1887 (section 301) and H.R. 2344 (section 5) would amend sections 801 and 802 of title 38, relating to specially adapted housing grants for certain disabled veterans, to provide that such grants are also to be made to eligible disabled veterans (with service-connected blindness or loss or loss of use of both hands) to assist in the acquisition of a residence already adapted with special features determined by the Administrator to be necessary for the veteran by reason of the veteran's disability. The maximum amount of such grants would be equal to the lesser of the fair market value of the special features or $6,000.

The compromise agreement (section 401) contains this provision.

Credit underwriting and loan processing standards

S. 1887 (section 302), but no House bill, would amend section 1810 of title 38, relating to loans guaranteed by the VA for the purchase or construction of a home, to require the Administrator to prescribe regulations which establish credit underwriting standards to be used in evaluating VA home loans, and standards to be used by lenders in obtaining credit information and processing VA home loans. Under the Senate bill, the Administrator would be required to establish credit underwriting standards that include debt-to-income ratios, criteria for evaluating the reliability and stability of the veteran applicant's income, and procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payments. Such standards would be required to be in accordance with the loan underwriting principles and application procedures generally accepted and used by commercial lending institutions with respect to loans with comparable security arrangements. Lenders making VA-guaranteed loans would be required to certify that the loan was made in compliance with the credit information and loan processing standards established by the Administrator. The Senate bill would provide for a civil penalty (the greater of twice the VA's loss or an amount up to $10,000) to be paid by any lender who knowingly and willfully makes a false certification with respect to compliance with these standards. The Administrator would be given the authority to waive the credit underwriting standards if the Administrator determines that a veteran applicant is a satisfactory credit risk. Finally, under the Senate bill, the Administrator would be prohibited from making loans for the purchase of a property unless the purchaser meets the credit underwriting standards established for VA-guaranteed loans.

The compromise agreement (section 402) contains these provisions with an amendment deleting the requirement for credit standards for VA-guaranteed loans to be the same as those used by lending institutions for non-VA loans with comparable security agreements.

Foreclosure information

S. 1887 (section 304), but no House bill, would amend section 1816 of title 38, relating to procedures on default on VA-guaranteed home loans, to require additional action by the Administrator and holder of a VA-guaranteed loan. Under the Senate bill, the holder of a VA-guaranteed loan would be required to promptly notify the Administrator of any failure of the veteran to make, in full, 2 monthly payments. The Administrator would then be required to notify the veteran of the new requirement that the holder of a loan in default initiate foreclosure proceedings within 15 days after the veteran has failed to make, in full, 4 monthly payments. The Senate bill would also relieve the VA of liability for interest accrued on a loan in default between the time when foreclosure proceedings were required to have been initiated and such time as they are. Finally, under the Senate bill, the Administrator would be required to identify the common factors contributing to defaults on VA-guaranteed loans and include the findings in this regard in the VA's annual report to Congress.

The compromise agreement (section 403) is derived from the Senate bill.

The compromise agreement would require the Administrator to identify the common factors contributing to defaults on VA-guaranteed loans and include findings in this regard in the VA's annual report to the Congress and require a separate analysis, and reporting thereon, of delinquent loans which had previously been assumed by another party.

Competitive contracting requirements

S. 1877 (section 305), but no House bill, would amend section 1820(b) of title 38, relating to contract requirements for services and supplies, to conform the threshold amount at which contracts must be formally advertised to the amount specified in section 5 of title 41, United States Code.

The compromise agreement (section 404) contains this provision.

Authority to transfer funds

S. 1887 (section 305), but no House bill, would amend section 1823 of title 38, relating to the Direct Loan Revolving Fund (DLRF), to require the Secretary of the Treasury to transfer from the DLRF to the Loan Guaranty Revolving Fund such funds as the Administrator determines are not needed in the DLRF, and to require the Administrator to notify Congress when such transfers take place.

The compromise agreement (section 405) contains this provision.

Use of attorneys in home loan foreclosures

S. 1887 (section 307), but no House bill, would amend section 1830(a) of title 38, relating to the use of attorneys in court, to authorize the Administrator to acquire the services of fee-basis attorneys, without the concurrence of the Attorney General, to exercise the right of the Federal government to bring suit to foreclose a VA-guaranteed loan and/or to recover possession of any property acquired by the VA.

The compromise agreement (section 406) contains this provision.

Appraisals

S. 1887 (section 308), but no House bill, would further amend chapter 37 of title 38 to add a new section 1831, relating to value appraisals of property that would secure loans made or guaranteed by the VA. Under the Senate bill, the Administator would be required to prescribe standardized examinations and qualifications to be used in determining whether to approve an appraiser to make appraisals on a fee-basis for the VA. The Administrator would also be required to consult locally with representatives of the mortgage lending community for the purposes of developing and maintaining lists of appraisers approved to appraise property for the VA, and to select appraisers on a rotating basis for that purpose. After the appraisal is performed, the Administrator would be required to provide a copy of the appraisal report to the prospective lender before issuing a Certificate of Reasonable Value (CRV) for that property. Under the Senate bill, the lender would have the option of requesting a second appraisal to be performed by an approved VA fee-basis appraiser of the lender's choice which would be required to be considered by the Administrator prior to the issuance of a CRV. Finally, the Senate bill would require the Administrator to establish fee limitations for appraisals that are not below the prevailing market rates.

The compromise agreement (section 407) is derived from these provisions. Under the compromise agreement, the Administrator, after consultation with representatives of the mortgage lending community, would be required to prescribe uniform qualifications to be met by appraisers performing appraisals for the VA. The compromise agreement contains the provisions concerning the development and maintenance of the lists of approved appraisers, and the rotating selection process. The agreement also contains the provisions allowing for a second appraisal to be furnished to the Administrator by the proposed lender, but prohibits the cost of such appraisal to be incurred by the prospective veteran purchaser. The compromise provides that the veteran be afforded the same opportunity at the veteran's expense to provide the Administrator with an additional appraisal performed by an approved VA appraiser. Under the compromise agreement, the VA would issue a CRV after the initial appraisal is performed, and if, within a specified length of time prescribed by the Administrator, a second appraisal is provided to the VA, the VA would consider the appropriateness of issuing a revised CRV. Finally, the provision relating to minimum fees to be paid to appraisers is deleted.

The Committees note that nothing in this provision is intended ot change current law, or VA regulations or practices, with respect to the VA's use of its own staff appraisers.

Furnishing information to real estate professionals to facilitate the disposition of properties

S. 1887 (section 309), but no House bill, would further amend chapter 37 of title 38 to add a new section 1832 requiring the Administrator to furnish to real estate brokers and other real estate professionals information on the availability of property for disposition and the procedures used by the VA to dispose of such property.

The compromise agreement (section 408) contains this provision.

Home loan origination fee

H.R. 2344 (section 6), but no Senate bill, expresses the sense of the Congress that the 1-percent loan origination fee currently charged under section 1829 of title 38 to veterans using their VA loan guaranty entitlement should not be increased as has been proposed by the Administration.

The compromise agreement (section 409) contains a provision derived from this provision. Under the compromise agreement, the Congress makes no findings with regard to the 1-percent loan origination fee and simply expresses the sense of the Congress that the fee should not be increased above the 1-percent level. The agreement also reflects that current law calls for section 1829 of title 38 to sunset on October 1, 1987.

Loan guaranty amount

S. 1887 (section 303), but no House bill, would amend sections 1810 and 1811 of title 38, relating to the maximum amount of land-guaranty entitlement available to eligible veterans, to increase such entitlement from $27,500 to $33,500.

The compromise agreement does not contain this provision.

Task force on property management and disposition

S. 1887 (section 310), but no House bill, would require the Administrator to establish a task force for the purpose of developing effective methods for the exchange of information between the VA and the real estate community on efficient property management and dispositon and to advise the Administrator on ways to improve the manner in which the VA manages and disposes of property.

The compromise agreement does not contain this provision.

The Committees recognize that the VA is currently working to establish more effective property management and disposition practices and intends to closely monitor its efforts.

Property management and disposal pilot program

S. 1887 (section 311), but no House bill, contains a provision relating to a property management and disposition pilot program. Under the Senate bill, the Administrator would be required to contract with one or more commercial organizations for the purpose of determining the effectiveness, feasibility and desirability of contracting with such organizations to manage and dispose of VA-acquired property.

The compromise agreement does not contain this provision.

The Committees recognize that the VA is currently taking steps to examine the possibility of implementing such a program.

Acquisition of foreclosed properties

S. 2422 (section 111), but no House bill, would amend section 1816 of title 38, relating to procedures on default and foreclosure, to prohibit the Administrator from accepting conveyance of the title to a property securing a VA-guaranteed loan which has been foreclosed unless the Administrator determines that the VA is likely to be able to sell such property within 12 months after the date of foreclosure at a price which is economically advantageous to the government.

The compromise agreement does not contain this provision.

However, the Committees did receive from the Congressional Budget Office an estimate of the cost of implementing such a provision. The CBO estimate indicated that the provision would be cost effective, and for that reason that Committees intend to monitor the VA's property acquisition practices and to request the Congressional Budget Office to undertake an economic assessment of the VA's current practice in this regard and of the effects of such a provision.

PART B—NATIONAL CEMETERIES

National cemetery grave markers

Both S. 1887 (section 401) and H.R. 2344 (section 3) would amend section 1004 of title 38, United States Code, relating to the administration of the National Cemetery System, to specify what types of grave markers are to be used. The House bill would require that, with respect to markers for the graves of persons who die after September 30, 1985, all markers in National Cemeteries be upright except where a request is made for a flat marker; in the case of such request, the individual would be buried in cemetery sections required to be designated for graves with flat markers. The House bill would also provide that during the period October 1, 1985, through December 31, 1985, the Administrator could waive the requirement for upright markers in the cases of individuals being buried during that period in a cemetery having no section designated for graves with upright markers and could deny requests for flat markers in a cemetery having no section designated for flat markers. Finally, the House bill would require that, not later than January 1, 1986, the Administrator designate in each National Cemetery an area where flat markers are to be used and an area where upright markers are to be used.

The Senate bill would generally require that after June 30, 1986, all new markers in National Cemeteries be flat, but would require that (1) the Administrator designate space in each National Cemetery (except for those established before January 1, 1986, in which upright markers have never been used) for the use of upright markers, and (2) in the case of an individual who dies after July 1, 1986, an upright marker be used if a request were made for one and space were available in a designated section.

The compromise agreement (section 411) would require upright markers in all National Cemeteries for interments which occur after January 1, 1987, with two exceptions. First, the requirement for upright markers would not apply to cemeteries closed or scheduled to close prior to September 30, 1991, as indicated in the VA materials submitted in justification of the President's budget for fiscal year 1987. Second, the compromise would permit the Administrator to continue to furnish flat markers in an open section where flat markers are being used on the date of enactment, until the section is completed.

Reports on the National Cemetery System

Both S. 1887 (section 402) and H.R. 2344 (section 2) would amend section 1000 of title

38, relating to the National Cemetery System, to require certain reports on the system. The House bill would require the Administrator to submit an annual report which would be required to include a 5-year plan for National Cemetery construction and expansion, a list of 10 areas n which the need for additional burial space for veterans is the greatest, and general plans for expansion of the system. The Senate bill would require the Administrator to submit two reports (one 18 months and one 60 months after enactment) on the National Cemetery System and to include in each a plan for operation of the system through the year 2000, trends through the year 2020, a list of 10 areas in which the need for additional burial space for veterans is the greatest, and general plans for any anticipated expansion of the system.

The compromise agreement (section 412) follows the Senate provision with the first report required within 90 days after the date of enactment.

Memorial areas in Arlington National Cemetery

S. 1887 (section 403), but no House bill, would amend chapter 75 of title 10, United States Code, to authorize the Secretary of the Army to place memorials in Arlington National Cemetery to honor the memory of certain servicemembers and veterans, otherwise eligible for burial in Arlington National Cemetery, whose remains are not available for interment.

The compromise agreement (section 413) contains a provision adding this authority to chapter 24 of title 38.

Authority to establish national cemeteries

Both H.R. 4345 and the Senate amendment to H.R. 4345 contained provisions relating to the establishment of certain national cemeteries. The House bill would authorize the Administrator to establish a national cemetery in or near Cleveland, Ohio. The Senate amendment would specify that the existing authority of the Administrator under chapter 24 of title 38 to develop and acquire cemeteries includes, but is not limited to, the authority to establish new national cemeteries to serve the needs of veterans and their families in 10 specified regions of the United States as well as in any State where there is no open national cemetery.

The compromise agreement (section 414) contains the Senate amendment.

Establishment of a national cemetery in northern California

H.R. 2344 (section 4), but no Senate bill, would require the Administrator to accept a donation of a certain tract of land in Merced County, California, and to establish a National Cemetery on such land.

The compromise agreement does not contain this provision.

The Committees note that the Administrator has decided administratively to take these actions.

TITLE V—ADMINISTRATIVE PROVISIONS

Clarification of requirement for a detailed plan and justification for administrative reorganization

S. 1887 (section 501), but no House bill, would amend section 210(b)(2) of title 38, relating to the manner in which the VA may undertake certain administrative reorganizations, to provide a definition of the "detailed plan and justification" which the VA must provide to the Congress before the VA is permitted to implement certain administrative reorganizations.

The compromise agreement (section 501) contains this provision.

Collocation of regional offices and medical centers

S. 1887 (section 506), but no House bill, would require the VA to submit a plan and timetable for the collocation as soon as practicable of 7 DVB regional offices to the grounds of VA Medical Centers. The VA would be required to report to the Congress on the costs and savings, advantages and disadvantages of such collocations. The report could also include an assessment of the advantages, disadvantages, and costs of combining regional offices located near each other.

The compromise agreement (section 502) contains this provision except that the plan must be submitted by March 1, 1987, the regional offices to be collocated must be located in the same metropolitan area as the Medical Center with which they would be collocated, and the authority for the VA report to assess the advantages and disadvantages of combining regional offices located near each other is deleted.

Effective date of discontinuance of certain benefits paid to incompetent individuals

S. 1887 (section 504), but no House bill, would amend section 3203(b)(1)(A) of title 38, relating to the interruption of benefit payments to incompetent institutionalized veterans without dependents due to the size of their estates. The Senate bill would increase, from $1500 to $6000, the amount allowed in such a veteran's estate before payment of compensation or pension would be interrupted. Under the Senate provisions, interrupted benefit payments would be resumed when the value of the estate falls to $200 rather than the $500 provided by current law.

The compromise agreement (section 503) is derived from this provision. The compromise agreement would amend section 3203 to make interruption of benefits effective on the first day of the month following the institutionalization of such an incompetent veteran without dependents.

Administrative debt collection by offset of benefits

S. 2422 (section 116), but no House bill, would amend section 3101 of title 38, relating to the non-assignability of benefits payable by the VA and limitations on the collection of debts by offset or otherwise, to permit the VA to collect, by means of offset from compensation or pension, certain overpayments in military retired or retainer pay, or overpayments resulting from participation in the Survivor Benefit Plan (SBP) or Retired Servicemen's Family Protection Plan (RSFPP). Such collection would be limited to veterans who would be in receipt of military retired or retainer pay were it not for their election to waive retired or retainer pay in order to receive VA disability compensation. The military service department must attempt collection and determine the debt to be uncollectable before requesting VA collection by means of offset.

The compromise agreement (section 504) contains this provision with an amendment limiting it to debts resulting from a retired servicemembers' failure to make required SBP or RSFPP payments.

The Committees note that, while the compromise agreement does not provide for collection of debts in retired or retainer pay accounts, such a provision would be reconsidered if submitted by the Administration as part of a package also providing for collection by the Department of Defense of debts owed by servicemembers or retirees to the VA as well as collection by the VA of debts owed to the Department of Defense.

Disclosure of financial information by fiduciaries

Both H.R. 5299 (section 201) and S. 2422 (section 114) would amend section 3202(b) of title 38, relating to financial information provided to the VA by fiduciaries entrusted with the management of the veterans' benefits of incompetent or minor beneficiaries, to make clear that the VA may suspend payments to a fiduciary who fails to provide the VA an accounting of all the funds and assets of the beneficiary which are known to the fiduciary.

The compromise agreement (section 505) contains this provision.

Location of VA regional offices

H.R. 2343 (section 2), but no Senate bill, would require the VA to maintain at least one VA regional Office in each state to process claims for disability and death compensation, pension, and educational benefits and to process applications for home loans.

The compromise agreement does not contain this provision.

The Committees note that this provision was initiated in response to an Administration proposal to consolidate the 58 current regional offices into 3 central locations. This consolidation proposal is apparently no longer under consideration, but the Committees express the view that a future proposal for such a consolidation would be viewed with disfavor.

Definition of active duty status for National Guard operational duty

H.R. 2343 (section 6), but no Senate bill, would amend section 101(22)(c) of title 38, relating to the definition of "active duty", to expand the definition of "active duty", for purposes of eligibility for benefits provided by title 38, to include active duty for training performed for operational purposes by National Guard members in Active Guard and Reserve and Active Duty Support status.

The compromise agreement does not contain this provision.

Definition of the Vietnam era

S. 1887 (section 502), but no House bill, would amend the definition of the Vietnam era in section 101(29) of title 38 to add the period from February 21, 1961, through August 4, 1974, in the case of veterans who served in the Republic of Vietnam during that period.

The compromise agreement does not contain this provision.

Waiver of waiting period for administrative reorganization

S. 2422 (section 115) would waive the waiting period prescribed by present section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, provides a report containing a detailed plan and justification for the reorganization—with respect to a reorganization involving the transfer of the Presidential Memorial Certificates (PMC) program from the VA's Office of Administration to the VA's Department of Veterans' Benefits (DVB) and of the Audio Visuals Service (AVS) from the VA's Office of Administration to the Office of the Associate Deputy Administrator for Public and Consumer Affairs.

The compromise agreement does not contain this provision.

The Committees note that on October 1, 1986, the VA transfer of the PMC program to DVB occurred and that, on September 26, 1986, the VA notified the Committees that it had decided to postpone the transfer of the AVS.

TITLE VI—EXEMPTION OF CERTAIN PROGRAMS FROM BUDGET REDUCTION

Treatment of certain veterans' programs under Balanced Budget and Emergency Deficit Control Act of 1985

H.R. 5299 (section 202), but no Senate bill, would add two new sections to title 38, United States Code, to exempt from across-the-board reductions under the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, or any other law requiring those kinds of general reductions, certain veterans' benefit programs, principally those available to veterans with service-connected disabilities. The House bill, effective with respect to fiscal year 1987 and subsequent fiscal years, would exempt from any such "sequestration" reduction under Public Law 99-177 the following VA benefits payable as the result of a disability which was incurred or aggravated during military service or a death resulting from a service-connected cause:

1. Specially adapted housing benefits and mortgage protection life insurance for veterans who require special accommodations in their home as a result of a service-connected disability.

2. Burial benefits for veterans who die as a result of a service-connected disability.

3. Grants for automobiles and adaptive equipment to permit veterans with severe disabilities to acquire or operate motor vehicles.

4. Vocational rehabilitation assistance for certain veterans with service-connected disabilities.

5. Educational benefits payable to dependents of veterans with service-connected disabilities rated totally disabling and to survivors of veterans who die of service-connected causes. The House bill would provide that the amounts for the payment of these exempted benefits would be excluded in the computation of the amount to be sequestered from an account from which any of the above benefits are paid.

The House bill would also exempt from sequestration, effective with respect to fiscal year 1986 and subsequent fiscal years, VA home loan guaranties and insurance policy loans under the various VA-administered life insurance programs. In addition, the House bill would exempt, effective with respect to fiscal year 1987 and subsequent fiscal years, the VA Special Therapeutic Rehabilitation Activities Fund and the Canteen Service Revolving Fund from any mandatory reduction under Public Law 99-177.

With respect to two programs, GI Bill education assistance and non-service-connected burial benefits, for which no exemption is proposed, the House bill would modify the manner in which any sequestration would be carried out in fiscal year 1987 or subsequent fiscal years. Instead of sequestration reductions being made in all payments made while a sequester order is in effect, as under current law, the reductions would be made in payments for education or training pursued, and for deaths that occurred, during the period that the order is in effect.

The compromise agreement (section 601) contains these provisions with an amendment limiting to only fiscal year 1987 the exemptions for vocational rehabilitation and survivors' and dependents' education benefits; postponing to fiscal year 1987 the effective date for the exemption for insurance policy loans; deleting the exemption for VA home loan guaranties; and requiring that, in the event of a sequester affecting the home loan guaranty program, the VA submit to the Committees a monthly report on the guaranty program's current and projected activity levels during the fiscal year involved. With the exception of the fiscal year 1987 exemption for dependents' and survivors' education benefits, S. 2885 as reported on September 27, 1986, by the Senate Committee contained provisions to exempt the same programs, as well as a provision to require the loan guaranty report.

In conjunction with the provision linking sequestration reductions in the non-exempt programs to the period during which the event giving rise to the payment occurred rather than the period during which payment is made, the compromise agreement would require that the amounts of the reductions which would occur after the end of the sequester period be counted in determining the benefit reductions required in order to satisfy the sequestration.

TITLE VII—MISCELLANEOUS

H.R. 5047, but no Senate bill, would amend various provisions of title 38 and other provisions of law to eliminate gender-based language distinctions and make technical corrections.

The compromise agreement (title VII) contains these provisions.

The Committees note that none of the amendments to eliminate gender-based language distinctions are intended to have a substantive effect.

FIREFIGHTERS TO BE HONORED AT NATIONAL MEMORIAL SERVICE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. WALGREN. Mr. Speaker, on Sunday, October 12, 1986, 122 career and volunteer firefighters who lost their lives in the line of duty during 1985 will be honored at the National Fallen Firefighters' Memorial located on the campus of the National Fire Academy in Emmitsburg, MD. Of these, 14 lived and worked in the Commonwealth of Pennsylvania.

Annually, on the Sunday immediately following National Fire Prevention Week, a ceremony is conducted at the National Fallen Firefighters' Memorial to pay tribute to those brave men and women of the fire service who died in the previous year. During this service, attended by family members and fellow firefighters from across the country, a plaque listing the name of each fallen firefighter is unveiled and made a permanent part of the memorial.

I hope you will join me in honoring the 122 firefighters who lost their lives in the noble tradition of unselfish service to their community. The names and addresses of the 14 Pennsylvania firefighters are listed below:

John F. Moore, Cochranton Volunteer Fire Department.

Robert Binder, Edinboro Volunteer Fire Department.

John C. Edwards, Hunlock Creek Volunteer Fire Company.

Phillip R. Eicke, Kingston Fire Department.

Carmen A. Lettieri, McKeesport Fire Department.

Katherine M. Hippensteel, New Oxford Fire Company.

H. Gordon Walker, Norristown Fire Department.

Donald G. Jacobs, Reading Bureau of Fire.

Francis C. Lewis, Russell Volunteer Fire Department.

John J. Durco, Sr., Salem Township Volunteer Fire Company 2.

Jack Greer, Spangler Volunteer Fire Company.

Frank Poatsy, Upper Salford Volunteer Fire Company.

Thomas J. Gibson, Union Fire Company.

Vernon H. Harmon, Valley Inn Volunteer Fire Department.

IN HONOR OF MONTY BASGALL

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. LEVINE of California. Mr. Speaker, last Sunday Monty Basgall ended his distinguished 14-year career as a coach with the Los Angeles Dodgers and his superb 27-year career with the Dodger organization.

During his service with the Dodgers, Monty has served as a scout, minor league manager, and major league coach.

For almost a decade and a half Monty has been a key ingredient in the Dodgers efforts to build one of the most successful and admired organizations in baseball. He is known as one of the finest teachers in the game. His star pupils have included Steve Garvey, Ron Cey, Bill Russell, Davey Lopes, Jim Lefebvre, and Ted Sizemore.

In addition to his impressive accomplishments as a coach, Monty had a distinguished playing career as a second baseman in Pittsburgh Pirates and Dodger organizations. I remember watching Monty when he was a second baseman with the Hollywood Stars. I have been cheering for him since I was 8 years old.

Mr. Speaker, Monty Basgall is a man I am proud to call my friend. He is a remarkable man and a recognized leader in his profession.

I ask my colleagues to join with me in paying tribute to Monty Basgall and wish him and his beautiful wife, Nita, well in their retirement and future endeavors.

FASTERS GIVE LIFE TO CONTRA DEBATE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. EDWARDS of California. Mr. Speaker, there are four men on the steps of the Capitol

who have made a moral commitment to ending our illegal war in Nicaragua. Charlie Litkey, Duncan Murphy, George Mizo, and Brian Wilson, all veterans of the Vietnam conflict and World War II, are fasting and praying for peace. These four men have all committed their lives to making a difference. I have met with these men, and was struck by their strength, sincerity, and determination. Americans need the good judgment and wisdom of these brave men.

The vast majority of the American people are opposed to U.S. involvement of any kind with the outlaw counterrevolutionaries of Nicaragua. The American people don't want to give the Contras money for gun running, kidnaping, and drug trafficking. These illegal acts contradict America's basic values of freedom, fairness, and the rule of law.

I am very grateful to Charlie, Duncan, George, and Brian, for their courageous stand has revitalized the debate on Contra aid. Yet, our time is short. Very rapidly, our involvement in Nicaragua is deepening. It is now time to reaffirm our strong opposition to this senseless war. The suffering must be stopped, and the quest for peace must be resumed with a new vigor.

I am proud to stand with these four Americans against our war in Nicaragua.

THE STOCKHOLM PACT: A STEP IN THE RIGHT DIRECTION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. GARCIA. Mr. Speaker, the recent signing of the pact in Stockholm on movement of troops in Europe by 35 European and North American nations did not signal the end of the cold war, but it was a positive step toward reducing East-West tensions.

As chairman of the North Atlantic Assembly's Civilian Affairs Committee, I have come to appreciate more fully how much that tension weighs heavily on our European allies, and how significant the pact is to their own sense of security. While we in the United States may look to the Helsinki accords as primarily a document on human rights, to our European allies it is much more. The Stockholm past is the fruition of that belief.

I am submitting for the RECORD an article from the September 28 edition of the New York Times on the pact for my colleagues' perusal. I think it gives a fair description of the importance of the Stockholm pact.

STOCKHOLM PACT IS "A BLOW FOR PEACE" AND REAGAN'S FRIENDS

(By James M. Markham)

There was an ambivalent mood of elation and anxiety in some European capitals last week. After almost three years of deliberation in Stockholm, diplomats from 35 nations had agreed to a landmark accord, dealing with the movements of military forces, that could make war less likely on the continent. This produced some elation.

"It's literally a blow for peace," remarked a top British foreign policy adviser, a man not given to gushing. Although not in itself a disarmament agreement, the Stockholm pact contains a precedent that could usefully apply to future arms-control understandings, between Moscow and Washington. For the first time, the Soviet Union has agreed to on-site inspections—in this instance, permitting observers from other nations to be flown into areas of military maneuvers to make sure that an attack is not imminent.

The 35 signatories—all the countries of Europe, east and west, except Albania, plus the United States and Canada—also promised to give notice six weeks in advance of military maneuvers involving at least 13,000 toops or 300 tanks. Five years ago, this provision would have made it awkward for the Soviet Union to hold the maneuvers it staged in Poland aimed at intimidating the militant Solidarity movement.

For skeptics, who recall that NATO observers at past Warsaw Pact exercises were handed glassless binoculars by their East European hosts, it remained to be seen how the three annual inspection challenges allowed each nation under the new pact would be implemented.

Agreement in Stockholm had nearly foundered after the Soviet delegation refused to countenance a proposal that foreign planes fly observers to the sites of maneuvers. When the American delegation dug in on this point, Chancellor Helmut Kohl and Prime Minister Margaret Thatcher intervened with President Reagan, urging flexibility. The British and West German leaders recalled that an American hard line had sabotaged a 35-nation human rights gathering at Bern in May, making it difficult for them to persuade home audiences that America stood on the side of East-West cooperation. Mr. Reagan gave the word to relent on the airplane issue, and the way was cleared for a breakthrough.

These frictions hint at the differing American and West European perceptions of the so-called "Helsinki process," which was initiated in the Finnish capital in 1975 when heads of state and government signed a Final Act that turned out to be the high-water mark of détente. The Stockholm and Bern conferences—and a full-scale review conference that assembled for the first time in Vienna last week—are all offspring of the Final Act.

Yet, particularly after Stockholm, the United States is determined that the human rights aspects of the Helsinki document be given vigorous emphasis, not just in paper commitments but in deeds. At Vienna, an American push on human rights will seek to counter the Soviet interpretation of Helsinki as a document about security. The detention in Moscow of the American journalist Nicholas S. Daniloff, moreover, has injected actually into a British proposal for a Final Act follow-up conference on the news media.

Despite the Daniloff case, a sense that Washington and Moscow are groping toward a second summit meeting is a political boon for Mr. Kohl, who faces elections in January, and Mrs Thatcher, who may call one later next year. And, if the shimmering outlines of a superpower accord on medium-range missiles become firmer, the German and British leaders are poised to argue that NATO steadfastness and sticking with Mr. Reagan have paid off in terms of Soviet concessions.

ETHNIC TURKS IN BULGARIA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FEIGHAN. Mr. Speaker, Amnesty International is concerned about reports that ethnic Turks have been imprisoned, forcibly resettled or deliberately killed during a campaign of enforced assimilation of the ethnic Turkish minority in Bulgaria. Such forced assimilation is in contravention of a number of international obligations, most notably article 27 of the International Covenant on Civil and Political Rights which was ratified by Bulgaria on September 21, 1970. This Covenant states:

In those states in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right—in community with the other members of their group—to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The official Government-sponsored campaign by Bulgaria to stamp out every vestige of the ethnic identity of its Turkish minority continues. It has involved extreme brutality in forcing the Turks in Bulgaria to abandon their true identities, their language, their culture, and even their names. This ugly campaign, which has included rape and murder, has been denounced by every recognized international human rights authority—such as Amnesty International and Helsinki Watch—as well as by the European Community and by our own Government.

Jack Anderson has published two accounts of this Bulgarian travesty in the July 21 and August 2 issues of the Washington Post. I submit copies of those accounts for the RECORD:

[From the Washington Post, Aug. 2, 1986]

TORMENT OF BULGARIA'S TURKS DESCRIBED

The barbaric treatment of Bulgaria's large Turkish minority by the communist government in Sofia is designed with one goal in mind: to root out every vestige of Turkish culture, including language, characteristic names and the Moslem religion.

A classified State Department cable last month recounted the emotional testimony of ethnic Turkish eyewitnesses describing the horrors of life in Bulgaria to a committee of the Council of Europe meeting in Istanbul. The cable notes that some of the witnesses were "at times near hysteria" as they told of the primitive brutality practiced on their relatives and friends in the Turkish communities of Bulgaria.

Our associate Lucette Lagnado has seen the cable with the harrowing descriptions by the witnesses. Here are excerpts:

A woman named Gungordu, who was born in Bulgaria and left in 1978, returned in 1984 to visit her parents and other relatives. Her stay, in a hotel tightly controlled by Bulgarian police, was limited to seven days. It was more than enough.

Gungordu said her native province of Kurdzhali, which is 75 percent Turkish, seemed to be in mourning. "Names had been violently changed," she said. "They were beating people. They were wounding people. They were holding people by the neck on

the ground, forcing them to sign [documents implementing the name changes]."

Old people were beaten, including an 85-year-old, she testified, and when wounded ethnic Turks were taken to hospitals, "doctors and nurses forced people to sign." She quoted the authorities as telling the victims, "You are Turks no longer. . . . You cannot speak Turkish anymore."

Almost breaking down at one point, Gungordu cried out: "We cannot get letters. We cannot telephone. Our old people die calling out our names! They [government officials] even removed tombstones from the graves to change names."

A woman named Urtun recalled her 1983 visit to her family in Bulgaria. "My 63-year-old father [was] not served in stores because he does not speak Bulgarian. People [were] tied with ropes and pulled by trucks for refusing to change their names. People [were] being beaten with guns and sticks for resisting the name-change campaign." She said she could "stand it only for one week."

A man named Bilaloglu, also from a village in Kurdzhali, said the anti-Turkish campaign began in 1984. "There was genocide," he said. "There was torture." He recounted one chilling incident: "Soldiers and dogs once surrounded my village. Then the soldiers, in teams of two or three, went to each house, forcing us to sign a document changing our names."

Bilaloglu, who later escaped into Greece, said that every one of the Turks' religious customs were outlawed and that special signs were posted at bus stops forbidding the use of the Turkish language.

Bilaloglu said his children were taken away by the Bulgarian government. "I have been told they will be returned in 10 years," he said, "but I do not know the situation now. I do not know what is happening."

[From the Washington Post, July 21, 1986]

BULGARIA SUPPRESSES TURKISH MINORITY

(By Jack Anderson and Dale Van Atta)

Cultural genocide is being systematically practiced against Bulgaria's Turkish minority by the communist regime. Those who resist the government's attempts to stamp out all traces of Turkish language and customs, and the minority's adherence to the Moslem religion, are either imprisoned or shot.

The plight of Bulgaria's ethnic Turks, who number about 1 million, or nearly 10 percent of the population, is described in cables to the State Department from the U.S. Embassy in Sofia. Our associate Lucette Lagnado has seen the cables and interviewed experts on the subject. Here's what she learned about this little-publicized tragedy:

The communist regime does not acknowledge that there are Turks in Bulgaria. One embassy cable noted that the government "eliminated from statistical existence more than 1 million persons previously identified as [Turks]." This official creation of "unpersons" is "a socio-political feat of truly Orwellian proportions," the cable commented.

In the past two years, the embassy reported, there have been "well-documented . . . police terror tactics used to isolate remote villages and force inhibitants to change their full names from Islamic to Slavic/Christian Bulgarian names."

The embassy reported violence when ethnic Turks resisted attempts to eradicate their cultural identity. The militia, backed by the army, entered Turkish communities and used "deadly force to reduce resistance," an embassy cable stated, adding: "There were several reported cases of mass civil violence, which resulted in hundreds of deaths and many more injuries."

While some resisters were imprisoned on political charges, this relatively mild treatment was reserved for the "Turkish minority elite—party officials, teachers, etc.," the embassy reported. Most of the recalcitrant ethnic Turks were subjected to naked force. "Refusal to agree quickly to a name change was met by the documented cases of summary execution. . . . Individual killings seem to have been more widespread."

As the poorest, least assimilated and worst-treated of any minority in Bulgaria, ethnic Turks are considered easy targets for Khomeini-style Moslem fundamentalism—a possibility that frightens the communist rulers. The embassy has received "reports of razed mosques and . . . pressure against fundamental Islamic religious practices such as circumcision and funerals."

Turkish-language publications were once numerous and widely read by the ethnic minority. But last year the government stepped in and the publications were "abruptly published only in Bulgarian," the embassy reported. At the same time, Turkish-language radio broadcasts were eliminated.

The communist regime prudently applies its anti-Turkish discrimination to military service. As the embassy has explained: "The Bulgarian constitution's alleged 'equal treatment' of . . . citizens does not apply to the Turks when it comes to military duty. The Turks are placed into uniformed labor battalions and are not entrusted with weapons."

THE 25TH ANNIVERSARY OF BELAIR AT BOWIE, MD.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. HOYER. Mr. Speaker, 25 years ago this month, the first family moved into a new community then known as Belair at Bowie, MD. Until that time, Bowie had been a small community of less than 1,000 people, near the famous Belair Stables. In the next few years, it was to become one of the largest cities in the State of Maryland.

In one sense, the development of Bowie has been typical of many of American suburbs. It started as a community of young families. Over the years the population has aged, and we are now seeing a new generation of Bowie citizens moving in. In the wave of development that is coming to many American suburban areas, Bowie is also becoming a place to work, as well as to live. Its population is expected to double by the end of the century.

I am sure that a new influx of citizens will share the same commitment to excellence that has been Bowie's hallmark. The first families of Bowie, and all those who followed, have wanted the best for their children, and they set out to get it. It is a community of joiners, home to church groups, civic organizations, Little League teams, teen clubs and swim clubs. In more recent years, it has grown to have a number of active senior citizen groups.

Political activism was also a hallmark of this new Bowie. For a community so young, it has developed a rich political history. It has developed an outstanding municipal government and has sent distinguished and capable people to the State legislature.

Mr. Speaker, when Bowie citizens gather this coming weekend to mark this 25 year milestone, they will be celebrating instead those most cherished of American values, family and community. This is a well-earned Silver Jubilee Celebration. Together they have built a home of which they are justly proud. I know you and the other Members of the House will want to join me in sending our heartiest congratulations.

SCOTT HOFFMAN, JR., A HERO

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mrs. BYRON. Mr. Speaker, I rise today to recognize a young boy from Hagerstown, MD, who, through the use of the Heimlich maneuver, saved the life of his babysitter.

On the evening of September 10, 8-year-old Scott Hoffman, Jr., was sitting at the dinner table with his 3-year-old sister, Shawna, and their babysitter, Geraldine Shank. Suddenly Ms. Shank began choking on a piece of pork chop. She ran to the sink and attempted to dislodge the meat herself. Scott, realizing that she couldn't breath, applied the maneuver by hitting her between the shoulder blades and then wrapping his arms around and pushing his fist into her stomach below the rib cage. The meat dislodged.

Ms. Shank has credited Scott with saving her life. Scott said that he learned the Heimlich maneuver last year at Old Forge Elementary School from his teacher, Ms. Sally Snowberger. Ms. Snowberger decided to demonstrate it to her class after reading a newspaper account of a boy who saved a playmate's life by using the maneuver.

I would like to commend Scott for his heroism. His quick thinking averted a tragedy. Scott's action makes us all proud.

INDIA GIVES AID TO NICARAGUA

HON. WILLIAM W. COBEY, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. COBEY. Mr. Speaker, Nicaraguan Dictator Daniel Ortega recently decorated Prime Minister Rajiv Gandhi of India with the country's highest award—the Order of Augusto Cesar Sandino. Ortega was in New Delhi on a State visit in September.

The Indian Prime Minister had earlier announced a $10.4 million aid package to help rebuild the Nicaraguan economy. Thus, it seems that India has reached a state where it has a surplus in foreign aid. Since 1983, we have given India approximately $613 million in economic assistance. More than 75 percent of

this amount was in grants. Now, India is giving economic aid to the Nicaraguan Government while completely ignoring the terror the Sandinistas are spreading in our own backyard. It is time that we end our aid to India until it stops supporting the spread of communism in Central America and until it ends its internal repression of Sikhs in Punjab.

At a banquet for Ortega, Indian President Zail Singh said, "It is a great mistake to see these historic changes as inspired by foreign powers, ideologies, or intrigues." I would like to draw the attention of the Indian President to some "historic changes" that are taking place in one of the Indian States and in one of the ethnic communities to which Mr. Zail Singh claims to belong. I am talking about the great struggle that the Sikh nation has been involved in since the beginning of this decade. It is the culmination of a struggle the Sikh nation has been involved in for hundreds of years.

Seeking justice and equality and the pursuit of happiness are the inalienable rights of all human beings—regardless of race, color, creed, sex, or religion.

The Indian President claims that the revolt against the Sandinistas in Nicaragua is engineered by foreign powers, that the Sandinista regime is a popular one and not supported by foreign elements. But what is happening in India's Punjab is attributed to foreign powers and intrigues. We are told that only a handful of terrorists are behind this unfortunate situation. But if that were the case, the Government of India wouldn't need six army divisions and massive numbers of paramilitary forces to handle the situation in Punjab.They would not bar the entry of foreign visitors and journalists to that part of the country. The visas of foreign visitors to India are stamped "not Punjab" as if Punjab was not part of India. Perhaps the Indian Government feels that Punjab's secession has already been accepted psychologically and that it will only be a matter of time before it actually occurs. More than 20,000 Sikhs have been killed by the Indian Army and security forces since June 1984, but the handful of terrorists still persists.

Is there a violation of human rights in India? According to the State Department's annual report on human rights, "No international investigations of the human rights situation in India are known to have been conducted since 1978." In view of the serious allegations by one of its respected minorities and the reports of continued violence, an investigation should be held.

But it is my understanding that India will not allow it. It is my understanding that the Government of India rejected a request by some Members of Congress to have an opportunity to look into the situation. If India has nothing to hide, why is it reluctant to open its doors in Punjab to the objective eyes of the United Nations or other international investigators?

There are several independent Indian human rights organizations, including the Citizens For Democracy. In September a year ago, the CFD released a booklet, "Report to the Nation: Oppression in Punjab." This document was banned the very next day after its release. As the preface to the U.S. edition puts it, "the authoritarian Indian Government, afraid of the truth regarding rape, torture, and massacre by Government forces during and after the invasion of the Golden Temple reaching the people, promptly banned the publication, arrested the publisher, and confiscated all available copies." Fortunately, however, copies of this book reached the United States. I suggest it be read by all those sincerely concerned about the abuse of human rights, because this is what has been happening in India for the past 2 years, and on a massive scale at that.

There are reports of fake police encounters where police kill Sikh youths in "search and destroy" type of operations and then claim that they were killed in an alleged "terrorist encounter." And of course, there was the barbaric attack on the Golden Temple in Amritsar by the Indian Army in June 1984. To protest against this dreadful act, many Sikhs returned their awards to the President of India, while others have resigned from their seats in Parliament, State legislatures and other elected bodies. Some officers have left their lucrative positions in the Government. One of them is Sardar Simranjit Singh Mann. A distinguished member of the Indian Police Service, his last assignment was as group commandant of the Central Industrial Security Force in Bombay. The bloodshed in Punjab has gone on too long and too far to go unnoticed in this country.

Finally, I would like to commend the efforts of Dr. Gurmit Singh Aulakh. Dr. Aulakh is the president of the International Sikh Organization. So my colleagues in the House will better realize the awful plight of the Sikhs in India, I ask that the text of his remarks before the National Press Club on June 6 be printed in the RECORD.

STATEMENT OF GURMIT SINGH AULAKH, PH.D., PRESIDENT, INTERNATIONAL SIKH ORGANIZATION, INC.

I am Dr. Gurmit Singh Aulakh, President of the International Sikh Organization, Inc., an organization representing the interests of Sikhs worldwide.

Our purpose today is simple. We are calling on the media and the American people to shine the light of truth into the dark corners of our homeland where thousands of our people are being systematically eliminated by the Indian government.

The brutality is part of Rajiv Gandhi's consistent government policy to persecute all religious minorities and set up a Hindu state. Just as the Buddhists in India have been methodically removed from the mainstream of Indian society, so are the Sikhs being brutalized now. And while the Sikhs are bearing the brunt of this terrible violence, other minorities are suffering as well—Christians, Moslems and the lower classes of Hindus are also targeted. We want this genocide to stop.

As you remember, two years ago the Indian government attacked the Golden Temple, our most sacred place. Many innocent worshippers were killed.

It is true that there are radical extremists, as in any passionate cause there will be a handful of zealots, but one of the problems the Sikhs are having with their world image is that the Indian government has infiltrated most Sikh organizations. These agents are performing acts contrary to Sikh philosophy but for which Sikhs receive the blame. Sikhs throughout the world are shocked and outraged at the actions of both the extremists and those posing as Sikhs. We cannot forget, nevertheless, that the attack on the Temple was uncalled for. It was akin to the Italian Army invading the holiness of the Vatican.

The genocide against innocent Sikhs has not abated in two years. The goal of our cause is fourfold:

Freedom of religion

Freedom of speech

Freedom to control or own destiny and peace.

We have faith that you will judge fairly and delve beyond false stereotypes to see the facts and the truth.

We are here to do all we can to provide you with any further sources of information which you may require. The international Sikh Organization, Inc. is establishing an information base for the use of the media, scholars, etc. in an attempt to monitor and make available the facts of what is happening in India.

Thanks to your pursuit of the truth the Indian government was forced to lift the news blackout in the Punjab a year ago which had allowed it to continue committing atrocities outside the watchful eyes of the free world. Unfortunately, that news blackout has been re-imposed.

Gandhi remains a part of the communist sphere who actively supports terrorism. According to the Christian Science Monitor Gandhi allows terrorist training camps to operate in India for international dispersal. He endorses the Soviet invasion of Afghanistan and recognizes as legitimate the Communist Vietnamese puppet government in Cambodia.

He is a master of propaganda, such as recently appointing two so-called Sikhs to serve in his Cabinet. The truth is that one of these men has been excommunicated from the Sikh religion and neither adheres to the tenants of the Sikh code—one of truthfulness, peace and brotherhood. Gandhi's appointments were not a gesture of reconciliation towards Sikhs but a media stunt which has not worked.

The Sikhs have a deep respect for individual human rights and our beliefs makes us strongly anti-communist. Gandhi visited Moscow last year where he pledged friendship and cooperation. History has shown that it is difficult for any religious people to live under a communist government and the Sikhs are no exception.

What is happening in India is a violation of human rights, denial of true civil liberties and persecution of religious beliefs.

Tomorrow, on the anniversary of the Indian government's invasion of the Golden Temple, the American and Canadian Sikh community will gather in San Francisco, New York and here in Washington, D.C. to appeal to the free world to help us stop the violence in India.

We urge you not to turn a deaf ear to what the Indian government purports to be an "internal matter". It is not an "internal matter" when innocent, defenseless human beings are dying for their beliefs. It is a matter of human rights, of freedom, and we ask for your help.

A PARENT'S RIGHTS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mrs. SCHROEDER. Mr. Speaker, on September 16 and September 23 the Members of this House were witness to some disinformation. Opponents to H.R. 4300, the Family and Medical Leave Act, have substituted make believe for reality. I would like to set the record straight. The following is an article I wrote on "A Parent's Rights," published this month in Minnesota magazine. The strength of the facts alone demonstrate beyond a doubt that legislation like H.R. 4300 is imperative. Perhaps that is why the opposition is so desperate.

A PARENT'S RIGHTS

(By Patricia Schroeder)

Numbers rarely speak for themselves; and yet, where women and work are concerned, they have never been so convincing. Between 1947 and 1980, the number of women in the labor force increased by 175 percent, while for men the number rose by only 43 percent. Today, well over one half of all women work outside the home, making up nearly 44 percent of the labor force. The most dramatic contrast between now and 40 years ago, however, is not just the large number of women in the labor force but the growing number of mothers: they account for more than 60 percent of all wage-earning women.

If demography is destiny, a closer look at this burgeoning group reveals an even more striking picture of the future. More than 80 percent of women in the work force are of childbearing age; and 93 percent are likely to become pregnant during their working careers.

The biggest problem that new mothers face is whether they will be reemployed in the same or similar position after the birth of their child. The Pregnancy Discrimination Act of 1978 took one step toward solving this problem, requiring that serious pregnancy-related health conditions be treated like any other serious short-term health condition. Unfortunately, legislation is limited. In the absence of a federal requirement to provide disability coverage to employees, women are treated equally well or poorly, depending on the availability of a disability leave policy. The legislation is further constrained because employers with fewer than fifteen employees are exempt from the law.

A 1980 Columbia University study found that for 250 companies it examined, only 72 percent of the employers guaranteed that a woman could return to her job and retain her seniority if she took maternity leave. A more recent preliminary study done by the Catalyst Career and Family Center found that 95 percent of its respondents provided a temporary disability policy; of the women covered, only 39 percent received full wage replacement, while 52 percent were eligible to take an unpaid child-care leave.

Although heartening news is that women in large companies (70 percent of those responding employ more than 2,500) receive important disability and job protection benefits, least protected are women in smaller companies, who work in part-time or female-dominated jobs.

Pregnancy and parental leave are not, however, simply women's issues; they are a family issue. Women work out of economic necessity. In 1985, both parents had to work to maintain the standard of living that their parents could enjoy on one income. According to 1983 data, 25 percent of married wage-earning women had husbands who earned less than $10,000, while close to 40 percent had husbands earning less than $15,000. The typical family painted by Norman Rockwell is vanishing: women are increasingly responsible for providing family incomes where they are the sole heads of households. In 1984, women headed 10.3 million families, representing 16 percent of American families. One-half of the 45.6 million children in two-parent families have both parents in the work force.

Perhaps the most critical time for a family comes when a child becomes seriously ill—a time when parents feel the need to be at home or in the hospital with their child. More serious medical conditions require constant care, and parents believe that they are the ones who should provide it. Yet too few parents have the flexibility at the work place to make this decision and are instead faced with having to choose between job security and caring for their children. Thus, for the 24.8 million children in two-working-parent families, flexible options could ensure that parents can continue to provide the care so essential to a child's well-being.

But help for working families is at best uneven. At present, no national policy provides job-protected leave for parents for parental care purposes. A bill that I am sponsoring, the Parental and Medical Leave Act of 1986, would do just this.

It would establish parental leave for the birth or adoption or serious illness of a dependent son or daughter. It establishes a minimum standard for job-protected leaves below which an employer may not fall. Employees would be permitted to take up to eighteen weeks' leave over a two-year period. The leave is to be unpaid but requires that an employer continue health insurance coverage on the same basis as prior to the leave. Most important, upon returning to work, an employee is to be restored to the same or similar position with benefits and seniority continuing as though the employee had not taken leave. An employee has the option of substituting paid vacation or sick leave for unpaid leave.

The Parental and Medical Leave Act would cover all employees in the private sector except those employers employing five or fewer employees. Federal, state, and local government employees would all be guaranteed protection under this legislation. In the event of discriminatory treatment, plaintiffs, will be able to pursue civil or administrative enforcement.

We must promote the stability and economic security of families and American workers. By providing an unpaid leave with job protection, this legislation provides families with essential options to meet familial concerns and responsibilities. It establishes leave where none may have existed before, and it guarantees a degree of economic security by ensuring job protection. Most important, it allows families to plan ahead and gives meaning to a government committed to the American family—a family in which both parents work outside the home.

Finally, the Parental and Medical Leave Act of 1986 would allow the United States to shake itself of a static model of the American family in which the father works and the mother stays at home. Policymakers and analysts must work to bring public policy into line with the current reality of the 1980s. By creating more flexible work options for America's working parents, we can begin to bridge the gap between work and home. No longer will job or economic security be traded against the needs of the family.

A BILL TO AMEND THE AUTHORITY OF THE U.S. GEOLOGICAL SURVEY

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. McCAIN. Mr. Speaker, for more than 100 years, the U.S. Geological Survey has been an effective part of the Federal Government. Its work has, among other things, played an important role in the successful development of the Western United States, the area of the country I represent. The work of the Geological Survey has provided invaluable information on which private individuals, local communities, and States have based decisions about the best use of their scarce resources. The Geological Survey is a scientific entity. It has no significant regulatory responsibilities, and very few congressionally mandated "fires" to fight in carrying out its work.

Today, I am convinced that the scientific approach which the Geological Survey brought to bear on discovering the natural resources of the United States should be put to work in giving us solid scientific information about the condition of our biological environment.

In the past 15 or so years, the Federal Government has adopted a series of major statutes designed to protect the environment—the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, the Resource Conservation and Recovery Act—to name only a few.

In each of these necessary and desirable statutes, Congress mandated the construction of a regulatory program or process, asked that it be based on the best scientific evidence available, and that it should be put into place on the earliest reasonable timetable. As described below, the implementation of these laws has had its limitations and could be improved in some respects.

The Environmental Protection Agency, the implementing agency for many of these regulatory statutes, has been pressed for personnel and funding almost since its creation. Given the urgency of its regulatory mission, the EPA has a limited capacity to support high quality, long-term, scientific research on the environment and the effects of its programs. In addition, the amount of environmental protection we get is also sometimes a function of the amount of information available when environment statutes are enacted. Many of the regulatory programs now in place are very specific and relatively limited in the environmental harm or harms they require protection against. Yet hindsight has shown us that certain environmental problems were different, more complex or more severe, than we originally thought—take ground water as an exam-

ple. Many of the major environmental statutes might have been passed and implemented sooner and with greater deliberation and, possibly, lower social cost, if we had had better information about the state of the environment.

In my view, having put the environmental regulatory program generally into place, Congress now needs to require the Federal Government to turn its environmental attention to the longer term. Many environmental problems do not occur overnight—DDT poisoning, and ground water contamination, for example, occurred over long periods of time before they became apparent. In addition, many newer environmental problems are international in scope, or involve complex interactions between different aspects of the environment. We need to be better prepared with respect to future environmental problems than we often were for dealing with past environmental problems. At the same time, the availability of better information about the environment should significantly improve the implementation of existing regulatory programs.

THE CASE OF ACID RAIN

The acid rain problem is a classic example of the difficulties we face. I favor regulatory legislation to control the problem of acid rain now, but in doing so, I acknowledge the substantial scientific uncertainties which beset this issue. These uncertainties have already required at least two major National Academy of Sciences studies and a massive Federal environmental research program on the subject, all done after the fact. In addition, I believe everyone who is familiar with the problem of acid rain recognizes that it is going to require the imposition of significant economic and social costs to deal with it—probably ranging into billions of dollars. That is why I was surprised to find that the Federal Government did not have available very good information about many aspects of the basic science underlying this problem, and that a considerable amount of the information on which decisionmaking has relied so far was compiled for wholly unrelated reasons by private industry or academic researchers.

I believe we need to give an agency of the Federal Government the responsibility for giving us independent, reliable information about the condition and quality of the biological environment. I believe the Geological Survey is the right agency in which to vest that responsibility. My bill would give the Survey that mandate, and the necessary funding and authority. I envision a small, highly qualified scientific group which would develop, support, review, analyze, and help coordinate the biological environment research activities of the Federal Government, with an eye to giving us the kind of information we will need to deal with present and future environmental problems.

In addition, in this legislation, I have proposed that the Survey carry out several specific projects related to this general mission. One of these, water quality research, is an extension of a current mission of the Geological Survey. The other, a study of western acid rain problems, is clearly needed and does not appear to be getting properly done within the existing Federal acid rain research framework.

I realize there will not be substantial legislative action on the bill this year. However, because of interest in this problem, I am introducing this legislation for the purpose of stimulating discussion about the best way in which the Federal Government might address the problem I believe exists. It may be, for example, that a different agency or agencies should handle these responsibilities or that different authorities and funding levels should be made available.

As drafted, this bill does not require new expenditures by the Federal Government. Instead, it requires funding be made available by cuts in other parts of the Federal budget. In a time of fiscal austerity, I believe it is a question of priorities. We can achieve the savings necessary to fund this program if we can achieve a solid enough consensus that it is necessary to go forward with it.

We don't want to be caught unprepared when we have the next problem like acid rain; we need to take action now to give us the information we need to respond when the time is right to act, not after the damage is done.

IPG RECOMMENDATIONS FOR VIENNA CSCE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. PORTER. Mr. Speaker, as a founding member of the International Parliamentary Group [IPG], an organization comprised of 700 members of Parliaments in 16 nations including the United States, Canada, and Europe, I would like to share with you the recommendations formulated by IPG members for the Vienna Review Conference on Security and Cooperation in Europe. The Vienna Conference will review compliance with all aspects of the Helsinki Final Act by the 35 signatory states.

My colleagues in the IPG and I believe that as East-West relations to continue to improve, Soviet human rights performance must remain squarely on the bilateral and multilateral agenda of all democratic nations in their dealings with the U.S.S.R.

The IPG recommendations for the Vienna Review Conference are based on the proposals submitted by the democratic nations at the CSCE human rights experts meetings held in Ottawa, Canada; Budapest, Hungary, and Bern, Switzerland, in 1985–86. These recommendations are offered as a means of improving Soviet human rights performance as a framework for a unified human rights policy among democratic nations at the Vienna Review Conference.

IPG RECOMMENDATIONS FOR THE VIENNA REVIEW CONFERENCE

I. Basket I, Principle VII—"Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief"

A. The participating States will take necessary action to remove legal and administrative measures so as to ensure in practice the right of all their citizens, individually or in groups, effectively to monitor implementation of these documents, and to express their views on any question concerning implementation.

B. The participating States will pay special attention to the elimination of discrimination against the individual believer wherever this occurs. They will create an atmosphere of tolerance and respect for all matters, relating to freedom to profess and practice religion or belief, alone or in community with others, in public or in private.

C. The participating States will engage in consultations with the religious faiths, institutions and organizations, in order to reach a better understanding of the requirements of religious freedom and to take action to ensure their fulfillment. They will act to guarantee, inter alia: the right to give and receive religious education individually, collectively or through religious organizations, including the freedom of parents to transmit their religion or belief to their children; the freedom of the individual believer or communities of believers to establish and maintain contact and hold assemblies in common with fellow believers, including those of other countries; to produce, acquire, receive, import and make full use of publications and other materials concerning the profession and practice of religion or belief, and to use the various media for religious purposes.

D. The participating States will, to the maximum extent possible, respond positively to requests to observe legal proceedings. They will admit observers or provide full explanations as to why observers may not be admitted.

E. The participating States will work toward the reduction in length of incommunicado detention to a minimum.

F. The participating States will improve and increase the opportunities for representatives of non-governmental humanitarian organizations to visit prisoners.

G. The participating States will ensure that individuals are protected from psychiatric practices which violate human rights and fundamental freedoms.

II. Basket III—"Cooperation in humanitarian and other fields"

A. Cooperation and exchanges in the field of culture:

1. The participating States will remove legal and administrative measures, such as censorship, which constitute barriers to creation and dissemination in different fields of culture.

2. The participating States will remove restrictions on obtaining, possessing, reproducing, publishing and distributing materials related to the different fields of culture, including books, publications, films and videotapes, as well as use of typewriters, word processors and copying machines.

3. The participating States will permit unimpeded reception of broadcasts and place no restrictions on the right of individuals to choose freely their sources of broadcast information and culture.

4. The participating States will abstain from placing undue obstacles to access to direct broadcasting satellites transmitting radio and television programs, including those of a cultural nature.

5. The participating States will: protect the unique identity of national minorities and foster the free exercise of cultural rights by persons belonging to them; ensure in practice unhindered opportunities for these persons independently to maintain and develop their own culture in all its aspects, including religion, cultural monuments, historical artifacts, language, litera-

ture; and to ensure unhindered opportunities for them to give and receive, individually or collectively, instruction in their own culture, especially through the parental transmission of language, religion and cultural identity to their children.

B. Human Contacts:

1. The participating States will: deal favorably with applications from their citizens or nationals who are also recognized as citizens or nationals by another state to leave in order to visit that state or settle there; give special attention to requests for exit documents submitted to reunite minors with their parents; facilitate the exit of persons for the purpose of family reunification; simplify the application procedures for family reunification.

2. The participating States will: abolish, for their nationals, the requirement to obtain an exit visa in order to leave their country and issue exit visas for foreigners residing on their territory as expeditiously as possible; publish within one year all laws, regulations and procedures concerning decisions to permit their citizens to leave their country, and to help make the laws in force accessible to all strata of the population; remove legal and other obstacles restricting contacts on their own territory between their citizens and resident or visiting citizens of other states.

3. The participating States will: remove existing impediments which prevent individuals and the institutions and organizations which they have freely established and joined from maintaining contact, communication and organizational ties with similar organizations in other participating states without need of official sponsorship or approval; guarantee the freedom of transit of postal communication, thus ensuring the rapid and unhindered delivery of personal mail; ensure all the conditions necessary to carry on rapid and uninterrupted telephone calls, including the use and development of direct dialing systems wherever it is possible, and respect the privacy and integrity of all such communications.

NATO AND KEEPING THE PEACE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. GARCIA. Mr. Speaker, as chairman of the North Atlantic Assembly's Civilian Affairs Committee, I have come to appreciate more and more the importance of NATO. It is in that light that I am submitting for the RECORD a copy of a letter on NATO published in the New York Times written by Bill Danvers of my staff.

I agree with Bill's assessment that as long as NATO helps to keep the peace, it deserves our support.

[From the New York Times, Sept. 25, 1986]

NATO ENDURES BECAUSE IT HELPS KEEP THE PEACE

(By Bill Danvers)

TO THE EDITOR: James Reston makes some important points on the future of the North Atlantic Treaty Organization in "Politics and the Alliance" (column, Sept. 10), but the answer to the question he poses—will the alliance hold together after Ronald Reagan's Presidency?—is yes.

The British Labor Party's platform raises some concern over how a Labor-led government would change Britain's role in the alliance, but in an alliance of democracies, chance and change are part of the price of keeping the alliance democratic.

The question of whether or not the rise of left-leaning governments in Western Europe would signal the demise of NATO has another side. It is important to remember that Socialist-led governments in West Germany and Italy helped secure the recent deployment of Pershing missiles in Western Europe. In addition, President François Mitterrand of France, a Socialist, was also supportive of the deployment.

Further, Prime Minister Felipe Gonzalez of Spain, also a Socialist, originally ran for office on an anti-NATO platform, but changed his position after being elected. Indeed, he lobbied hard, placing his considerable political prestige on the line, to insure that Spain would remain in NATO. It is also important to note that the Prime Minister is part of a new wave of political leaders in Europe. He is not part of the generation of Atlanticists like James Callaghan and Denis Healey that Mr. Reston mentions.

None of this is to say that Mr. Reston is wrong in his assessment that the alliance faces potential problems and that debate should take place on those problems. But that debate should not take place in an atmosphere fraught with anxiety over the undoing of NATO.

For nearly 40 years, NATO has survived a number of crises including the 1954 Suez crisis, France's withdrawal from NATO's integrated command, periodic moves in Congress to bring home American troops, the West European peace movement's attempt to stop the deployment of Pershing missiles in Western Europe, and constant pressure by the United States for an increase in defense spending by other alliance nations. Chances are that it can survive foreseeable changes in the governments of Britain, West Germany or any other alliance nation as well.

NATO may be forced to rethink its strategy in the next decade. There is certainly some sentiment among alliance political leaders to put more emphasis on conventional, as opposed to nuclear, deterrence. There is also interest in an increased European commitment to its own defense. If both of these trends were to gain increased acceptance, then NATO would certainly change, but not necessarily for the worse.

Because NATO is primarily a political organization, it will always be subject to political changes. It is in that light that I submit that any future debate on the alliance should include prominent members of the successor generation—that generation of political leaders succeeding Helmut Schmidt and Denis Healey no matter what their political perspective. NATO can be strengthened, even renewed through such dialogue.

The NATO Secretariat should also make better use of the North Atlantic Assembly, an international organization of alliance nation parliamentarians, which includes representatives from most leading political parties in alliance nations. Since the assembly's members actively participate in parliamentary and Congressional debate on issues affecting NATO, and since many assembly parliamentarians are members of the successor generation, the North Atlantic Assembly could be a useful conduit for future debate on NATO.

NATO has succeeded for as long as it has because it has been able to convince member nations, regardless of the political perspective of their governments, that it is there to keep the peace. As long as that remains the bottom line, it should be able to weather the approaching winds of change.

WILLIAM C. DANVERS,
Washington, Sept. 11, 1986.

U.S. TRADE POLICY AND THE MOSS TALKS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FEIGHAN. Mr. Speaker, on October 27 and 28, Japanese negotiators will be in Washington for a second round of Market-Oriented, Sector-Specific [MOSS] talks on the opening of Japanese markets to auto parts made in the United States. There is a gross imbalance in auto-parts trade between the two countries: U.S. firms are faced with closed doors in the Japanese auto industry, while Japanese parts suppliers are greeted by a wide-open welcome on this side of the Pacific.

This imbalance stems from longstanding exclusionary business practices on the Japanese side. Their automakers and parts suppliers are linked in exclusive "family" networks that effectively lock out foreign competition. The test of the MOSS talks will be whether they stop these anticompetitive practices and give U.S. parts makers a fair chance to sell to Japanese manufacturers. The proof of change will come when the cash of registers of American firms start ringing up a fair share of sales to the Japanese.

Congress is about to adjourn as we head home to campaign for the November 4 elections. However, congressional pressure for action on this fair-trade issue will not abate. Members of Congress will be watching to see whether the administration has a trade policy that can produce not just rhetoric but results.

AMERICA'S SECURITY IS THREATENED BY DEPENDENCE ON FOREIGN OIL

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. CHENEY. Mr. Speaker, I am pleased to introduce today the Energy Security Policy Act of 1986. Recognizing that America's growing dependence on foreign oil threatens national security, the bill would impose a fee on oil imports to stimulate more domestic oil exploration and production.

Last year, the United States obtained a little less than a third—31.5 percent—of its total crude oil needs or imports. But by August of this year, the amount of crude oil we imported to meet our needs jumped to 41 percent. We are importing far more oil today than we did just before the 1973 oil crisis, and we are even more vulnerable to the effects of having the supply cut off.

OPEC's clearance-sale prices have seriously hurt the American oil and gas industry. But the problem isn't confined to Wyoming or the

other oil producing States. The collapse of oil prices has now reached to every sector of the Nation's economy. American banks have loaned billions to domestic oil ventures. And when prices drop, the security of the loan goes down, too.

This Nation's 2.5 million oil royalty owners will lose nearly $6 billion this year, and that includes many people whose pension funds are based on oil. Layoffs in the industry have a ripple effect in the rest of the economy, and the unstable price of oil has led to widespread uncertainty and discouraged spending by companies that use oil.

Cheap oil prices have failed to stimulate the economy. Second quarter growth was only 0.6 percent, hardly any growth at all. The average rate of growth for the economy in the first half of the year is just 2.2 percent. Lower oil prices have not encouraged more American exporting. Nor have they had their predicted effect of reducing the Nation's budget deficit.

In Wyoming, unemployment continues to run ahead of the national average. The State's adjusted unemployment rate for August was 9.3 percent, compared to a national rate of 6.8 percent. The city of Casper, where I live, clearly shows the problem. Natrona County's unemployment rate for August stood at 11 percent, and the county continues to have the largest number of unemployed people in the State—over 3,800.

Not only have low oil prices failed to have a salutary effect on the economy, they have also lead us to turn increasingly to foreign supplies—a source that is no more dependable now than it was in 1973. It still takes a tanker a month to get from the Persian Gulf to the United States. Oil shipments can be delayed by weather, by accident, or by terrorism.

OPEC's manipulation of world oil prices threatens the economic and strategic interests of the United States. The continued pressure of low prices has seriously diminished the capacity of the domestic oil and gas industry, and we need that industry to provide a secure source of energy.

To restore ability to oil pricing, the Energy Security Policy Act of 1986 would impose a variable fee on imported oil and petroleum products. It would be triggered whenever the price of oil drops below $24 a barrel. The fee would equal the difference between $24 and the world price of oil. Imported refined products would be assessed 20 percent more, because American refiners pay more in environmental control costs. The fee would be adjusted for inflation, tied to the changes in the gross national product.

Within 90 days after enactment of the bill, the President would be required to send Congress a report with his recommendations for keeping a secure supply of energy for the United States. His report would include actions the President considers necessary to protect the United States from the threat of dependence on foreign oil imports.

I realize that half a dozen oil import fee bills have already been introduced by some of my oil State colleagues in the House and the Senate. But the Energy Security Policy Act of 1986 differs from all of them, in varying ways. It imposes a variable fee, because a maximum $4 fee would not provide a sufficient incentive to the domestic petroleum producer when the world price is as low as it has been in the past several months.

Unlike some measures, this bill would not progressively diminish the import fee in 5 years. A phaseout provision would weaken the fee at the very moment when it might begin to do some good. And the requirement that the administration present recommendations for a national energy policy demonstrates that the goal of this bill is a stable energy price, not simply higher oil prices.

Mr. Speaker, I realize time is late in this Congress for action on an import fee. However, I am introducing this bill to demonstrate my support for the concept and to help encourage discussion and thinking on the issue both on Capitol Hill and at the White House. I strongly believe that unless the domestic oil industry can be revived, particularly the independent producers and oil well service infrastructure, we may be forever perilously tied to insecure foreign supplies for energy.

IN HONOR OF A GRAND LADY ON HER 104TH BIRTHDAY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to a wonderful lady who, on Sunday, October 12, celebrates 104 years of a life of service and inspiration to our Nation.

Ida Johnson Campbell was born in 1882 in Virginia City, MO, the third child and the first daughter, in a family of nine children. Virginia City is long since gone from the Missouri map, but the life it gave to Ida Johnson still glows brightly. The eldest daughter of hard working but struggling Missouri farmers at the close of the last century, Ida learned as a young girl to nurture and care for others, to assume heavy responsibility, and to put work before play. She used to say, laughingly, to the children who came into her extenaded family after her own children were grown, "A man works from Sun to Sun, but a woman's work is never done." Indeed, she only recently accepted her own retirement. Having taught Sunday school all her life, she decided at 90 to take a back seat as a student rather than the front seat as the teacher.

Ida Johnson broke the mold of farm women in her family by going to tiny Odessa College after grammar school, becoming the first teacher in her family. This was a model to be followed by many who came after. Younger brothers and sisters, her own son and daughters, grandchildren, and nieces and nephews came under the influence of her love of books and learning long after she ceased to be a salaried teacher. One of these nieces, a testimony to her influence, is on my own congressional staff.

In those days, of course, only single women could teach. Therefore, when Ida married the dashing young farmer, Henry Campbell, in 1908 she gave up teaching for homemaking to begin her marriage in Happy, TX, returning in a few years to a farm in Missouri. This happy union lasted more than 50 years and produced 3 children, 6 grandchildren, and 15 great-grandchildren.

A staunchly devout and religious woman, she taught her children and those of others to see clearly right from wrong; to set goals for themselves and use self-discipline to work toward them; to count the value of life by what is in the mind and the heart rather than what one possesses; to persevere in the face of failure and to be humble in the face of success; to accept adversity, setbacks, and even tragedy with stoicism and strength; and above all to love the human family as the children of God. This legacy has left its deep imprint on our society in the amazing record of achievement of her progeny. Each one is carrying on with distinction in the modern world the values and ideals held up to them by this family matriarch. Her roots are in the Earth and her spirit has soared far above the farmfields for a richer harvest in human values than most of us can hope for. While her years have been many, the contributions of her life may be measured as much in the quality as in the quantity of days.

On this, her 104th birthday, I ask my colleagues in Congress to join me in sending "Happy Birthday" greetings to Ida Johnson Campbell and recognizing in her life the abiding strength of our Nation.

A TRIBUTE TO EUGENE S. SOSNICK

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Mr. Eugene S. Sosnick, the chairman and president of the Capital Cigar and Candy Co. of Sacramento. A successful businessman, accomplished sportsman and acclaimed community leader, Mr. Sosnick will be the recipient of the Lorillard Citizenship and Leadership Award when the California Association of Tobacco and Candy Distributors holds its annual conference next month.

Eugene S. Sosnick was born to Melvin and Celia Sosnick in Detroit, MI, on June 4, 1931. The Sosnick family soon moved to San Francisco, where Eugene's father started a tobacco and candy distribution company. The youngest of three boys, Gene attended public schools in San Francisco and graduated from the city's George Washington High School in 1949.

Gene then entered Stockton Junior College, where he exhibited excellence at the game of basketball. Although his 5-foot, 7-inch frame was relatively short for a basketball player, Sosnick attained All Conference, All Northern California and All American honors. In his sophomore year, "Sos" led the Stockton Junior College Mustangs to fifth place in the national small college finals and set a single season scoring record of 403 points.

Gene continued his winning ways at the College of the Pacific, where he was again recognized as an All Conference, All Northern California, and All West Coast player. Sosnick set more scoring records, at COP, exceeding a school high 400 points in his first season. At

the end of his senior year Gene was selected to tour Central and South America with the West Coast College All Star Team.

In recognition of his outstanding contribution to UOP atheltics, Gene Sosnick was inducted this year into the University of the Pacific Hall of Fame, where he joined UOP coaching great Amos Alonzo Stagg, football star Dick Bass and Los Angeles Raiders Coach Tom Flores.

After graduating from Pacific in 1954 with a business administration degree, Gene joined his father and older brothers in the family business. By that time the Melvin Sosnick Co. was the dominant wholesale distributor in the bay area, with facilities in San Francisco and Oakland. In 1959, Gene assumed responsibility for his own branch when the company purchased the Capital Cigar Co. of Sacramento.

With distributorships throughout northern California and Nevada, the Sosnick Co. is now the State's leading tobacco and candy wholesaler north of the Tehachapis, topping $300 million in annual sales. Under Gene's skillful leadership the Sosnick's Capital Cigar & Candy Co. serves customers in 15 northern State counties from its 60,000 square-foot warehouse in West Sacramento.

Despite his demanding business schedule as chairman of the board of the Sosnick Co., Gene Sosnick has managed to devote a great deal of time to civic, religious and philantropic endeavors. In the Sacramento community, Gene has made important contributions to a number of charitable pursuits. He is past president and chairman of the Sacramento Saints and Sinners, an organization which raises money for local needy causes. Gene is responsible for the Max Baer Playground in Sacramento, where hundreds of children participate in the Police Athletic League's Boxing Program. As a member of B'nai Israel Synagogue, Sosnick donated a library to preserve documents which chronicle the history of Sacramento's Jewish community.

In Ashkalon, Israel, Gene Sosnick built a preschool in the memory of his patents. The Sosnicks also established a trust and scholarship fund to research eye diseases at Technion University in Haifa.

Over the years, Gene has continued his strong interest in sports. For several years Sosnick volunteered as an assistant coach for Sacramento State University's basketball team. He is also the past owner of the Sacramento Solons, Sacramento's first professional baseball team.

Mr. Speaker, I think my colleagues will agree that my good friend Eugene Sosnick is an excellent choice to receive the Lolliard Citizen and Leadership Award. I join his family, friends and business associates in commending him for his many accomplishments thus far, and wish him many healthy and active years to come.

NUCLEAR INDUSTRY PULLS PLUG ON PRICE-ANDERSON

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MARKEY. Mr. Speaker, in the aftermath of the horrible accident at Chernobyl, many Americans are asking what will happen here in the event of a nuclear accident. Yesterday, the nuclear industry gave the answer: The truth is too important to be debated on the floor of the House of Representatives.

After the Chernobyl accident, many were shocked to discover that Federal law limits the amount of money victims can receive in the event of a nuclear accident to just $600 million—not enough money to pay for the cleanup of the accident at Three-Mile Island.

This law, the Price-Anderson Act, puts a lead shield around nuclear utilities while exposing victims of nuclear accidents to unlimited damages. For the past 6 months, three committees have been working to change the law, due to expire next year. We have been trying to increase the protection available to victims. We have worked day and night to remove the burden from victims and to place it on the shoulders of the utility industry.

The three committees managed to resolve many of their differences. The handful of controversial subjects were left to be resolved by amendments on the floor. Today, we should be debating that bill to increase protection for victims of nuclear accidents.

But yesterday, the nuclear industry pulled the plug on this important bill. Their reason: They did not want liability for a nuclear accident to be debated on the floor of the House. They were afraid to let the representatives of the people examine this issue and vote their conscience. They were afraid of democracy, knowing that this denial of protection to nuclear accident victims cannot stand up to the scrutiny of legislative debate.

If the Price-Anderson law expires next year, the nuclear industry has only itself to blame. We were willing to debate this issue and let the voice of the House be heard. The nuclear industry was not. And the real losers in this game of legislative muzzling is the American people who live near the 100 nuclear plants in this Nation.

CONGRESSIONAL SALUTE TO THE HONORABLE CATHERINE A. ZAZZALI OF BELLEVILLE, NJ, RECIPIENT, 1986 OUTSTANDING TEACHER AWARD OF THE AMERICAN ASSOCIATION OF TEACHERS OF SPANISH AND PORTUGUESE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. ROE. Mr. Speaker, on Saturday, October 25 residents of the township of Belleville, my congressional district and State of New Jersey will join with the members of the New Jersey Chapter of the American Association of Teachers of Spanish and Portuguese [AATSP] in testimony to an esteemed educator and good friend—the Honorable Catherine A. Zazzali of Belleville, NJ—whose standards of excellence in teaching our young people has earned her the highly prestigious honor of being selected from a group of nationwide candidates to receive the 1986 Outstanding Teacher Award of the American Association of Teachers of Spanish and Portuguese.

In announcing the selection of Miss Zazzali for this highly meritorious award, the president of the New Jersey chapter of AATSP, the Honorable William M. Price, stated:

Miss Zazzali truly exemplifies what an outstanding teacher is—someone who inspires students, who challenges them, who incorporates global understanding into her teaching, someone who motivates critical thinking, who exhibits leadership and participates in local, State, national and international activities.

Mr. Speaker, AATSP was founded in 1917 and is comprised of teachers of Spanish and Portuguese languages and literature and others interested in Hispanic culture. With a membership of 11,000 and local chapters numbering 74, the national headquarters is located in Mississippi State University, State College, MI. In addition to operating a placement bureau and maintaining an exchange of communications registry, the organization sponsors a national honor society, Sociedad Honoraria Hispanic [SHH] and national Spanish examinations for secondary school students.

SHH was founded in 1953 and has a membership of 30,000 secondary school students doing superior work in Spanish classes. The honor society also presents college scholarship awards, sponsors trips to Mexico and Spain and has its national headquarters at the Christopher Columbus High School, Maimi, FL. The highlight of the AATSP's annual national competition among secondary school teachers of Spanish is the presentation of the AATSP Outstanding Teacher Award.

Mr. Speaker, when you reflect upon the fact that the cultural, historical, and economic achievements—even the basic health, well being, and longevity—of a State and Nation depend in large measure upon how well we educate each generation charged with the trust of carrying out its responsibilities and traditions, we can indeed be proud of Catherine Zazzali's outstanding contribution to the quality of life and way of life for all of our people.

At the high school level Miss Zazzali has:

Taught for 25 years at Paramus High School in Paramus, NJ;

Been supervisor of foreign languages for the past 3 years;

Established the local chapter of the American Field Service to encourage the international exchange of students;

Established the local chapter of the National Spanish Honor Society;

Developed and taught the advanced placement program of Spanish literature at Paramus High School;

Developed and taught a course of practical Spanish for the noncollege-bound student;

Chaperoned many groups of students to Spain; and

Been supervisor of the English as a second language program at Paramus High School.

At the national level Miss Zazzali has:

Been Eastern regional director of the National Spanish Honor Society;

Been elected to the national board of directors of the National Spanish Honor Society;

Been elected the vice president of the National Council of the Spanish Honor Society; and

Served on the nominating committee for the national officers of the National Spanish Honor Society.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life here in America. As we gather together on October 25 in tribute to Catherine Zazzali's leadership endeavors and personal commitment dedicated to the teaching of our young people, we do indeed salute the 1986 recipient of the Outstanding Teacher Award of the American Association of Teachers of Spanish and Portuguese—the Honorable Catherine A. Zazzali of Belleville, NJ.

MARION "REX" HARRIS RECEIVES MINORITY ADVOCATE AWARD

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mrs. COLLINS. Mr. Speaker, this week is Minority Enterprise Development Week. In observance a luncheon was held on October 7 to recognize several members of the minority business community. I would like to bring to the attention of my colleagues a recipient of one of these awards.

Mr. Marion "Rex" Harris of the International Domestic Development Corp. received the National Minority Advocate of the Year Award. The award was presented at the luncheon by the Minority Business Development Agency, an agency of the Department of Commerce.

International and Domestic Development Corp. [IDDC] was organized in 1976 and, as a leading minority-owned business, has a long and successful history of economic development. The capabilities of IDDC and its associated firms include producing, processing, and marketing coal for domestic and export markets; export port development; medical and health commodities and commodity-related services in education and training; agricultural development—including research and expansion—and construction; banking and finance.

Mr. Harris has worked at getting minorities into salaried and nonsalaried jobs in government and the private sector through his business endeavors, making him an excellent choice for the Minority Advocate of the Year. I would like to congratulate Mr. Harris on his accomplishments.

IT IS TIME FOR A FULL INVESTIGATION INTO NORTHERN IRELAND POLICE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the bipartisan 115-member Ad Hoc Congressional Committee for Irish Affairs, I, together with 21 of my colleagues in the House, sent a telegram yesterday urging the British Government to conduct a new and independent investigation into the conduct and procedures of the main police force in Northern Ireland.

This telegram stems from a variety of disturbing actions which have taken place over the past several months in the six northeast counties of Ireland which are under the direct rule of Northern Ireland. This includes the commencing of an investigation into allegations that the Royal Ulster Constabulary, the main police force in Northern Ireland had employed a "shoot to kill" policy in more than 35 separate shooting incidents involving civilians since 1982.

For most of the past year, the initial inquiry was headed by a respected police official from Manchester, England, John Stalker. His investigation was progressing when he was abruptly suspended from his duties because of what the New York Times called "vague" charges of "misusing his police vehicle and of having as a longtime friend, a businessman who had no criminal record but who might have associated with suspicious people in the view of accusers never fully identified by the police." Mr. Stalker was investigated; the charges were dropped; he was reinstated to his police position, but was removed from the RUC investigation.

The timing of the Stalker suspension was significant. He was close to filing a preliminary report which would cite scores of RUC officials as being culpable in the investigation based on the shoot to kill allegations. Specifically, it was charged that Stalker was removed from the investigation after he repeatedly requested Northern Ireland officials to obtain a police tape recording of one incident involving the killing of an unarmed civilian by policemen who claimed that the individual was in fact armed.

The removal of Stalker resulted in a stalling of the overall probe. In early August, I wrote to Secretary of State George Shultz to convey my concerns about the status of the probe. In their response the Department expressed their concern about the long delayed investigation and indicated their intention to "carefully monitor all developments."

Last week, the London-Based International Human Rights Group Amnesty International accused the British Government with failure to conduct a proper investigation into the RUC. They cited 34 shooting incidents in question including 18 unarmed civilians who may have been victims under the RUC policy.

It is my strong contention that if we are to make progress toward a lasting political solution in Northern Ireland, then we must put an end to all violence in Northern Ireland. This includes the always cited civilian violence, but also the little mentioned official violence. The allegations directed against the RUC represent serious charges which would represent the most reprehensible form of official violence I could imagine. The allegations must be investigated quickly and thoroughly.

It should be noted for the record that the Royal Ulster Constabulary since 1979 has been under a suspension which bars the shipment of any further U.S. arms or ammunition to them pending a full review of U.S. policy. This followed an amendment I offered to the 1980 Department of State appropriations bill which called for the cutoff of aid on the grounds that it violated section 502(b) of the Foreign Assistance Act dealing with human rights.

We as a nation are far more deeply involved in the future of Northern Ireland than we were in 1979. We have this year alone appropriated first time United States economic aid to Northern Ireland and Ireland. We do so with a sincere commitment of trying to advance the cause of peace and justice in Northern Ireland. That cause and that goal cannot be achieved if the British Government engages in a policy of whitewashing allegations of abuse of power by its security forces. That is the perception, if not the reality, of the situation with the RUC probe at the present time. I am hopeful that the bipartisan display of concern reflected in those of my colleagues who have cosigned this telegram to British Secretary of State for Northern Ireland, Tom King, will lead to a credible probe into these most serious of allegations.

The text of the telegram and those who have signed it follows immediately.

[From the Western Union Telegram]

OCTOBER 6, 1986.

Hon. TOM KING,
Secretary of State for Northern Ireland, Northern Ireland Office, Whitehall, London, England.

DEAR SECRETARY KING: We, the undersigned, join with Amnesty International in urging you to convene a new and independent investigation into the conduct and procedures of the Royal Ulster Constabulary. Of special concern to us are the charges that the RUC employed a "shoot to kill" policy in more than 35 separate shooting incidents involving civilians since 1982.

We deeply regret the circumstances which led to the abrupt termination of a preliminary report on this subject filed by John Stalker. This action appeared to represent an attempted whitewash of widespread findings of wrongdoings on the part of certain RUC officers. There must be an end to all violence in Northern Ireland. The allegations against the RUC would suggest that a disturbing level of official violence exists in Northern Ireland. These allegations must be answered; and if wrongdoing is found, swift and certain punishment must follow.

Mario Biaggi, Chairman, Ad Hoc Congressional Committee for Irish Affairs, Thomas Manton, M.C. (D-NY), Robert Borski, M.C. (D-Pa), Al Waldon, M.C. (D-NY), Matthew Rinaldo, M.C. (R-NJ), John Bryant, M.C. (D-Tx), William Coyne, M.C. (D-Pa), James Oberstar, M.C. (D-Minn), Barney Frank, M.C. (D-Mass), Gary Ackerman, M.C. (D-NY), James Howard, M.C. (D-NY), Albert Bustamante, M.C. (D-Tx), Charles Schumer, M.C. (D-NY), Joseph DioGuardi, M.C. (R-NY), Timothy Penny, M.C. (D-Minn), Sander Levin, M.C. (D-Michigan), Norman Lent, M.C. (R-NY), Hamilton Fish, M.C. (R-NY), Peter Kostmayer, M.C. (D-Pa), Mervyn Dymally, M.C. (D-Cal), Major Owens, M.C. (D-NY).

TRIBUTE TO THE HONORABLE TOM KINDNESS

SPEECH OF

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1986

Mr. MAZZOLI. Mr. Speaker, it is a pleasure for me to join my colleagues in this special order paying tribute to Congressman TOM KINDNESS of Ohio, who is retiring from the House at the conclusion of this session.

I have had the privilege of serving with TOM on the Judiciary Committee since he was elected to the House 12 years ago. We both came to the committee at the same time, and over the years, we have worked closely on numerous pieces of legislation on a wide range of issues, from beginning to end of the legislative process. I have only the highest respect for TOM—his ability to speak forcefully and fight hard for his ideals.

And, as a member of the Government Operations Committee, TOM KINDNESS has aggressively sought to ensure that the Government's business is conducted in a sound economical and efficient manner.

The people of Ohio's Eighth Congressional District have been served with distinction by TOM KINDNESS. The House of Representatives loses an intelligent, principled, and hard-working legislator—and a good friend. I wish you, TOM, good fortune, health, and happiness in all your future endeavors.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FRANK. Mr. Speaker, the oppression of the Soviet Jews continues unabated, and it is important for us to keep their plight in the public view. I would like to remind Members of the continuing struggle of Vladimir Lifshitz. He is a Soviet Jew who was forced to resign his job as head of the National Research Institute of Jewry, simply because he applied to emigrate from the U.S.S.R. to Israel.

Mr. Lifshitz was denied an exit visa on the grounds that it was against the interest of the Soviet state. Mr. Lifshitz was not satisfied, and subsequently wrote a letter to the Supreme Soviet claiming that his rights under Soviet law had been violated. Continuing to protest, Lifshitz renounced his Soviet citizenship, went on a hunger strike and later demonstrated in front of the Leningrad Soviet of People's Deputies Building. Only minutes after he held up a sign which read "Free Me From Citizenship of the U.S.S.R.," he was taken into custody.

Between August and November 1984, Lifshitz wrote a number of letters to personal friends in the United States, England, and Israel detailing the ordeal of his son Boris, who had been denied entrance to the university—and who has since lost a medical deferment for military service—because of Lifshitz's protests. Only two of these letters was ever received abroad. The others were intercepted by Soviet officials. Lifshitz was charged with slandering the Soviet state.

Lifshitz obtained Israeli citizenship and continued his emigration appeal to Soviet officials to no avail. He again went on a hunger strike to protest the unlawful treatment of Jewish activists and the denial of rights guaranteed them under the Soviet Constitution. During a preliminary investigation Mr. Lifshitz did not enjoy choice of counsel, and at trial he was not allowed to submit additional written documents that would strengthen his case.

I agreed to represent Lifshitz in a legal capacity and signed a brief on his behalf rebutting all charges. Despite an outpouring of congressional support, Lifshitz was convicted on March 19, 1986. At the trial more than 100 supporters of Mr. Lifshitz, including his family members and a representative of the U.S. consulate, were denied entrance to the courtroom. Basic rights were violated and testimony manipulated, as a witness later complained that she had been threatened with the imprisonment of her son if she did not testify against Lifshitz.

While awaiting appeal Lifshitz was kept in a cell 10 meters square with 10 other criminals. He complained of headaches and high blood pressure, but his requests to see a doctor were denied. On April 16 his sentence of 3 years in a labor camp was upheld by the Supreme Soviet. He has since been relocated to a camp in Kamtschaka near Japan, where he often is required to haul metal sheets weighing up to 75 pounds. Under this strain and in response to his wife's continued letters to Soviet officials, Mr. Lifshitz is now in the hospital.

Mr. Lifshitz's son Boris, having only recently been released from the hospital with an ulcer, has been drafted by the Soviet Army and sent to a region in the north. His ulcer has since required medical attention and he has been in and out of the hospital numerous times. He is unable to get a discharge.

Mr. Speaker, I would like to make special note of the efforts of the gentleman from New Jersey [Mr. COURTER] and the Senator from Ohio [Mr. METZENBAUM] on Mr. Lifshitz's behalf. It is crucial that the victims of Soviet repression realize that we in the West have not forgotten them.

POLITICAL MOVEMENT ON TAIWAN

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FASCELL. Mr. Speaker, for many years members of the Foreign Affairs Committee, as well as other Members of Congress, have been concerned about martial law that has continued for decades on Taiwan. The movement toward a more open and democratic system has been very slow. It has experienced several setbacks. Yet, the perpetuation of martial law has continued to tarnish what should otherwise be a shining Asian success story.

This year, however, there has been some movement on Taiwan that we should acknowledge. Today's report in the Washington Post suggests that President Chiang Ching-kuo is preparing to lift martial law. Earlier this year, special committees were established in the Nationalist KMT Party to examine major political problems such as martial law and elections. The Government has also encouraged dialog with the opposition.

Last week an opposition party—the Progressive Democratic Party—was formed on Taiwan composed of many respected and dedicated citizens in that land. While I do not believe we should endorse any one party over any other, we can nevertheless applaud the opening and extension of the political process and express our hope for further unconstrained development along peaceful directions.

Clearly the people of Taiwan deserve adequate representation befitting the modern state that Taiwan has become. To do so, they will need to perfect their own institutions and procedures. Recent developments give grounds for optimism that positive political change is underway.

TRIBUTE TO JAMES H. GOSNELL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. HALL of Texas. Mr. Speaker, it has been said "a tree is best measured when it is down." The city of Whitewright, the county of Grayson, the State of Texas—and the Nation—said goodbye last Thursday to James H. (Sonny) Gosnell—who had been a mighty oak tree for all who loved and needed him throughout his life.

Sonny was a total success in every facet of life. He was a loving and devoted husband to Doretha; a warm and steady and adoring father of Judy, and a dependable and caring brother to his three sisters, Ruth, Gladys, and Marcell, and their families. We, here in Congress, send our special love and prayers to Judy—who has many friends on the Hill, in the House family, and in the Texas State Society and the Texas Breakfast Club—entities she served during her tenure in Washington, DC.

Through the strength, support, and love Sonny drew from Doretha and his family—he extended his success and service into every other field of life—his church, his friends, his business, and in the field of public service. Sonny Gosnell loved his church and served it well as a 50-year member, a 16-year director of Sunday school, deacon and faithful attender and financial supporter; Sonny was an organizer and director of banks, agribusiness expositions, a supporter and president of the chamber of commerce, the United Fund, a leading director of the Grayson County Airport Board, and owner of Whitewright Grain & Elevator Co., O.K. Feed Mill; at one time owned and operated Farmer's & Ranchers Service Center in Sherman—all accomplished at a time when he farmed over 800 acres of land.

In addition to family, church, and business, Sonny found time for his friends—and they, in turn, recognized his leadership in the White-

wright FFA and 4-H chapter for 25 years continuous service.

He was a Scottish Rite Mason—and was a past master of the Whitewright Masonic Lodge. He and his friends made possible the Grayson County Jail-Justice Center; Sonny was president of the Grayson County Crime Commission and served as a director to the Friends of Sam Rayburn Board—an organization dedicated to the memory of Sonny's great and personal friend—the late Sam Rayburn.

So, Mr. Speaker, and Members of Congress, Sonny Gosnell climbed the hill of success—family, church, business, public service—and friends. We have a street named after Sonny at the Grayson County Perrin Air Force Airport—a signal honor bestowed on Sonny Gosnell by admiring friends. Those same friends, in overflowing numbers, said their last earthly goodbyes to Sonny, September 25, 1986.

Sonny Gosnell left behind him a legacy of serving, of giving, and of loving. I personally will never forget this kind man and this kind family.

Men such as Sonny Gosnell—like the mighty oak trees of the forest—are best measured when they are down. We only wonder at how they grew so strong and sturdy, and shaded so many lives—in such a relatively short time. Sonny was always busy—but he always had time for others. May God's richest blessings rest with Sonny and his family and his many friends.

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MAVROULES. Mr. Speaker, the land of opportunity has fulfilled its promise to several individuals being honored this week. Over two dozen minority entrepreneurs from across the Nation will be awarded for their achievements as part of Minority Enterprise Development Week. These people are proof that the American dream can still come true, and they are a shining example to the 600,000 other small minority run businesses in the United States.

People of all nationalities are drawn to the United States by the promises of opportunity. Often, however, these promises are not met because many of the newcomers find themselves at a clear disadvantage and cannot compete effectively in the business world.

One of our jobs, as legislators, is to help insure that all people have equal access to opportunity in the marketplace. Certainly, we cannot guarantee success to each and every business venture. However, we can guarantee a chance to each person to prove his or her capability. We are responsible for enabling our Nation to remain the land of possibilities for everyone with a dream of success.

Being alert to the adversities that minority firms must overcome each and every day must continue to be an ongoing project for us. Nevertheless, we must be prepared to do even more than that. We must continue to take careful yet profitable steps toward maintaining a climate that is favorable to the growth and well being of small business in the United States.

Set-asides and the 8(a) program of the SBA have made it possible to involve small and minority businesses in the Government procurement process. Such programs allow minority firms to prove their capability through Government contracts, and assist them in their transition into the private sector.

I am pleased to be able to congratulate the award winners this week, and I extend a helping hand to all minority businesses in an effort to bridge the gap between the dream and reality of economic success.

THE ONGOING STRUGGLE OF SOVIET JEWS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. SCHEUER. Mr. Speaker, as the President prepares for his upcoming Summit Meeting with Soviet leader Mikhail Gorbachev, let us remember the desperate struggle of the Soviet Jews, who continually suffer unjustly under the oppressive Soviet State.

Jews in the Soviet Union continue to be subjected to an official campaign of harassment, intimidation, and physical abuse, not unlike Nazi policies of the 1930's.

The terrible plight of Jews in the Soviet Union is one of the most shameful wholesale violations of human rights in the world today.

There is, however, a growing grassroots movement here in this country dedicated to addressing the plight of Soviet Jews.

Today, leaders of this movement are meeting here in the Nation's Capital to alert us to the ongoing struggle of Soviet Jews, and I join them in urging the President to make the issue of Soviet Jewry a priority at the upcoming summit.

These dedicated individuals work continually to organize and mobilize the public to take action for the cause of Soviet Jews.

They understand that silence on the issue is our greatest enemy.

Jews have become the targets of increasingly harsh and virulent anti-Semitic attacks in the Soviet-controlled media, despite the Soviet Union's pledge as a signatory of the 1975 Helsinki Agreement, to "recognize and respect the freedom of an individual to profess, alone or in a community, a religion or belief in accordance with the dictates of their conscience."

As each day goes by, the suffering continues.

We have an obligation, as Members of Congress, to call upon the Soviet Union to abide by its treaty commitments.

We must not, we will not, be silent on the plight of Soviet Jews.

TRIBUTE TO ROBERT CAMPI

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Robert Campi, a constituent of Long Island's Third Congressional District who has devoted his life to the musical enrichment of others.

Mr. Campi's efforts on behalf of the arts have been enormous. For more than 25 years, he has performed as a professional opera singer. Traveling to schools and libraries all over Long Island, Bob Campi has consistently impressed audiences with the strength and diversity of his talents.

In addition to performing, he has also taught our children. As a New York State certified teacher, he has taught music in Nassau County for more than 12 years. He also holds school music programs in which he discusses the history of music and performs selections in four languages.

Mr. Speaker, I was fortunate enough to hear Bob perform recently. His artistic contribution to the Long Island community has been invaluable, and I am pleased to bring his accomplishments to the attention of my colleagues today.

CHERNOBYL REVISITED: WILL THE SUNKEN SOVIET SUBMARINE POLLUTE THE OCEAN?

HON. WM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. BROOMFIELD. Mr. Speaker, a few months ago, the Russians treated the world to a nuclear powerplant disaster. As radiation drifted around the globe, the Kremlin minimized the bad effects of that accident. Yesterday, a Soviet sub sank off our coast with nuclear reactors and missiles on board. Again, the Russians are telling us "not to worry." Chernobyl clearly polluted the atmosphere. What will the sunken submarine do to the ocean? In spite of what the experts say, I am very concerned.

The Soviets fouled up again. A fire broke out aboard one of their nuclear subs. The fuel in one of the nuclear missiles on board may have ignited. Although the reactors in the ship appear to be intact, are the Soviet authorities leveling with us this time? What will the sea water eventually do to the radioactive materials aboard the ship? These are questions that all of us must ask in light of the less than honest handling of the Chernobyl disaster by Mr. Gorbachev.

The Russians cut corners in their nuclear powerplant reactor designs as well as in their submarines. Regretfully, the Soviets do not use lead and other materials to shield their submarine reactors. By doing this, they save on weight and increase the speed of their submarines. In the high-stakes game of reactor design and missile systems, safety is criti-

cal. The Russians should put safety first so that we don't damage our fragile environment. The world doesn't need another Chernobyl.

CONGRATULATIONS TO IMMACULATE CONCEPTION SCHOOL

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FROST. Mr. Speaker, I want to take just a moment to commend Immaculate Conception School located in my district in Grand Prairie, TX.

On September 12 of this year, Immaculate Conception School was one of only 60 private schools nationwide to be honored with the 1985–86 U.S. Exemplary Private School Award. School principal, Diane Cooper, traveled to Washington and received flags from President Reagan and Secretary of Education, William Bennett, at a special White House ceremony.

I am very proud of the excellent educational opportunities being provided to children in my district by Immaculate Conception School. I commend the school administration and teachers for their fine work and look forward to congratulating them in person when I return to Grand Prairie.

CRACK DOWN ON CRACK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. RANGEL. Mr. Speaker, I rise to commend WABC–TV in New York for the initiative it has taken in publicizing the need to halt the spread of crack.

We all know that crack is the newest and most insidious addition to the drug culture. It is cheaper than cocaine, and more addictive. Young people who experiment with crack often become habitual users because of its highly concentrated narcotic effect. They become addicts before they know what is happening.

Television is a very useful medium for spreading the word in the war on drugs. Young people watch television, and their parents are made aware of events through public service announcements. Therefore, when a station as influential as WABC declares its support for antidrug efforts, the public's interest is dutifully served.

I would like to submit the text of WABC's editorial for inclusion in the CONGRESSIONAL RECORD.

The text of the editorial follows:

CRACK DOWN ON CRACK

The Bronx district attorney says that 50% of the robberies in the borough are committed by those who are feeding a drug habit. That's half of all the crime in the Bronx and you can see the crime wave reaching into other boroughs and into poor communities alike.

Cocaine abuse has reached epidemic proportions and in it's cheaper more potent form called crack it's running the lives of our children. Children as young as 10 have used and are being sold crack. The evidence is there to show that just one hit can make you an addict. And the drug invasion is growing.

The fact is that cocaine smuggled into the U.S. has increased from 25 tons to 125 tons each year for the last 5 years. News studies show cocaine-related hospital emergency room admissions rose 94% since 1983.

So what are we going to do about it? We hope that you feel as mad as we do about the drugs and dealers. They must be driven out of our communities, away from our kids. We here at Channel Seven join the local clergy, government and community leaders in our own effort to Crack Down on Crack. Only if we work together can we win this battle.

TRIBUTE TO MARCO CANGIALOSI

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. TORRICELLI. Mr. Speaker, I rise in honor of Marco Cangialosi on the occasion of his recognition by the readers of "Il Progresso" as a prominent Italian American.

Mr. Cangialosi migrated to the United States from Marineo, Italy, as a young man of 24. He and his two brothers founded the Dor-Win Manufacturing Co. From a small business in Lodi, Mr. Cangialosi has branched out to five locations with a national reputation as a manufacturer of windows and doors. A proud moment came this past year when Dor-Win windows and doors were used to renovate the Statue of Liberty.

Mr. Cangialosi has been honored by his native land of Italy for his fund-raising efforts for the victims of earthquakes in 1980–83. He has worked diligently to raise funds for the renovation of old schools and historic landmarks in Marineo.

His fellow citizens are also keenly aware of Mr. Cangialosi's many efforts on their behalf. He was named "Man of the Year" in 1980 by the Kiwanis Club of Lodi. In 1982, he was the recipient of the Italian-American Forum of Lodi's "Man of the Year Award." In 1984, he received the Humanitarian Award from the Italian Tribune Newspaper in Newark, NJ, and was honored in the Columbus Day Parade.

Mr. Cangialosi has given of himself for his fellowman. We are proud of his years of benevolent caring, both for the land of his birth and for his adopted country. I am pleased and honored to be able to recognize his many achievements on the floor of the Congress of the United States.

ELWOOD "BUD" HILLIS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1986

Mr. STOKES. Mr. Speaker, I would like to thank my colleagues, Representatives VISCLOSKY, SHARP, HILER, COATS, BURTON, MYERS, MCCLOSKEY, HAMILTON, and JACOBS for reserving this time for Members to pay tribute to my distinguished colleague in the House of Representatives, ELWOOD "BUD" HILLIS, who is retiring after 16 years of service to the citizens of the Fifth District of Indiana.

BUD HILLIS and I have enjoyed a friendship that transcends our sitting on opposite sides of the aisle. Bud's secretary, Jean Gosa, one of Capitol Hill's most charismatic staff persons was the link to the beginning of our friendship. He and I have passed the time of day on many occasions discussing something Jean has done. She has been a great asset to his office and my staff and I have enjoyed our relationship with him and Jean.

BUD is also highly respected on Capitol Hill for his fine work and dedicated service to his constituents. He has served on the Veterans' Affairs Committee since 1971 and on the Armed Services Committee since 1975 and has labored diligently to protect the interests of the men and women who have served our Nation in battle.

Mr. Speaker, the House of Representatives is losing an outstanding Member with the retirement of BUD HILLIS. He is an admired and respected Member of Congress, and his presence will be missed. I join with my colleagues in wishing BUD the best of luck on his retirement from the House of Representatives.

BICENTENNIAL OF PHILLIPSTON, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to a great little town in my district, Phillipston, MA. This holiday weekend Phillipston will be celebrating its bicentennial, and the town will be reveling in its rich New England heritage. This community of 950 people was incorporated as a town on October 20, 1786, but its history dates back to when it and Templeton were part of Narragansett Grant No. 6. This grant was made to soldiers who served in the wars against the Narragansett Indians.

Phillipston is one of those towns which is the backbone of New England, where hard-working people take great pride in their town. It is a quaint, rustic village with New England charm, where travelers can always count on a good meal at the Fox Run Restaurant.

A full schedule is on slate this weekend in Phillipston. There will be a pumpkin viewing and weigh-in on the steps of the Congregational Church, a beard judging, a colonial encampment on the town common, numerous road races, native American dances and demonstrations. There will also be a viewing of a film on a subject which is very dear to me, Shays' Rebellion, and on the final day of the celebration there will be a mile-long parade.

Mr. Speaker, I know that many people in Phillipston have put much time and effort into this celebration, and I am sure that their hard work will result in a successful and enjoyable day for all. The people of Phillipston have good reason to be proud of their town, and I

am pleased to pay tribute to Phillipston on the event of its bicentennial.

ON PATENT AND TRADEMARK OFFICE AUTHORIZATION BILL

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. BROOKS. Mr. Speaker, I wish to express my support for the amendments to the Patent and Trademark Office authorization bill (H.R. 2434) agreed to by the House on October 2. I would like to thank the gentleman from Wisconsin, Mr. KASTENMEIER, for his leadership in reaching the compromise with the Senate on this measure. The gentleman from California, Mr. MOORHEAD, also deserves commendation for his assistance in working out the compromise.

The bill as originally passed by the House contained an amendment I offered that prohibited the Patent and Trademark Office from expending any user fees to acquire any automatic data processing resources during the 1986 to 1988 period. My amendment was based on the need to obtain more thorough congressional review of the automation activities at the Office.

I have been concerned, as have been other members of the Judiciary Committee, by findings of the Comptroller General in two reports concerning automation activities of the Patent and Trademark Office.

In April 1985, the Comptroller General reported on automation of trademark operations. The report stated that, in attempting to automate its trademark operations, the Office did not: First, thoroughly analyze user needs; second, adequately assess the cost effectiveness of its systems; third, properly manage three exchange agreement contracts; and fourth, fully test one of its systems before accepting it from the contractor. This year, the Comptroller General issued a report on the patent automation activities at the Office. The 1986 report revealed serious deficiencies in the planning and execution of the large program for automating the patent search files, which has an estimated cost of some $800 million by the end of the century.

The Senate bill adopted a different approach for obtaining oversight of their automation activities. The Senate added a provision requiring the Commissioner of Patents and Trademarks to report key deployment decisions to the House and Senate Committees on the Judiciary at least 90 calendar days before the date of implementation.

The compromise bill approved this week retains the Senate reporting requirement along with a modified version of my amendment prohibiting the funding of automation activities by user fees. The compromise provides that in fiscal years 1987 and 1988, automatic data processing resources shall not be funded with more than 30 percent user fee money.

User fee policies of the Patent and Trademark Office have been considered by the Congress several times in recent years. The most recent fee legislation was in Public Law 96-517 in 1980 and Public Law 97-247 in 1982. The report issued by the House Judiciary Committee in 1980 endorsed a policy of employing user fees to support certain operations and appropriated funds to support other operations. The report stated that, "the acquisition or replacement of equipment where such acquisition or replacement involves substantial capital outlays," should be supported by appropriated funds rather than user fees.

My amendment and the compromise adopted on October 2 is consistent with this approach of using appropriated funds, rather than user fees, for capital outlays. The automation programs at the Patent and Trademarks Office will, in large measure, involve capital expenditures over the next decade. The compromise bill adopted this year, with its 30-percent limitation on user fees, is consistent with the capital/noncapital approach. "Capital" expenditures has a well-established meaning in the lexicon of Federal Government accountants. Under the accounting rules promulgated by the General Accounting Office, it has been estimated that at least 70 percent of the PTO's automation programs will involve capital expenditures over the next several years. Thus, the compromise cap of 30 percent user fees roughly equates to the amount of noncapital expenditures that these computer projects will entail.

I am gratified that the compromise bill also includes a provision along the lines of one I sponsored originally to prohibit the Patent and Trademark Office from entering into any new agreements for the exchange of items or services relating to automatic data processing resources through fiscal year 1988. The bill also precludes the Office from continuing existing agreements for the exchange of such items or services. This provision responds to concerns raised in the Comptroller General's 1985 report on automation of trademark operations.

While I support the need to automate the outdated and inadequate paper files at the Patent and Trademark Office, which I understand contain over 25 million patent and trademark documents, I believe the oversight committees of the Congress must take a more active role in assuring that the automation programs are being managed effectively and are consistent with all applicable laws and regulations. We have a responsibility both to the taxpayers and to the users of the patent and trademark systems. My colleagues and I, therefore, plan to pursue this matter further next year through continued oversight of the Patent and Trademark Office and the Department of Commerce. We must be sure that the Office is fulfilling its purposes of encouraging innovation and investment that will strengthen the national economy and improve our citizens' lives.

TOLEDO VISITING NURSE SERVICE—85TH ANNIVERSARY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Ms. KAPTUR. Mr. Speaker, the family is the central institution in the American way of life. Although family structure is changing, most people are born into, grow up in and die within the context of a family. Yet, societal changes and anticipated demographic trends are affecting the traditional familial approach to caring for elderly and disabled family members. Home health care will increasingly play a role in this evolution.

I am particularly pleased with the long history of nonprofit agencies' involvement in home health care. One such program, the Visiting Nurse Service of Toledo, OH, has been offering nursing and health care assistance to the elderly, as well as physical, speech and occupational therapy and maternal and child health care in my community since the turn of the 20th century.

One of the greatest contributions made by nonprofit home health agencies is the access they provide to quality health care for all patients, regardless of the individual's ability to pay. Of the 48,000 visits made by the Toledo VNS in 1984, over 11,000 were not fully reimbursed. Thanks to the partnership this agency has forged with private individuals, other community service organizations and local businesses, over $473,000 in free home care services were provided to the medically needy in 1985. The Toledo Visiting Nurse Service is truly an integral part of our community's, and our Nation's, commitment to affordable, accessible health care.

The Visiting Nurse Service has made an invaluable contribution to Toledo during its first 85 years. I applaud the many achievements of the VNS and wish them continued success into the 21st century.

FATHER DANIEL EGAN

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. FISH. Mr. Speaker, on October 24, 1986, Mount Saint Mary College, Newburgh, NY, will honor a pioneer and leader in the war against drug abuse, Father Daniel Egan, S.A.

Father Egan, 71, a Catholic priest for 40 years and a member of the Antonement [Franciscan] Friars from Garrison, NY, has worked with young drug addicts for more than 30 years. He has written articles, appeared on television, lectured throughout the country, and testified before governmental hearings on the subject of drug addition.

In 1970, he founded New Hope Manor, a drug rehabilitation center for teenage girls at Graymoor in Garrison, NY, which is the motherhouse of the Atonement Friars. Father Egan has presented his alcohol/drug prevention program for students from the fifth through ninth grades in more than 200 schools since developing it in 1981.

Mount Saint Mary College is presenting Father Egan its Aquinas Award during the school's Second Annual Soiree Eclatante, a dinner dance, at the Thayer Hotel at West Point, NY.

The award is well deserved. When Father Egan first became involved in fighting drug abuse, the world of drugs was a remote one for him. But no one could say Father Egan was a slow learner. The streets became his

classroom, the shooting galleries became his parish, and the woman addicts of New York City were his parishioners.

He was appointed by President Kennedy as a member of the first White House Conference on Drugs. Many of his early recommendations about the treatment of GI addicts have been enacted into legislation, and he continues to testify before local, State and Federal hearings on crime and drug abuse.

Recently, Father Egan has devoted much of his time to drug abuse prevention and education.

I am proud to recognize his contributions and ask my colleagues to join me in congratulating Father Egan on his past successes and to wish him well in his future endeavors.

SOCIAL SECURITY/MEDICARE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. AuCOIN. Mr. Speaker, recently, the mayor of New York presented James Roosevelt, chair of the National Committee to Preserve Social Security and Medicare, with an official resolution of commendation.

This is an honor well deserved. Since founding the national committee in 1982, Mr. Roosevelt has done much to raise the consciousness of Americans and the level of national debate regarding issues that affect older Americans.

Now, I don't always agree with the positions taken by the committee. But I do respect the hard work they do. And there's no question that they get results. The committee's national newspaper, Saving Social Security and a special legislative alert system keep the committee's 3 million members up to date regarding actions in Congress. Over the past 3 years, nearly 9 million petitions, letters, and phone calls have been made to Members of Congress. The national committee staff also works with Washington policymakers and presents testimony at hearings pertaining to Social Security or health care issues.

Members of the National Committee to Preserve Social Security and Medicare have spent long hours working to increase funding for home care and hospice programs and beef up research into the causes and treatment of Alzheimer's disease.

In Oregon, as across the United States, we're witnessing the graying of the population. Along with the increase in the number of people over the age of 60 comes an increased need to develop cost-effective ways to provide for health and retirement care. The national committee recognizes this change, and is working to make sure that reforms aren't made at the expense of elderly individuals who depend on Federal health benefits.

I would like to commend the committee for its work, and to wish Mr. Roosevelt and other committee members the best of success in the days ahead.

RULE ON HOUSE JOINT RESOLUTION 668, INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to serve notice, pursuant to the rules of the Democratic caucus, that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of the Senate amendments to House Joint Resolution 668, increasing the statutory limit on the public debt.

PAUL KOTROTSIOS KEEPS DELAWARE VALLEY GREEKS INFORMED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. FLORIO. Mr. Speaker, recently, I attended a meeting of Greek-Americans from the Delaware Valley area and had the pleasure of meeting Paul Kotrotsios, an enterprising and conscientious young man who is the general manager for the Greek Radio Network of America.

The Greek Radio Network provides news to the Greek community of Pennsylvania, New Jersey, Maryland, and Connecticut. It not only provides the community with news about Greece but also serves a worthwhile mission of preserving the Greek language, culture, and tradition which are all valued so highly by Greek-Americans and by our society in general.

In managing this network, Paul has exemplified professionalism and concern for his fellow community members. I would like to direct the attention of my colleagues to an example of this concern that has been displayed by the station since a powerful earthquake racked the Greek city of Kalamata, leaving 20 dead, 35,000 homeless and leveling three-quarters of the city. Several days after the earthquake hit, Paul Kotrotsios and his colleagues began broadcasting round-the-clock news about the quake for 4 days providing both a public service for Greek-Americans with relatives and friends in the area and a humanitarian service in mustering donations for necessary relief efforts.

I would like to applaud Paul Kotrotsios and the Greek Radio Network of America for their efforts and commend the following Philadelphia Inquirer article to my colleagues' attention:

[From the Philadelphia (PA) Inquirer, Sept. 27, 1986]

ON THE AIR FOR FUNDS FOR GREECE

(By Mary Jane Fine)

There is a wall map of Greece beside Paul Kotrotsios' desk. A colored pushpin marks the city of Yiannena, which once was his home, just as other pushpins mark the former homes of other employees of the Greek Radio Network of America, based in Media.

The red pin stuck into the southern city of Kalamata is there for a different reason: It marks disaster.

Ever since Sept. 13, when an earthquake measuring 6.2 on the Richter scale severely damaged the seaside city, the cable radio station has directed its efforts toward relieving the town's distress. For four days beginning Sept. 15—when a second, lesser quake hit—it broadcast round-the-clock news and fund-raising appeals.

Nearly two weeks later, it continues to broadcast live reports from Greece twice a day, as well as hourly requests for donations. To date, contributions total about $23,000.

"They're facing some serious problems right now," said Kotrotsios, 31, the station's general manager, "and now it's still summer in Greece. Consider a month from now when it's cold, rain, even snow."

The station's listeners have good reason to be interested in the news broadcasts, the interviews, the public service announcements and the musical dedications for and about Kalamata. Most are Greek-Americans, eager for news of home or worried about the fate of relatives.

Kotrotsios estimates that 110,000 Greeks live within 50 miles of Philadelphia. The station also is heard in Maryland and Connecticut. In addition, a satellite dish can pull in the signal "anywhere in the United States and Canada," he said.

Several days ago, the station decided to broaden its appeal for assistance, distributing flyers outside the tightly knit Greek community. Station officials reasoned that wide media coverage of an earthquake in Italy several years ago resulted in widespread assistance.

"Are we avoiding the situation?" Kotrotsios asked, noting how little media attention the Greek quake has attracted. "Are we closing our ears?

He went on to recite Kalamata's disaster statistics: Three-quarters of the city leveled, with 30,000 to 35,000 people homeless, 20 dead, hundreds seriously injured, all the major buildings damaged.

"The people are living outside in the fields, in tents," said Peggy Mylonas, president of the Peloponnesian Society of Philadelphia and a recent guest on the radio station. "The army is feeding them. Even the church services are taking place outside."

By a stroke of good fortune, the city averted even greater disaster, she said. Hundreds, perhaps thousands, of people were at the seashore the night of the first quake, celebrating the inauguration of a new boat line between Kalamata and Crete.

"People were lucky they were not in their houses," Mylonas said.

Before the earthquake, Kotrotsios said, Kalamata was a fishing community as well as an exporter of olives, olive oil and "the famous figs of Kalamata."

On Wednesday, the station's listeners heard the mayor of Kalamata, interviewed by a Greek correspondent, thank "the Greeks abroad" for "their care and help."

Listening to a reply of the tape, Kotrotsios nodded and then spoke about the importance of his listeners' link with their past—embodied in news from home, in announcements of local Greek festivals, in the music of the station's 5,000-album collection.

The station's mission, he said, is "to help people to preserve the language and the

great Greek customs, the history and all that . . . but also the help people get adjusted in this new world, because it is a world of opportunity and freedom.

TRIBUTE TO CHARLES H. NORCHI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to Charles H. Norchi, executive director of the Ohio Medical Relief Assistance to Afghanistan, a constituent of mine and a former graduate of John F. Kennedy High School in Warren, OH.

As executive director of the Ohio Medical Relief Assistance to Afghanistan [OMRATA], Mr. Norchi is currently finalizing plans to establish a front-line medical clinic within the Soviet war zone in Afghanistan. This medical clinic will be staffed by three physicians and will be providing much-needed medical assistance to refugees, primarily children, who have been injured by Soviet attacks and Soviet "toy grenades". These toy grenades do not kill but result in the loss of limbs to these poor innocent individuals.

Prior to his efforts to help the refugees in Afghanistan, Mr. Norchi was a news reporter for the Independent News Alliance covering the war in Afghanistan. Back in 1979 he received his bachelor of arts degree in government from Harvard University. Most recently, Mr. Norchi received his law degree from Case Western Reserve University School of Law in Cleveland.

I want to commend Mr. Norchi for his dedicated efforts to help the courageous refugees in Afghanistan. Through the establishment of a medical clinic inside Afghanistan, Mr. Norchi is demonstrating his strong conviction to provide vital medical care to these individuals. These refugees have overcome tremendous odds against a Soviet and Afghan military force, far superior in manpower and weaponry. However, these people are committed to the defense of this land. With this courageous effort, great personal pain and suffering has been endured. Mr. Norchi's work to locate a medical clinic in this wartorn region is a sign of admiration and dedication to these refugees. I applaud Chuck Norchi for his conviction and dedication to this cause.

PROFILE OF SENATOR ALAN CRANSTON

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. COELHO. Mr. Speaker, as elected officials, we all know of the pressures of public life, and the need to maintain credibility among the electorate. Senator ALAN CRANSTON, perhaps more than any other California politician, has been able to deal with those pressures, and to keep a consistent public image by sticking to the principles he has long held. Not only the voters of California, but the press as well, admire Senator CRANSTON for his record of public service, as exemplified by this profile in the Los Angeles Herald-Examiner:

CRANSTON

(By Dave Lesher)

WASHINGTON.—Sen. Alan Cranston took off his jacket and sat casually on a couch in his office, legs crossed, and leaning over until his elbow rested on the middle cushion. As he talked, he snacked on a banana and milk.

Nearby, a large color television was tuned to the ongoing Senate roll call vote on President Reagan's controversial nomination of conservative Indiana Judge Daniel Manion to the federal bench.

Although Cranston was among the loudest liberal voices opposing Manion, he smiled after the appointment narrowly passed. On his vest-pocket scorecard, scrawled with his own pluses and minuses, he had accurately predicted the vote of every individual senator and the resulting 49–49 tie.

"On any issue that comes up, I can pick up a list of the 100 senators and mark about 70 percent of them, the way they're going to vote," he boasted. "I just know enough about them to know how they're going to vote on a given issue."

Cranston, 72, is clearly in his element on Capitol Hill. He walks among his colleagues on the Senate floor like a member of the varsity. In his office, he is comfortable enough to often work in his socks or slippers.

There are few who know every nuance of the congressional game—the personalities, the tactics, the rules—as well as Cranston. He has become a reference tool for the nation's Democratic leadership.

That's why his peers have unanimously elected him Democratic whip for five consecutive two-year terms, more than any other Democrat in 50 years.

"You don't get that job unless your colleagues realize you know your business," said Paul Allen, an aide to Massachusetts Sen. Edward Kennedy. "He is an excellent navigator."

He has won the respect of his colleagues while retaining personal habits that cut against the grain of the stereotypical politician.

Cranston is a reserved man who goes about his business with a lack of emotion that belies the tension of his job. One of his aides, speaking on the condition of anonymity, said, "It's one of the most frustrating things about dealing with Alan as a member of his staff—he doesn't talk very much. He's shy, he's almost awkward, but what he's doing is listening."

Cranston is proud of his reticence and, as evidence, recites a poem he has carried in his wallet for more than 40 years. It begins, "A leader is best when people barely know that he exists."

Rather than join Washington's active social scene after work, Cranston's escape is exercise. He lifts weights in the Senate gym and sometimes runs wind sprints around the Capitol. He also maintains his extraordinary shape by following a modified Pritikin diet that is heavy on fruits and vegetables.

His outside interests are few. Although a millionaire, he is excruciatingly modest with his money. In Los Angeles, he recently drove to a West Side restaurant in his battered, 14-year old Chevy Camaro with mag wheels. He handed the keys to a valet in a parking lot filled with Porsches and Mercedes.

But then, that's his new car. In Washington, he drives from his townhouse on Capitol Hill in a green 1965 Dodge Dart.

"I don't believe in buying new cars," Cranston said, as if buying cars was a philosophy to be believed in.

His all consuming passion, quite simply, is politics. And he has plotted a career of legendary proportions, not only in Washington but in his home state as well.

A third-generation Californian whose grandfather started the family's still-lucrative real estate business by building Victorian homes in San Francisco 100 years ago, Cranston has been a major player in the Golden State political scene for more than 30 years.

Since 1958, he has won five out of seven statewide campaigns, three by huge margins. While the 1980 Reagan landslide was defeating incumbent Democrats from coast-to-coast, Cranston waltzed to victory, becoming the first member of his party elected to a third Senate term in California.

Now seeking a fourth term, Cranston shows no signs of losing steam. He has remained hungry in his job.

That is partly because he is unusually dedicated to his liberal principles. But most of all, Cranston enjoys the chesslike part of the game—plotting "their" moves vs. "our" moves, calibrating attacks and counterattacks.

He is most animated when recalling the close fights in which a combination of team strategy, backroom bargaining, threats and promises shaped the outcome of a major national issue.

As a survivor in an arena where foes can be devious and deceptive, he is no stranger to hardball tactics. He's not afraid to muscle his competition with a show of force or to use inferences that walk the line on credibility.

He recently ran a television ad on South African apartheid that linked the position of his Republican challenger, Rep. Ed Zschau, with far-right conservatives Jesse Helms and Jerry Falwell. Zschau—who, unlike Helms or Falwell has supported limited sanctions against South Africa—angrily denounced the commercial as "sleazy."

When he was questioned recently about his tactics, Cranston reiterated a 1983 comment. "I play tough," he said. "I don't think I go overboard or am unfair."

In addition to being tough and hard-working, Cranston's trademark is his consistent adherence to liberal principles. Nor has there been any backsliding with age. Last year, he received a 100 percent rating from the nation's most prominent liberal lobby group, Americans for Democratic Action.

He was an outspoken liberal when it was popular—like 1968, when he first won election to the Senate on an anti-Vietnam War platform.

And he was an outspoken liberal when it was not popular—the 1950s, when he organized a liberal wing of California Democrats; the 1980s, when he ran for president with a "peace and jobs" message.

His commitment to his ideals is a major reason he has a loyal staff, many of whose members have worked for him at least 10 years. His dedication, coupled with his effectiveness as a politician, has given him a well-established credibility for accomplishing his goals.

His aides stay "because when you speak for Alan Cranston, you get things done,"

said Kam Kuwata, an 11-year employee. "He is a very goal-oriented person."

Cranston's management of his staff is a key to his success as a Senate leader. He is skilled at delegating responsibility so he can focus his attention.

Even in his re-election campaign, he has given almost complete responsibility to his staff. His role is basically to be a sounding board.

"I have a tremendous amount of loyalty because I think he instills that," Kuwata said. "He's always given me personal challenges."

One task he does not delegate is working on the phones. He is fabled for his "pocketful of dimes" and his complete lack of compunction about asking contacts to donate money for one cause or another.

On the road, it's almost as if he has a magnetic attraction to phone booths. He inevitably asks his drivers on campaign swings to stop at the nearest telephone. With barely 10 minutes to spare before a recent late-night flight, Cranston pondered whether it was appropriate to call a possible contributor in New York shortly before midnight.

"Maybe not," he decided.

Cranston has compiled a list of Democratic contributors not only lucrative to his campaigns, but vital to Democratic candidates nationwide, said David Johnson, director of the Democratic Senatorial Campaign Committee.

As a result, Johnson said that among national Democratic leaders, "anybody Alan Cranston wants to help (him) is going to help because he has done so much to help" the party establishment.

Bill Wardlow, his 1980 campaign manager, said flatly, "Alan Cranston is one of the best fund-raisers in the United States. He works harder at it than anybody I've ever seen."

For all his skill as a Senate headcounter and money-raiser, however, there is an enigmatic element to Cranston's political success story. By his own account, he is not the type of leader who inspires an audience or commands attention.

Part of it is a manner of style, or lack of it.

As a speaker, his mannerisms and tone are stilted. He sometimes uses his finger to keep his place when using a prepared text. He occasionally misplaces the emphasis in a sentence.

Lately, Cranston has been getting public-speaking lessons. He rehearses important speeches in front of his advisers. He's been coached to look at his audience when talking.

In a television-dominated age, Cranston's baldness and gaunt look also work against him. One of his oldest friends and allies, former California Gov. Pat Brown, speculates that Cranston probably wouldn't stand a chance of being elected if he were running today for the first time.

Jerry Warburg, his foreign-affairs adviser, said, "He is not a natural-born leader or pretty face. He has had to work to develop his leadership skills."

The question naturally arises:

How has he been able to keep winning elections in California?

He has benefited, as his detractors are quick to point out, from three weak Republican opponents in his past Senate races: Max Rafferty in 1968, H.L. Richardson in 1974 and Paul Gann in 1980. They were so conservative that Cranston easily won large chunks of GOP votes.

Perhaps more importantly, though, is that without threatening his core of support among liberals, Cranston quietly and carefully forged a solid link with the California business community.

Said Cranston. "It's unrealistic not to support business."

In the past, Cranston has fought for bills favoring the state's huge defense industry, banks, agribusiness and Silicon Valley.

In this election year, he lobbied for a component in the tax reform bill that would have given a roughly $50 million tax break to the Los Angeles-based Unocal oil company. Unocal wanted government credit for a huge debt it had acquired in fighting a hostile takeover attempt.

On the Senate floor, one of Cranston's liberal Democratic colleagues, Ohio Sen. Howard Metzenbaum, successfully defeated the Unocal break, calling it "a blatant giveaway."

Cranston is himself a former businessman. He worked with the family realty business in Los Altos, a small town about 50 miles south of San Francisco where he still owns several commerical properties (and which his opponent Zschau, ironically, now calls home). It was a brief career, but it left him worth just over $1 million.

His grandfather established the firm shortly after coming to San Francisco as one of the first passengers on the Transcontinental Railroad in 1870. His father took over the business after quitting Stanford University's law school.

In 1905, the San Francisco earthquake leveled his dad's office and the family started over in Los Altos before Alan was born. He grew up with a younger sister, Ruth Eleanor, on a 15-acre property with an orchard, several farm animals, a swimming hole and a panoramic view of San Francisco Bay.

He enrolled at Stanford, where he became a star sprinter on the track team. After his sophomore year in 1934, he and a friend toured Europe and saw the early evidence of Adolf Hitler's rise to power.

One night in Munich, he stood for an hour in the cold to get a close-up glimpse of Hitler. As he watched, an adoring crowd swarmed around the Fuhrer.

It was a heady experience for someone who had just turned 20.

Pursuing his childhood dream of being a foreign correspondent, Cranston dispatched stories for the hometown Los Altos Register-Leader, often with an editorial edge. In one he wrote, "The young as well as the old support Hitler. And when the former grow old enough to really count, if he survives till then, Hitler's power will be unlimited."

After college, Cranston returned to Europe as a wire service reporter based in Rome, making $12.50 a week. From there, he saw fascism blossom and World War II approach during the late 1930s.

Today, he says the images of that period are still the driving force behind his political beliefs.

It is the major reason he gives for first becoming a Senate candidate. And just last month, arguing on the Senate floor for sanctions against South Africa, he referred to his years in Europe. "At that point in my life I decided I would oppose all forms of discrimination and bigotry, especially in government," he said.

Cranston was married shortly after he returned to the United States in 1938 and he and his wife had two sons, Robin and Kim.

At the start of the war, he worked in a government propaganda job in Washington and was made the liaison for minority groups. He eventually joined the Army and wrote for the service newspaper from the homefront.

Motivated by the desire to prevent another Hitler, Cranston wholeheartedly embraced the concept of some form of sovereign global government.

While in the Army, he wrote an acclaimed book about the Senate's rejection of the League of Nations following World War I. In it, he said his purpose was to help ensure a similar failure would not follow World War II.

When the war was over, his book earned him an invitation to a seminar in New Hampshire on world government. The meeting was attended by some of the nation's leading scholars and politicans and eventually led to the creation of the United World Federalists.

Cranston served three terms as president of the UWF, traveling throughout the world to meet national leaders and discuss the possibility of a sovereign world government to ensure peace. One of his meetings was with a young Soviet official, Andrei Gromyko.

He also succeeded in convincing 20 state legislatures to pass a resolution urging the United States to enter a world government

In 1952, he resigned from the UWF leadership and returned to Los Altos to work in the family business. He also immediately got involved in state politics.

California's Democratic Party was in a shambles. Discouraged by years of failure at the polls, there as virtually no party organization.

Cranston formed several regional Democratic organizations to aid Adlai Stevenson's 1952 presidential race. After Stevenson was beaten by Dwight Eisenhower, Cranston called the regional leaders together in 1953 for a forum to discuss the party's problems.

The meeting resulted in the founding of the California Democratic Council, with Cranston elected president. He already had his eyes set on a Senate bid. But he remained with CDC until 1957 when he quit to run for state controller, an office he viewed as an interim step to his goal.

CDC had become the state's most powerful Democratic organization and helped sweep Cranston into office and Pat Brown into governor's chair. When Reagan overwhelmed Brown in the governor's race eight years later, he described CDC's membership as "a bunch of militant, left-wing radicals."

Cranston's first bid for the Senate ended with his loss in the 1964 Democratic primary, a race he made while retaining the controller's job. He then lost that post as a consequence of Reagan's 77 landslide.

He emerged as the leading Democratic Senate candidate in 1968 largely because few others saw much point in taking on the respected, moderate Republican incumbent, Thomas Kuchel. But Kuchel was upset in the GOP primary by Max Rafferty, paving the way for Cranston's victory in the fall.

During the past decade, his personal life has been marked by several traumatic events.

He divorced his first wife, Geneva, seven years ago. She died a few years later after suffering a paralyzing stroke, In 1981, his oldest son, Robin, was killed when he was struck by a van in the street outside his home.

Cranston's second wife. Norma, suffers from Parkinson's disease. Though she frequently travels with him, she generally does not appear at public events with him.

His friends and associates say Cranston rarely talks about his personal setbacks. "He internalizes it and feels that he must keep moving on," said an aide.

Cranston did pause to memorialize his late son, and he did so in a way that was special to him. He spoke of his feelings and shared his grief on the Senate floor.

CONGRESSIONAL SALUTE TO ALFRED BALDWIN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Alfred Baldwin of Lansford, PA. Mr. Baldwin, better known to his friends as Freddo, will be presented with the AMVETS Distinguished Veteran Award on October 26, 1986. This important honor is in recognition of Mr. Baldwin's leadership role in the Lansford chapter of AMVETS.

Freddo Baldwin was born and raised in Lansford. He was an exceptional athlete, receiving a number of awards for football, basketball, and track at Lansford High School and at Bordentown Military Institute. He is also a fine scholar and after studying at Bordentown, he finished his education at Penn State. After college, Mr. Baldwin served in the Air Corps during World War II. He flew many missions over Japan and was recognized for his courage with the Air Medal with three oak leaf clusters and the Distinguished Flying Cross. He returned to Lansford after the war and went to work for the LNC Co. Freddo retired in 1984, after serving for 22 years as a business representative with the International Ladies, Garment Workers Union.

Mr. Baldwin, his wife, Beatie, and son, Blair, were always active in community affairs. He is an active member of the English Congregational Church, the Lansford Italian Club, the Lansford Masonic Lodge and the Lehigh Valley Club of Allentown. Freddo is most deeply involved with veterans, organizations. He is a member of the American Legion Post No. 123 and is now serving his second term as commander of the AMVETS Babinetz-Horowski Post No. 83 in Lansford. His election to this post is a tribute to Freddo's commitment and dedication to his fellow veterans. Freddo's selection for the AMVETS Distinguished Veteran Award is further recognition of his outstanding work.

I commend Mr. Alfred Baldwin for his selection for the AMVETS Distinguished Veteran Award. It is indeed an honor for which he can be justifiably proud. I know that my colleagues will join me in honoring Freddo Baldwin on this important occasion and in wishing him the best of luck in the future.

TRIBUTE TO TOM KINDNESS

SPEECH OF

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1986

Mr. SCHULZE. Mr. Speaker, TOM KINDNESS has been a dedicated and serious lawmaker for more than 20 years, serving the citizens of Hamilton on its city council and as mayor, and serving all Ohio residents as a member of the State house of representatives and as a U.S. Representative. I know TOM KINDNESS, and I can tell you he's given those people representation of the highest caliber.

TOM is a man for detail when it comes to issues—he has to have all the facts. And when he makes a decision to support or oppose you, there's one thing of which you can be certain—he won't budge. A fencesitter he isn't. If he thinks you are wrong, by George, he'll take you on. If he thinks you are right, he backs you up all the way.

The people of Ohio generally, and of the Eighth District specifically, have been well represented since TOM was first elected to the House in 1974. He cares deeply about their problems and works tirelessly to help the manufacturing towns of Butler County, and the farming regions of Van Wert and Mercer Counties.

We are going to miss TOM KINDNESS, the serious student of the law and loyal Ohioan. We are also going to miss TOM KINDNESS, the fun-loving musician. TOM never turns down a friendly request to strum his banjo for a farewell or birthday party for a friend, and I know there have been many occasions where he's been asked to perform. Well, I can't play a farewell for you, TOM. I don't know how to strum or pluck a guitar or banjo. But I hope these words will sound as sincere without a musical background—farewell, good friend and peer. I wish you and Averil the very best in whatever you undertake. And I thank you for all you have given me in the way of friendship and knowledge in our 12-year association.

EDITORIAL ADDRESSES WEINBERGER'S COMMENTS ON BRITISH LABOR PARTY'S DEFENSE PROPOSALS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BEREUTER. Mr. Speaker, leaders of the British Labor Party recently criticized Defense Secretary Weinberger's comments on the danger to the security of Western Europe and NATO should the Labor Party platform's proposal scrapping nuclear weapons be implemented.

An editorial in the Omaha World Herald underscores this danger and supports the U.S. Defense Secretary's right to speak up on this proposal. This Member wishes to have his colleagues see these comments and requests permission to have the editorial reprinted in full:

[From the Omaha World Herald, Oct. 1, 1986]

IT MIGHT HAVE UPSET LABORITES, BUT WEINBERGER RIGHT TO SPEAK

Leaders of the British Labor Party have accused U.S. Defense Secretary Caspar Weinberger of interfering in British politics when he criticized Labor's policies. But Weinberger is right to criticize. The party's proposal to eliminate Britain's nuclear deterrent forces is a threat to the security of Western Europe.

A Labor victory in next year's elections is not considered out of the question. Recent polls indicated that Labor led both the incumbent Conservatives and the Liberal-Social Democratic alliance.

Labor's platform calls for scrapping Britain's nuclear weapons, which have given Britain its own nuclear deterrent separate from those of the United States and France. Among the specific targets of the Labor cutback would be a $12.8 billion order for U.S. Trident systems.

In addition, the Laborites would shut down U.S. nuclear bases in England. U.S. nuclear cruise missiles, installed in Britain and other North Atlantic Treaty Organization nations to counter the Soviet buildup in intermediate-range missiles, would be removed from Britain.

If Britain, which is one of NATO's leading members, demonstrated a lack of will to be involved in the protection of Western Europe through nuclear deterrence, chances are that leftist groups in other NATO countries would step up their campaign for disarmament. In terms of troops, tanks and other tools of conventional war, Western Europe would be no match for the Soviet Union and its allies. If the Soviets no longer had to fear nuclear retaliation, the security of Western Europe could become a joke.

Weinberger has a valid point. Britain has traditionally accepted the responsibility to assist in the defense of the Western democracies. If the British people elected leaders who were pledged to turn away from the country's traditional role as a nuclear power, NATO could be weakened and the security of Western Europe reduced.

HOUSE OF REPRESENTATIVES—*Friday, October 10, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our best thoughts, O God, hope for a day when people will know security in their lives and in the depths of our hearts we yearn for peace. As the leaders of our world meet to find the ways of understanding, we ask Your blessing upon them and we earnestly pray that Your good word of grace and Your benediction of peace will mark their meetings. Even as we pray for the leaders of the nations, may each of us seek to do Your will that justice will roll down as waters and righteousness like an ever flowing stream. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Secretary be directed to communicate to the President of the United States and to the House of Representatives the order and judgment of the Senate in the case of Harry E. Claiborne and transmit a certified copy of same to each.

The message also announced that the Senate having tried Harry E. Claiborne, U.S. district judge for the district of Nevada, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in the First, Second, and Fourth Articles of Impeachment: It is therefore,

Ordered and adjudged, That the said Harry E. Claiborne be, and he is hereby removed from office.

The message also announced that the Senate had passed without amendment bills, joint resolution, and concurrent resolution of the House of the following titles:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company;

H.R. 2921. An act to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes.

H.R. 3352. An act to transfer certain real property to the City of Mesquite, NV;

H.R. 5496. An act to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes;

H.J. Res. 735. Joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day"; and

H. Con. Res. 391. Concurrent resolution calling on the Governments of the Soviet Union, Poland, and Czechoslovakia to cease activities causing harmful interference to the broadcasts of Voice of America and RFE/RL, Incorporated.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3838) "An act to reform the internal revenue laws of the United States."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 593) "An act for the relief of the Merchants National Bank of Mobile, Alabama."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1082) "An act granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact."

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 2032) "An act to amend the Securities Exchange Act of 1934 to provide improved protection for investors in the Government securities market, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2506) "An act to establish a Great Basin National Park in the State of Nevada, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 565) "An act to direct the Secretary of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 30.96 acres of Forest Service lands," with an amendment.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 511. An act to change the name of the Loxahatchee National Wildlife Refuge, Florida, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge;

S. 786. An act to establish an Information Age Commission;

S. 1209. An act to establish the National Commission to Prevent Infant Mortality;

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2370. An act to authorize the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia;

S. 2852. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes;

S. 2890. An act to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse";

S. 2914. An act to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act;

S.J. Res. 359. Joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day"; and

S.J. Res. 407. Joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

The message also announced that pursuant to Executive Order 12131 of May 4, 1979, as extended by Executive Order 12551 of February 21, 1986, the Chair on behalf of the Vice President appoints Mr. Andrews, to the President's Export Council.

The message also announced that pursuant to section 301(b)(1)(D) of Public Law 99-371, the President pro tempore appoints Dr. Frank Bowe, of New York, from private life, and Peter B. Greennough, of New York, from private life, to the Commission on Education of the Deaf.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MICHEL. Mr. Speaker, by direction of the Republican Conference, I call up a privileged resolution (H. Res. 584) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 584

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Armed Services: Representative HILLIS of Indiana, (to rank below Mrs. HOLT);

Committee on Education and Labor: Representative DORNAN of California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ICELAND AND HUMAN RIGHTS

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, it is my sincere hope that the meeting in Iceland between President Reagan and General Secretary Gorbachev is successful. While the two leaders debate the technical issue of arms control, however, it is important that they not forget the human issue of justice.

Eleven years ago, the Soviet Union signed the Helsinki accords and agreed to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief. Since that time, Moscow has engaged in numerous violations of Helsinki—including the political abuse of psychiatry, legal restrictions on organized religious life, the repression of the cultural heritage of Jews and other minorities, the denial of family reunification, and the closing of contacts between Soviet citizens and the outside world.

Mr. Speaker, if arms control is to work, if world peace is to be a reality—Moscow must adhere to the basic human rights outlined in the Helsinki accords. If Mr. Gorbachev wants to reform his nation, as he says he does, he must stop persecuting those who exercise their religious beliefs.

All Americans are deeply concerned with human rights. Freedom and justice are the ideals on which our Nation is based and abuses of these rights deeply offend our principles. As a freedom loving people, we know that human rights provide a solid foundation for international treaties.

To make this clear, I am introducing a resolution, expressing the sense of the Congress that, in his upcoming meeting with General Secretary Gorbachev, the President should insist that the Soviet Union safeguard the human rights of its citizens, allow additional Jewish emigration, and protect cultural and religious rights within its borders.

This resolution sends an important message to the Soviets. It demonstrates America's longstanding commitment to human rights. And it will show Mr. Gorbachev what the American Congress already knows, that world peace will only be possible when world justice is a reality.

THE CONGRESS WANTS JUSTICE FOR MR. IVEZAJ: IS YUGOSLAVIA LISTENING?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, congressional and diplomatic pressure is building on Yugoslavia to release Mr. Peter Ivezaj, the Michigan resident who received a long jail term in that country. I hope that Yugoslavia is listening and understands our deep concern about this and other human rights cases.

The bill calling for the temporary suspension of most-favored-nation status for Yugoslavia is receiving overwhelming support. "In just 24 hours, the bill that Chairman FASCELL and I sponsored has nearly 150 cosponsors. Our Michigan Senators also introduced similar legislation in the Senate.

Most-favored-nation status would be denied to that country until Mr. Ivezaj, and two other Americans are freed. The Yugoslav Government's policy of arresting visiting Americans and denying them consular access must stop. This foolishness has gone on far too long.

I am heartened to know that the Yugoslav Embassy obtained a copy of the bill. I hope that the government of that country appreciates our real concern about the tragic imprisonment of these Americans.

I am still working to get more members to cosponsor the bill. Obviously, pressure is building. I trust that they are listening in Belgrade.

STAUNCHING THE FLOW OF ILLEGAL IMMIGRATION

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, last night this House passed a historic immigration reform bill. It was not perfect, but it was a great sight better than what we have now.

There is one glaring defect to the bill: It turns on this enormous magnet of legalization, of amnesty, while our borders are totally porous.

I have been suggesting an amendment for the last 5 years in this House that would delay the date of amnesty until a Presidential Commission certified that our borders were reasonably secure.

Senator SIMPSON accepted this amendment in his bill and, as amended by Senator METZENBAUM, it would delay amnesty for no longer than 3 years until such a commission certified that our borders were secure.

I very much hope that the conferees will hold on to that amendment, and I hope that the House will make it its first order of business next year to staunch the avalanche of illegal immigration that will result when this amnesty is passed. The 1982 date is meaningless. Anybody who is here in this country can take advantage of amnesty because forged identity cards are easily available. Whole packets of identity can be purchased with ease on both sides of our Southwest border.

So if we do not do something to firm up those borders, the moment amnesty is effective, we will be inundated with illegal aliens who want to come over here to take advantage of the same American opportunities, the same American freedoms that our ancestors sought generations ago.

We cannot afford it; our capacities are limited; our absorptive capability is limited.

We are not doing enough for the poor people, the hopefully aspiring who are in our midst now.

So let us firm up our borders and have an immigration policy that protects the rights of those who seek entry legally, rather than an unworkable system and porous borders that reward anyone from the developing world who wishes to crash through illegally.

ARNIE'S INSPIRATION: "JOE" McDADE, NOW WORLD CUP CHAMPION OF GOLF

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, we have a sports celebrity in our midst. Usually mild-mannered JOE MCDADE, our esteemed colleague from Pennsylvania, proved to be the "spark" behind Arnold Palmer's masterful play when Arnie, JOE and their foursome won the Chrysler World Cup Pro-Am Division, held last month in Potomac, MD. Leading the way to victory, JOE birdied the first hole. The throngs following the foursome could feel victory, only 17 short holes away. JOE, himself, could sense the inevitability of the championship.

Arnie, meanwhile, was feeling the pressure. His famous "Arnie's Army" following, was quickly becoming the "McDade Mob." Reacting to the pressure like only Arnie can do, he calmly approached the tee of the third hole, picked a middle iron, and swacked a clean shot toward the hole. With but a single bounce, Arnie's ball dropped into the cup—a hole in one. A golfer's dream.

Few who witnessed this historic event, which was followed by another Palmer ace on the same hole the very next day, would deny that JOE MCDADE, the Pride of Scranton, PA, playing the round of his life, was almost singularly responsible for Arnie's hole in one. If it hadn't been for JOE'S outstanding playing, Arnie wouldn't have been inspired.

Those golfers or golfing fans interested in the full details of this magnificent and inspiring tale would do well to get to JOE quickly. For, as all great sporting tales do, this one will undoubtedly grow in magnitude with each passing day. By year's end, it will be Arnie who provided the moral support and kept JOE'S feet to the fire,

and JOE who clinched the victory with his hole in one.

Congratulations, JOE, on your memorable and inspiring victory. Congressman JOE MCDADE is now World Cup Champion of Golf. Eat your heart out, MARTY RUSSO.

COMMERCE DEPARTMENT IS EXPORTING U.S. JOBS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, just when you think you've seen it all, this administration comes up with something to top it.

I have a copy of a brochure describing an event the U.S. Department of Commerce, through the United States Trade Center in Mexico City, is sponsoring in Acapulco to encourage U.S. companies to relocate their assembly plants in Mexico.

This brochure highlights the Mexican in-bond program which appeals to industrialists because of low wages and benefits that allow goods to be imported without payment of Mexican duty, and finished products to be exported to the United States with tariffs only on the value added in Mexico.

Mr. Speaker, we have pleaded with the administration to formulate and implement a strong trade policy. But evidently the Commerce Department didn't realize we meant an American trade policy.

We want to have good relations with our neighbors to the south, but that doesn't go so far as giving away our American jobs.

Our Government's sponsorship of the export of American jobs is contrary to the legitimate, practical State and Federal programs designed to fight unemployment here at home and retrain our displaced workers.

The brochure for the event shows two hot air balloons in the colors of Mexico and the United States and the words, "where Mexican business and American business can rise to new heights."

I believe a better slogan would be "where the administration of this great Nation declares total surrender in its trade policy."

The hot air balloons are appropriate as the Department of Commerce is apparently only concerned with shipping American jobs over the border.

Mr. Speaker, we should be outraged at the attitude shown by the Department of Commerce in sanctioning this event, and the illogical use of American taxpayers' money.

I call on my colleagues to join me in voicing our opposition to the Secretary of Commerce, Mr. Baldrige.

OCCAM'S RAZOR

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, William Occam was a philosopher of 13th century England. He is credited with the philosophical maxim, known as Occam's razor, which is this: "Entities are not to be mutiplied without necessity", or: "It is vain to do with more what can be done with fewer."

The money supply in this country is increasing at the annual rate of 14 percent, well above the target range the Federal Reserve Board has set for itself. The monetarists were obviously wrong when they predicted that such an extensive monetary expansion would inevitably spill over in the commodity markets, as a result of the operation of Occam's razor. Prices are ebbing, not rising, to the chagrin of American farmers and other exporters.

Yet, the dollar is getting ready for Occam's razor. After all, the excess dollars could spill over in the stock market or in the bond market. We would do well to remember the last devastation Occam's razor caused in response to the dollar-proliferation of the 1920's; namely, the Great Depression of the 1930's.

The 20th century English thinker, Bertrand Russell, interpreted Occam's razor as saying that if everything in some science can be explained without assuming this or that hypothetical entity, then there is no ground for assuming it. The philosopher added: "I have myself found this a most fruitful principle in logical analysis."

Mr. Speaker, the price explosions of the 1970's, and the price implosions of the 1980's, can be fully accounted for in terms of the anchorless dollar, as it is tossed around by an angry sea. Price swings are merely a mirror image of the waxing and waning dollar, even as they act as the wrecker's ball in destroying productive effort in this country. We behave rather foolishly when we try to rationalize these market aberrations by attributing them to this or that combination of export interests abroad. We have only ourselves to blame for our folly of setting the dollar adrift, causing the present price instability, and for the even greater folly of refusing to drop the golden anchor.

MR. PRESIDENT, WE WILL BE HEARD

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I fully support the President in his presummit meeting, but I must ask this question: Where is it written in the Constitution that when our President goes to a presummit meeting, Congress folds up its tent and plays dead? That is what the President wants.

Well, I am sorry, Mr. President, we will be heard. We will not be part of your disinformation campaign whether it is telling the American people that there was no trade for Mr. Daniloff or that there is no CIA involvement in Nicaragua or that this Congress is responsible for the deficit when it was your policy of 130-percent increase in military spending coupled with your tax loopholes that caused this problem.

We will be heard on arms control as well as waste control at the Pentagon. We are no stronger when we pay $7,000 for coffee pots and muzzle whistleblowers.

Mr. President, why do you not take our arms control policy ideas to the summit and use them in the spirit in which they were offered, the spirit of peace and patriotic common sense?

THE SOVIET CONCILIATORY STANCE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the Soviet media blitz is on. Earlier this week they reannounced their plan to withdraw air defense troops from Afghanistan. It took them over 6 years to figure out the freedom fighters there did not have an air force.

Today's Washington Post carries the headline "Soviets Conciliatory, Allow Jewish Dissident to Emigrate." Mr. Gorbachev must be chuckling all the way to the bargaining table.

The Post says General Secretary Gorbachev is "conciliatory" for permitting Inessa Flerov to leave the Soviet Union to give a bone marrow transplant to her brother who is dying of leukemia in Israel. Little is made of the fact that Mr. Gorbachev stood in the way of their reunification until this moment.

Mr. Speaker, let's remember that 98 percent of the Soviet troops sent to Afghanistan remain there after almost 7 years of bloody warfare. Let's remember that despite the recent release of Yuri Orlov, 99 percent of Soviet Jews remain captive behind the Iron Curtain. As long as a brief exception for propaganda's sake is portrayed as conciliatory, there is little hope for the hundreds of thousands denied their basic human rights in the Soviet Union and Afghanistan.

□ 1015

EXPO MAQUILA 1986

(Mr. KOLTER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I am speaking once again about Expo Maquila 1986. Since Tuesday, when I first exposed this to my colleagues here, I had a meeting with the Department of Commerce. We found that the Mexican Government pays these working people, mostly young men and young women, $1 an hour which includes benefits.

And what are the benefits? The benefits include holidays off, transportation to and from work, meals, dances, and sporting events.

This is the first time in history that this program is being sponsored totally by the U.S. Department of Commerce. The Commerce Department says this program will keep American companies from completely moving out of these United States.

So far we have lost in the month of September 38,000 jobs, 38,000 manufacturing jobs, and throughout the year of 1986, we have lost over 200,000 jobs.

This has to stop. We must not allow our tax dollars and our time and effort to send U.S. jobs abroad.

Let us say, "adios" to this misguided program.

DISINFORMATION CAMPAIGNS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the gentlewoman from California a few minutes ago referred to what she called the President's disinformation campaign. In listening to the gentlewoman's speech, I have to believe that she is conducting a disinformation campaign of her own.

First of all, the gentlewoman blames the President for the deficit. Well we cannot spend 1 dime of money, the President cannot and the country cannot, without this Congress approving. We are the people who approve the spending, and we will be approving spending of major significance in the hours just ahead of us here. I wonder where that fits into the gentlewoman's speech.

The gentlewoman blamed this Government for CIA involvement in Nicaragua. The only people saying that are the Soviet-backed Sandinistas. Evidently, the gentlewoman believes them rather than her own Government.

I really question when people come to the floor with what has to be labeled as disinformation campaigns of their own.

WHO IS REALLY TYING THE PRESIDENT'S HANDS?

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I am dismayed by reports that internal conflicts within the administration may once again prevent any real movement toward an arms control agreement at the meeting between the President and Mr. Gorbachev in Iceland this weekend.

I fervently hope that those elements among the President's advisers who oppose any arms agreement have not lost what is a golden opportunity for progress.

It is important to make perfectly clear to the American people who it is that is really tying the hands of the President in Iceland.

It is not the Congress. Nothing in the package of amendments passed by the House has any relation to the area of greatest potential immediate progress, the issue of intermediate nuclear forces.

On that question, it is the hard-line faction within the administration that is doing everything possible to block progress. They are the ones warning the President of the dangers or reaching any agreement.

This administration has already shown it is very adept at disinformation campaigns. Let's not be fooled by this latest smokescreen. If no concrete progress comes from the Iceland meeting, it will not be those of us in Congress who want real arms control who will be sipping champagne, it will be the hardliners at the Pentagon.

OUR TAX DOLLARS GOING TO ORTEGA VIA INDIA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, it was brought to my attention yesterday that we are giving India approximately $600 million in aid, American taxpayers' dollars. I found out that a couple of weeks ago, in fact, last week, the Prime Minister of India invited Daniel Ortega, the Communist dictator of Nicaragua, to his country and gave him $10 million in aid.

Mr. Ortega then got on a plane and flew to Peking, probably to buy weapons from the Chinese Communists.

Can you imagine that, American taxpayers' dollars are going to buy weapons to fight people who are fighting for freedom in Central America? It is unbelievable.

It is one thing to directly aid and abet an enemy, but to use American taxpayer's dollars to aid the Communists in Central America is unforgivable, but it is happening.

I urge this body to reevaluate its foreign policy toward India. We should not give them 1 dime as long as they are using our taxpayers' dollars to subsidize the Communists in Central America.

IT IS UP TO US TO ACT, AND TO ACT NOW

(Mr. GRAY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY OF Pennsylvania. Mr. Speaker and colleagues, this Congress is coming to a close and we are making history by passing tax reform and immigration bills, but yet there is one continued problem that faces us that we have not completed action on, and I am becoming completely discouraged that we are not going to be able to meet our responsibilities, and that is the deficit and deficit reduction.

Right now reconciliation is being held up over whether we are going to defend the investment bankers and the oil industry or whether or not we are going to hold poor families together by providing for unemployed parents being able to stay in the home.

It seems to me, ladies and gentlemen of this body, that we are at a very critical stage where we must determine whether we are going to live under the Gramm-Rudman guidelines and meet the threshold.

It is my hope that next week or today, the committees of jurisdiction will work out their disagreements, that the other body would stop defending the oil industry and also the investment bankers, and support the poor families in their efforts to stay together, so that we can conclude the deficit reduction package that will exceed over $12 billion and bring us down to the Gramm-Rudman targets, and thus we will be able to go home and tell our constituents that we have met those targets, we have taken definitive action.

It is up to us to act, and to act now.

AMERICA IS LOSING BUSINESSES AND LOSING JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I just heard the gentlemam from South Carolina [Mr. TALLON] saying they lost 450 manufacturing jobs. I do not know what the big news is about that. We keep hearing it every day.

It takes me back, though, to an amendment that I was able to pass to the defense that passed this House 241 to 163, that gives a weighted advantage to American firms. It was literally shot down in the other body, and I knew it would be. I was told by our conferees that there was no way of keeping it.

I am not laying blame on the other side today. I am not laying blame, and it is very unpopular on my side. They elected us here to temper the policies of the White House. We have not done it. We have not provided that balance.

And where Mr. TALLON is upset about the Commerce Department's activity to take American businesses to Mexico, I received an anonymous packet that shows where Packard Electric will develop five more plants in Mexico, and not near the border, they are moving inside. They have one plant in West Germany because they are getting a tax break. And they will have a fixed population work force in America, folks, which means through attrition, when a person retires, they will use their job in America. I think it is high time that if we have to appeal to this side of the aisle, you were elected to temper that other side. I do not blame them. I now lay blame on my own side.

THE B-1 STRATEGIC AIR COMMAND PENETRATOR AIRCRAFT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend their remarks.)

Mr. DORNAN of California. Mr. Speaker, in defense, little things happen all around this world that we really are not tracking or aware of in this body.

In the history of the U.S. Air Force, October will go down as a prime month for that select few who protect our way of life.

On the first of this month, the first B-1 Strategic Air Command penetrator aircraft went on active duty alert armed with nuclear weapons to maintain the peace in this world. It was at Dyess Air Force Base, in Mr. STENHOLM's district in Texas. The pilot was Capt. John Schilstrom; the copilot, Capt. Richard Davis; the offensive systems officer, Capt. Steven Clark; the defensive systems officer, Capt. Timothy Young. The proud commander of that 96th Bombardment Wing is Col. Bob Dempsey; and the commander of the 15th Air Force out in my area at March Air Force Base is Lt. Gen. James E. Light.

We could have had this plane standing alert 5 years earlier if it was not for the confusion about defense in this body. With a 5-year delay, but better than never, we will have a total complement of combat-ready aircraft at Dyess Air Force Base by December 1986, Ellsworth by September 1987, Grand Forks a few months after that, and McConnell, KS, will have a complement of their B-1 aircraft totally arrived between February 1988 and June of next year.

□ 1025

I thank all the Members that supported this great aircraft and gave our young pilots in the Strategic Air Command something other than a kamikaze mission and it is too bad that we cannot replace every B-52 within the next few years. I look forward to supporting the B-2, that is the Stealth bomber program.

I tell my friends in the Air Force: Get around to naming the B-2 and stop calling it by its test designation.

WE DO NOT BELIEVE IN PAYING MORE AND GETTING LESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the high noon stakes keep going on and we see everybody wanting to emulate Clint Eastwood or John Wayne or whatever, threatening to close down Government; threatening to do all sorts of things.

Let us put the record straight: No. 1, the President is in Iceland and his hands are not tied. We have not coupled the arms control agreements to any of the short-term continuing resolutions that will keep this Government going. I think we should make that very clear because a lot of disinformation is going out on that issue.

No. 2, to close this Government down you will not save money. Once again, I remind this body that my subcommittee has finished an extensive study showing it will cost $62 million a day to close this Government down. That is a very high ticket price for that kind of political theater.

This body will do everything it can do to keep the Government running. We do not believe in paying more and getting less. That is exactly what will happen if the President refuses to keep it going.

So I hope we keep the facts straight and I hope we do not get into some kind of stampede mentality that just costs money and gets us less and angers taxpayers more.

THANKS, MR. SPEAKER

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, during your distinguished administration as Speaker of the House, you have provided great leadership and support for many programs to enhance the lives of millions of Americans. No group of citizens have benefited more from your service than our Nation's veterans and their families, and they will never forget you.

Never once have you wavered in your support of veterans legislation and hundreds of bills have passed this House and become law during your years as Speaker. One of your greatest accomplishments has been to bring back the new GI bill for the young men and women who serve in the Armed Forces. I have talked with hundreds of service personnel since we enacted the bill in late 1984, and once again bright men and women are joining the services because of the new GI bill.

Before you leave the House, on behalf of these men and women and some 28 million living veterans, and 55 million dependents of veterans, I would like to say, "thank you, Mr. Speaker."

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. OAKAR. Mr. Speaker, I offer a privileged resolution (H. Res. 585) and ask for its immediate consideration.

The Clerk read the privileged resolution, as follows:

H. RES. 585

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Armed Services: Neil Abercrombie, Hawaii;

Committee on Public Works and Transportation: Mario Biaggi, New York; and

Committee on Veterans' Affairs: Charles W. Stenholm, Texas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GODSPEED AND GOOD LUCK, NEIL

(Ms. OAKAR asked and was given permission to address the House for 30 seconds.)

Ms. OAKAR. Mr. Speaker, I wanted to simply pay tribute to NEIL ABERCROMBIE of Hawaii, who, in his brief stay in Congress has cast very momentous votes. So much so that there is an important article in the New York Times about him. He is one of the finest Members that I have served with.

We will really miss him and we want to wish him well. Godspeed and good luck, NEIL.

COMMUNICATION FROM THE SENATE

The SPEAKER laid before the House the following communication from the Senate:

Ordered, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the order and judgment of the Senate in the case of Harry E. Claiborne and transmit a certified copy of same to each.

JUDGMENT

The Senate having tried Harry E. Claiborne, United States District Judge for the District of Nevada, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in the First, Second, and Fourth Articles of Impeachment: it is therefore,

Ordered and adjudged, That the said Harry E. Claiborne be, and he is hereby removed from the office.

WE OWE IT TO OURSELVES AND TO THE AMERICAN PEOPLE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, in the wake of the downing of an American transport plane by the Nicaraguan Army, persistent reports of Saudi Arabian funding of the Contras have once again surfaced in the press.

Some months ago, the press reported that the Saudis have been funneling substantial funds to the Contras. These reports said that the Saudi support of the Contras was part of the 1982 AWAC's sale and were being coordinated by former high-ranking American defense officials.

My hometown newspaper, the Los Angeles Times, yesterday cited a Contra official as the source of its story. Newsday ran a similar story citing Pentagon sources. While both the State Department and the Saudi Government have denied these stories, it certainly appears that something is going on here. These renewed press reports deserve to be fully investigated by the appropriate committees of the Congress.

Frankly, Mr. Speaker, I do not know what the facts are in this case, but I do believe that we in this House have a responsibility to get to the truth. We owe it both to ourselves and to the American people.

SUPPORT THE UNEMPLOYED PARENT PROGRAM

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. FORD of Tennessee. Mr. Speaker, I rise in support of the Unemployed Parent Program that is a part of the reconciliation that has been reported from the House Ways and Means Committee. I understand that on the other side of the Capitol in the other body now there has been talk from some of the leaders that reconciliation cannot come back to the House floor until such time that we would drop the unemployed parent provision.

I certainly would hope that my colleagues here in the House would send a very clear message to our colleagues on the other side of the Capitol communicating that we need the Unemployed Parent Program. It is a program that we have had in reconciliation for the past 3 years. I do not see why half of the States of this Nation who have opted out to not participate in the Unemployed Parent Program to say to the profamily, structured families of this Nation that a father has every right to live in the household, to be with his children. We should not deny the children of this Nation in half of the States that their father must leave the home in order for them to be eligible for Aid to Families with Dependent Children.

I certainly would urge my colleagues here in the House to let us be firm on that issue and hopefully that the Members of the other body will send back in that conference reconciliation that they will recede to the House and agree that the father in fact should be a part of the family structure.

□ 1035

INTERFERENCE WITH VOTERS' RIGHTS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, judging by a recent editorial, the Washington Post seems to believe that vote fraud and ballot-stuffing are rare and isolated instances in American politics.

Unfortunately, that is not the case. According to undisputed testimony before the Senate Judiciary Committee, more than 100,000 fraudulent votes were cast in the city of Chicago in the 1982 election. The 1982 gubernatorial race was decided by approximately 5,000 votes. There have been numerous vote-buying indictments in the Eighth Congressional District of Indiana arising out of the 1984 election which the Democrat Members of Congress say was won by four votes by the present Democrat Congressman. Last year, a State representative in Hawaii was sentenced to a 5-year jail term for voter registration fraud.

Two Members of this House from Louisiana have resigned under indictment or threat of indictment, and one of them was sent to jail.

The emperors in the glass palace at the Washington Post seem to be dressed in their normal suit of clothes. It is about time for them to take a serious look at the problem.

The worst inference with voters' rights in this country is if one's vote is invalidated by the vote of a tombstone, lightpost, a fire hydrant, a filling station, or an empty lot. It is about time we got to work on this problem.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 751, FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 751) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, I ask the chairman if he would consider changing the date of the resolution from October 15, to Saturday, midnight, October 11.

There is still some hope that we can reach an agreement in conference today, but on my side of the aisle the leadership feels that an extension through the 15th will simply grind everything to a halt for the next few days and we will go home for the weekend and we will not get much done until again on Tuesday.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I would be glad to consider it; however, I would not be able to agree. I am glad to have a recess while we discuss the wisdom of continuing it to Saturday.

Mr. CONTE. Mr. Speaker, on behalf of the leadership, I object.

The SPEAKER. Objection is heard.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 751, FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 583 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 583

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 751) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes, in the House, debate on the joint resolution shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 583 is the rule providing for the consideration in the House of House Joint Resolution 751 making further continuing appropriations for the fiscal year ending September 30, 1987.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Appropriations, and provides for one motion to recommit.

Mr. Speaker, what this is, is an extension of the current continuing resolution that the House passed on Wednesday October 8, through Wednesday October 15, 1986. A basic 5-day extension that would allow the funding of nonessential Government services through the holiday weekend.

Mr. Speaker, this resolution is a result of an agreement between both majority and minority members on the Appropriations Committee, that will allow the conferees more time to continue to work out any differences and ultimately reach an agreement for a final spending bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order a resolution to extend the continuing resolution appropriation until October 15, 1986. According to testimony in the Rules Committee, this is the same language passed by the House and signed by the President 2 days ago, except for the date change. There is no language in this resolution dealing with air traffic controllers or any other extraneous material.

Mr. Speaker, the existing extension of the continuing appropriation expires at midnight tonight. If nothing is done the Government will be without funds tomorrow morning.

Mr. Speaker, this rule provides for consideration in the House. That means the continuing resolution appropriation extension can be debated for up to 1 hour. But no amendments will be in order. The rule does provide for one motion to recommit. However, because of the limited scope of this resolution extending the continuing appropriation, about the only things that could be changed by a motion to recommit with instructions would be the October 15 date or the addition of a limitation on the use of the funds.

Mr. Speaker, I will support this rule so that the House may have an opportunity to work its will on still another extension of the continuing appropriation.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 115, not voting 52, as follows:

[Roll No. 458]

YEAS—265

Abercrombie	Edwards (CA)	Luken
Ackerman	Emerson	MacKay
Akaka	English	Manton
Alexander	Erdreich	Markey
Anderson	Evans (IL)	Martin (IL)
Annunzio	Fascell	Martin (NY)
Anthony	Fazio	Martinez
Applegate	Feighan	Matsui
Aspin	Fish	Mavroules
Atkins	Flippo	Mazzoli
AuCoin	Florio	McCloskey
Barnard	Foglietta	McCollum
Barnes	Foley	McDade
Bateman	Ford (MI)	McHugh
Bates	Ford (TN)	McKinney
Bedell	Frank	Mica
Beilenson	Frost	Michel
Bennett	Garcia	Mikulski
Berman	Gaydos	Miller (CA)
Bevill	Gejdenson	Miller (OH)
Biaggi	Gephardt	Mineta
Bliley	Gibbons	Moakley
Boggs	Gilman	Mollohan
Boner (TN)	Glickman	Montgomery
Bonior (MI)	Goodling	Moody
Bonker	Gordon	Moorhead
Borski	Gradison	Morrison (CT)
Bosco	Gray (IL)	Mrazek
Boulter	Gray (PA)	Murphy
Boxer	Green	Murtha
Brown (CA)	Guarini	Myers
Bruce	Hall, Ralph	Natcher
Bryant	Hamilton	Neal
Bustamante	Hatcher	Nelson
Byron	Hawkins	Nowak
Carper	Hayes	Oakar
Carr	Hefner	Oberstar
Chapman	Hertel	Obey
Chappell	Horton	Ortiz
Clay	Howard	Panetta
Clinger	Hoyer	Parris
Coelho	Huckaby	Pease
Coleman (TX)	Hughes	Penny
Collins	Hutto	Pepper
Conte	Jacobs	Perkins
Cooper	Jenkins	Pickle
Coughlin	Johnson	Porter
Coyne	Jones (NC)	Price
Crockett	Jones (TN)	Quillen
Darden	Kanjorski	Rangel
Daschle	Kastenmeier	Ray
de la Garza	Kennelly	Regula
Dellums	Kildee	Reid
Derrick	Kleczka	Richardson
Dicks	Kolter	Ridge
Dingell	LaFalce	Rinaldo
DioGuardi	Lantos	Ritter
Donnelly	Latta	Robinson
Dorgan (ND)	Leath (TX)	Rodino
Dowdy	Lehman (CA)	Roe
Downey	Lehman (FL)	Rogers
Durbin	Levin (MI)	Rose
Dwyer	Levine (CA)	Rostenkowski
Dymally	Lipinski	Roth
Dyson	Loeffler	Roukema
Eckart (OH)	Long	Rowland (CT)
Eckert (NY)	Lujan	Rowland (GA)
Roybal	St Germain	Waldon
Sabo	Staggers	Walgren
Savage	Stallings	Watkins
Scheuer	Stark	Waxman
Schneider	Stenholm	Weaver
Schroeder	Stratton	Wheat
Schuette	Studds	Whitley
Schumer	Swift	Whitten
Sharp	Synar	Wise
Shelby	Tallon	Wolf
Sikorski	Tauzin	Wolpe
Sisisky	Taylor	Wortley
Skeen	Thomas (GA)	Wright
Skelton	Torres	Wyden
Slattery	Torricelli	Wylie
Slaughter	Towns	Yates
Smith (FL)	Traficant	Yatron
Smith (IA)	Udall	Young (AK)
Smith (NE)	Valentine	Young (FL)
Smith (NJ)	Vento	Young (MO)
Solarz	Visclosky	
Spratt	Volkmer	

NAYS—115

Archer	Gingrich	Molinari
Armey	Gonzalez	Monson
Badham	Gregg	Morrison (WA)
Barton	Gunderson	Nielson
Bereuter	Hammerschmidt	Oxley
Bilirakis	Hansen	Packard
Boehlert	Hendon	Pashayan
Broomfield	Henry	Petri
Brown (CO)	Hiler	Pursell
Burton (IN)	Hopkins	Roberts
Callahan	Hubbard	Roemer
Carney	Hunter	Saxton
Chandler	Hyde	Schaefer
Chappie	Ireland	Sensenbrenner
Cheney	Jeffords	Shaw
Coats	Kasich	Shumway
Cobey	Kemp	Shuster
Coble	Kramer	Siljander
Coleman (MO)	Lagomarsino	Smith, Denny (OR)
Combest	Leach (IA)	Smith, Robert (NH)
Courter	Lent	Smith, Robert (OR)
Craig	Lewis (CA)	Snowe
Crane	Lewis (FL)	Solomon
Dannemeyer	Lightfoot	Spence
Daub	Livingston	Stangeland
Davis	Lloyd	Strang
DeLay	Lott	Stump
DeWine	Lowery (CA)	Sundquist
Dickinson	Lowry (WA)	Sweeney
Dornan (CA)	Lungren	Swindall
Dreier	Mack	Thomas (CA)
Duncan	Madigan	Vander Jagt
Evans (IA)	Marlenee	Vucanovich
Fawell	McCandless	Walker
Fiedler	McEwen	Whittaker
Fields	McGrath	
Franklin	McKernan	
Frenzel	McMillan	
Gallo	Meyers	
Gekas	Miller (WA)	

NOT VOTING—52

Andrews	Hall (OH)	Rahall
Bartlett	Hartnett	Rudd
Bentley	Hillis	Russo
Boland	Holt	Schulze
Boucher	Jones (OK)	Seiberling
Breaux	Kaptur	Snyder
Brooks	Kindness	Stokes
Burton (CA)	Kolbe	Tauke
Campbell	Kostmayer	Traxler
Conyers	Leland	Weber
Daniel	Lundine	Weiss
Dixon	McCain	Whitehurst
Early	McCurdy	Williams
Edgar	Mitchell	Wilson
Edwards (OK)	Moore	Wirth
Fowler	Nichols	Zschau
Fuqua	Olin	
Grotberg	Owens	

□ 1100

Mr. FAWELL changed his vote from "yea" to "nay."

Mr. BONKER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT MONDAY, OCTOBER 13, 1986, TO FILE CONFERENCE REPORT ON H.R. 5234, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, October 13, 1986, to file a conference report on the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

The SPEAKER pro tempore (Mr. MATSUI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 583 I call up the joint resolution (H.J. Res. 751) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 751

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of October 9, 1986 (Public Law 99-464) is hereby amended by striking out "October 10, 1986" and inserting in lieu thereof "October 15, 1986".

The SPEAKER pro tempore. Pursuant to House Resolution 583, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, this is a short-term extension of the existing continuing resolution to carry forward Government programs until next Wednesday, October 15, at midnight.

This is a one-word resolution. It strikes out the reference to October 10 and insert October 15, 1986. No other changes are made to the current CR, which the President signed and is in place.

I would remind my colleagues that the continuing resolution which I just made reference to does not carry the so-called controller language that the President objected to and which caused a veto the other day. This extension does not carry that language.

Our conferees, and I hope Members will listen to this, continue to meet. We are making progress. Senator HATFIELD, the chairman of our conference, with my approval, announced that he would be able to conclude conference this afternoon and produce a bill that will go to the President, hopefully agreeable, but at any rate it will move. That would give time to do the necessary paperwork to bring the conference agreement to the House floor Tuesday morning.

This extension for 5 days should be noncontroversial. It continues the ordinary operations of the Government until next Wednesday, and it should avoid a Government shutdown.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, so that the House knows at least where I am coming from, there will be a motion to recommit on this side of the aisle offered by the gentleman from California [Mr. LEWIS] to extend the CR until midnight Saturday. Should that motion not prevail, and I am not urging anyone else to follow me, I will vote for the resolution of the gentleman from Mississippi [Mr. WHITTEN] to extend the CR until Wednesday.

Why do I feel that we should have it until midnight tomorrow night? I think that we should keep everyone's feet to the fire. As I said earlier this week, in a colloquy with the gentleman from Texas [Mr. WRIGHT], I think that we are moving in the right direction. Last night we had reports to the full conference. There were only three subcommittees who had a significant number of items in disagreement; they were Defense, Foreign Operations, and Commerce-Justice-State.

Then there were other subcommittees who had other items not as substantial as those in disagreement, and it looked like we were making some progress.

However, I feel that if we go to the 15th, the Congress will adjourn here at I understand 3 o'clock, and the conferees will go home. They will go home for Saturday, Sunday, and Monday, and then come back Tuesday, and I think that we will be in here again next Wednesday for another continuation of the CR. This is unfortunate.

Let me say this: Even though there has been progress, there are a lot of real big issues out there about which the administration keeps calling and saying, "If any one of these single items are in the bill we will not sign the continuing resolution."

Let me give a couple. There is the PATCO issue. I keep telling OMB that the PATCO issue is in the Senate and the House, in both versions. I do not know how you are going to get the PATCO issue out of there. There is double breasting in the Health and Human Services Subcommittee. There is labor protection in regard to the merger of the airlines. With any one of those, they say, there is going to be a veto.

Then of course we have the six issues that they are complaining about in the Defense appropriation, not even to mention, the amount of money in the Defense appropriation, of course. The one that is in complete disarray is Foreign Operations. Everything is broken down there between the House and the Senate. So we have some real difficult, knotty problems.

Again, and I do not want to sound like a broken record, and I am looking at the next Speaker of the House, I hope that the 100th Congress will do the right thing. I hope that we will not be in this quagmire that we are in right now.

□ 1110

We are at a point where we cannot legislate any more. The first thing we ought to do is repeal Gramm-Rudman-Hollings. It is not working. The other thing we ought to do is repeal the Budget Act. It is not working.

We just cannot keep going on shoving these things back on the burner. I just hope that the debt limit comes to the floor with an open rule so that I can tack on some amendments to repeal both of those laws so that we can come into the 100th Congress and we will be a streamlined Congress.

What we have set up here is another bureaucracy in the Budget Act which tied up all of the appropriation bills over there until they had a 302 allocation. And here we are in the second week, coming into the second week of the new fiscal year and we have not passed one appropriation bill.

I wonder what Gorbachev will be thinking when he sits down with President Reagan over in Iceland. You want to talk about these big issues. You cannot even run the Government over there. The Government is at a standstill. It is a joke.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Kentucky.

Mr. HOPKINS. Mr. Speaker, I appreciate my colleague yielding.

There are some of us, however, that feel that we might be better off if we repealed the Appropriations Committee in this place.

Mr. CONTE. Mr. Speaker, as usual, the gentleman from Kentucky has really done his homework.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend, the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, does the gentleman have any indication as to the intention of the President with respect to this particular CR if we should pass one that is now on the floor?

Mr. CONTE. The only thing I can say is he left for Iceland. On the steps of the plane he said that he did not want any more extensions.

Well that is fine and dandy, but let us face the realities. You might get away with no extension because of Saturday, Sunday, and the holiday Monday. But you come in here and you shut that Government down Tuesday, and you are going to be paying about $100 million a day wasted, right down the drain like corn down a rathole because you do not have a continuing resolution.

We do not have money to spend for a new pair of shoes around here.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend, the gentleman from Texas.

Mr. WRIGHT. I thank my friend for yielding. The suggestion about abolishing House committees wholly aside, I would like to engage my friend in a colloquy.

My friend from Massachusetts is a soft-spoken gentleman, and I know we all want to hear his wisdom. I just ask my friend, we all want to pass this bill and we all want to pass it as soon as we can, and there is progress being made. It is frustrating that the progress has not been made more rapidly, obviously.

But does it not really make sense to the gentleman from Massachusetts that we extend it until Tuesday or Wednesday, given the fact that even if it were resolved in conceptual form in the committee today it still would take until next week to put it into legal form? And given the fact further that the other body has already adjourned for the weekend, and they are just in pro forma session today and will not be in session tomorrow. So does it not really make sense that we go ahead and extend it until Tuesday or Wednesday of next week so that we do not have to come in here and look like we are in total disarray and do this same thing all over again?

Mr. CONTE. Well, if the other body is in a pro forma session, how are they going to handle this continuing resolution?

Mr. WRIGHT. That is a good question. I am sorry to say I do not have the answer to that.

While we are abolishing things, maybe we could consider——

Mr. CONTE. We might as well not even act on this if they are not going to act on it.

Mr. WRIGHT. At least, if they were unable to take action on it, the House would be on record. If the Government came to a crashing halt, it would not be on our head.

Let me just remind the gentleman of our colloquy 2 days ago in which I think we both agreed that Tuesday was a more realistic expectation than Friday. The gentleman and I had a colloquy in the RECORD and the gentleman from Massachusetts agreed at that time. I said would the gentleman agree that Tuesday is a more realistic expectation, and the gentleman from Massachusetts, Mr. CONTE, said he could not agree more. Mr. Speaker, I think Tuesday would be more reasonable. Then I said would he agree that if we give you an extension until Friday, which we agreed to do, and then would do our dead level best to try to find some common ground on which we could satisfy it, and then come back, and if we were not successful extend it again, and the gentleman from Massachusetts:

> Certainly, I would give the gentleman my word on that, and then come Friday afternoon around this time if it looks like we are not going to come to a settlement, then I would support my good chairman and have another continuing resolution which brings us in to some other day next week.

That is where we are now.

Mr. CONTE. Let me respond to that. If I correctly remember, that was around 3 o'clock in the afternoon.

Mr. WRIGHT. 2:20.

Mr. CONTE. It was 2:20 in the afternoon, and here we are at 11:15 in the morning.

Certainly the gentleman heard me in the colloquy with my chairman. I would prefer to make it midnight and will vote to make it midnight Saturday. If that fails, then I will support the chairman to make it Tuesday.

Mr. WRIGHT. I thank the gentleman.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, the conferees I know have been meeting. Are you going to resume meeting soon?

Mr. CONTE. They are supposed to, yes, Agriculture is supposed to be meeting. Commerce is supposed to meet.

Mr. LOTT. Are we making progress? The gentleman was saying last week, I think the chairman was saying progress was being made, agreements were being reached in transportation, in HUD, and all of these other areas.

Mr. CONTE. We are making progress. I reported that three committees have not reported because they have major, major differences. All of the other committees have reported with certain exceptions. Public Works has a couple of problems with Senator HATFIELD on the nuclear waste dump, which I hope the House is not going to get into.

Mr. LOTT. I certainly agree on that.

Mr. CONTE. If any of you have been targeted, you ought to be following this one. This is a real hot issue.

Then there are a lot of other issues out there that I mentioned, double-breasting, PATCO, labor protection.

Mr. LOTT. Were those not the same issues that were holding us up a week ago and will be holding us up a week from now if we allow it to continue to just drag on? Let me ask the gentleman that.

Mr. CONTE. A week ago today we had not settled anything, so we have made some progress. We are moving very quickly, at a snail's pace.

Mr. LOTT. Then we are really down to the same issues that we knew we would wind up being deadlocked on days or weeks ago, right? I mean they are the things like PATCO and nuclear waste and arms control and a few things like that. But will the conferees meet tonight and tomorrow?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the chairman, the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, of course I cannot speak for the leadership on this side or that side, but I would call attention to the fact that I stated a while ago when perhaps many people did not hear it. In the first place, may I say all subcommittees are meeting, trying to resolve those differences.

But last evening, Senator HATFIELD, who is chairman of our conference this year, announced that he will be able to conclude conference this afternoon and produce a bill that will go to the President, hopefully agreeable, but at any rate it will move. That would give some time to do the necessary paperwork to bring the conference agreement to the House floor on Tuesday for a vote.

The Senator announced yesterday that those places where they were in disagreement at this stage or by this afternoon, it is evident that they are not going to agree until the last minute.

Mr. LOTT. That is right, and that is my point.

Mr. WHITTEN. I am telling the gentleman what he said, which meant that if there is disagreement, he agrees that we are going to have a vote, and then the outcome will be brought before the floor for a decision by the House itself.

□ 1120

Mr. LOTT. Mr. Speaker, if the gentleman will yield just one more moment, to make my key point, and that will be it.

The conferees are never going to agree until the last minute. They are not going to agree until we say not one more second, not one more extension,

not now, not tomorrow—let us get this thing over with. We will be here next Thursday if we keep granting these extensions.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we can talk big and mean every word of it, but we still have to deal with our colleagues—we can make strong statements here and we are very serious and sincere about them, but there is another body in this Congress; we cannot speak for them.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. LEWIS of California. Mr. Speaker, it is my intention at the end of the debate to present a motion to recommit to change the date from Wednesday to the 11th.

The reason for doing that, even though I totally agree with the point made by Mr. LOTT a moment ago, these extensions are crazy. Nonetheless we should attempt at least to pass a resolution that might be acceptable to the administration; so we keep the pressure on our committees and try to get our work done by Saturday night.

Otherwise, it is very clear that the majority of the committee people around here will wander off, go home; we will get back to meeting maybe on Wednesday. We will be through all next week. Either we close the Government down for a month or another continuation will take place.

I will present that motion and I urge its adoption.

Mr. CONTE. Mr. Speaker, I want to make one observation based on the colloquy the two gentleman from Mississippi had.

The gentleman from Mississippi [Mr. WHITTEN], my chairman, is absolutely right. It takes two to tango. Let me give you one example: This House passed my amendment on a farm payment limitation unanimously. We have been in that conference on agriculture, and the chairman over there on the other side just will not even discuss the thing. Will not discuss it.

We discussed it once yesterday morning, and then he keeps on saying: "We'll take it to the full conference. We'll take it to the full conference." Hoping that some way, somewhere, at midnight or 3 o'clock in the morning, he is going to be able to kill that amendment which is only a tiny, tiny little step forward in trying to clean up that farm program that this year alone, in CCC payments, has cost us over $26 billion.

The presses down there in the Bureau of Engraving are not going to be able to roll fast enough next year to pay the money that we need for the farm program, in 1985. That is just one example.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. LEWIS of California. Mr. Speaker, extending that point, it is most disconcerting that the leadership around here, on the other side of the aisle, is attempting to suggest that the reason we have this problem, this immediate and urgent problem, is because the President wants to somehow close down the Government.

The fact is, we are in this position because our committees have been holding their hands for the entire year doing very little of the work that we have to get done.

At the last moment, we are attempting to use the CR, a half a trillion dollar bill, to authorize every special project and item that the average leader around here thinks is important for his district and for himself.

The CR should not be used for this purpose. Let us put our feet to the fire and get our work done.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, here again the Appropriations Committee is caught in a winch. We all want to get out of here. The Appropriations Committee wants to get out just as badly as any of you; but just as the chairman and the ranking member have said, we are attempting to do this, but we have run into so many problems with the other body. They had the impeachment proceedings; they could not meet with us for about 3 days. We just could not have the opportunity to meet, to work out these problems.

As the ranking member said, we have several really large problems today to work out. We are attempting to do that. Now you can beat your chest down here and say "No more extensions." Who are you hurting?

Are you hurting Members of this Congress? No; we will be here; we will be paid. You are hurting the people who are completely innocent; the Border Patrol, Immigration and Naturalization Service; the Federal Bureau of Investigation, who have to work, no assurance they are going to be paid; you are going to be hurting the people around the country in military service; the cooks, the caretakers, the guards, all of these people who in some way are going to have to be told "Well, on a promise, you are going to be paid."

Those are the innocent people here. By not extending this, you are not putting any pressure on the Appropriations Committee, not in the least. Because we are going to move as rapidly as we and the other body can get together and work out these differences.

So let us be reasonable and let us extend the thing up until next Tuesday or Wednesday, and do it right.

Mr. CONTE. Mr. Speaker, if I can ask the gentleman from Indiana [Mr. MYERS] a question: If we shut down the Government tonight can we pay for the gasoline on Air Force One to get the President back?

Mr. MYERS of Indiana. That is exactly right. It happened years ago, you know, when Congress did not appropriate for the fleet; sent it half way around the world.

It just does not make any sense not to extend it reasonably. Because the time, if nothing else, just the time to get paperwork done and do it right. Do you folks want another Gramm-Latta where things were printed in there, telephone numbers? Let us do it right. It is going to take time; we all want to get home, but let us do it right.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BROOMFIELD] to speak out of order.

YUGOSLAVIA SET TO FREE AMERICAN DETAINEES

(Mr. BROOMFIELD asked and was given permission to speak out of order for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, I have got some very, very good news for the Congress; and I think they deserve a great deal of credit. I have just received word from our American Ambassador in Yugoslavia, John Scanlon, that not only Peter Ivezaj of Detroit, MI, but the other two that we have been concerned about will be freed within 24 hours.

I want to say that I believe it was the result of the heavy congressional pressure and more than 150 Members indicated their support when I offered the bill, along with Congressmen FASCELL and HERTEL and YARTON and SIMONS yesterday for cutting off the most-favored-nation status.

I think that, along with the State Department's efforts, have brought this result, and I want to send my best wishes to the Ivezaj family. Their nightmare is now over.

All of you know the background of it; he had been sentenced for 7 years; and I believe that the Yugoslav Government has seen the light. Let us hope that we do not have any more cases of innocent human beings being held for no reason.

I hope that these problems are over once and for all, Mr. Speaker. Welcome home, Peter and the others.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL] to speak out of order.

CONGRATULATING THE HOUSE ON QUICK RESPONSE TO THE HOSTAGE-TAKING IN YUGOSLAVIA

(Mr. HERTEL of Michigan asked and was given permission to speak out of order for 1 minute.)

Mr. HERTEL of Michigan. Mr. Speaker, I just want to commend the ranking member of the Committee on Foreign Affairs, Mr. BROOMFIELD, my Michigan colleague, and the chairman of the Foreign Affairs Committee for doing so much work and spending time daily on the release of this hostage from Yugoslavia.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. HERTEL of Michigan. I yield to the gentlewoman from California.

Ms. FIEDLER. Mr. Speaker, I, too, would like to express my appreciation to Congressman BROOMFIELD for the outstanding job he has done. One of those three hostages happens to have been a constituent of mine, and I am extremely pleased that he has been successful in implying the necessary leverage to make certain that they are freed, and let us hope that this does not see a repeat in the future.

Mr. HERTEL of Michigan. Mr. Speaker, we are joyous that our Americans are going to be coming home, and while we are in the midst of this debate right now, and considering some of the partisanship that goes on in the last few weeks and during the entire session, I want to remind the citizens of this country how we can work together in a bipatisan fashion and how this Congress can agree and come together so completely.

Over 150 Members, within 24 hours, were so angered by these hostages being taken that they cosponsored the bill that we introduced yesterday. That shows how we can move quickly and in a unified fashion for freedom for our American citizens.

I congratulate this House.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

□ 1130

Mr. SMITH of Iowa. Mr. Speaker, I am amazed that we hear the same rhetoric here today we heard a year ago without putting your finger on one of the main reasons why we are here. The defense authorizing committee is 1 year behind on its authorizations. It did not even start hearings until February on the 1987 authorization, and that was a year late. They should have started hearings on the 1988 authorization. Right now, downtown they have already sent the requests to OMB for the 1988 authorization for defense, and they do not have an authorization bill for a guideline. They make up their own. They will start the hearings in February on the 1988 authorization when we have already gotten up here the appropriation request. That is a year late. It is irrelevant. There are no guidelines. So we wait around here until August to bring out a bill that is a year late, tack on some things that are policy issues onto that bill and let that bill hold us up. We should ignore the bill if it is a year late. The only way to do that is to do what the gentleman from Florida, Mr. FASCELL, chairman of the Committee on Foreign Affairs, did when he became chairman of the Committee on Foreign Affairs, he had 2-year authorization bills, two of them back to back. He is ahead now. They are sending up their appropriations requests in February based upon an authorization that was used as a guideline that they had to go by.

So it is about time we focus on the real issue around here, and that is to get the authorizations in in time so that the appropriation requests are based upon that.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. Yes, I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman forgets that the House Budget Committee is the one that sets the standards for the expenditures of all of the committees and the Budget Committee, as the gentleman from Massachusetts has indicated, has been the real problem. We do not get a chance to know what the figure is from the Budget Committee until March or the middle of April.

Mr. SMITH of Iowa. Well, the gentleman is talking about setting the limits for the expenditures. The gentleman is not dealing with the limits for expenditures, you are dealing with the guidelines for the Defense Department. That is the problem. You cannot deal with appropriations in an authorization bill. It ought to be separate.

We ought to have to go by the guidelines in the authorization bill and you leave the appropriations to the Appropriations Committee.

Mr. STRATTON. We have the same guidelines you have.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of House Joint Resolution 751, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore (Mr. MATSUI). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 583, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. LEWIS of California. Mr. Speaker, I am opposed.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LEWIS of California moves to recommit House Joint Resolution 751 to the Committee on Appropriations, with instructions to that committee to report the joint resolution back to the House forthwith, with the following amendment: In line 5, strike "October 15" and insert in lieu thereof "October 11".

The SPEAKER pro tempore. Does the gentleman from California [Mr. LEWIS] wish to debate his motion?

Mr. LEWIS of California. I do not, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution. Members will record their votes by electronic device.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 158, nays 222, not voting 52, as follows:

[Roll No. 459]

YEAS—158

Archer	Burton (IN)	Conte
Armey	Callahan	Coughlin
Badham	Carney	Courter
Barton	Chandler	Craig
Bateman	Chappie	Dannemeyer
Bereuter	Cheney	Daub
Berman	Clinger	Davis
Bilirakis	Coats	DeLay
Bliley	Cobey	DeWine
Boehlert	Coble	Dickinson
Boulter	Coleman (MO)	DioGuardi
Brown (CO)	Combest	Dornan (CA)

Dreier
Duncan
Eckert (NY)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Fish
Franklin
Frenzel
Gallo
Gekas
Gilman
Gingrich
Gradison
Green
Gregg
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Hendon
Henry
Hiler
Hopkins
Hunter
Ireland
Jeffords
Johnson
Kemp
Kramer
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McDade
McEwen
McGrath
McKernan
McKinney
McMillan
Meyers
Michel
Miller (WA)
Molinari
Monson
Moorhead
Morrison (WA)
Nielson
Packard
Parris
Pashayan
Petri
Pickle
Porter
Pursell
Quillen
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Slaughter
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauzin
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wirth
Wolf
Wortley
Young (FL)

NAYS—222

Abercrombie
Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Bevill
Biaggi
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boxer
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Cooper
Coyne
Crane
Crockett
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gray (IL)
Gray (PA)
Guarini
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Hertel
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Kanjorski
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lightfoot
Long
Luken
Lundine
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Oxley
Panetta
Pease
Penny
Pepper
Perkins
Rangel
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Saxton
Scheuer
Schroeder
Schuette
Schumer
Seiberling
Sharp
Shelby
Sikorski
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Waldon
Walgren
Watkins
Waxman
Weaver
Wheat
Whitley
Whitten
Williams
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)

NOT VOTING—52

Andrews
Bartlett
Bentley
Boland
Boucher
Breaux
Brooks
Burton (CA)
Campbell
Conyers
Daniel
Early
Edgar
Edwards (OK)
Fowler
Fuqua
Grotberg
Hall (OH)
Hartnett
Hillis
Holt
Jones (OK)
Kaptur
Kindness
Kolbe
Kostmayer
Latta
Leland
Lipinski
MacKay
Martinez
McCain
McCollum
McCurdy
Mitchell
Moore
Nichols
Olin
Owens
Price
Rahall
Rudd
Russo
Schulze
Snyder
Stokes
Tauke
Traxler
Weiss
Whitehurst
Wilson
Zschau

□ 1145

Mr. FEIGHAN changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MATSUI). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind the members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 143, not voting 54, as follows:

[Roll No. 460]

AYES—235

Abercrombie
Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barnes
Bateman
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Bliley
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boulter
Boxer
Brown (CA)
Bryant
Bustamante
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conte
Cooper
Coyne
Darden
de la Garza
Dellums
Derrick
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Hendon
Hertel
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lloyd
Loeffler
Long
Lowry (WA)
Luken
Lundine
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McKinney
McMillan
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Panetta
Parris
Pease
Pepper
Perkins
Quillen
Rangel
Reid
Richardson
Rinaldo
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Saxton
Scheuer
Schneider
Schuette
Schumer
Seiberling
Sharp
Sisisky
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stark
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waldon
Walgren
Watkins
Waxman
Weaver
Wheat
Whitley
Whitten
Williams
Wise
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)

NOES—143

Archer
Armey
Badham
Barton
Bates
Bereuter
Bilirakis
Boehlert
Broomfield
Brown (CO)
Bruce
Burton (IN)
Byron
Callahan
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Crockett
Dannemeyer
Daschle
Daub
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Eckart (OH)
Eckert (NY)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Franklin
Frenzel
Gallo
Gekas
Gilman
Gingrich
Gregg
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Henry
Hiler
Hopkins
Hubbard
Hunter
Hyde
Ireland
Johnson
Kasich
Kemp
Kramer
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lungren
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McEwen
McGrath
McKernan
Meyers
Michel
Miller (WA)
Molinari
Monson
Moorhead
Morrison (WA)
Nielson
Oxley
Packard

Pashayan	Sensenbrenner	Stallings
Penny	Shaw	Stangeland
Petri	Shelby	Stenholm
Pickle	Shumway	Strang
Porter	Shuster	Stump
Pursell	Sikorski	Sundquist
Ray	Siljander	Swindall
Regula	Slattery	Thomas (CA)
Ridge	Smith, Denny (OR)	Traficant
Roberts	Smith, Robert (NH)	Vucanovich
Robinson	Smith, Robert (OR)	Walker
Roemer	Snowe	Weber
Roth	Solomon	Whittaker
Roukema	Spence	Wirth
Rowland (CT)		Wortley
Schaefer		Wylie
Schroeder		

NOT VOTING—54

Andrews	Hall (OH)	Moore
Bartlett	Hartnett	Nichols
Bentley	Hillis	Olin
Boland	Holt	Owens
Boucher	Jones (OK)	Price
Breaux	Kaptur	Rahall
Brooks	Kindness	Rudd
Burton (CA)	Kolbe	Russo
Campbell	Kostmayer	Schulze
Conyers	Latta	Snyder
Daniel	Lipinski	Stokes
Dicks	Lujan	Sweeney
Early	MacKay	Tauke
Edgar	McCain	Traxler
Edwards (OK)	McCollum	Weiss
Fowler	McCurdy	Whitehurst
Fuqua	Mitchell	Wilson
Grotberg	Moakley	Zschau

□ 1155

Mr. COBLE changed his vote from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENDING EXCLUSION FROM FEDERAL UNEMPLOYMENT TAX OF WAGES PAID TO CERTAIN ALIEN FARMWORKERS

The SPEAKER pro tempore. The unfinished business is the question of passage of the bill (H.R. 5679) to extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers, on which further proceedings were postponed on Thursday, October 9, 1986.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT, FISCAL YEAR 1987

Mr. WALGREN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4354) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1987".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated to the Secretary of Commerce (hereinafter referred to as the "Secretary") for fiscal year 1987, to carry out the activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement research and Standards, $36,582,000;

(2) Materials Science and Engineering, $21,228,000;

(3) Engineering Measurements and Standards, $35,875,000;

(4) Computer Science and Technology, $7,500,000; and

(5) Research Support Activities, $22,768,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amounts authorized under subsection (a), $1,900,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (3) of subsection (a), $3,470,000 is authorized only for the Center for Building Technology and $5,402,000 is authorized only for the Center for Fire Research;

(3) of the amount authorized under paragraph (4) of subsection (a), $1,000,000 is authorized only for Computer Security Activities;

(4) of the amount authorized under paragraph (5) of subsection (a), $6,763,000 is authorized only for the Technical Competence Fund; and

(5) of the amount authorized under paragraph (5) of subsection (a), $6,500,000 is authorized only for the design, equipment, and construction of the Cold Neutron Research Facility.

(c)(1) Funds may be transferred among the line items listed in subsection (a) so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in each subsection.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for that line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when thirty calendar days have passed after the transmission of such written explanation.

(d) The National Bureau of Standards shall seek reimbursements of not less than $500,000 from other Federal agencies to expand its efforts in support of basic scientific research on the atmospheric, climatic, and environmental consequences of nuclear explosions and nuclear exchanges.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 3. In addition to the sums authorized by section 2, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $2,248,000 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized by sections 2 and 3, there is authorized to the Secretary for fiscal year 1987 the sum of $500,000 for the patent licensing activities of the National Technical Information Service.

AVAILABILITY OF APPROPRIATIONS

SEC. 5. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

FINANCIAL ASSISTANCE TO CURRENT AND PROSPECTIVE EMPLOYEES

SEC. 6. (a) In order to secure the services of the broadest possible range of talent in carrying out the programs of the National Bureau of Standards, the Act of March 3, 1901 (15 U.S.C. 271-278h) is amended by redesignating section 18 as section 19 and by inserting after section 17 the following new section:

"SEC. 18. The Director is authorized to expend up to 1 per centum of the funds appropriated for activities of the National Bureau of Standards in any fiscal year, as the Director may deem desirable, for awards of research fellowships and other forms of financial assistance to students at institutions of higher learning within the United States who show promise as present or future contributors to the mission of the Bureau. The selection of persons to receive such fellowships and assistance shall be made on the basis of ability and of the relevance of the proposed work to the mission and programs of the Bureau.".

(b) The amendments made by subsection (a) shall be effective October 1, 1986.

ASSESSMENT OF EMERGING TECHNOLOGIES REQUIRING RESEARCH IN METROLOGY

SEC. 7. The Board of Assessment of the National Bureau of Standards programs shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Bureau abreast of its mission, including (but not limited to) Process and Quality Control, Technology Transfer, Engineering Databases, High-Performance Composites, Advanced Ceramics, Fiber Optics, Microwave Metrology, Bioprocess Engineering, and Advanced Computing Concepts. Such review shall include estimates of the cost of the required effort, that required staffing level, and the period over which the research will be required.

POST-DOCTORAL FELLOWSHIP PROGRAM

SEC. 8. (a) The Act of March 3, 1901 (15 U.S.C. 271-271h), as amended by section 6 of this Act, is further amended by redesignating section 19 as section 20 and by inserting after section 18 the following new section:

"SEC. 19. The National Bureau of Standards, in conjunction with the National Academy of Sciences, shall establish and conduct a post-doctoral fellowship program which shall be organized and carried out in substantially the same manner as the National Academy of Sciences/National Research Council Post-Doctoral Research Associate Program that was in effect prior to 1986, and which shall include not less than twenty nor more than forty new fellows per fiscal year.".

(b) The amendments made by subsection (a) shall be effective October 1, 1987.

PROCESS AND QUALITY CONTROL AND CALIBRATION PROGRAMS

SEC. 9. (a) The Director of the National Bureau of Standards shall hold discussions with representatives of Federal agencies, including the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Federal Aviation Administration, the National Institutes of Health, the Nuclear Regulatory Commission, and the Federal Communications Commission which use (or the contractors of which depend on) the process and quality control and calibration programs of the Bureau, and with companies, organizations, and major engineering societies from the private sector, in order to determine the extent of the demand for research and services under such programs, the appropriate methods of paying for research and services under such programs, and the willingness of Federal agencies and the private sector to pay for such research and services.

(b) Within six months after the date of the enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of the Director's findings based on the discussions held under subsection (a), together with recommendations for such legislative actions as may be needed to implement a comprehensive Federal process and quality control and calibration program.

DEMONSTRATION PROJECT RELATING TO PERSONNEL MANAGEMENT

SEC. 10. (a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any position within the National Bureau of Standards which would otherwise be subject to—

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule;

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System.

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that—

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph 3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which—

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under chapter 43 of title 5, United States Code;

(5)(A) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c) (3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct examination and hiring.

(c)(1) For the purpose of this subsection, the term "compensation" means the total value of the various forms of compensation provided, including—

(A) basic pay;

(B) bonuses;

(C) allowances;

(D) retirement benefits;

(E) health insurance benefits;

(F) life insurance benefits; and

(G) leave benefits.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys—

(A) shall include findings as to—

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increases determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director—

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of—

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for the purpose, may further increase those minimum and maximum rates—

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section—

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section had not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employee's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid—

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump-sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase.

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

(B) The contractor shall report its findings to the Office in writing, After considering the report, the Office shall transmit a copy of the report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to—

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General consider appropriate.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

Mr. WALGREN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Mr. Speaker, reserving the right to object, we had hoped that some of these things would not get in the way of what is another potential vote, but since it has been brought up, I will yield to the gentleman from Pennsylvania [Mr. WALGREN] for a very short explanation of the bill.

Mr. WALGREN. I thank the gentleman for yielding to me.

Mr. Speaker, this is the authorization for the National Bureau of Standards that has been worked out with the Senate and the Committee on Science and Technology.

Mr. Speaker, I urge the House to adopt H.R. 4354. The measure before us incorporates funding levels agreed to by the House and Senate authorizing committees, and the administration through the Office of Management and Budget.

Although there remains broad agreement that the National Bureau of Standards is deeply underfunded when measured either by historical standards or the breadth of its mission, the agreement reached in this bill is worth supporting because it will put an end to a destructive philosophical disagreement between the Congress and the administration over a number of activities at the Bureau of Standards. This conflict has had a devastating impact on the morale of the critical Bureau programs in fire and building research as well as the Institute for Computer Sciences and Technology. It also has delayed unreasonably the construction of the cold neutro source facility which will instantly transform NBS into a world-class materials research center.

As is clear from the three letters I am submitting for the RECORD along with the written statement of Congressman FUQUA, the compromise contains the following elements:

Total funding at the President's request—$123,953,000—which is only $32,000 below the original House-passed authorization.

Reductions of $500,000 each in funding for the Center for Fire Research and the Center for Building Technology, which is a total cut of over 10 percent in funding for these Centers. The administration had sought originally to eliminate the Centers. The original House and Senate bills retained current funding.

A reduction of $2.5 million or about 25 percent for the Institute for Computer Sciences and Technology. The administration had sought originally a cut of about $5.0 million from recent levels. The original House and Senate bills retained current funding. This cut would be directed at the Open Systems Interconnection Program of ICST, because the private sector is greatly expanding its efforts in this area.

Provide funding of $6.5 million to begin construction of the Cold Neutron Research Facility, which is just enough to commit to construction at full scale. The administration had sought originally $10 million. The original House bill authorized "such sums"; the Senate bill made no mention of the project and the project was unlikely to start absent this compromise.

In return, the Office of Management and Budget has agreed to:

Propose no further cuts in fire, building, or computer science programs for the remainder of this administration.

Propose no reorganization of the Fire and Building Centers.

Treat the fire, building, and computer science programs identically to all other NBS programs.

The NBS bill continues to:

Fund new initiatives in ceramics, fiber optics, and scientific computing.

Permit the NBS Director to establish a China Lake-style salary experiment for 5 years.

The debate over NBS has been grueling for all parties, but we believe we have reached an agreement that simultaneously secures the future of the fire, building, and computer programs, and allows construction of the Cold Neutron Facility.

It should be stressed that this agreement in no way indicates any diminution in congressional support for the Center for Fire Research, the Center for Building Technology, and the Institute for Computer Sciences and Technology. Reluctantly, we accepted a final reduction in the Center's budget to secure their long-term prospects, to free them from a morale destroying stepchild existence and to free up money for the Cold Neutron Facility, which we have long supported in principle. We trust that these parts of the Bureau will now remain with equal status with the rest of the Bureau, that they will be able to put forth new initiatives on a par with the rest of the Bureau, and in time regain their former health, size, and strength.

NBS is too valuable to be lost, partially eliminated, or left unstable. This bill, while far from perfect from any vantage point, gives us a chance to end past disagreements in a way that has short- and long-term benefits for one of the Government's true national treasures. I urge my colleagues to look at the immense benefits of passing this legislation that far outweigh the short-term setbacks the bill of necessity contains and join me in giving their wholehearted support to what without exaggeration can be termed landmark legislation for the agency it authorizes.

I urge my colleagues to send H.R. 4354 on to the President.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 30, 1986.

Hon. DOUG WALGREN,
U.S. House of Representatives,
Washington, DC.

DEAR MR. WALGREN: This is to confirm recent staff discussions on the National Bureau of Standards (NBS) authorization and appropriation bills.

The Office of Management and Budget (OMB) and the Department of Commerce will support a total NBS budget authorization of $123,953,000 for FY 1987. This level will include $6.5 Million for initiation of the Cold Neutron Facility and reductions from the pre Gramm-Rudman-Hollings FY 1986 operating levels of $.5 Million for the Fire Program, $.5 Million for the Building Program and $2.5 Million for Computer Sciences and Technology. There will also be reductions of $1.5 Million in the Competence Program and $1.641 Million in the Post Doctoral Program. Neither the Department of Commerce nor OMB will propose further programmatic reductions in the Fire, Building, and Computer Sciences Programs in FY 1987, FY 1988 or FY 1989. In the case of across-the-board budget changes such as reductions the President must make to achieve Gramm-Rudman-Hollings deficit targets or a subsequent sequester, these programs will be treated the same as the other NBS programs.

Our commitment is, of course, contingent on successful implementation of this compromise in both the final authorization and appropriation for NBS in FY 1987.

Sincerely,

CAROL T. CRAWFORD,
Associate Director for Economics and Government.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, September 30, 1986.

Hon. CLARENCE J. BROWN,
Deputy Secretary,
U.S. Department of Commerce,
Washington, DC.

DEAR BUD: We want to thank you for your efforts toward reaching a compromise on the buget for the National Bureau of Standards (NBS). Without your persistence and determination, this agreement could never have been negotiated.

The debate over NBS has been grueling for all parties, but we believe we have reached an agreement that simultaneously secures the future of the fire, building and computer programs, and allows construction of the cold neutron facility.

We want to stress that this agreement in no way indicates any diminution in Congressional support for either the Center for Fire Research or the Center for Building Technology. We reluctantly accepted a final reduction in the Centers' budgets to secure their long-term prospects and to free up money for the cold neutron facility, which we have long supported in principle. Again, this decision to accept the compromise represents absolutely no change whatsoever in Congressional policy.

Indeed, we expect the position of the Centers to improve. The Administration has pledged that the Centers will henceforth be on equal footing with all other NBS divisions. They will be eligible for competence fund money and any proposed new initiative will be given fair and thorough consideration. They will receive annual adjustments to base and increase for inflation on a par with all other sections of NBS. The Administration has also pledged not to merge or reorganize the two Centers through FY 1989.

These understandings, along with the guarantee that no further budget cuts will be proposed for the Centers for the remainder of this Administration, should give the two Centers the long-sought stability they need to function property.

There are no contingencies in this agreement, no escape clauses; the guarantees must be iron-clad.

This agreement should be a great step forward for the entire Bureau. With this dispute behind us at long last, we look forward to working with you to build the Bureau to proper strength.

This is a goal we all share. Your ability to hammer out this difficult agreement should bode well for our future endeavors.

With warmest regards,

Sincerely,

DOUG WALGREN,
Chairman, Subcommittee on Science, Research and Technology.

SHERWOOD BOEHLERT,
Ranking Republican Member, Subcommittee on Science, Research and Technology.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 30, 1986.

Hon. JAMES MILLER,
Director, Office of Management and Budget, Executive Office Building, Washington, DC.

DEAR MR. MILLER: We want to clarify the agreement of the Office of Management and Budget (OMB) and our Committees have reached on the budget for the National Bureau of Standards.

In keeping with this agreement, our authorization bill for Fiscal Year 1987 will provide:

	Million
Measurement, research and standards	$36.582
Materials science and engineering	21.228
Engineering measurement and standards	35.875
Institute for computer sciences & tech	7.500
Research support activities	22.768
Total	123,953

These figures include:

Center for Fire Research	5.402
Center for Building Technology	3.470
Competence Fund	6.763
Cold Neutron Research Facility	6.500

In exchange for our agreeing to make these budget changes, the Office of Management and Budget promises not to propose any further cuts in fire, building or computer science in FY 1987, 1988 and 1989. Furthermore, these programs will be treated like any other NBS program.

The appropriations bill must also have the agreed upon cuts in fire, building and computer sciences, and initial funding for the Cold Neutron Research Facility, for this agreement to take effect.

We are pleased we have been able to reach this agreement.

With warmest regards,

Sincerely,

John C. Danforth, Chairman, Senate Committee on Commerce, Science and Transportation; Ernest F. Hollings, Ranking Democrat, Senate Committee on Commerce Science and Transportation; Slade Gorton, Chairman, Subcommittee on Science, Technology, and Space; Donald W. Riegle, Jr., Ranking Democrat, Subcommittee on Science, Technology, and Space.

Don Fuqua, Chairman, House Committee on Science and Technology; Manuel Lujan, Jr., Ranking Republican Member, House Committee on Science and Technology; Doug Walgren, Chairman, Subcommittee on Science, Research and Technology; Sherwood Boehlert, Ranking Republican Member, Subcommittee on Science, Research and Technology.

Mr. WALKER. Mr. Speaker, I would ask the gentleman, this has been cleared by everyone; is that correct?

Mr. WALGREN. If the gentleman will yield, Mr. Speaker, it is my understanding that there should be no objection to this bill.

Mr. FUQUA. Mr. Speaker, I urge adoption of the bill before us today, which represents an agreement between the House Committee on Science and Technology and the Senate Committee on Commerce, Science and Transportation.

The agreement provides total funding at the President's request level of $123,953,000. In fact, the total is slightly below the original House and Senate levels and the pre-Gramm-Rudman 1986 budget.

The amounts contained in this bill will permit the NBS to fund new initiatives in ceramics, fiber optics, and scientific computing.

I am also very pleased that the other body has agreed to accept the personnel system amendment contained in the House bill. This will permit the NBS Director to establish an agencywide demonstration of a flexible salary and pay board system, modeled on the recommendations of the Federal Laboratory Review Panel of the White House Science Council which was chaired by David Packard.

For the last 5 years, I have worked with my colleagues on the House Science Committee to overturn administration proposals to either eliminate or cut the heart out of the fire and building centers and the Institute for Computer Science and Technology.

I am pleased to be able to report that the bill contains language acceptable to the OMB which finally resolves these issues.

Specifically, the agreement includes the following:

Cuts in funding for the Center for Fire Research and the Center for Building Technology of $500,000 each. The administration had sought originally to eliminate the centers. The original House and Senate bills retained current funding.

A cut in funding for the Institute for Computer Sciences and Technology of $2.5 million. The administration had sought originally a cut of about $5.0 million from historic levels. The original House and Senate bills retained current funding.

Funding of $6.5 million to begin construction of the Cold Neutron Research Facility. The administration had sought originally $10 million. The original House bill authorized "such sums;" the Senate bill made no mention of the project.

In return, the Office of Management and Budget has agreed to:

Propose no further cuts in fire, building or computer science programs for the remainder of this administration.

Propose no reorganization of the fire and building centers.

Treat the fire, building and computer sciences programs identically to all other NBS programs.

I want to make it clear for the record that the acceptance of these cuts does not represent a shift in congressional support for NBS's fire, building, and computer programs! Rather, as we stated in a letter to OMB Director, Jim Miller and Deputy Commerce Secretary, Bud Brown, these cuts were accepted with the main goal of bringing long-range stability to these programs.

Finally, within these austere budget times, we have worked to come up with a bill that provides stability to ongoing programs and funds important new initiatives.

I urge my colleagues to accept the agreement represented in H.R. 4354 and send it to the President.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

Mr. BOEHLERT. Mr. Speaker, this bill is a watershed for the National Bureau of Standards. With it, we believe we are putting behind us years of acrimonious, counterproductive wrangling between Congress and the administration that has crippled the Bureau.

While the National Bureau of Standards may be a mystery to many Members of this body, its work is of vital importance to our Nation. The Bureau is the country's oldest national laboratory and the one most responsive to industry.

Its work is critical to maintaining our economic competitiveness. That means jobs. Its work in such areas as computer sciences, fiber optics, and ceramics define the frontiers of research.

An equally important part of the Bureau's mission is work that improves the health and safety of all Americans. This research, performed primarily by the Center for Fire Research and the Center for Building Technology, is indispensable and would not be conducted by any other group or institution.

The agreement between the House Committee on Science and Technology, the Senate Committee on Commerce, Science and Transportation; and the Office of Management and Budget embodied in this bill finally recognizes this dual mission of the National Bureau of Standards.

For the past 5 years, the administration has proposed the elimination of the fire and building centers and Draconian cuts in the Institute for Computer Sciences and Technology [ICST].

With the passage of this bill, the administration has pledged, in writing, not to propose any future cuts whatsoever in those three vital programs. It has further agreed to treat the three centers as equal partners in the Bureau. This should end the uncertainty which has made planning and hiring next to impossible in those programs.

In return for those commitments from OMB, we have agreed to reduce funding for the fire and building centers by $500,000 each and for computer sciences by $2.5 million. This money will contribute to the $6.5 million now authorized for the Cold Neutron Research Facility—A project desperately sought by materials science experts and long supported in principle by the Congress.

I want to emphasize that these cuts were accepted with the greatest reluctance after arduous negotiations for the sole purpose of bringing long-range stability to the affected programs. These cuts do not represent any weakening of congressional support for the Bureau's fire, building, and computer programs, but are designed rather to improve the long-term prospects of those programs. We have made this clear in letters to OMB Director Jim Miller and Deputy Commerce Secretary Bud Brown.

This bill will also improve the future health of the Bureau in some other ways. The committee is extremely proud of the China-Lake style salary system permitted under this bill. The Bureau has had great difficulty attracting and retaining top scientists and engineers because its salaries were significantly below those available in the priviate sector. This bill will give management the flexibility it needs to build the best possible research staff.

In short, this bill should put the Bureau back on the road to long-term stability and health. The overall budget for the lab is still woefully low. But within the constraints imposed by the President's budget and the deficit crisis, we have come up with a measure that funds important new initiatives, provides greater management flexibility, and protects vital health and safety programs. The result should be more Americans working—and working and living more safely.

I'd like to thank all the people who made this possible, particularly our subcommittee chairman, DOUG WALGREN, and his Senate counterpart, SLADE GORTON, the Department of Commerce, and the Office of Management and Budget, and the House Committee on Post Office and Civil Service.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

□ 1205

INDIAN HEALTH CARE AMENDMENTS OF 1985

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1426) to authorize and amend the Indian Health Care Improvement Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

(For the Senate amendment, see Senate proceedings of October 8, 1986, at page S15572.)

The Clerk read the House amendment to the Senate amendment, as follows:

Strike all of section 714 and renumber the succeeding section accordingly.

The SPEAKER pro tempore (Mr. MATSUI). Is there objection to the request of the gentleman from Arizona?

Mr. STRANG. Mr. Speaker, reserving the right to object, and I will not object to concurring in the Senate amendment to H.R. 1426 with a further amendment, I would like to yield to the gentleman from Arizona [Mr. UDALL], chairman of the committee, to explain his amendment.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the most serious problem on our Indian reservations is health. For 6 years, our committee and the Committee on Energy and Commerce, under the leadership of the gentleman from California [Mr. WAXMAN], have tried to find solutions to better the progress toward Indian health.

Mr. Speaker, this is a simple, but significant amendment. It strikes a provision added to the bill by the Senate.

There is a growing controversy on the question of whether the responsibility of the Indian Health Service to provide health care to Indians is a primary responsibility or is residual to all other health resources available to Indian people.

The administration's policy is that IHS services are residual.

Others, including certain counties in the State of Montana, have taken the position that IHS services are primary and county health services are residual.

In the 98th Congress, similar legislation was vetoed by the President because of the inclusion of a provision which provided that, in the State of Montana, IHS services are primary and the county services are residual.

A recent decision of the district court in Montana has held that county services are residual to IHS services. The administration has appealed this decision to the circuit court which has stayed the effect of the district court decision.

The Senate amendment would, in effect, circumvent the court's stay and provide that, during the pendancy of this litigation, IHS in that judicial district will be considered primary and the counties' services residual.

This administration has made very clear that, if this provision is retained, this very important legislation will, again, be vetoed.

We simply cannot let that happen, Mr. Speaker.

Therefore, this amendment will strike that section of the bill as passed by the Senate.

Mr. STRANG. Mr. Speaker, reclaiming my time, 2 years ago, Congress sent to the President a similar bill which the President vetoed. The first provision cited in that statement was the Montana provisions relating to the relationship of the Indian Health Service with that State. Again, the other body, for the sake of one or two individuals, has added to the bill another Montana provision. I have been informed by the administration that inclusion of the Montana provision assures the bill of a veto. I strongly support the chairman's motion to delete this provision and return the bill to the other body. If this needed bill must die, I believe we should place the responsibility where it lies, with the Members of the other body, and not with the President. Mr. Speaker, I would like to place in the RECORD a letter from an Indian leader on benefits of tribes, which supports this position. While I do not agree with all the provisions of the bill before us, I be-

lieve on the whole it is a good bill that will benefit Indian tribes and their members. The Indian people are in desperate need of improved health care and H.R. 1426 will go far to assist Indian people.

I would prefer to go to conference on the bill, but it appears that time is running out. I may seek changes in the act in the next Congress. I commend the chairman for his patience in this matter.

WASHOE TRIBE OF
NEVADA AND CALIFORNIA,
Gardnerville, NV, October 7, 1986.

Hon. JOHN MCCAIN,
Committee on Interior Affairs, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MCCAIN: I respectfully request that you insist on a Conference Committee when the Indian Health Care Amendments bill comes before the House of Representatives.

A Conference Committee is necessary in order to remove the "Montana" provisions from the bill. The Department of Health and Human Services has made their position on Senator Melcher's amendment quite clear: the President will veto the bill if any version of the Montana provisions are contained. Such a veto would be consistent with existing federal Indian policy.

So many people including you, and the tribes, have worked too hard for too many years on this important Indian health legislation to have it jeopardized by the Montana provisions.

Sincerely,

ROBERT L. FRANK,
Chairman, Washoe Tribe of Nevada and California.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

HOULTON BAND OF MALISEET INDIANS SUPPLEMENTARY CLAIMS SETTLEMENT ACT OF 1986

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2750) to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. STRANG. Mr. Speaker, reserving the right to object, will the gentleman explain the legislation?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, this bill resolves a problem growing out of the Maine Indian Claims Settlement Act of 1980.

Under that act, a land acquisition fund of $900,000 was established for the Houlton Band. However, expenditures from that fund could not be made until the tribe and the State of Maine reached an agreement on the capacity of the tribe to pay taxes or payments in lieu of taxes on lands acquired.

With earned interest, the acquisition fund now totals $1,800,000. S. 2750 simply directs that $200,000 of this fund be transferred to a separate fund to be administered by the Secretary of the Interior for the purpose of insuring that such taxes or payments will be made.

Enactment of the bill represents no costs to the United States.

Mr. STRANG. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise to express my support for S. 2750. This bill amends the Maine Indian Land Claims Settlement Act of 1980 in order to establish a tax fund for the Houlton Band of Maliseet Indians of Houlton, ME.

I would like to express my appreciation to Mr. UDALL, Mr. STRANG, and Mr. MCCAIN, for their assistance in bringing this measure before the House for consideration.

The tax fund will be used to pay taxes, fees, and payments in lieu of property taxes owed by the band to the State. The fund will be started with $200,000 of earned interest from the land acquisition fund set up by the Settlement Act. This transfer will not diminish the purchasing power of the acquisition fund, which originally held $900,000 and now contains $1.9 million.

The Houlton Band has few economic assets and the purchase of land will allow the band to move forward with their economic development plans. This measure will allow them to complete the purchase of land currently being held in trust by the Government. Without this legislation, the band cannot purchase the land they need to start their reservation.

This bill, which is supported by Maine's entire congressional delegation, is the result of many years of negotiations between the band and the State of Maine, as a result of the Settlement Act. The Maine State Legislature has passed legislation supporting the establishment of such a fund. S. 2750, also, enjoys the support of the Department of the Interior.

Mr. Speaker, this bill is the first step on the band's road to self-sufficiency and I urge its speedy consideration and passage.

Mr. STRANG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Houlton Band Tax Fund" means the fund established under section 3.

(2) The term "Houlton Band trust land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Houlton Band of Maliseet Indians in accordance with section 5(d) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(d); 94 Stat. 1789).

(3) The term "amended Maine Implementing Act" means the Maine Implementing Act (defined in section 3(e) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(e); 94 Stat. 1787)) as amended by—

(A) the "Act to amend the Maine Implementing Act with respect to the Houlton Band of Maliseet Indians", enacted by the State of Maine in chapter 675 of the Public Laws of 1981, and

(B) the State of Maine in chapter 672 of the Public Laws of 1985.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Houlton Band of Maliseet Indians" has the meaning given to such term by section 3(a) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(a)).

HOULTON BAND TAX FUND

SEC. 3. (a) There is hereby established in the United States Treasury a fund to be known as the Houlton Band Tax Fund in which shall be deposited $200,000 in accordance with the provisions of this Act.

(b)(1) Income accrued on the land acquisition fund established for the Houlton Band of Maliseet Indians pursuant to subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) shall be transferred to the Houlton Band Tax Fund. No transfer shall be made under this subsection if such transfer would diminish such land acquisition fund to a balance of less than $900,000.

(2) Whenever funds are transferred to the Houlton Band Tax Fund pursuant to paragraph (1), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the full

amount of $20,000 has been transferred to the Houlton Band Tax Fund.

(c) The Secretary shall manage the Houlton Band Tax Fund in accordance with the first section of the Act of June 24, 1938 (25 U.S.C. 162a), and shall utilize the principal and interest of such Fund only as provided in subsection (d) and for no other purpose.

(d) Notwithstanding the provisions of section 3727 of title 31, United States Code, the Secretary shall pay out of the Holton Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

(1) for which the Houlton Band of Maliseet Indians are determined to be liable under the terms of section 6208-A(2) of the amended Maine Implementing Act,

(2) which are final and not subject to further administrative or judicial review, and

(3) which have been certified by the Commissioner of Finance and Administration of the State of Maine as valid claims (within the meaning of section 6208-A(2) of the amended Maine Implementing Act) that meet the requirements of this subsection.

(e) Notwithstanding of any provision of law, if—

(1) the Houlton Band of Maliseet Indians is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest or penalties thereon, and

(2) there are insufficient funds in the Houlton Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full, the deficiency shall be paid by the Houlton Band of Maliseet Indians only from income-producing property owned by such Band which is not held in trust for such Band by the United States, and such Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(f) The Secretary shall, after consultation with the Commissioner of Finance and Administration of the State of Maine and the Houlton Band of Maliseet Indians, prescribe written procedures governing the filing and payment of claims under this section and section 6208-A of the amended Maine Implementing Act.

HOULTON BAND TRUST LAND

SEC. 4. (a) Subject to the provisions of section 3 of this Act, the Secretary is authorized and directed to expend, at the request of the Houlton Band of Maliseet Indians, the principal of, and income accruing on, the land acquisition fund established for such Band under subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) for the purpose of acquiring land or natural resources for such Band and for no other purpose. Land or natural resources so acquired within the State of Maine for such Band shall be held in trust by the United States for the benefit of such Band.

(b)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c),

(B) takings for public use pursuant to the laws of the United States,

(C) transfers authorized by section 5(g)(3) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(g)(3); 94 Stat. 1791), or

(D) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Houlton Band of Maliseet Indians to another member of such Band.

(c)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent to the United States is hereby given to the State of Maine to further amend the amended Maine Implementing Act for the purpose of embodying the agreement described in paragraph (1).

(d)(1) Lands and natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Houlton Band Tax Fund contains $200,000, and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 3(f).

(2)(A) No land or natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians until the Secretary—

(i) files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired by the Secretary, or

(ii) files with the Secretary of State of the State of Maine a certified copy of any instrument setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

NATIONAL FORESTS OF NEVADA ENHANCEMENT ACT OF 1986

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 5277) to transfer certain public lands in Nevada to the Toiyabe, Humboldt, and Inyo National Forests, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

□ 1215

The SPEAKER pro tempore (Mr. MATSUI). Is there objection to the request of the gentleman from Ohio?

Mrs. VUCANOVICH. Reserving the right to object, Mr. Speaker, would the gentleman from Ohio explain what is involved in this legislation?

Mr. SEIBERLING. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I have an amendment in the nature of a substitute for this bill, which I will offer. The amendment has been cleared with the minority and with the entire delegation from the State of Nevada.

This bill would enact a part of a nationwide interchange of responsibilities between the Federal Government's two principal multiple-use land managing agencies—the U.S. Forest Service of the Department of Agriculture and the Bureau of Land Management of the Department of the Interior. The idea of that interchange of responsibilities was to increase the efficiency and cost-effectiveness of land management by these two agencies by creating more manageable units and eliminating duplication of services.

This bill would do that in the manner agreed to by the Forest Service, the BLM, the State delegation, and the Governor. While the administration would prefer to our dealing with the entire, nationwide interchange proposal they have proposed, they testified at our hearing on this bill that enacting this bill would have no adverse affect on agency personnel, on agency budgets, or on their ability to carry out their work.

The bill was introduced by Representative HARRY REID for himself and our colleague BARBARA VUCANOVICH, and they have both agreed to the amendment, which consists of technical changes including additional, clarifying language requested by the administration.

In short, I wish to support the efforts of our colleagues HARRY REID

and BARBARA VUCANOVICH in this matter, and I want to congratulate them for working hard to get this matter of great concern to their constituents worked out so that it can be enacted into law in this Congress.

Mr. REID. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Nevada.

Mr. REID. Mr. Speaker, I rise in strong support of H.R. 5277, the National Forests of Nevada Enhancement Act of 1986, which I introduced, and is endorsed by the entire Nevada congressional delegation.

The legislation will transfer more than 500,000 acres of Federal lands in Nevada, currently administered by the Bureau of Land Management, to the U.S. Forest Service.

A brief outline of the development of this proposal is warranted. In June 1985, the U.S. Forest Service and the BLM announced a proposal to interchange managment of about 30 to 35 million acres of land and underlying minerals. The purpose of the proposed interchange was to improve the managment of public lands and national forests, enhance public service, and reduce agency costs.

The proposed "landswap" caused an uproar in Nevada. Under the original plan, Forest Service lands in Nevada would shrink to less than 1 million acres, while the BLM would manage 4.5 million acres. The Departments of Interior and Agriculture also held public hearings in Nevada last summer to gauge the public's sentiments about the landswap. The public hearings brought out near-unanimous opposition to reducing Forest Service lands in the State. Too many serious questions remained; ranging from concerns about agency funding, quality of managment, the status of revenues to State and county governments, and possible environmental degradation.

Following public input and further deliberation, the U.S. Forest Service and BLM developed a new interchange proposal affecting 12 Western States and two Eastern cities, allowing Nevada to retain all of its existing National Forests and converts BLM lands to the U.S. Forest Service.

Congressional approval of the omnibus interchange proposal, which shifts 18 million acres of BLM land to the Forest Service and 16 million acres of Forest Service land to the BLM, is not forthcoming. In other words, support for the Federal Lands Administration Act, introduced last spring, is virtually nil.

At the urging of the National Forest Task Force of Nevada, the Nevada delegation introduced this legislation to enlarge and enhance our valuable Forest Service lands. Specifically H.R. 5277 transfers BLM lands to the U.S. Forest Service in the Spring Mountains adjacent to Mount Charleston and lands in the eastern Sierras. H.R. 5277 also transfers 23,000 acres of Forest Service-administered lands in the Toiyabe National Forest to the Bureau of Land Management.

The National Forests of Nevada Enhancement Act is also supported by the Governor of Nevada, the board of commissioners of Clark County, and the Mount Charleston Town Advisory Board. The transfer does not affect existing water rights, any wilderness review underway by the BLM or the Forest Service, and will not alter the existing division of responsibility for mining activity on Forest Service land.

Aside from the bill's obvious advantages of providing more efficient management and cost savings, I must point out a positive and important benefit. If passed, the National Forests of Nevada Enhancement Act will increase the green on the map of Nevada, adding to our State's image. Our State's natural resources will be improved for the benefit of present and future generations.

For these reasons, Mr. Speaker, I urge favorable action on this widely supported proposal.

Mrs. VUCANOVICH. Mr. Speaker, further reserving the right to object, I simply want to rise in support of H.R. 5277, the National Forests and Public Lands of Nevada Enhancement Act of 1986, as amended. This bill is the result of a united, bipartisan Nevada task force and will facilitate an interchange of lands between the Bureau of Land Management and the Forest Service. The amended bill has the support of the entire Nevada delegation, the chairman of the Subcommittee on Public Lands, and the BLM and Forest Service.

The purpose of the original omnibus interchange bill, proposed in 1985, was to improve management efficiency of public lands. It also would have virtually eliminated Nevada's two national forests, the Toiyabe and the Humboldt. The citizens of Nevada felt an urgent need to protect and preserve their forests and created the National Forest Task Force of Nevada, of which I am a member, to develop an alternative to the proposed interchange.

Members of the task force came to Washington in January of this year and met with the Nevada delegation, the Forest Service and the BLM. A decision was made at that meeting to add to, rather than subtract from, Nevada's precious national forests. It was also decided at that meeting to add acreage to the BLM from the Forest Service for management efficiency.

Mr. Speaker, the people in Nevada are very supportive of this interchange. They have demonstrated the power of the people in their willingness to get involved and find an alternative to a proposal that was not in the best interest of Nevadans and I applaud their endeavors.

Mr. Speaker, I would like to thank the gentleman from Arizona [Mr. UDALL] and the gentleman from Ohio [Mr. SEIBERLING] for their cooperation in moving this bill. H.R. 5277 is noncontroversial and is supported by the entire Nevada delegation and I hope this body acts favorably so that we may pass it to the other body and they will have the opportunity to act before the end of this congressional session.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MATSUI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forests of Nevada Enhancement Act of 1986".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the public lands transferred by this Act contain valuable natural resources (such as watershed, range, outdoor recreation and wildlife habitat) which will be enhanced by the professional, multiple-use management of the United States Forest Service;

(2) the public which utilize these natural resources will be benefited by such management;

(3) the public lands transferred by this Act are adjacent to existing national forests and, in many cases, are part of the same watersheds and mountain ranges, placing the management of these lands under the administration of one agency, the Forest Service, will improve efficiency and be cost effective; and

(4) there is a consensus in Nevada as shown in public hearings held throughout the State that these lands should be added to the national forests.

(b) PURPOSE.—The purpose of this Act is to transfer to the Forest Service, United States Department of Agriculture, certain public lands in Nevada currently administered by the Bureau of Land Management, United States Department of the Interior. These public lands are contiguous to the Toiyabe, Humboldt, and Inyo National Forests and will become National Forest System lands.

SEC. 3. TRANSFER OF PUBLIC LANDS TO THE FOREST SERVICE.

(a) TRANSFER.—(1) The public lands designated for inclusion in the National Forest System on a map entitled " ", dated , and numbered , are hereby transferred to the Secretary of Agriculture and shall become part of the Toiyabe National Forest, the Homboldt National Forest, or the Inyo National Forest (as the case may be). Such lands shall be administered in accordance with the laws, rules, and regulations applicable to the national forests.

(2) The lands referred to in paragraph (1) include the following lands administered by the Secretary of the Interior:

(A) Lands in the Spring Mountains adjacent to Mount Charleston.

(B) Lands in the eastern Sierras.

(C) Lands on the east of the Ruby Mountains.

(D) Lands adjacent to the Utah border and Mount Moriah.

(b) BOUNDARIES OF TOIYABE, HUMBOLDT, AND INYO NATIONAL FORESTS.—(1) The boundary of the Toiyabe National Forest, the Humboldt National Forest, and the Inyo National Forest is hereby modified to reflect the transfer of lands under subsection (a).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Toiyable National Forest, the Humboldt National Forest, and the Inyo National Forest, as modified by this subsection shall be treated as if it were the boundary of those National Forests as of January 1, 1965.

(c) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the offices of the Chief, Forest Service, Department of Agriculture, and the Director, Bureau of Land Management, Department of the Interior. The Secretary of Agriculture may make changes to the map to correct technical errors.

SEC. 4. WILDERNESS SUITABILITY.

(a) BLM STUDY AREAS.—Any area or portion thereof designated as a Bureau of Land Management Wilderness Study Area (Mount Stirling, NV-050-401; LaMadre Mountains, NV-050-412) on the map referred to in section 3(a)(1) which is made a part of the National Forest System by this Act and for which a wilderness suitability study is complete or underway on the date of enactment of this Act, shall be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) until Congress designates that area as wilderness or releases if from further wilderness consideration.

(b) ROADLESS AREAS NOT RECOMMENDED AS WILDERNESS.—Any roadless area or portion thereof which is made a part of the National Forest System by this Act and which has been considered but not recommended for designation as wilderness pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans hereafter required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The Secretary of Agriculture shall not be required to manage such area to preserve wilderness values or to review the wilderness option before the revision of such plans, but the Secretary shall review the wilderness option for such area when such plans are revised.

(b) NO ADDITION TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.—Nothing in this Act shall be construed to add lands to the National Wilderness Preservation System.

SEC. 5. WATER RIGHTS.

(a) PRIOR EXISTING WATER RIGHTS.—Nothing in this Act shall be construed to expand or diminish any water right of the United States under State or Federal law which the United States had, or may be determined to have had by purchase, reservation, or otherwise, before the date of enactment of this Act.

(b) NO FEDERAL RESERVED WATER RIGHTS BY REASON OF TRANSFER.—The designation and withdrawal of newly established national forest lands by this Act shall not create any reserved water rights in the United States by reason of this Act with respect to those lands.

(c) RIGHT TO ACQUIRE AND DISPOSE OF WATER RIGHTS.—Nothing in this Act shall affect the right of the United States or any person to acquire or dispose of water or water rights under applicable law.

SEC. 6 MANAGEMENT OF MINERAL RESOURCES.

Nothing in this Act shall be construed to change the law governing the management of subsurface mineral resources.

SEC. 7. ADMINISTRATIVE APPEALS.

With respect to the lands transferrd by section 3(a), any formal administrative appeal, adjudication, or review pending on the date of enactment of this Act shall be completed by the Secretary of the Interior, except that the Secretary of Agriculture may exercise final administrative review.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "public lands" means the lands administered by the Bureau of Land Management, United States Department of the Interior, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)); and

(2) the term "National Forest System" means the lands administered by the Forest Service, United States Department of Agriculture, and has the same meaning as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SEIBERLING: Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forests and Public Lands of Nevada Enhancement Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the public lands transferred by this Act contain valuable natural resources (such as watershed, range, outdoor recreation and wildlife habitat) which will be enhanced by the professional, multiple-use management of the United States Forest Service; and that certain national forest lands would be enhanced by the professional multiple-use management of the Bureau of Land Management;

(2) the publics which untilize these natural resources will be benefited by such adjustments in management;

(3) the public lands transferred by this Act to the Forest Service are adjacent to existing national forests and, in many cases, are part of the same watersheds and mountain ranges, and placing the management of these lands under the administration of one agency, the Forest Service, will improve efficiency and be cost effective; that similar efficiency and cost effectiveness will result from transfer of certain forest lands to the Bureau of Land Management and;

(4) there is a consensus in Nevada that these lands should be added to the national forests and that some national forest lands should be transferred to the Bureau of Land Management for management.

(b) PURPOSES.—The purposes of this Act are—

(1) to transfer to the Forest Service, United States Department of Agriculture, certain public lands in Nevada currently administered by the Bureau of Land Management, United States Department of the Interior. These public lands are contiguous to the Toiyabe and Inyo National Forests and will become National Forest System lands.

(2) to transfer to the Bureau of Land Management, United States Department of the Interior, certain lands in Nevada currently administered by the Forest Service, United States Department of Agriculture. These lands are contiguous to other public lands and will be managed as such.

SEC. 3. TRANSFER OF LANDS.

(a) TRANSFER OF PUBLIC LANDS TO THE FOREST SERVICE.—Effective 180 days after the enactment of this Act, the approximately 531,000 acres of public lands designated for inclusion in the National Forest System on two maps entitled "Nevada Interchange-A-1" and "Nevada Interchange-B-1" and dated October, 1986, are hereby transferred to the Secretary of Agriculture and shall become part of the Toiyabe National Forest or the Inyo National Forest.

(b) BOUNDARIES OF TOIYABE AND INYO NATIONAL FORESTS.—

(1) The boundary of the Toiyabe National Forests and the Inyo National Forest is hereby modified to reflect the transfer of lands under subsection (a).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Toiyabe National Forest and the Inyo National Forest, as modified by this subsection, shall be treated as if it were the boundary of those National Forests as of January 1, 1965.

(c) TRANSFER OF FOREST SERVICE LANDS TO THE BUREAU OF LAND MANAGEMENT.—Effective 180 days after the enactment of this Act, the approximately 23,000 acres of national forest lands identified for management by the Bureau of Land Management on a map entitled "Nevada Interchange-A-1" and dated October, 1986, are hereby transferred to the Secretary of the Interior.

(d) MAPS.—The maps referred to in subsection (a) and subsection (c) shall be on file and available for public inspection in the offices of the Chief, Forest Service, Department of Agriculture, and the Director, Bureau of Land Management, Department of the Interior. The Secretaries of Agriculture and the Interior may make changes to the maps to correct technical errors.

(e) Effective 180 days after enactment of this Act, lands transferred by subsection (a) of this section to the jurisdiction of the Secretary of Agriculture shall be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and lands transferred by subsection (c) of this section to the jurisdiction of the Secretary of the Interior shall be subject to the planning requirements of the Federal Land Policy and Management Act of 1976. All transferred lands shall continue to be managed in accordance with plans in effect on the date of enactment of this Act until considered in plans developed under applicable provisions of law. If no plans are in effect on the date of enactment of this Act, the respective transferred lands shall be managed in a manner consistent with other national forest or public lands, as the case may be, in the vicinity until a plan is developed under applicable provisions of law. Nothing in this Act shall of

itself require the amendment or revision of the existing plans governing public lands or national forest affected by the addition of or deletion of lands transferred by this Act.

SEC. 4. WILDERNESS SUITABILITY.

(a) BLM STUDY AREAS.—Any area or portion thereof designated as a Bureau of Land Management Wilderness Study Area (Mount Stirling, NV-050-401; LaMadre Mountains, NV-050-412) on the map referred to in section 3(a) which is made a part of the National Forest System by this Act shall be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) until Congress designates that area as wilderness or releases it from further wilderness consideration.

(b) ROADLESS AREAS NOT RECOMMENDED AS WILDERNESS.—Any roadless area or portion thereof which is made a part of the National Forest System by this Act and which has been considered but not recommended for designation as wilderness pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S. 1712) shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans hereafter required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The Secretary of Agriculture shall not be required to manage such area to preserve wilderness values or to review the wilderness option before the revision of such plans, but the Secretary shall review the wilderness option for such area when such plans are revised.

(c) Any roadless areas on national forest lands, or portions thereof, recommended by the Secretary or Agriculture for wilderness which will be transferred to the jurisdiction of the Secretary of the Interior pursuant to section 3(c) of this Act, shall be managed by the Secretary of the Interior in accordance with the provisions of section 603(c) of FLPMA, or other specific statutory direction.

(d) NO ADDITION TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.—Nothing in this Act shall be construed to add lands to the National Wilderness Preservation System.

SEC. 5. MANAGEMENT OF MINERAL RESOURCES.

Nothing in this Act shall be construed to change the law governing the management of mineral resources.

SEC. 6. ADMINISTRATIVE APPEALS.

With respect to the lands transferred by section 3 any formal administrative appeal, adjudication, or review pending on the date of transfer of jurisdiction under this Act shall be completed by the Secretary of the Department in which it was initiated except that the Secretary of the Department having jurisdiction over the land pursuant to this Act may exercise final administrative review.

SEC. 7. VALID EXISTING RIGHTS.

(a) Nothing in this Act shall affect valid existing rights of any person under any authority of law as of the date of enactment of this Act.

(b) Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued: Provided, that such laws and regulations will be exercised by the Secretary to whom jurisdiction over affected lands has been transferred by this Act. However, renewals and extensions shall be subject to the laws and regulations pertaining to the agency which has jurisdiction over the land at the time of renewal or extension. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying the renewal or reissuance of any such authorization.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "public lands" means the lands administered by the Bureau of Land Management, United States Department of the Interior, as defined in section 103(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)); and

(2) the term "National Forest lands" or "National Forest System lands" means the lands administered by the Forest Service, United States Department of Agriculture, and has the same meaning as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

SEC. 9. ADMINISTRATION OF RECEIPTS.

The acreage added to the Toiyable and Inyo National Forests in the State of Nevada by this Act shall not be counted in determining the distribution of the Twenty-Five Percent Fund between the States of California and Nevada under the Act of May 23, 1908, as amended. Provided, however, that the acreage added to these forests shall be counted in the distribution of the Twenty-five Percent Fund between the affected counties in Nevada.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SEIBERLING].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NATIONAL FOREST SKI AREA PERMIT ACT OF 1986

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2266) to establish a ski area permit system on national forest lands, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STRANG. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved here?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, this bill would modernize the system by which the Government leases national forest lands for ski areas. The House passed a virtually identical bill (H.R. 4489) last July, on suspension of the rules.

That bill was introduced by our colleague TIM WIRTH of Colorado and cosponsored and supported by many Members on both sides of the aisle.

The only change from the text of the bill as it passed the House is the insertion of a sentence clarifying that, as existing law already requires, the Government should charge fair market value for these permits. This is a change in which I and the many cosponsors of the bill concur, and I urge the Members to consent to the passage of the bill.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I yield to my colleague, the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding and I want to thank him for his great help in the passage of this legislation.

The gentleman from Colorado [Mr. STRANG] and the gentleman from New Mexico [Mr. RICHARDSON] have helped to move this legislation through the House with what I believe to be record time from the point of introduction to the point of passage today. This passage and the cooperation on the bill results from working on both sides of the aisle and working with the other body, who as the chairman of the subcommittee pointed out, was concerned about some issues relating to fair market value, which have also been very carefully worked out.

The thrust of this legislation, if the gentleman will yield further, will help us to provide greater economic stability for not only the ski industry, but the western slope of the State of Colorado, represented in large part by the gentleman from Colorado who had so kindly yielded.

The recreation job base is enormously important to our State. It is approximately a $4 billion job base and the stability provided to this major in-

dustry through the passage of S. 2266 will be very, very helpful.

Finally, in working through the legislation we have worked with sportsmen's groups and with wildlife groups taking care of the concerns that they have, some justifiable concerns that were worked out through the subcommittee action, again with special reference and thanks to the gentleman from Colorado [Mr. STRANG].

Mr. Speaker, I thank the gentleman for yielding.

Mr. STRANG. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

I would like to point out to the Members of this body that this bill is critical to American skiing and particularly to skiing, in my district, which has 30 areas, 17 percent of all the skiing in the United States.

I congratulate the gentleman from Colorado [Mr. WIRTH] for his hard work and I thank the chairman of the subcommittee for his diligent attention to this bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STRANG. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as a skier myself, I have a special incentive to promote this bill.

I thank the gentleman.

Mr. STRANG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

An act to establish a ski area permit system on national forest lands, and for other purposes.

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Ski Area Permit Act of 1986".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area developing; and

(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.

SEC. 3. SKI AREA PERMITS.

(a) LAW APPLICABLE TO PERMITS—The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall henceforth be governed by this Act and other applicable law.

(b) AUTHORITY.—The Secretary of Agriculture (hereinafter referred to as "the Secretary"), is authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

(1) may be issued for a term not to exceed 40 years;

(2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long/term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;

(3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and appropriate ancillary facilities;

(4) may be renewed at the discretion of the Secretary;

(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in plans or operations in accordance with the provisions of applicable law;

(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) RULES AND REGULATIONS.—Within one year after the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this Act within 3 years of the date of enactment of this Act.

(d) Nothing in this Act shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONVEYING CERTAIN PROPERTY TO THE TOWN OF PAYSON, AZ

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 565) to direct the Secretary of Agriculture to convey, without consideration, to the town of Payson, AZ, approximately 30.96 acres of Forest Service lands, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 2, after line 11 of the House engrossed amendment, insert:

SEC. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

(2) by adding at the end thereof the following new subsection:

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.".

SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated May 19, 1964, insofar as said withdrawal applies to Section 31 (Lots 1, 2, 3, W½E½, E½NW¼ SE¼SE¼) T. 5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

SEC. 7. Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceed with such exchange.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. STRANG. Reserving the right to object, Mr. Speaker, and I will not object, will the gentleman from Ohio [Mr. SEIBERLING], my chairman, please explain what is involved.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I am happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, S. 565 deals with the transfer of certain lands in Arizona to the State, a county, and a town. The House passed the bill after making some amendments. The Senate has now returned the bill with amendments. The Senate amendments have all been passed by the House already as parts of other measures, and are noncontroversial provisions dealing with land management authorities of the Department of the Interior.

I believe we should go ahead and concur in the Senate amendments and clear the bill for the President.

Mr. STRANG. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RELEASING CERTAIN RESTRICTIONS IN CONVEYANCE OF LAND TO THE TOWN OF JEROME, AZ

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1593) to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, AZ, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page, 2, line 3, strike out "4978894" and insert "497894".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STRANG. Reserving the right to object, Mr. Speaker, will the gentleman from Ohio please explain what is involved?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STRANG. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, this bill has been returned with a technical amendment that corrects a typographical error. The bill is purely a housekeeeing bill. I urge concurrence in the Senate amendment so the bill can be cleared for the President.

Mr. STRANG. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1230

ADDITION OF CERTAIN LANDS TO HAWAII VOLCANOES NATIONAL PARK

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2320) to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I rise in support of S. 2320, to add approximately 5,600 acres to the Hawaii Volcanoes National Park through donation or exchange. The land parcel, known as tract 22, is adjacent to the park and has been identified for acquisition by the National Park Service for several years. It is presently a wilderness rain forest which provides prime habitat for several species of rare native birds.

The Park Service has been unable to acquire tract 22 due to a 1938 law which allows acquisition of land parcels adjacent to the park by donation only. When the landowner recently proposed geothermal activities on tract 22, the State of Hawaii acquired the tract through a land exchange. S. 2320 allows the Secretary to acquire tract 22 through an exchange by conveying to the State an approximately equal amount of Federal land in Hawaii that is considered surplus by the General Services Administration.

Mr. Speaker, tract 22 certainly qualifies as an appropriate addition to the Hawaii Volcanoes National Park due to its outstanding natural features. By exchanging this land parcel for surplus Federal land, only minimal Federal funds will need to be expended to complete the acquisition. This is particularly important due to the limited Federal appropriations available for land acquisition. During this difficult time of fiscal constraints, it is critical that we consider other methods to acquire important additions to our National Park System, such as the land exchange proposed in S. 2320.

The Subcommittee on National Parks and Recreation held a hearing in June on a House companion bill to S. 2320. The testimony at the hearing reflected substantial public support for the measure. The Interior and Insular Affairs Committee favorably reported S. 2320 on October 7.

For these reasons, I urge all of my colleagues to support S. 2320.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I wish to speak today in support of S. 2320, a bill to amend an act to add certain lands on the island of Hawaii to Hawaii Volcanoes National Park. The Senate passed this bill on September 10.

S. 2320 would allow the land exchange process to proceed so that eventually the 5,650 acres of tract 22 can become part of Hawaii Volcanoes National Park. The James Campbell estate, previous owner of tract 22, desired to develop its energy resources. The State of Hawaii has already exchanged this land for other State lands to ensure that the resources of tract 22 are protected, while giving the James Campbell estate other land some 10 miles distant. Tract 22, on the park's north boundary, has long been the park's highest land acquisition priority. This tract of virgin ohia and fern rain forest also provides habitat for several endangered species. Without this legislation we risk geothermal development immediately adjacent to the park.

The proposed three-way land exchange, already entered into in good faith by the State of Hawaii and the James Campbell estate, provides us an example of a creative if complicated means of ensuring that precious resources are well protected even as private and State landowners are the 1938 legislation that established the park to allow for land exchange as well as donation.

I have recently received a letter from the State of Hawaii telling me that the State board of land and natural resources terminated and voided the Kahauale'a geothermal resource subzone, in the Kilauea upper east rift zone and the Kahauale'a Conservation District use permit, an action confirmed by the Third Circuit Court for the State of Hawaii when it dismissed six appeals related to this land. The result is that no geothermal development may take place on tract 22 or the surrounding land, thereby protecting tract 22's subsurface rights.

By passing this legislation, we allow this exchange process to proceed in a manner to protect the resources in tract 22. The acquisition of tract 22 will also have the effect of providing greater protection for the rest of the park, and by ensuring that energy development will take place far from this magnificent place that is part of our heritage, Hawaii Volcanoes National Park.

I note that the entire Hawaii delegation wants this legislation, and that the National Park Service has long sought it. I want to thank DANNY AKAKA for his leadership and concern for the protection of park resources. He and his staff worked diligently on this legislation—the park will benefit from his efforts. I also want to thank JACK BROOKS and his staff for their close scrutiny of this bill and for their assistance.

Mr. Speaker, I urge my colleagues to support S. 2320.

Mr. AKAKA. Mr. Speaker, I rise in support of S. 2320, a bill which will enable Hawaii Volcanoes National Park to acquire a 5,650-acre tract adjacent to its present boundaries.

The parcel of land, which is presently unused, has been the National Park Service's acquisition priority in the Pacific area since 1951. This tree-fern rain forest, populated with native ohia, contains the habitat of the endangered Hawaiian Hawk and Hawaiian Ou as well as several other species found only in the Hawaiian archipelago. Congress identified the parcel as suitable for potential wilderness in 1978. Except for its non-Federal status, the tract possesses all the necessary attributes for wilderness designation.

Over the past 5 years, this important tract of land has been the focus of geothermal activities. In early 1982, its owner revealed plans for large-scale geothermal development on the land. Approximately 50 geothermal wells were proposed as close as 1,000 feet from the park boundary. Four proposed powerplants were to be located within 4,000 feet of the park. While the State of Hawaii recognizes the need to develop alternatives to nonrenewable energy resources and has emphasized this need through State legislation, we also recognize the importance of maintaining the integrity of Hawaii's largest national park. The adverse effects of geothermal emissions, surface disturbance, noise, odor, and vista impairment in close proximity to the park would have serious consequences. Such development would cause the deterioration of native plant and animal communities, fragmentation of the ohia fern forest essential for endangered native bird survival, degradation of the wilderness quality of the east rift and Kalapana extension areas, and destruction of present and future visitors' perceptions of the park.

After 2 years of searching for a means to satisfy these competing interests, a solution has been found that will allow geothermal development while removing its adverse effects from the immediate vicinity of the park. In December 1984, on the recommendation of the State board of land and natural resources, the owner of this tract was encouraged to consider a land exchange with the State of Hawaii. At the same time, the State encouraged the National Park Service to find a way of acquiring the tract for inclusion into Hawaii Volcanoes National Park. The State of Hawaii then began to consider the possibility of a three-party land exchange with the Federal Government that would allow the National Park Service to acquire this important parcel contingent upon the State and the landowner moving forward with their two-party exchange.

After several meetings among the State, the National Park Service, and the landowner, such an agreement was achieved. On April 18, the State of Hawaii and the landowner consummated their exchange, whereby tract 22 was acquired by the State in exchange for State land located farther downslope from the park. The State has indicated that it is willing to convey tract 22 to the Federal Government for park purposes in exchange for appropriate Federal land. However, Congress must enact legislation to allow the Department of the Interior to become a third party to this exchange agreement.

The benefits of this legislation are self-evident. First, the 5,650-acre tract of virgin rain forest would become part of the Hawaii Volcanoes National Park, offering protection to endangered species and popular visitor attractions, allowing representation of this unique ecosystem in the National Park System, and facilitating National Park Service administrative control over the land for the purposes of public safety. Second, and equally important, geothermal development could proceed in an area well removed from the park. Furthermore, geothermal development could proceed immediately without the burden of continued hearings, protests, appeals, and threats of court actions which have held development to a standstill over the past 4 years. Third, there would be no need to seek major appropriations from Congress for the acquisition of the land at a time when budget considerations are on the minds of every Member of Congress. Finally, the more than 2½ million visitors that come to the Hawaii Volcanoes National Park from all parts of our Nation each year will enjoy the benefit of an appropriate expansion of the State's natural treasures.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO HAWAII VOLCANOES NATIONAL PARK.

The Act entitled "An Act to add certain lands on the island of Hawaii to the Hawaii National Park, and for other purposes" (52 Stat. 781; 16 U.S.C. 391b) is amended by adding at the end the following new section:

"SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire by donation, donation or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled 'Recommended Land Acquisition', in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

"(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

"(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such and exchange.

"(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process of identifying suitable exchange

lands belonging to the United States Government.

"(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

"(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park.

"(f) There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3810—IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1986

MOTION OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Speaker, pursuant to House Resolution 580, I move that the House insist on its amendments to the Senate bill, S. 1200, and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Kentucky [Mr. MAZZOLI].

The motion was agreed to.

MOTION OFFERED BY MR. LUNGREN

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to instruct.

Mr. LUNGREN. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The gentleman from California [Mr. LUNGREN] is senior on the Judiciary Committee and is recognized.

The Clerk read as follows:

Mr. LUNGREN moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, S. 1200, be instructed to recede to the Senate from section 305 of the House bill entitled "Eligibility of Certain Agricultural workers for Legal Assistance" under which certain non-immigrant workers admitted or permitted to remain in the United States for agricultural labor or service are made eligible for legal assistance under the Legal Services Corporation Act.

The SPEAKER pro tempore. The gentleman from California [Mr. LUNGREN] is recognized for 1 hour.

Mr. LUNGREN. Mr. Speaker, in the immigration bill that we discussed at length yesterday and finally passed, there was one area that was not subject to discussion, that was not allowed to be debated, but yet is one that I think is controversial, and as a matter of fact is extemely important.

The House has spoken on this matter before, and that is the question of the coverage of authority given to Legal Services. Legal Services Corporation, which is a corporation which is funded by the Federal Government, is one which allows services to be given to those who are unable to afford legal services on their own.

We have had debates on this floor about the extent of Legal Services. We have had debates on this floor as to the amount of funds that ought to be committed to Legal Services.

Suffice it to say that those who support Legal Services would suggest that we have not at this point in time funded it to the level that they believe in, because they suggest that they cannot perform all the legal services that are to be performed for the people intended.

On the other hand, there has been a very strong argument on this floor before that Legal Services Corporation ought to do that which we wish it to do, to provide legal services for those who cannot afford to have them themselves. We have in the past made a number of restrictions with respect to the ambit of authority given to the Legal Services operators.

The gentleman from Florida [Mr. MCCOLLUM] has in the past carried legislation on this floor which has passed which has said, among other things, that Legal Services Corporation attorneys should do the work for American citizens and American nationals and not for H-2 workers.

Why do we say that? H-2 workers are workers who are in a true sense guestworkers. They are brought in here after a certification has been made by the person seeking those workers that they are needed because domestic workers cannot be found; that in bringing them here they will not undercut the prevailing wage; that they cannot undercut the housing requirements that are made, if in fact that is a condition of employment; that they cannot undercut the work conditions.

And we have said on this floor in our votes before that that ought not be a group of people given taxpayers' attorneys that are otherwise supposed to help American citizens and nationals who are here that are unable to pay themselves.

As a result, that has not been allowed. Yet in this bill what we have said is for the very first time H-2 workers will have Legal Services representation.

When H-2 workers are in the United States, those workers are protected by their own country. They are allowed to come here in agreement with the U.S. Government, and they are the people who are to protect them. They are represented by the respresentatives of their own Government, and there is no need at that point in time for Legal Services Corporation attorneys to be given that particular representation.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I would just like to clarify that the gentleman's motion to instruct applies to legal services for the H-2 workers in the bill, but not for legal services for the other agricultural workers.

Mr. LUNGREN. For those that are in section 305 of the House bill.

Mr. SCHUMER. Is that all?

Mr. LUNGREN. Eligibility of certain agricultural workers for legal assistance. And it is my understanding that the debate that went on within the circles outside of the Congress and inside the Congress before we came to the floor went to the question of whether H-2 workers would be provided legal services assistance.

Mr. SCHUMER. Correct.

Mr. LUNGREN. That is the point to which this instruction goes. That is the intention of the author.

Mr. SCHUMER. So it is not the intention of the author to affect legal services for the so-called Schumer workers. Is that accurate?

Mr. LUNGREN. That is correct. It is directed at the H-2 workers.

Mr. SCHUMER. I thank the gentleman.

Mr. LUNGREN. So, Mr. Speaker, it seems to me that what we ought to do is remain consistent here in the House of Representatives. I recall that just a week ago a Member of Congress from the other side of the aisle representing an area of North Carolina came to the floor and talked to us about the problem that small farmers, very small farmers, were having with the local Legal Services Corporation attorneys who had managed to get around the restriction that we had placed in the law in a previous Congress. In fact, he recited to us some letters received by some of those small farmers in his district in which the letters basically said, "If you don't give us so much money in settlement we will keep you tied up in court."

He referred to that I believe as a type of legal blackmail. That is his assessment of it, and it seems to me under those circumstances that we ought to have our conferees instructed on that important question.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, I want to follow up on the question asked a moment ago with respect to the Schumer amendments and the effect of the motion to instruct.

What about the category of those who may become eligible under the Schumer amendment but that in fact are not permanent residents for a period of time?

Mr. LUNGREN. It is my understanding that they would not be affected by this.

Mr. DAUB. So they would be able to get legal services even though they do not even have their green card, under certain circumstances?

Mr. LUNGREN. They would be able to get legal services at the time they received their green card. I will have to confess to the gentleman——

Mr. DAUB. At the time they get their green card.

Mr. LUNGREN. I will have to confess to the gentleman that I am uncertain of the point with respect to the temporary status period.

□ 1440

Mr. DAUB. So it would be my hope that we do not, by the colloquy we have just had for the record on your motion, which I support, remove from consideration in conference the refinement of the issue whether legal services ought to be available until that point that one becomes of legal status in this country.

Mr. LUNGREN. It is not my intention at this point in time to make any decision with respect to this body on that question. This goes to a specific area of the H-2 agreements that were reached, a dispute that was raised as to whether some people signed off on it or did not sign off on it. I was certainly not a party to that. The gentleman from Florida [Mr. MCCOLLUM] whose amendment has been adopted into law in previous Congresses was not a party to any such agreement, and we think that since that has been presented on the floor, and the Congress has made a decision on that, that we ought to indicate to the conferees that we hope that they will remain consistent with respect to the decision made by this House in a previous year.

Mr. DAUB. If the gentleman will continue to yield, I think that the gentleman from California [Mr. LUNGREN] makes a very good point, I must say to my colleagues, and that is that we ought not to confuse even the limited funding now some argue is given to Legal Services with a new sort of category, and dilute those funds, and be unable to manage the system under current circumstances, and as to the question of whether or not those who have not yet achieved permanent residence under any portion of the bill we are sending to conference would get the services of Legal Aid. That, as I understand it from the gentleman, remains an open question for conference.

Mr. LUNGREN. That is my understanding.

Mr. DAUB. I thank the gentleman.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Kentucky, for purposes of debate only.

Mr. MAZZOLI. I thank the gentleman for yielding.

Let me just shift focus for just a moment away from H-2, whether it is for legal services for H-2 workers or legal services for temporary workers to permanent residents, and let me shift to the task before the Congress.

We hope we might get started on a conference perhaps later on this week or sometime next week and maybe report back to the House the completed bill on the very vexing and nettlesome topic of immigration reform. I would just hope that the body would not bind the hands of the conference members, the conferees, despite their feeling on legal services and whether it should be extended to H-2 workers or not.

The question is the conference committee has a very difficult task ahead of it, and if it goes into conference with one or two hands tied behind its collective back, then of course the opportunity of getting an agreement, which we are all looking for, in the short time left in the 99th Congress becomes all the more clouded. I would just implore the men and women of the House just to understand your conferees go into that conference aware of the House position on issues, both by way of votes and by way of informal agreements and conference calls and conversations. We are not unaware of the problems that some Members have with legal services. Let us have the opportunity, the freedom, to go into the conference and make some agreements. You always have an opportunity to vote up or down on what we eventually conclude.

So rather than tie us going in, let us have the freedom to make our agreements, in your name, and then report to you a completed product. At that time then you will have an opportunity to have a referendum on whether we have done our job correctly or incorrectly

So with the greatest respect to my friend from California, with whom I have worked in harness and in tandem for a long time in seeking an immigration bill, let us just urge the House not to agree to this instruction. Let us go in uninstructed, unimpeded, free to make the decisions we have to make and report a bill back to you in due course.

Mr. LUNGREN. I thank the gentleman for his comments, and if I thought we were going into conference completely unimpeded with total freedom and flexibility to deal with this issue, I would not bring it up. But I fear that may not be the case, and that is a deep concern that I have. To be told at some point in time that some people understood a certain thing was to be the case, and then to suggest to those of us who have been involved in this issue before, who have prevailed on this issue before on the floor and all the way to legislation that somehow we may be heard, but we may not be effective, and may have no influence is something very difficult for us to accept.

The House has not had an opportunity to speak on this issue in the context of the bill. Some of us thought it should. We were unsuccessful in that, and to be told now that we ought to give conferees a full freedom, which is what I would like; which is what I would like, if I could have it stipulated on the record that there is going to be full freedom on this issue, then I will be happy to withdraw my request, but I doubt we could get that commitment.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from California, for purposes of debate only.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding. I was going to ask the gentleman from California a question.

There were several other provisions of the legislation that we adopted last night that were not subject to an amendment under the rule under which we considered the bill. Is the gentleman's motion to instruct directed to any of those, or has he picked out one particular issue that he is focusing on here and is just going to leave it at that, to achieve that particular purpose?

Mr. LUNGREN. I knew if the gentleman sat here long enough and heard the reading of the instruction he would understand exactly what I was doing, and the gentleman has very correctly described what I am doing. Yes, I have picked one of those out.

Does the gentleman wish to speak further?

Mr. BERMAN. If the gentleman will continue to yield, yes.

Mr. LUNGREN. I am happy to yield to the gentleman from Califorina, for purposes of debate only.

Mr. BERMAN. I thank the gentleman for yielding. I do not consider this motion worth too much, although the gentleman who made it has a great deal of respect, in my opinion, and deserves it for the work he has done on this whole legislative effort.

But the motion seeks to undo one part of an elaborate negotiation that took place over many days last spring with respect to our current law on H-2. This is a program where the U.S.

Government sanctions bringing in foreign guest workers to harvest crops in certain parts of this country, particularly at this time in the Eastern United States, but in a program that has been utilized more and more in other parts of the country as well. Under that agreement a number of changes were made in the law, including changes sought passionately and through the immigration bill in both the other body and in the House version as introduced not only in this year but in the last session of Congress as well, changes to streamline the program, changes to bring in the Secretary of Agriculture, changes to alter different aspects of the protections now contained in regulations to protect those workers.

Part and parcel of that agreement was an understanding that the H-2 workers would be entitled if they otherwise qualified, and only if they otherwise qualified, to legal services representation, because without that, the protections contained for those workers, the housing protections, the domestic, the transportation of protections, the piecework rate and adverse impact wage rates protections become utterly meaningless. The fact is the history of the abuses in that H-2 program, which has been documented time and time again, cannot be corrected without effective representation, as you could easily contemplate guest workers coming here for a short period of time, hoping to come back again, anxious to pick up a wage considerably higher than the wage they might be making in their own country, have no individual ability and no effective collective ability to enforce the protections that the U.S. law is supposed to guarantee them. So from that point of view, with all of the different tradeoffs made in this compromise, legal services were agreed to, and soon after the passage of that bill from the Judiciary Committee the H-2 growers' representatives went back to some of their coalition members and apparently got some heat for making this commitment and now have turned everything on its head, tried to argue this is no longer a part of the agreement, and in a quite unscrupulous fashion this group of people is now urging people who are not party to the negotiations, and I want to make it very clear the gentleman from California was not party to that negotiation, there is nothing involved in the conversations that I have had with him that would in any way bind him to the position of this bill, but that group, in what I consider to be unscrupulous fashion, is now seeking to undo a position that they agree to in detailed negotiations and for which they got numerous changes in existing law; changes they have been seeking for years and years.

□ 1250

I again remind everyone that this is a nonbinding instruction, but urge that if you consider the merits of the very specific proposal, that the instruction be defeated.

Mr. LUNGREN. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

PERSONAL EXPLANATION

Mr. SOLOMON. Mr. Speaker, I was called back to my district last night unavoidably, and I missed the last several votes, including final passage of the immigration bill.

I just want to say that in my district, which stretches from West Point almost to Lake Placid along the Hudson River, we have many ethnic groups, Italian, Irish and many others, who have waited patiently all their lives for their families to come over and I for one oppose any kind of amendments and any kind of legislation that would in any way give amnesty to or legalize illegal aliens in this country.

Had I been present, I would have voted "no" on final passage of the bill.

Mr. LUNGREN. Mr. Speaker, I yield to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I would like to emphasize what we are about to do here. If you vote for the gentleman's motion to instruct, you are saying that in conference we want to insist on not allowing legal aid, tax-paid legal services, for H-2 guest-workers.

No other country takes care of our guest-workers' legal expense from their treasury, and it does not seem to me appropriate that we take care of guest-workers' legal expenses when they are here. So I hope that Members of Congress will support the gentleman's motion.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. SCHUMER. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, I rise in opposition to the motion to instruct. I rise on two grounds. One is that as the gentleman, the chairman of the subcommittee and the gentleman from California [Mr. BERMAN] has said, that this conference is going to be a difficult conference. There are lots of issues outstanding; many different balances, and as we all know with immigration: "It ain't over 'til it's over; and it ain't over yet."

So we do have lots of problems, and anything that does tie the hands of the conferees, although it is perfectly legitimate for the gentleman from California [Mr. LUNGREN] to bring up this resolution; but anything that ties the conferees' hands just drops things, in my opinion, a notch in terms of the chances of getting a bill.

I was impressed last night—I think one could not fail to get impressed—with the overwhelming desire of this House to pass real and true and humane immigration reform.

The second point that I would make is substantive. Legal services—we dispute many different issues, and no one side has a higher moral ground than the other on any of them, in my opinion; people have different views.

The issue of legal services really means something very dear and near, at least to me. That is that you can give people all the rights you want, but if they have no way to enforce those rights, those rights are meaningless.

So we can write into the law that you must do this and must do that; but we all know that the INS is terribly overburdened; we all know that the Department of Agriculture, the Department of Labor are overburdened; they have been subject to cuts recently.

If you do not have some kind of way for the migrant laborer to enforce the law, then they are useless.

So what I would say to the good gentleman and gentlewomen in this Chamber is, if we are not going to have legal services, why kid ourselves? Why not just abolish all the laws that are supposed to protect these folk; because if you do not have legal services, the laws are unenforceable and useless.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his comments. I might just say, though, that these other countries, from whence these people come, represent these folks. They get the representation of their own government. They can make complaints to their own government; their own government can represent them, can pay for the attorneys involved.

That is the way it has been in the past; that is the way we would assume it would continue in the future. We have made sure, in the H-2 changes that we have made, that it is a better working program from both the standpoint of the worker and the employer.

So since we have put in statute more precise language, which used to be subject merely to regulation, if they have a complaint it is easier for their government to represent them with respect to those specific complaints.

I again ask the question of this House: Do you think that we have an abundance of legal services available to the poor people of America? If you do, and you think we have extra time for them to work and extra money for them to use, representing people because they are not representing enough now, then I guess you would vote down my motion to instruct.

Since they have this time they might as well do it for people who are

not citizens of this country who are here as guest-workers, who are here as a result of contractual agreements our country has with their country.

Evidently we believe that their countries do not have the resources to defend their own people; and we must use taxpayers' dollars to do that.

Mr. Speaker, I think that Members should be able to vote on that.

The other thing I would say is, I keep hearing "Don't tie us up in conference." I believe that. If the gentleman from New York will take the microphone at this time and tell me that we are not tied up on this issue going into conference, and that he will make sure that we visit it anew in conference, and that it is not predestined where we are going in conference, I will be happy to say this motion to instruct is frivolous.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California. I asked the gentleman from New York, but I will be happy to yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, is the gentleman indicating that if he is assured that in conference this is not an issue in the sense of the issues we discussed I guess it was the day before yesterday on the Schumer proposal, where Senators and Congressmen got together and said, "We agree on a package," and that makes that issue now predetermined. If the gentleman is asking, "Is this issue not in that category?" he would indicate that his own motion is frivolous and withdraw it?

Mr. LUNGREN. Mr. Speaker, I appreciate the gentleman's comments. Since he has brought up that conversation we had, I guess I feel free to mention that conversation and others we have had in which you said we are free to consider it as long as you were assured that you have enough votes in the conference to prevail.

Now, that is not what I refer to as freedom. I understand freedom as meaning, "We will actually go in there and we will work on it." When I am told that I am allowed to have something brought up, as long as I am assured I am going to lose by the positions taken by the people on the conference, that bothers me a little bit; and I think the gentleman can understand, being as concerned about minority rights as I know he is in general, I know he would be concerned about minority rights in particular in this House.

Since I find myself in the minority party and I recognize being in conference, it is not apt to be selected to make sure that my position prevails. I just want to make sure it is not selected that my position has to absolutely lose when my position is the position this House has carried in a full and open date and free vote.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. SCHUMER. Mr. Speaker, I would say to the gentleman that there is a set of issues that as the gentleman from California knows, and it is not a secret any more, that every person at least in the room that we negotiated in said, "We agree this issue is settled."

I do not believe, it is not my recollection of the meeting and I am sure it is not either gentleman from California's, that legal services for H-2 is among them. That if someone were to bring it up we would say, "Hey, we've decided that. We're not going back over old ground."

By the same token, it is perfectly within the gentleman from California's right to go to those who appoint the conferees and look and see what kinds of conferees and what their views are on certain issues, and I assure the gentleman, even though I am not privy to the discussions that, knowing how this place operates, that the gentleman from New York [Mr. FISH] and the chairman of the committee, Mr. RODINO, and the Senator from Wyoming [Mr. SIMPSON,] and the ranking minority member of the subcommittee, Mr. METZENBAUM, are all choosing conferees, looking at how the votes were going to come out. It would be sort of foolhardy to choose conferees who would not uphold the positions of the Houses or who would not be flexible enough to come to an agreement.

Mr. LUNGREN. I appreciate that. All I am trying to do is find out what the will of the House is so that we can be better informed; some would say instructed; I guess I would like to have a motion to inform conferees how the Members of the House feel on this, because I suspect when we are in conference, I will be reminded that motions to instruct are not binding.

Recognizing they are not binding, I wonder why Members on that side would not allow us to have the Members vote. It is a very, very simple question: Do you believe the foreign workers who are here under a contractual agreement between the United States and their country, ought to get taxpayers attorneys so they can pursue lawsuits against American citizen employers.

□ 1300

That is really the question here. They do have the ability at the present time to be represented by their own government or by legal representation hired by their own government. That is true now; it will continue to be true with one major exception. We have better defined the obligations and protections for the workers here and they have a better opportunity now to represent them than they did before. For that I thank the gentleman from California.

Mr. MORRISON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

I think it is important if the gentleman is not going to find his own motion frivolous, that we get on the record a little bit of why that it is important that these H-2 workers have this representation. The first thing that is most important that the gentleman's statement overlooks is that the way that the current law is written with respect to legal services, it is not only Federal funds that cannot be used to represent H-2 workers, but legal services programs with private support and with private funds that seek to represent these workers cannot use those funds under the current law.

Mr. LUNGREN. If I may reclaim my time, so what the gentleman is saying is that under current law as passed by a previous Congress, legal services are not afforded H-2 workers.

Mr. MORRISON of Connecticut. That is absolutely correct; there is no question about it.

Mr. LUNGREN. This would change present law.

Mr. MORRISON of Connecticut. There is no question about it.

Mr. LUNGREN. Providing a benefit they do not receive now in taxpayer-supported attorneys.

Mr. MORRISON of Connecticut. If the gentleman would yield further, I think the gentleman is handly underscoring a point that needs underscoring. We would not be here discussing it nor would it be an important amendment to the bill if it were not a change of current law. It is a change of current law that has not always been the case. H-2 workers at an earlier time did receive representation and should receive representation.

I think the gentleman from California [Mr. BERMAN] has been quite eloquent on the point that legal rights without legal representations are meaningless. The gentleman from California [Mr. LUNGREN] has underscored the ability of foreign governments to advocate on behalf of H-2 workers for their rights. The problem with that, I think, can be seen analogously in our own context. People who are accused of discrimination or have problems with discrimination, workers in this country feel they are being discriminated against.

Both State and Federal Government in this country have government agencies specifically designated to look into those matters. The Equal Employment Opportunity Commission on the Fed-

eral level. Yet no one here has thought that that was adequate in order to have those individual rights vindicated. We have provided for private right of action so that people can be represented and use our courts in order to enforce their rights. To say that some foreign government could do a better job with these foreign workers than can be done with our own enforcement agencies on behalf of our citizens really is not believable.

We have a serious problem of rights that are given U.S. law to these people who are here for the convenience of the U.S. economy. For those people to be denied a realistic way to enforce their rights, I think, is a great mistake.

And I emphasize that it is not only the use of Federal funds but private funds used by legal services programs that is forbidden under current law. It would seem to me all ought to want to make sure that these H-2 rules are obeyed and not violated, and to have legal services available is the best way to do that.

Mr. LUNGREN. I reclaim my time so that I may ask the gentleman a question: Do you believe legal services operations are funded to the extent necessary to take care of the poor people in America who are American citizens?

Mr. MORRISON of Connecticut. The gentleman knows the answer to that question, and the answer is quite clear; of course they are not adequately funded.

Mr. LUNGREN. I appreciate the answer of the gentleman.

Mr. MORRISON of Connecticut. Let me just continue to answer the question of the gentleman.

We have delegated at the Federal level the priority decisionmaking to local boards of directors and local bar associations. What we are doing in this change in the law, in the bill as we passed it last night, is to allow those boards of directors in setting priorities for their limited resources including privately raised funds and State funds as well as Federal funds, to choose, if they believe it is a priority, to choose to represent H-2 workers. That local determination will govern, not a national determination.

Mr. LUNGREN. OK. I will take back my time to suggest to my colleagues that yesterday we had a vote on the question of subsidized housing, taxpayer-paid housing. Most people recognize we do not have enough subsidized housing.

The question was, Should a preference be given to American citizens if you do not have all the housing that is necessary? This House said loud and clear, "Yes, you ought to give a preference." What we are saying here is that on taxpayer supported legal services we intend that to go to American citizens, not to foreign workers who are here on a contractual agreement between their country and the United States who have rights and they can have those rights presented in court by attorneys paid for by themselves or by their governments. And it should not be taxpayer-paid money to support attorneys to sue Americans by foreign workers who are here under a contractual agreement. That is the question. I think we have the opportunity to present it.

Mr. LUNGREN. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion to instruct offered by the gentleman from California [Mr. LUNGREN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary, for consideration of the entire Senate bill and House amendment: Messrs. RODINO, KASTENMEIER, SEIBERLING, MAZZOLI, SYNAR, FRANK, SCHUMER, SMITH of Florida, BERMAN, BOUCHER, BRYANT, FISH, MOORHEAD, LUNGREN, MCCOLLUM, SHAW, and DEWINE.

From the Committee on Agriculture, solely for consideration of sections 121-125. 202(h), 203, and 304 of the Senate bill and sections 116, 121, 204, 301-305, and 701 of the House amendment: Messrs. PANETTA, HUCKABY, and MORRISON of Washington.

From the Committee on Education and Labor, solely for consideration of section 101(d), 121-25, 202(h), 203, 304, 402, and 604 of the Senate bill and sections 101, 121, 201(h), 204, 301-305, 316(d), 402, 403, and 701 of the House amendment: Messrs. HAWKINS, FORD of Michigan, and JEFFORDS.

From the Committee on Energy and Commerce, solely for consideration of sections 125(b), 202(h), 203, 304 and 404 of the Senate bill and sections 121, 201(d), 201(h), 204, 404, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Messrs. DINGELL, WAXMAN, and DANNEMEYER.

From the Committee on Ways and Means solely for the consideration of sections 121(a), 121(g), 121(h), 124(c), 125(b), 202(h), 203, 304, 404, and 602 of the Senate bill and sections 121, 201(h), 204, 302(b), 402, 404, 407, 601, 701, and that portion of 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Messrs. FORD of Tennessee, PEASE, and DAUB.

From the Committee on Rules, solely for the consideration of section 604(b) of the Senate bill and section 811 of the House amendment, and modifications committed to conference: Mr. BEILENSON and Mr. TAYLOR.

As an additional conferee, solely for consideration of title VIII of the House amendment, and modifications committed to conference: Mr. MOAKLEY.

There was no objection.

EXPRESSING CONGRESSIONAL SUPPORT FOR AWARDING OF ELLIS ISLAND MEDAL OF HONOR

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 381) expressing the support of the Congress for the awarding of the Ellis Island Medal of Honor as a symbol of the Statue of Liberty Centennial Celebration, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation I yield to the gentleman from New York [Mr. BIAGGI] who is the chief sponsor of House Concurrent Resolution 381.

Mr. BIAGGI. I thank the gentleman.

Mr. Speaker, I want to thank the chairman of the committee, the gentleman from New York, Mr. GARCIA, and the ranking member, the gentleman from New York, Mr. GILMAN, for their expeditious treatment of this legislation.

Mr. Speaker, House Concurrent Resolution 381 expresses the support of Congress for the awarding of the Ellis Island Medal of Honor as a symbol of the Statue of Liberty Centennial Celebration scheduled for the weekend of October 27.

The Ellis Island Medal of Honor is designed to recognize and honor the contributions made to our Nation by all of our various heritage groups. Approximately 80 medals will be awarded on the night of October 27 in New York to individuals who have "lived a life dedicated to the American way while preserving the values and tenets of a particular heritage group."

The Ellis Island Medal of Honor is to be awarded by the Statue of Liberty Ellis Island Foundation as well as the New York Statue of Liberty Centennial Commission in cooperation with the National Ethnic Coalition of Organizations. To that end I wish to pay a special tribute to Statue of Liberty Ellis Island Foundation President William May and William Fugazy, honorary chairman of NECO. These individuals worked long and hard to develop the

idea and reality of these medals which will be of such value to those fortunate enough to receive them.

It should be noted that these medals were in part necessitated by an unfortunate procedure which took place during the Fourth of July celebration at the Statue in New York. During those festivities, 12 Liberty Medals were awarded. The individuals selected, while all meritorious, represented only about 20 percent of our Nation's ethnic groups. This despite the intent of these medals to pay tribute to the contribution that ethnic Americans have made to our Nation over the past 100 years.

The Ellis Island Medal of Honor, we trust, will help serve to correct that omission and provide an equally appropriate honor to a more representative group of honorees.

It is critical to remember that we are a nation whose people have strong ties to many homelands. It is the contributions of America's heritage groups—all of them collectively, that has made this Nation strong. That is the intent behind the Ellis Island Medal of Honor—to pay tribute to all.

I urge my colleagues to support this request for passage of House Concurrent Resolution 381.

Mr. GILMAN. Mr. Speaker, further reserving the right to object under my reservation, I am pleased to rise in strong support of House Concurrent Resolution 381, endorsing the awarding of the Ellis Island Medals of Honor. I want to take this opportunity to thank the gentleman from New York [Mr. BIAGGI], for introducing this measure, and for his dedication and leadership in the fight for equal rights for the minority citizens in Northern Ireland. Mr. BIAGGI is renowned for his dedicated work as chairman of the Congressional Ad Hoc Committee on Irish Affairs, in focusing the attention of the Congress on the vital role our Nation can fulfill in facilitating a just and lasting peace in Northern Ireland.

On October 28, 1986, in honor of the 100th anniversary of the Statue of Liberty's actual dedication, there will be an official rededication ceremony in New York. On that day, the Ellis Island Medal of Honor will be awarded to individuals who exemplify the ideal of living a life dedicated to the American way while preserving the values and tenets of their own heritage.

The Ellis Island Medal of Honor will be awarded to those individuals who have made special contributions to the reinforcement of the bonds between a heritage group and the people of its land of origin. These individuals will be further distinguished by their service to humanity in their chosen field, profession, or occupation.

As my colleagues may recall, earlier this summer, when the winners of the Statue of Liberty-Ellis Island Foundation's Medals of Liberty were announced, the group of 12 did not include members of many of the country's largest ethnic groups. At the October 28, ceremony in New York, approximately 80 medals will be awarded, with at least one medal being awarded to a member of each heritage grouping that had a population of 200,000 or more in the 1980 census.

I would like to commend the Statue of Liberty-Ellis Island Foundation, the New York Statue of Liberty Centennial Commission, and the National Ethnic Coalition of the Organizations for their efforts in establishing the Ellis Island Medal of Honor.

Accordingly, I urge my colleagues to join me in support of this resolution which endorses these very special awards.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection?

The Clerk read the concurrent resolution as follows:

H. CON. RES. 381

Whereas on October 28, 1986, in honor of the actual dedication of the Statue of Liberty, there will be an official rededication ceremony in New York;

Whereas on that occasion the Ellis Island Medal of Honor, to be awarded by the Statue of Liberty Ellis Island Foundation and the New York Statue of Liberty Centennial Commission in cooperation with the National Ethnic Coalition of Organizations, will be presented to a group of distinguished American citizens;

Whereas the Ellis Island Medal of Honor will be awarded to individuals who exemplify the ideal of living a life dedicated to the American way while preserving the values and tenets of a particular heritage group;

Whereas the Medal will be awarded to individuals who have made special contributions to the reinforcement of the bonds between a heritage group and the people of its land of origin; and

Whereas the Medal will be awarded to individuals for distinguished service to humanity in any field, profession, or occupation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States endorses and supports the awarding of the Ellis Island Medal of Honor, on October 28, 1986, as an appropriate symbol of the Statue of Liberty Centennial Celebration.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SEASONAL AGRICULTURAL WORKER PROGRAM

(Mr. WEAVER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, I have requested this time in order to engage in a colloquy with the gentleman from New York [Mr. SCHUMER].

Mr. Speaker, I would like to clarify the purpose of his Seasonal Agricultural Worker Program. As I understand the program, it is intended to benefit growers of perishable agricultural commodities. Section 302 of this bill defines "seasonal agricultural services" as "field work related to * * * fruits and vegetables of every kind and other perishable commodities."

As I interpret this definition, it would not include trees grown for lumber as a perishable commodity, nor would it cover forestry services such as tree planting, tree thinning, and related forestry labor. Is that interpretation correct?

I yield to the gentleman from New York.

Mr. SCHUMER. The gentleman is correct. Forest practices and forestry labor are in no way covered by the Seasonal Agricultural Worker Program or the definition of "seasonal agricultural services."

Mr. WEAVER. If the gentleman would yield further: As the gentleman knows, trees grown for lumber are not considered an agricultural commodity under longstanding interpretations of the Fair Labor Standards Act. While forestry labor is sometimes included in the definition of agriculture, this has been done only in broad remedial statutes like the Migrant and Seasonal Agriculture Worker Protection Act. The gentleman's program, as I understand it, is not remedial in nature and therefore including forestry labor or trees grown for lumber within its provisions would be inappropriate. Is that correct?

Mr. SCHUMER. The gentleman is correct. This program does not cover trees grown for lumber or forestry labor, nor is it intended to cover them.

Mr. WEAVER. I thank the gentleman for clarifying the scope of his Seasonal Agricultural Worker Program.

□ 1315

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 311) designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 311

Whereas there are more than one million one hundred and eighty thousand women veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 9, 1986, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans and to continue and reinforce important gains made in this regard in the last two years as a result of the designation of the first and second National Women Veterans Recognition Week in November of 1984 and 1985: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 9, 1986, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA JUDICIAL EFFICIENCY AND IMPROVEMENT ACT OF 1985

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3578) to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments.

(For text of the Senate amendments, see page 28588 of the CONGRESSIONAL RECORD of October 3, 1986.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so just to ask the gentleman if this piece of legislation has been cleared by the minority leader.

Mr. DYMALLY. Mr. Speaker, if the gentleman will yield, it has been cleared by the gentleman from Virginia [Mr. BLILEY] who is in support of it, and the staff will so indicate.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, each piece of legislation coming out here right now is supposed to have clearance of the minority leader, the gentleman from Illinois [Mr. MICHEL], his personal clearance. Has this been personally cleared by Mr. MICHEL?

Mr. DYMALLY. I have been instructed that it has been cleared.

Mr. WALKER. Mr. Speaker, under my reservation of objection, I yield to the gentleman from California [Mr. DYMALLY] to explain H.R. 3578.

Mr. DYMALLY. Mr. Speaker, I thank my distinguished colleague for yielding.

Mr. Speaker, this bill, H.R. 3578, passed the House on October 28, 1985. It is the culmination of a great deal of scrutiny and give and take by the local courts, the city council, the bar association and of course, the respective committees of this Congress, which reported this legislation.

H.R. 3578, the District of Columbia Judicial Efficiency Act of 1985, improves the administrative operations of the local courts. It provides permanent authority for hearing commissioners in the District of Columbia Superior Court and establishes procedures for their selection and discipline. This change would bring the District law into compliance with the requirements of the Child Support Enforcement Amendments of 1984 (Public Law 98-378).

It also reorganizes the court's audit responsibilities, authorizes the District of Columbia appellate court to consider certified questions of law from State courts of appeal about District of Columbia law, amends procedures for judicial nomination and tenure review and eliminates the chief judge of the U.S. Court of Appeals for the District of Columbia as the presiding officer of the panel which selects the public defenders service board of trustees. It would make the chief judge of the District of Columbia Court of Appeals the presiding officer.

The Senate amendments make several changes. It deletes section 2 of H.R. 3578—which would have required the U.S. attorney for the District of Columbia to make an annual report regarding prosecutions in the District. The Senate found this provision unnecessary since a statistical report was already being made on the same subject by that office.

Second, it requires the chief judge of the superior court and the board of judges to monitor the conduct and exercise discipline of hearing commissioners. It also requires the chief judge of the superior court to conduct a study of the revised hearing commissioner system and report its findings to the appropriate House and Senate committees within 1 year of this bill's enactment.

The Senate amendments would also limit a retired judge to a 1-year period after retirement in order to request to be appointed as a senior judge from the District of Columbia Commission on Judicial Disabilities and Tenure.

The Senate bill would require retired judges serving as senior judges to be reviewed every 4 years regarding his or her suitability to continue in that capacity. Judges 74 and over would have to be reviewed every 2 years.

Currently retired judges are grandfathered for 180 days from the date of this enactment.

The Senate amendment guarantees that senior judges are compensated at the same daily rate as active judges. Thus, senior judges will be compensated at the same rate for the same amount of work.

I would add, the Senate amended its reported committee bill to remove the chief judge of the Court of Appeals for the District of Columbia Circuit from the panel which selects the board of trustees of the public defender services, and to designate the chief judge of the District of Columbia Court of Appeals as the presiding officer of that panel.

This is consistent with the House passed bill. While substantive, this change in no way diminishes the independence of the public defender service. This amendment is consistent with home rule in the District and as the Senate vote suggests, the chief judge of the local court of appeals is the more appropriate presiding judge of that panel. His or her dependence in that role is in no way compromised merely because he is chief judge of the District of Columbia Court of Appeals

as opposed to the U.S. Court of Appeals, for the District of Columbia.

Mr. Speaker, this bill is the product of a great deal of legislative time, resources and scrutiny. Undoubtedly, it will greatly improve judicial efficiency in District of Columbia. I also take this opportunity to commend the gentleman from Virginia, who contributed a great deal to this legislation. Thus, the recommendation on this side of the aisle is that we accept and concur in the Senate amendments. I urge my colleagues to join me in supporting this bill.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL INSTITUTES OF HEALTH CENTENNIAL YEAR

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 395) to designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 395

Whereas the National Institutes of Health over the past 100 years, has grown from a one-room laboratory of hygiene within the Stapleton Marine Hospital on Staten Island, New York, to become one of the largest and most respected biomedical research centers in the world;

Whereas the National Institutes of Health, as an agency of the Department of Health and Human Services, is the Nation's flagship in mankind's continuing battle to conquer disease;

Whereas the National Institutes of Health continuously contributes to the discovery of new knowledge that leads to longer lives and better health for all people;

Whereas the National Institutes of Health provides national leadership in a critical partnership of the Government, academic, and private sectors;

Whereas the National Institutes of Health conducts research in its own laboratories, supports the research of non-Federal scientists in universities, medical schools, hospitals, and other public, private, and voluntary research institutions throughout this country and abroad;

Whereas the National Institutes of Health fosters training and career development of future research scientists, sponsors the enhancement of research resources, and promotes improvements in biomedical communications;

Whereas the National Institutes of Health facilitates the assembly of United States and foreign biomedical scientists and promotes the exchange of scientists and scientific information between the United States and other countries;

Whereas the National Institutes of Health supported the work of 60 Nobel Prize winners before their selection as laureates;

Whereas the National Institutes of Health has contributed to the great strides of the past 100 years in the control and virtual worldwide elimination of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diphtheria, polio, tetanus, and pertussis;

Whereas the National Institutes of Health has stimulated biomedical research that has played a role in the 70-percent reduction in the death rate in the United States since 1900;

Whereas the National Institutes of Health has pioneered new methods for the detection and treatment of diseases and has promoted their widespread dissemination into medical practice;

Whereas grantees and scientists of the National Institutes of Health work at the forefront of biomedical technologies that open up new opportunities in medical research;

Whereas the next 100 years will undoubtedly see the National Institutes of Health lead the world in ways of promoting health and preventing disease;

Whereas the Congress of the United States has consistently supported the National Institutes of Health to maintain America's preeminence in medical research; and

Whereas the Congress of the United States looks to the National Institutes of Health for progress in overcoming the diseases that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of October 1, 1986, through September 30, 1987, is designated as "National Institutes of Health Centennial Year", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CORRECTIONAL OFFICERS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 594) to designate the week beginning May 4, 1986, as "National Correctional Officers Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 594

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities in 1984 and 1985;

Whereas correctional officers had been similarly honored by a joint resolution of the Senate and House of Representatives of the United States in Congress assembled in 1984 and 1985; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the week beginning May 4, 1986 hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. GARCIA

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 3, strike "May 4, 1986" and insert "May 3, 1987".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title to read as follows: "A joint resolution to designate the week beginning May 3, 1987 as 'National Correctional Officers Week'."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 322) to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 524, designating December 7, 1986, as "National Pearl Harbor Remembrance Day" and I take this opportunity to thank the distinguished gentleman from Minnesota [Mr. STANGELAND] for introducing this resolution which will allow Americans of all ages to honor and remember those who lost their lives in the Pearl Harbor massacre.

Early on the morning of Sunday, December 7, 1941, the Empire of Japan launched a brutal and unprovoked attack on the U.S. Navy, Army, Air Force, and Marine bases at Pearl Harbor, HI. Over 2,400 Americans were killed and 1,200 wounded on that fateful day—the day that President Roosevelt said "will live in infamy."

It was not until after World War II ended that the American people were fully apprised of what a severe, crippling blow the attack on Pearl Harbor inflicted on our defenses. The cream of our Navy and our Army in the Pacific were virtually wiped out in one devastating blow.

But what the Japanese Empire did not count on was the galvanizing effect that dastardly attack would have on the American people. Prior to December 7, the role of the United States in world affairs was the topic of intense debate. That debate ended as the bombs fell. All Americans became united in the effort for victory with a vigor and determination unknown in any American conflict, before or since.

The ultimate tragedy of Pearl Harbor was the fact that it could have been foreseen and prevented. Candidates for graduation at the Japanese military academies had been asked to plan an attack on Pearl Harbor as part of their final examinations each year since 1931. The Japanese secret code had been broken, and the State Department was aware that an attack was imminent. However, the location of the strike was not known, and so our commanders were not notified in a timely fashion.

This does not mean, however, that our 3,600 casualties were killed or wounded in vain. The heroism demonstrated that fateful Sunday morning did much to inspire millions of Americans on to greater sacrifice and heroism which was necessary for our ultimate victory.

Every 5 years, on December 7, the survivors of Pearl Harbor reunite at Pearl Harbor. This year will mark the 45th anniversary of Pearl Harbor and our thoughts will be with those survivors and their families, as well as the families who have lost sons and daughters in that conflict. Accordingly, I urge my colleagues to support this resolution designating December 7 as "National Pearl Harbor Remembrance Day" and to encourage their communities to conduct appropriate observances.

Mr. HANSEN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise in support of this joint resolution, and thank all of my colleagues here for presenting it.

National Pearl Harbor Remembrance Day, of course, has great meaning for us on the Island of Hawaii. It has particular meaning for me. Pearl Harbor is with the district which I represent.

I want to remind all here that service to our country came from Hawaii in World War II after Pearl Harbor, the most decorated unit in the entire U.S. Armed Forces, the 442d Regiment, of which our senior Senator, Mr. INOUYE, was a member and our other Senator, Mr. MATSUNAGA.

I am sure that many in this body know, and I hope that everyone in the country recognizes, that many from Hawaii gave their lives. Not only were they the most decorated, but in terms of the wounds that took place it was one of the most grievous combat regiments in the U.S. Armed Forces.

□ 1325

Hawaii, I think because of the service that was rendered to our country after Pearl Harbor, was in the forefront with respect to commanding the attention of the country once statehood was given to Hawaii in 1959. I think the people of our Nation remembered the service that had been performed by people in the then Territory of Hawaii as it became a State.

Mr. Speaker, it is a great pleasure for me today to rise and ask that we receive unanimous consent for National Pearl Harbor Remembrance Day.

Mr. HANSEN. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 322

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy and Air Force launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, HI;

Whereas over two thousand four hundred citizens of the United States were killed in action and one thousand one hundred and seventy-eight were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a date that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1986, in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1986, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

The Senate joint resolution was ordered to be read a third time, was read

the third time, and passed, and a motion to reconsider was laid on the table.

GAUCHER'S DISEASE AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 352) to designate the week beginning September 7, 1986, as "Gaucher's Disease Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate Joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. SMITH of Florida. Mr. Speaker, as the sponsor of House Joint Resolution 615, I am pleased to support this bill to designate the week of October 19, 1986, as "National Gaucher's Disease Awareness Week." A companion bill, Senate Joint Resolution 352, passed the Senate on October 3, 1986.

Gaucher's disease is the most prevalent among seven genetic disorders known to primarily affect Jewish populations. As many as 1 in 12 Jewish persons may be a carrier of Gaucher's disease which means that an estimated 1 child in every 600 born could have the disease.

Gaucher's disease is caused by the body's failure to produce an essential enzyme. The absence of this enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and can have an adverse effect on tissues in the body, especially bone tissue. Commonly associated symptoms include an enlarged spleen, unusual bruising or bleeding, and bone and joint pain.

There is no known cure for Gaucher's disease nor any successful treatment. The National Gaucher Foundation was established to promote and support Gaucher's research and increase public awareness regarding this disease.

I thank my colleagues for joining me in cosponsoring this resolution and focusing much needed attention on understanding and finding a cure for this disease.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 352

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principle structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 7, 1986, is designated "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHAYS' REBELLION WEEK AND SHAYS' REBELLION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 10) to designate the week beginning January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, 1987, as "Shays' Rebellion Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the distinguished gentleman from Massachusetts [Mr. CONTE], who is the chief sponsor of House Joint Resolution 10.

Mr. CONTE. I thank the gentleman for yielding to me.

Mr. Speaker, I want to take this opportunity to thank my good friend, the gentleman from New York [Mr. GARCIA], and the gentleman from Utah [Mr. HANSEN] for bringing this resolution to the floor. I also wish to thank all of my colleagues here who signed this resolution.

Mr. Speaker, as sponsor of this legislation, it gives me great pleasure to see House Joint Resolution 10, which will designate the week of January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, as "Shays' Rebellion Day," brought to the floor of the House for consideration.

This weekend, in Daniel Shays' hometown of Pelham, MA, I will be joining the people in honoring the bicentennial of the rebellion, and I think it is proper for Congress to join us and the many other people paying tribute to this important part of our Nation's heritage.

Shays' Rebellion was a farmers revolt against many of the injustices which were present in the young Nation under the Articles of Confederation. Taxes were high and many farmers were in debt. Sound money was scarce, and the courts were dealing out harsh penalties on the indebted farmers.

Daniel Shays and his men were not malcontents. Most of them had served America in the Revolutionary War, and Shays was even awarded a sword from Lafayette for his service.

One would have to imagine that Shays was extremely proud of this sword, but due to the economic problems of the time he was forced to sell it.

While Shays' Rebellion was put down by Federal forces, it had a profound effect on our Nation. Shays' Rebellion demonstrated both the injustices and weaknesses of the system under the Articles of Confederation, and helped pave the way for our beloved Constitution.

Mr. Speaker, I am proud to support this legislation, and hope for its immediate approval.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 10

Whereas January 25, 1987, marks the bicentennial of the final uprising in western Massachusetts of Daniel Shays and his men, during a period of unrest in the years following the Revolutionary War;

Whereas the landowners of western Massachusetts felt they were unduly burdened because money was scarce, taxes were high, punishments for debts were severe, and the government was unresponsive;

Whereas Shays led the dissatisfied landowners in a series of attacks to stop debt procedures in local courts;

Whereas on January 25, 1787, a major confrontation occurred in Springfield when the militia wounded, killed, and caught several of Shays' rebels as they stormed the arsenal;

Whereas the uprisings of Shays' Rebellion exposed the problems in the existing form of government to the people of America and

prompted a meeting of delegates in Philadelphia to correct the weaknesses of the Articles of Confederation; and

Whereas Shays' Rebellion was instrumental in bringing about the writing of the Constitution of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 19, 1987, is designated as "Shays' Rebellion Day". The President is requested to issue a proclamation calling upon the people of the United States to observe such week and day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SOCIAL STUDIES WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 232) to designate October 6, 1986, through October 10, 1986, as "National Social Studies Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution,

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. RUSSO. Mr. Speaker, I rise today in support of House Joint Resolution 410, legislation which I introduced last year that would designate the week of October 6 through 10, 1986, as "National Social Studies Week."

Two years ago, America suddenly seemed to discover that there were problems in our public schools, and that our children were graduating from high school poorly prepared for the job market in our changing economy. I strongly supported this renewed interest in our education system, and I lauded efforts to provide greater incentives for schoolteachers, to toughen up education standards, and to reintroduce some degree of moral guidance into the schools. Nothing is more precious to America than its next generation, and nothing we in Congress could do would be more important than to ensure that it receives an excellent education.

Since that time, we have begun to make progress toward the kind of education system that this country must have. The Federal Government, the States, and local school boards have all willingly entered the battle to improve our schools. However, our work has just begun—it's vital now that we not slacken our pace or reduce our efforts. There's no quick fix available, and there's no end to our effort, however. Consequently, we in Congress have to constantly remind ourselves and our constituents of the importance of education and of the need for continued effort. One of the ways that we can do this is through the use of such commemorative legislation as House Joint Resolution 410 to focus the country's attention on the value of our schools. In today's fast-moving global economy Americans need to know not only the three R's—reading, writing, and arithmetic. They also have to know about the world they live and work in.

The postwar world is a much smaller, more interdependent one, in which America has a central role. It's important for Americans to know about other countries and their cultures, important because what goes on in those other countries affects American jobs, and important in a broader sense because democracy requires an informed, intelligent electorate.

The other body has already passed identical legislation introduced by Senator PAUL SIMON of Illinois. I urge my colleagues in the House to act today and pass this very worthwhile legislation.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 232

Whereas national attention should be focused on the exemplary efforts of social studies teachers in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1986, through October 10, 1986, is designated as "National Social Studies Week", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies, programs, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADULT IMMUNIZATION AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 396) to designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. ROYBAL. Mr. Speaker, I rise today in support of House Joint Resolution 700 which designates the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week."

Once again we are threatened with a serious flu and pneumonia epidemic. It strikes hardest among the elderly and chronically ill and may claim up to 40,000 American lives this year alone. Many of these elderly Americans will fall prey to these preventable diseases simply because they were unaware that an inoculation—a simple shot—could save their lives.

Pneumococcal pneumonia is the sixth leading cause of death in the United States. This microorganism attacks more than a half million Americans each year and is responsible for 25,000 to 30,000 deaths. And it is the Nation's elderly and chronically ill who are most at risk. For those over 60, the incidence of pneumonia increases significantly. For the fragile old—those over 75—the death rate is 10 times greater.

Influenza is another great threat to our Nation's elderly. Since the mid-1950's we have seen 16 influenza epidemics that have taken 10,000 or more American lives in each epidemic. Again this year, elderly Americans will be challenged by this bug. But they can be protected with a safe and effective vaccination.

House Joint Resolution 700 will officially recognize the ongoing national campaign designed to educate and motivate all Americans—especially the elderly—to protect themselves through immunization. This resolution designates the week of October 26, 1986, as "National Adult Immunization Awareness Week." A companion bill, sponsored by Senator ORRIN G. HATCH, has passed the Senate. The bipartisan support for this resolution is evidence of the recognition that it is time for national leadership to help eradicate these deadly and crippling infectious diseases by supporting the National Adult Immunization Awareness Week.

House Joint Resolution 700 will put Congress on record behind this campaign. It calls on the President to proclaim the week of October 26 for observance by all Americans of the need to inoculate against flu, pneumonia, and other diseases for which adults are at risk. Our goal is to motivate the elderly to take their shots before the start of the flu season. This awareness week can help prevent the loss of many precious American lives.

I am pleased to have been the original author of House Joint Resolution 700 on August 11, 1986, and to be able to report that we now have over 150 cosponsors of the resolution in the House of Representatives.

Mr. LELAND. Mr. Speaker, I would like to take this opportunity to voice my support for House Joint Resolution 700. This resolution would designate the week of October 26, 1986 as "National Adult Immunization Awareness Week."

It is important that we publicize the need for Americans to be immunized against infectious diseases so as to aid in the control and eradication of such illnesses. Passage of this resolutin would set the stage for a public cam-

paign to raise awareness of the necessity of immunizations.

I encourage my colleagues to vote in favor of the passage of House Joint Resolution 700 and give a boost to efforts to improve the health standards of this country.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 396

Whereas influenza and pneumonia are among the top killers of American adults, especially elderly Americans;

Whereas fewer than 12 percent of the adult population is adequately protected against these diseases or against other highly infectious diseases including measles, rubella, diphtheria, and hepatitis B;

Whereas less than half of Americans over 60 are inoculated against the deadly tetanus toxoid;

Whereas the lives of tens of thousands of American adults could be spared this year simply by taking vaccines that are approved as safe and effective by the United States Food and Drug Administration and are readily available to the public; and

Whereas the Surgeon General of the Public Health Service has repeatedly called on this Nation to prevent the massive costs of health care through a program of preventive health care, of which a major role is played by inoculation against infectious diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 26, 1986, through November 1, 1986, is designated as "National Adult Immunization Awareness Week". The President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL KIDNEY PROGRAM DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 367) to designate September 24, 1986, as "National Kidney Program Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object; I would simply like to inform the House the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 367

Whereas, the tens of thousands of Americans suffering from irreversible kidney disease are treated by Medicare's End Stage Renal Disease (ESRD) Program;

Whereas, this program has assured that every American suffering from otherwise fatal kidney failure has access to lifesaving dialysis or transplantation therapy;

Whereas, ESRD beneficiaries may remain economically productive and are able to continue to make irreplaceable contributions to family, community and country;

Whereas, this extraordinarily successful program has a special significance as an example of the power of partnership between Government and the healthcare industry in dealing with catastrophic illness; and

Whereas, this partnership has achieved economy in health services without compromising quality of care or social responsibility: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the day of September 24, 1986, as National Kidney Program Day and call upon the Federal, State, and local government agencies and the people of the United States to observe such day with the appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 4, strike "September 24, 1986," and insert "October 23, 1986,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

Amend the title so as to read: "Joint resolution to designate October 23, 1986, as 'National Kidney Program Day'."

A motion to reconsider was laid on the table.

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NATIONAL BOWLING WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 620) designating the week beginning January 4, 1987, as "National Bowling Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 620

Whereas bowling is one of the oldest and most popular indoor family sports in the world and is played in more than 79 nations;

Whereas people have computed in some form of bowling for thousands of years;

Whereas many immigrants brought a form of bowling from their homeland during the birth of America;

Whereas bowling has contributed to the social fabric of the United States with 8,000,000 people participating as members of local bowling organizations in more than 2,800 cities and towns across our land;

Whereas bowling is played in 8,300 bowling centers, virtually in every community in the Nation; and has emerged as the longest running, most highly rated individual sport television series on Saturday;

Whereas bowling is the largest indoor participation sport in the United States with over 69,000,000 Americans bowling each year; and

Whereas bowling is an excellent form of exercise and recreation for all people regardless of age: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 4, 1987, is designated "National Bowling Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 316, DESIGNATING THE SQUARE DANCE AS THE NATIONAL FOLK DANCE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 316) designating the square dance as the national folk dance of the United States for 1985 and 1986, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DELAY. Mr. Speaker, reserving the right to object, I understand there has been testimony against this bill, and I object.

The SPEAKER pro tempore. Objection is heard.

NATIONAL ALOPECIA AREATA AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 299) to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S. J. RES. 299

Whereas alopecia areata is a serious disease affecting approximately two million people;

Whereas alopecia areata, which usually afflicts children and young adults, causes severe and often permanent hair loss;

Whereas the coordinated efforts of support groups in forty-two States have helped thousands of people cope with the physical and emotional problems caused by alopecia areata;

Whereas much of the trauma associated with alopecia areata could be reduced through greater public awarness, understanding, and education; and

Whereas the cause of alopecia areata is unknown, and promising research efforts to find a cure for the disease should be promoted: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 7, 1986, through December 13, 1986, is designated as "National Alopecia Areata Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with approriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL BURN AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 410) to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 410

Whereas the burn problem in the United States is the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year approximately two million people are victims of burn injury in the United States;

Whereas of these injuries, seventy thousand are hospitalized and account for nine million disability days annually;

Whereas approximately twelve thousand people die from burn injuries;

Whereas deaths resulting from burn injuries increased in 1985;

Whereas the rehabilitative and physchological impact of burns are devastating;

Whereas children, the elderly, and the disabled are most likely to suffer serious burns;

Whereas it is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults; and

Whereas there is a need for an effective national program that deals with all aspects of burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 9, 1987, and ending February 15, 1987, is designated as "National Burn Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe such week with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT SUNDAY, OCTOBER 12, 1986, TO FILE CONFERENCE REPORT ON H.R. 6, WATER RESOURCES, CONSERVATION, DEVELOPMENT, AND INFRASTRUCTURE IMPROVEMENT AND REHABILITATION ACT OF 1985

Mr. STANGELAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Sunday, October 12, 1986, to file the conference report on the bill (H.R. 6) "to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, MONDAY, OCTOBER 13, 1986, TO FILE CONFERENCE REPORT ON S. 1128, CLEAN WATER ACT AMENDMENTS OF 1985

Mr. STANGELAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Monday, October 13, 1986, to file the conference report on the Senate bill (S. 1128) "an act to amend the Clean Water Act, and for other purposes."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

NATIONAL ADOPTION WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 306) to designate the week beginning November 23, 1986, as 'National Adoption Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation, I yield to the distinguished gentleman from New Jersey [Mr. SMITH], who is the chief sponsor of House Joint Resolution 651.

Mr. SMITH of New Jersey. Mr. Speaker, House Joint Resolution 651 designates Thanksgiving week—November 23 to 29, 1986, as "National

Adoption Week" and is intended to focus attention on the benefits of adoption to children, parents, and society in general. Similiar legislation was approved by the Senate in April of this year.

Mr. Speaker, each year more than 100,000 children are adopted in the United States. For these children, adoption represents a chance to grow up in a home, with a family, among parents who love them. In my view, Mr. Speaker, nothing is more important, no one more precious, or vulnerable than children. For millions, adoption is their last best hope for a happy childhood.

National Adoption Week will, I believe, be very useful in highlighting the adoptable status of approximately 50,000 children with special needs—children who are older, handicapped, in sibling groups, or members of minorities—who are legally free for adoption. Passage of this resolution will send a message to the American people—these children with special needs are our children, too. They belong in families and we have a responsibility for them.

Mr. Speaker, as members know, most aspects of adoption are governed by State law. Landmark legislation, however, was adopted in 1980 in the form of the Adoption Assistance and Child Welfare Act—Public Law 96-272. This law made numerous changes in the child welfare services and foster care programs. It also established the Adoption Assistance Program, a federally matched adoption subsidy for special needs children.

Today there are more than 2 million couples ready, willing, and eligible to adopt a child. The average wait for a newborn or very young child, however, is painfully long—5 to 7 years.

In light of this, many prospective, adoptive parents now look overseas to adopt and the number of foreign-born children eligible is rising. The Immigration and Nationality Act, as amended, governs the admission of foreign-born children into the United States. Foreign adoptions generally take place in one of two ways. The first method is for the parents to work through a U.S.-based international, child-placing agency, which usually completes the adoption in the child's home country and brings the child to the United States. The second approach is for the adoptive parents to work directly with a foreign, child-placing entity, and either have the child brought to the United States for adoption, after all foreign and domestic requirements are fulfilled, or to journey to the child's country of origin and carry out the adoption there.

Just let me note here, Mr. Speaker, that every child desperately needs a home.

Every child needs the stability and guidance of loving parents.

Every child needs the sense of genuinely belonging, of being cared for, of being wanted.

National Adoption Week enables us all to applaud the generosity of adoptive parents, to commend assisting organizations such as the Adoptive Parents Committee, and to continue focusing on reforming the law to ensure that our adoption policies are the best we can craft.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 306

Whereas the week of November 23 has been commemorated as "National Adoption Week" for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heigthen community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 23 through November 29, 1986, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOME CARE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 339) to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 339

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care, (including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, health counseling and education, and homemaker-home health aide services), is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled at home emphasizes the dignity and independence of the individual;

Whereas the Federal Government has supported home health services since the enactment of the medicare program, with the number of home health agencies providing services increasing from less than five hundred to more than five thousand; and

Whereas many private, public, and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization and enabling such patients to remain independent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 30, 1986, through December 6, 1986, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MADE IN AMERICA MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 392) to designate the month of December 1986 as "Made in America

Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. CONTE. Mr. Speaker, as a sponsor of House Joint Resolution 688, along with my good friend from North Carolina [Mr. HEFNER], I rise in strong support of its passage.

This resolution would heighten public awareness on the importance of buying American by designating December as "Made in America" month.

Over the years, "Made in America" has been synonomous with quality because of the pride, skill, and craftsmanship of the American worker.

The American consumer, aware of that proud tradition, has consistently indicated that he or she would prefer to "buy American" if given a choice.

This resolution, by paying tribute to that history of dedication and commitment that makes American products unique, carries an important message.

And with record trade deficits each of the last 3 years, it is particularly timely.

Mr. Speaker, I am proud to join with the gentleman from North Carolina, and with the American manufacturer and worker, in marking December as "Made in America" month.

As we turn into 1987, let this resolution send forth the message that "Made in America" still stands for pride and quality, and that it remains the smart buy to "buy American."

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution.

S.J. RES. 392

Whereas the trade deficit in our country in 1985 reached a record level of $418,500,000,000;

Whereas the 1986 trade deficit is predicted to increase still further;

Whereas over 1,661,000 jobs have been lost in the manufacturing sector since 1972 as a direct result of imports;

Whereas imports now account for more than 20 per centum of all manufactured products sold in the United States;

Whereas imports continue to grow at an increasing rate and constitute a larger and larger percentage of all manufactured goods sold in this Nation;

Whereas the manufacturing sector of the United States economy is shrinking dramatically as a result of imports;

Whereas a continuing flood of imports of manufactured goods could permanently reduce the manufacturing capacity of our Nation and, as a direct result, threaten our ability to respond to a national emergency and make the United States highly vulnerable to embargoes of a wide range of products necessary for the national defense and the smooth functioning of the national economy;

Whereas there is little awareness of the country of origin of most products sold in the United States; and

Whereas United States consumers should be aware of the impact that their purchase decisions could have on their own jobs and the economy as a whole: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of December 1968, "Made in America Month" and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FREEDOM OF INFORMATION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 414) to designate March 16, 1987, as "Freedom of Information Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 414

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1987, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMEMORATING 100TH ANNIVERSARY OF BIRTH OF FIRST PRIME MINISTER OF STATE OF ISRAEL, DAVID BEN-GURION

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 422) commemorating the 100th anniversary of the birth of the first Prime Minister of the State of Israel, David Ben-Gurion, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 422

Whereas David Ben-Gurion is a man of great historical importance, not only to the Jewish people but also to all people striving for freedom;

Whereas his leadership made realizable in-gathering of the exiles that brought millions of homeless Jews scattered throughout the world to Israel where they were united both with each other and with their ancient homeland;

Whereas the Declaration of Independence of the State of Israel, a milestone in the life of David Ben-Gurion, echoes the American Declaration of Independence in its recognition of the universal equality of man;

Whereas as Israel's first Prime Minister and Minister of Defense, Ben-Gurion led the newly formed state through its most difficult period, directing the desperate efforts to secure Israel's survival and independence;

Whereas his pragmatic solutions to Israel's overwhelming problems, paralleled with his desire to create a society based on justice and peace, guided the fledging state and formed the values on which Israel rests

today and the basis for what Israel strives for in the future;

Whereas Ben-Gurion's vision of the Greening of the Desert through the application of science and technology continues to be an important aspect of Israel, as well as a factor that can help solve food production problems in arid regions all over the world;

Whereas 1986 marks the hundredth anniversary of the birth of David Ben-Gurion, leader of his people for two generations; and

Whereas the United States and Israel share many of the same fundamental values of democracy and freedom, and a common history of accepting immigrants from all over the globe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress, in this the centennial of David Ben-Gurion's birth joins in the celebration of this great statesman, urges all Americans to take note of this commemoration, and applauds the David Ben-Gurion Centennial Committee of the United States of America in its work promoting the yearlong national celebration of David Ben-Gurion and his achievements.

(b) The President is authorized and requested to issue a proclamation in honor of this celebration.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1345

NATIONAL ARTS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 304) to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. GREEN. Mr. Speaker, I would like to invite my colleagues to join with me in commemorating National Arts Week from November 16 through November 23, 1986. During this week, many special events and performances will be held to celebrate America's rich and diverse artistic heritage, to focus attention on the importance of the arts to our way of life, and to encourage corporate and individual investment in artistic activities.

The arts in America give expression to our national identity and contribute to our national mental health. They let us stand apart from the sometimes grim realities of life, to escape and to refresh our spirit. Paradoxically, the arts also allow us an increased understanding of the human condition.

In its first year, National Arts Week 1985 was very successful; more than 800 public arts events took place in each of the 50 States, with 100 proclamations from Governors and mayors across the country. This year, we hope for even greater support, and plan to focus particular attention on arts at the local level. By doing so, we can help create a permanent base of community support for the arts which can sustain them in this era of constraints on Federal funding.

The entire U.S. arts community has joined to support National Arts Week in a public/private partnership that encompasses Federal and State arts agencies, a special corporate committee, national arts groups, arts services organizations, and, particularly, local arts groups.

I should like to thank my colleagues who have cosponsored this important legislation and to express my special thanks to my distinguished colleague, the gentleman from California, Mr. COELHO, who has been of so much assistance in bringing the bill to fruition. I am also very grateful to my colleague from New York, Mr. GARCIA, for bringing House Joint Resolution 693 to the floor with such dispatch. It is my pleasure to sponsor this legislation and to commemorate the role of the arts in America.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 304

Whereas the performing arts, the visual arts, and literature are central to human expression;

Whereas our identity as a people and as a Nation is expressed through the arts;

Whereas support of the arts has been a partnership of Federal, State, and local government entities, business, and individuals;

Whereas a congressionally declared National Arts Week provides a focal point to celebrate the diverse cultural heritage of the United States and the vitality of contemporary writers, artists, and performers; and

Whereas a congressionally proclaimed National Arts Week brings together the public and private sectors to restate support of the arts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 16, 1986, through November 22, 1986, is designated as "National Arts Week" and the President is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe such week with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN IN SPORTS DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 418) to designate February 4, 1987, as "National Women in Sports Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 418

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 4, 1987, is hereby designated as "National Women in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the

day with appropriate ceremonies and activities.

Ms. SNOWE. Mr. Speaker, as the sponsor of House Resoluton 740, I rise in support of Senate Joint Resolution 418, which would designate February 4, 1987 as "National Women in Sports Day."

It is time to nationally recognize the significance of women's athletic achievements. By drawing attention to women in sports, we recognize the importance not only of our nationally known women athletes, but all women who participate in sports and physical conditioning programs. These athletic activities promote women's emotional and physical well-being, and build bonds between women that help to break down the social barriers of racism and prejudice.

National Women In Sports Day, while recognizing the outstanding accomplishments of women in sports, will also point to the fact that women students still have far fewer opportunities for atheletic achievements than men at the same institutions. Colleges now spend more than 16 percent of their athletic budgets on women—up from 2 percent in 1972; the number of women in intercollegiate sports has grown from 16,000 in 1972 to more than 150,000 today. While I applaud the progress that has been made over the last 15 years, I believe we must also acknowledge the large inequities that still exist for women in the area of sports.

National Women in Sports Day will be a step toward giving women in sports the recognition and attention they deserve. Hopefully, this day will encourage more women to experience the pleasure of sports activity that develops life-long habits of physical fitness.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMEMORATING THE BICENTENNIAL ANNIVERSARY OF THE FIRST PATENT AND FIRST COPYRIGHT LAWS

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 169) to commemorate the bicentennial anniversary of the first patent and the first copyright laws, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 169

Whereas the Constitution empowers Congress "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries";

Whereas the enforcement of this constitutional principle through specific patent and copyright laws merits special recognition;

Whereas the first patent bill signed into law on April 10, 1790, and the first copyright bill was signed into law on May 31, 1790, and we will recognize the bicentennial anniversary of these laws in 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That special recognition be given during 1990, the bicentennial year of the first patent and the first copyright laws, and the President is authorized and requested to issue a proclamation upon the enactment of this joint resolution calling upon the people of the United States to foster such recognition through appropriate educational and cultural programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SALUTE TO SCHOOL VOLUNTEERS DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 407) designating November 12, 1986, as "Salute to School Volunteers Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I rise in support of Senate Joint Resolution 407 which designates November 12, 1986, as "Salute to School Volunteers Day."

Mr. Speaker, over 4 million unpaid citizen volunteers in thousands of our classrooms coast to coast enhance the quality of education of our instructional staff. This resolution recognizes and honors "the magnitude of quality and selflessness" of those who, in a long and honorable American tradition volunteer to help others.

These volunteers are a vital component in our education system today. They assist the professional educators in providing an effective educational experience as well as quality instruction.

Communities all across this country encourage business, civic groups, and local organizations to create a partnership with their schools.

Thousands of State and community volunteers have enriched student learning through their hard work and dedication while assisting our professional educators.

Senate Joint Resolution 407 provides national recognition of and support for this school volunteers movement which is now sweeping our country. They are helping our dedicated professional educators to reach and teach our children and young people who will determine the quality of America's future.

Mr. Speaker, I ask my colleagues to join me in supporting this resolution which salutes our school volunteers.

Mr. FORD of Michigan. Mr. Speaker, I am pleased to rise in support of the joint resolution designating November 12, 1986 as "Salute to School Volunteers Day."

The resolution provides national recognition of and support for one of the truly remarkable features of the school reform movement which is now sweeping the country, namely, an explosion of citizen volunteerism on behalf of better schools for our children.

Sparked by the National School Volunteer Program, spontaneous local school-sponsored efforts, and a host of school-business partnerships and adopt-a-school programs in hundreds of communities, volunteers—over 4 million of them—are helping our dedicated professional staffs to reach and teach the children and youth who will determine the quality of America's future.

The resolution recognizes and honors "the magnitude, quality and selflessness" of those who, in a long and honorable American tradition, volunteer to help others. I believe that it will encourage more school districts and States to setup volunteer efforts and, in that way, tap the wisdom and skills of millions of Americans who care about our schools.

I urge my colleagues to adopt this joint resolution providing that November 12, 1986 be observed throughout the Nation as "Salute to School Volunteers Day."

I am particularly pleased that the resolution under consideration is identical to House Joint Resolution 706 which I introduced on August 12, 1986.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 407

Whereas the success of America's schools stems from the competence and dedication of their instructional staffs, combined with the commitment of students, parents, and other community members;

Whereas citizen volunteers are a vital component of an effective educational experience, assisting professional educators to deliver quality instructional services;

Whereas many States and communities have demonstrated that citizen volunteers in the classroom enhance, extend, and enrich student learning as they contribute to the work of dedicated professional educators;

Whereas numerous communities encourage groups, such as business and civic groups, to create mutually beneficial working partnerships with their schools, thus offering positive support from the community which, in turn, both encourages staff and benefits the students;

Whereas the Congress recognizes that four million unpaid citizen volunteers in thousands of classrooms coast to coast contribute daily to the enhancement of the quality of instruction in our schools and thus, to the development of an educated citizenry; and

Whereas the magnitude, quality, and selflessness of these contributions of America's citizen school volunteers merit the highest appreciation and gratitude: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12, 1986, is designated as Salute to School Volunteers Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read the third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ELIMINATING REQUIREMENT RELATING TO DECENNIAL CENSUSES OF DRAINAGE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2722) to amend title 13, United States Code, to eliminate the requirement relating to decennial censuses of drainage, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, lines 5 and 6, strike out "drainage." and inserting in lieu thereof a period" and insert "drainage" ".

Page 1, after line 9, insert: (b) The heading of subchapter II of chapter 5 of title 13, United States Code, is amended by striking out "DRAINAGE".

Page 1, line 10, strike out "(b)" and insert "(c)".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I shall not object, but rise in support of H.R. 2722, to amend title 13, United States Code, to eliminate the requirement relating to decennial censuses of drainage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

ESTABLISHING COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3559) to amend the Act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, line 15, after "logo", insert:

Such rules and regulations shall provide, among other things, that all projects, goods, and services as to which use of the logo is authorized shall be educational or commemorative, and shall relate to the bicentennial of the United States Constitution, the establishment of the Federal Government, or the Bill of Rights, and none of such projects, goods or services shall exploit the United States Constitution or the Bill of Rights. The purpose of the Commission in authorizing use of the logo shall not be primarily or exclusively to raise funds.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker; however I shall not object, but rise in support of H.R. 3559, to amend the act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes.

Mr. Speaker, under my reservation, I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I rise to compliment the majority side and the minority side, not only the members of the committee, but the members of their excellent staffs for bringing to a happy conclusion the legislation that makes it possible for the U.S. Commission on the Bicentennial celebration of the Constitution to go forward in an orderly manner so that next year in 1987 we will be able to celebrate the signing of the Constitution, and in 1988 the ratification of the Constitution, and in 1989, of course, the establishment of the Government, including this branch of Government.

Mr. Speaker, I extend my congratulations and my gratitude to each of you and to all of you and I am very pleased to have had this opportunity to say so.

Mr. HANSEN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I thank my colleague, the gentleman from Utah, for yielding.

I would just like to say that I think the best thing that the Bicentennial Commission on the Constitution has ever done is appoint our colleague from this Chamber, the gentlewoman from Louisiana, because she has done more for that Bicentennial Commission than any other person in this Congress. I think it is a tribute to her and her hard work.

Mr. HANSEN. Mr. Speaker, further reserving the right to object, I concur in the remarks of the gentleman from New York.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various pieces of commemorative legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE SCHEDULE

(Without objection, Mr. WALKER was allowed to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have asked for this time for the purpose of ascertaining the schedule from the majority leader, and I am very glad to yield to the distinguished majority leader to indicate to the House what the schedule for the upcoming week may be.

Mr. WRIGHT. Mr. Speaker, the schedule is that upon completion of today's session, we will be adjourned until noon on Tuesday next. Monday is Columbus Day and Yom Kippur, so we will adjourn upon conclusion of our business today until Tuesday noon.

There are 10 bills that are listed on the Suspension Calendar, as follows:

S. 740, Emergency Wetlands Act;

S. 1352, Sikes Act reauthorization;

H.R. 4531, Wetlands Loan Act;

H.R. 4175, maritime authorizations;

H.R. 2205, Korean War Memorial bill;

H.R. , Small Business Administration Pilot Program extension;

S. 2245, Export Administration authorization;

H.R. 3113, conference report on Coordinated Operations Agreement, Suisun Marsh Preservation Agreement and Small Reclamation Projects Act;

H.R. 1390, El Portal Leases, California; and

S. 2216, designate September 17 as Constitution Day.

There may be others. We will debate those bills, and postpone any votes until the conclusion of the debates.

Members should be advised that there will be three conference committee reports to be considered, one on the water resources bill, one on surface transportation, and one on the clean water amendments. Those are three significant pieces of legislation. Taken in tandem with the bill passed this week by the House on the cleanup of spills, they amount to significant environmental programming.

Members must expect that there will have to be action on the debt limit extension, on the budget reconciliation bill, and on the continuing appropriations. Once those are concluded, we would expect to adjourn sine die. We hope that might occur by midweek.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Just a couple questions, with regard to additional bills that might be put on the Suspension Calendar, can the gentleman give us some idea as to what kind of notice we might get about additional bills, since most of the Members will not come back to town until Tuesday morning?

Mr. WRIGHT. Well, at this point it is a little difficult to say. I do not know of any other bills, to tell the gentleman the truth. There may be some, however, because always at this point in the session the leadership discovers bills lying around ready for action that it had not anticipated, so I do not have any way of knowing.

Mr. WALKER. I would assume that would be brought, though, onto the calendar in accordance with the regular procedure of working with the minority leader for adequate notice.

Mr. WRIGHT. Yes. We will do our very best not to spring any surprises; but the majority leader is likely to be surprised himself when he discovers what is on the calendar.

Mr. WALKER. Well, I thank the gentleman.

The conference reports listed, are they likely to come up on Tuesday?

Mr. WRIGHT. We hope they can. We think they have either been completed or are at a stage where completion is clearly anticipated by the end of the day.

It is my understanding that the Rules Committee is in the process of drafting rules for all three and that those rules anticipate the presentation of the conference reports on Tuesday.

Mr. WALKER. So we would certainly get the rule on the conference reports on Tuesday and perhaps the conference reports themselves.

With regard to the budget reconciliation bill, it is my understanding that will have to be voted on in the Senate before we would get it, which means that it will be likely that we would not get the budget reconciliation bill until Wednesday, is that the likelihood.

Mr. WRIGHT. Well, it is altogether possible that it may be Wednesday. It is conceivable that it may be Tuesday.

It is my understanding that there is some movement in the direction of an agreement, but I am not at liberty to promise.

Mr. WALKER. But we are correct that the Senate would have to act first, the other body would have to act first on that legislation?

Mr. WRIGHT. Well, the gentleman may be absolutely correct.

Mr. WALKER. With regard to the debt limit extension, that will have to follow the budget reconciliation bill, so that could possibly come as late as Thursday?

Mr. WRIGHT. I think the debt limit extension might come earlier than that. The Rules Committee has a rule prepared to present on the debt limit extension.

I think I may have misled the gentleman in my reference to three bills on which rules already have been prepared by the Rules Committee. The third one to which I had reference was not the surface transportation bill, but rather the debt limit extension instead.

So far as I know, there is no rule yet on the surface transportation bill.

Mr. WALKER. So the gentleman would anticipate the debt limit extention perhaps as early as Tuesday or Wednesday?

Mr. WRIGHT. Yes, indeed.

Mr. WALKER. And the continuing appropriations resolution, is it my understanding that because of potential scope problems that we would probably have to have a rule for it before it could come to the floor?

Mr. WRIGHT. I imagine that a rule would be necesary for the continuing resolution.

Mr. WALKER. And the one item that I noticed was not on the gentleman's list of potential conference reports is the drug bill. Does the gentleman have any information about what the House might expect in terms of having a drug conference report before us next week?

Mr. WRIGHT. Well, I do not have any information that is not available to other Members.

I think we have two clear possibilities, either that the other body would accept our bill as we passed it, a matter that most Members of the House would prefer, no doubt, or that they might change or remove one or more portions of it and return it with those changes. I do not know which to anticipate.

I have talked with the majority leader and the minority leader of the other body and I have no clear signal as to what to expect.

Mr. WALKER. So what we might really expect is further action on Senate amendments, is that more likely?

Mr. WRIGHT. That is possible.

Mr. WALKER. One other question that occurs to this gentleman as I look at the list, are we anticipating that we will finish next week and that Congress can adjourn sine die by the end of the week, whatever that end of the week might be?

Mr. WRIGHT. I should be very disappointed if we are not able to do that. I know all Members desire to do that. I believe I see light at the end of the tunnel. I think we ought to anticipate being able to finish by Wednesday, or if not, then by Thursday.

□ 1400

I cannot make that ironclad promise, of course, because to do so would be to speak for a lot of other Members, but I think that any reasonable expectation would look toward our being able to adjourn sine die next week.

Mr. WALKER. Members should keep their schedules in the district flexible at least through Thursday?

Mr. WRIGHT. That would be my advice.

Mr. WALKER. I thank the gentleman for the schedule.

ADJOURNMENT TO TUESDAY, OCTOBER 14, 1986

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday next.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR DISAGREEING TO THE SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 668, PUBLIC DEBT INCREASE

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-988) on the resolution (H. Res. 586) providing for taking the joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt with the Senate amendment from the Speaker's table and disagreeing to the Senate amendment, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 6, WATER RESOURCES CONSERVATION, DEVELOPMENT, AND INFRASTRUCTURE IMPROVEMENT AND REHABILITATION ACT OF 1985, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-989) on the resolution (H. Res. 587) waiving certain points of order against the conference report on the bill (H.R. 6) to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1128, CLEAN WATER ACT AMENDMENTS OF 1985, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-990) on the resolution (H. Res. 588) waiving certain points of order against the conference report on the bill (S. 1128) to amend the Clean Water Act, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

DESIGNATION OF HON. THOMAS S. FOLEY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL NOON, TUESDAY, OCTOBER 14, 1986

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 10, 1986.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore to sign enrolled bills and joint resolutions until noon on Tuesday, October 14, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

Without objection, the designation is agreed to.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2638, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1987

Mr. RAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, S. 2638, the National Defense Authorization Act for fiscal year 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. RAY. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the bill, H.R. 4354, which passed the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DEDICATION OF THE JOHN F. KENNEDY MEDICAL CENTER IN CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues in the House of Representatives the dedication on October 23, 1986, of the John F. Kennedy Medical Center, located in the 11th Congressional District of Illinois which I am honored to represent.

Formerly known as the Northwest Hospital, this medical institution has provided outstanding quality health care for more than three decades for the people of the city of Chicago, and its renaming has been inspired by the numerous improvements in services and many accomplishments of the hospital during the last few years. Exemplifying the spirit of our late President, John F. Kennedy, the executive director of the hospital, Peter Rusin, obtained the endorsement of the Kennedy family in renaming the hospital in honor of President Kennedy.

A copy of the board of trustees resolution renaming the hospital follows:

RESOLUTION OF THE BOARD OF TRUSTEES OF NORTHWEST HOSPITAL

Whereas, for the past several years, Northwest Hospital has undergone structural and personnel changes, including but not limited to the reorganization of the Laboratory, X-Ray, Anesthesia, Emergency Room and Physical Therapy Departments; and

Whereas, the medical staff has been restructured and now has a youthful, energetic image reflecting the religious, ethnic and democratic characteristics of the neighborhood; and

Whereas, former President of the United States, John F. Kennedy, symbolized the characteristics of youth, energy, progress and integrity, and further, because of his support and concern for the health and welfare of the American public, he utilized his influence for the promotion of programs for the benefit of increased and improved health care for all people; and

Whereas, the hospital serves persons of all ages, ethnic and religious beliefs, regardless of race, color or creed; and

Whereas, the hospital is vitally concerned with furnishing the best possible medical and hospital care for those patients; and

Whereas, the officers and trustees of the hospital have voiced their admiration for the late John F. Kennedy and for his ideals and concern for those citizens in need of medical attention; and

Whereas, the trustees of the hospital deem it appropriate and fitting that the name of the hospital be changed to reflect their admiration and appreciation for the efforts made by John F. Kennedy on behalf of quality health care; and

Whereas, it is appropriate and fitting that this name reflects the new beginning of this hospital which has risen from the changes mentioned above; and

Whereas, the name John F. Kennedy symbolizes our mission of providing a high quality, cost effective continuum of health care services, which is accessible to all, and which meets the needs of our community: Now therefore, be it

Resolved by the Trustees of the hospital that the name of Northwest Hospital be changed to John F. Kennedy Medical Center, and that all legal steps statutorily required be taken to effectuate such change in the spirit of the recitals of the preambles forming part of this Resolution.

During the last 6 years, Northwest Hospital has restructured and improved several of its medical departments, and has engaged in an ambitious plan to develop new programs and acquire the latest medical technology, which will enable the John F. Kennedy Medical Center to provide our community with the most advanced medical services available. A summary of the major improvements and accomplishments of the Northwest Hospital since 1980 follows:

MAJOR ACCOMPLISHMENTS AT NORTHWEST HOSPITAL SINCE 1980

ORGANIZATION/ADMINISTRATION

Completed reorganization of the Board of Trustees.

Appointed Mrs. Lucy Wolski as assistant administrator.

Completed extensive management reorganization which included the appointments of six vice presidents.

Engaged the services of Kevin B. Tynan and Associates, marketing firm, to reassess and develop marketing strategy.

Engaged the services of Coopers and Lybrand, management consulting firm, to assist in long-range strategic planning.

MEDICAL DEPARTMENT CHANGES

Re-organized Anesthesia Department. Dr. Anastacio Saavedra, formerly of the University of Illinois, appointed director of anesthesia.

Restructured Radiology Department. Dr. Perry Rudich, formerly of Michael Reese Hospital, appointed director of radiology.

Appointed Dr. Ebrahim Amir-Mokri as director of surgical and clinical pathology.

Appointed Dr. Michael Rosenberg as director of emergency room services.

Dedicated Endoscopy Lab in the name of the late Dr. Eli Samet.

Completed development of strong quality assurance and physician peer review process.

NEW DEPARTMENTS

Extended Care Unit, Family MedCenter, Free-to-Be Child Care Center, Gift Gallery, Medical Library, Same-Day Surgery Department, and 24-hour Surveillance Unit.

DEPARTMENTS RESTRUCTURED AND OR WITH NEW DEPARTMENT HEADS

Accounting, Dietary, Marketing, Medical Records, Microbiology, Pharmacy, Physical Therapy, Quality Assurance, Respiratory Therapy, Social Service, and Training and Education.

MAJOR EQUIPMENT ACQUISITIONS

Northwest Hospital was first hospital in Chicago to implement computerized cardiac monitoring system (CAMS).

Cardiac Resuscitator put into use.

PHYSICAL PLANT CHANGES

Emergency Room moved to a new location with 15 patient stations, 2 fully equipped trauma rooms, and ENT (ear, nose and throat) area.

Seven story pavilion completed with 16 surgical suites, 170 patient beds, 12 surgical intensive care beds, 16 recovery beds, 20-bed surgical surveillance area, and offices, classrooms, auditorium.

Major Avenue annex opened to house business functions.

Remodelled employee and guest dining room, lobby and patient lounges.

Built an eight-level garage providing free parking for outpatients, visitors and employees.

Remodelled Physical Therapy, Obstetrics and Pediatrics departments.

Dedicated new chapel to Lillian and A. L. Salzman.

OTHER DEPARTMENTAL CHANGES

Computerized Medical Laboratory.

Expanded Physical Therapy department.

Implemented triage system of patient care to expedite emergency services.

Computerized patient admitting system.

COMMUNITY HEALTH PROGRAMS

First Children's and Adult Health Fairs.

Launched series of extensive community health events.

Screenings, cataract and glaucoma, hearing, diabetes, blood pressure, prostate cancer, skin cancer, colo-rectal cancer, testicular cancer, lectures, eye health, arthritis, medication, Medicare, sexuality, and other topics.

Mr. Speaker, on the occasion of the dedication later this month of the John F. Kennedy Medical Center in Chicago, I congratulate executive director Peter Rusin, the members of the board of trustees, and all of the members of the staff at the hospital, as well as the dedicated volunteers, for their exemplary efforts in providing our community with the very best in health care, and I extend to them my best wishes for future success as they continue to serve our community and the city of Chicago by providing in the future, as they have in the past, the finest and most up-to-date hospital and medical services.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas [Mr. LELAND] is recognized for 5 minutes.

Mr. LELAND. Mr. Speaker, I was unavoidably detained off the Hill on official business during rollcall votes 458 and 459. Had I been present I would have voted yea on rollcall 458 and nay on rollcall 459.

ARKANSAS SHOWING THE WAY TO AFFORDABLE HOUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, this week the affordable housing work of two groups of West Memphis and Crittenden County Arkansans earned national recognition. I bring this to the attention of the House because I believe my colleagues will be interested in their accomplishments.

On Monday Samuel R. Pierce, Jr., U.S. Secretary of Housing and Urban Development, as a part of the observation of the International Year of Shelter for the Homeless, announced awards to 150 local projects, spotlighting their efforts to improve shelter and services for low-income people. Two of these awards went to projects based in West Memphis. Both involve not only West Memphians, but people from other parts of Crittenden County.

The oldest of the efforts has generated affordable housing in a Neighborhood Development Area of southeastern West Memphis. The second project is West Memphis Private/Public Sector Home Imnprovement Program which aids low-income homeowners to obtain affordable home improvements.

The oldest of the projects, Affordable Housing—the Crittenden County Experience, took root in 1982 nutured by lessons learned through a U.S. Department of Housing and Urban Development sponsored demonstration at Harvard Yard in Crittenden County.

West Memphis homebuilders and industry leaders Don Butler and Jack Avery recognized the desperate need for affordable housing for potential low-income home buyers. They were convinced that members of the Crittenden County Home Builders Association could successfully transfer the experience of Harvard Yard to nearby West Memphis if State and local regulations could be improved to allow new construction on smaller-sized residential lots.

Under the leadership of Don, who is now president of the Arkansas Home Builders Association, and Jack, who is president of the Crittenden County Home Builders Association, the CCHBA convinced West Memphis officials to give it a try. Thus far, about 40 low-income home-buyer affordable houses have been built in the southeastern section of West Memphis. And, similar homes are going up elsewhere in the city and Crittenden County.

The attractive homes range in price from $22,900 for a two-bedroom house to $38,800 for a three-bedroom, two-bath house.

So successful has been the Crittenden County experience with construction of affordable housing, local builders are regularly requested to provide briefings and technical assistance to their colleagues and to local government leaders in Arkansas and many places across the Nation.

In 1985, the National Association of Home Builders awarded the Crittenden County Home Builders Association first place in its small associations in the builder category for working with the U.S. Department of Housing and Urban Development and local and State government officials to eliminate unnecessary construction regulations in connection with accomplishing the affordable housing program.

That same year, NAHB gave its "Building Better Communities" Grand Award, in the nonbuilders category, to John Suskie manager of the Little Rock office of HUD. He was recognized for promoting use throughout Arkansas of innovative methods and solutions employed in the Harvard Yard demonstration.

The West Memphis Private/Public Sector Home Improvement Program is a private and public sector cooperative program sponsored by the Community Housing Resources Board of West Memphis, Inc. This program won 1 of 16 Special Merit Awards presented by Secretary Pierce.

In January 1985, the West Memphis Community Development Agency proposed the program which brings together low-income homeowners, lending institutions, and home improvement contractors.

In addition to officers and executive board members of the Community Housing Resources Board, primary participants in the affordable home improvements project include low-income homeowners, representatives of private sector lenders, five small construction firms and the West Memphis city government.

During the first 18 months of the program, more than 70 homeowners, most of whom live in predominantly black, lower income neighborhoods were enabled to improve their homes. The project hopes to increase this number to 90 by the end of this year.

The partnership works with program applicants to pull together a combination of grant and loan funds and contributions by the homeowners. Thirty-eight of the first group of families participating obtained private sector loans, 28 families were able to make cash contributions to the cost of their home improvement repairs, and 7 received a basic emergency grant of $1,500 each.

West Memphis' Community Development Agency uses Federal community development block grant funds to make home improvement grants, to assist with loan financing and to pay a portion of unforseen job costs arising from problems identified after the private sector loan closing.

The average cost of the home improvement jobs has been $5,150. The range of monthly loan repayments has been $30 to $100, with

the average being $57 per month. Other statistics of interest in connection with this program include:

Forty percent of the households involved had incomes below the poverty level;

Ninety percent of the households have had incomes below the HUD very-low-income-limits;

Ninety percent of the households have been headed by minorities;

Eighty percent of the households have been headed by women; and,

Seventy percent of the households have been headed by persons who are 60 years old or older.

All such programs have their share of statistics, but the bottom line of this program is people. Comments from two participating homeowners show the kind of impact it is making on the lives of the participating families. "Before, the children would hide from school friends passing by," one homeowner said in talking about the improvements to the family's home. "Now, they hurry home from school and sit proudly on the front steps."

Another homeowner participating had the following to say: "It would rain in the house, and I'd jump out of bed to put down all my pots and pans to catch the leaks. I was so used to doing this that I still wake up at night before remembering that it's not going to rain in my house any more. I praise the Lord!"

In addition to aiding low-income homeowners to afford home repair improvements, the program is designed to provide employment and training for minority contractors and the workers.

The workers use low-cost materials and traditional construction techniques and skills to demonstrate methods of accomplishing affordable home improvements.

This week's awards to the two West Memphis programs have demonstrated that sheer hard work, determination, innovation and cooperation between the private and public sectors can provide affordable home buying and home repair improvement opportunities for low-income Arkansans and Americans.

At this time, I would like to make a part of the RECORD the summaries on these two programs which were published by HUD in connection with the awards made by Secretary Pierce.

AFFORDABLE HOUSING—THE CRITTENDEN COUNTY EXPERIENCE

Local builders Don Butler and Jack Avery, recognizing the desperate need for decent housing in the southeastern section of West Memphis and demonstrating the marketability of the affordable housing concept, obtained permission from West Memphis officials to build such housing on available lots in this Neighborhood Development Program area. The affordable housing concept, a scaled-down version of the "typical" American home, is designed to provide decent shelter with sufficient amenities and visual appeal to be marketable but at a price affordable to lower income people. When constructed in existing lower income neighborhoods as in-fill, it is an extremely practical means of improving the neighborhood and increasing the housing supply for lower income people. Since 1984 almost 40 homes have been built in the area. The lowest price for a two-bedroom home was $22,900; the highest price for a three-bedroom, two-bath home was $38,800.

In many cases, dilapidated and condemned housing was torn down to provide buildable lots for these new units, and in a few instances individuals who owned the lots used their value as down payment and closing costs for the new home. Families who do not have enough cash for the down payment and closing costs may provide some or all of it through a "sweat equity" program, which allows them to do a part of the work, such as interior painting or landscaping, and receive credit for the value of their work toward the cash necessary for the required investment. Over 90 percent of the purchasers are first-time home buyers. Some were previously living with parents; several are single-parent households. Without the availability of these units, home ownership would have been an impossibility for most.

The project significantly increases the availability of decent housing for lower income people in West Memphis and is an ongoing process that will continue to provide new housing. Funding for the project is through various FHA subsidies and Community Development Block Grants. The housing in this project is made affordable primarily through design considerations for eliminating waste and the relatively small size of the units. Also, constructing the homes in a developed area with existing infrastructure and on small lots helps to hold down cost. Since this housing project involves new housing construction, it has a substantial impact in the community through the construction jobs that it generates.

WEST MEMPHIS PRIVATE/PUBLIC SECTOR HOME IMPROVEMENT PROGRAM

The Community Housing Resources Board of West Memphis, Inc., demonstrates the feasibility of a private/public sector home improvement program. In January 1985, the Community Development Agency (CDA) of West Memphis began to outline a new program that would make it easier for low-income homeowners to obtain home improvement loans from private lending institutions. Following 3 months of planning, the first private sector home improvement loan was made. Since then, 71 households have been able to improve their homes because of this partnership of low-income families, two local lending institutions, five small construction firms, and the CDA. Improvements in the predominantly black lower income neighborhoods of West Memphis are evident. By January 1987, the West Memphis private/public home improvement program will have helped approximately 90 low-income homeowners repair their houses.

The partnership also provides employment and training for minority contractors and their work forces. Traditional construction techniques, methods, and skills applied by local workers using low-cost materials serve to demonstrate and extend affordable construction practices. Private lenders and low-income homeowners gain first time experience in dealing with one another. In addition to learning to manage their loans, the owners are instructed in the maintenance of their homes. In its totality, including the use of construction standards appropriate to affordable housing repair, the West Memphis private/public partnership constitutes a new local policy for the encouragement of affordable improvements to existing housing.

NEW IDEAS VERSUS NEW TAXES: THE CHOICE FOR 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I do not intend to take all of the time, but I appreciate your recognizing me.

Mr. Speaker, this special order is entitled "New Ideas Versus New Taxes: The Choice for 1986."

The key choice for America in 1986 is whether to move forward to new ideas and an opportunity society, or back to the liberal welfare state government of the 1970's, and pay for it through new taxes. The real choice is the future versus the past.

The 99th Congress might be called "the inconclusive Congress." It has been inconclusive because power in America is trapped between the will of the people and the will of the liberal welfare state government and interest groups.

In 1984, the American people voted, 49 States to 1, for new ideas in an opportunity society at the Presidential level. In 1984, the opportunity society candidate, Ronald Reagan, received 59 percent of the popular vote. He received an overwhelming majority in every region: 54 percent in the East, 60 percent in the Midwest, 63 percent in the West, and 62 percent in the South.

Reagan's popular victory was the fourth victory won against the liberal welfare state in the last five Presidential elections.

Analysts forget that Lyndon Johnson's 1964 landslide was the last mandate for a liberal welfare state in American elections. In 1968, the two antiliberal welfare state candidates, Nixon and Wallace, received 57 percent of the vote, while Humphrey, the liberal welfare state candidate, only received 43 percent of the vote. While the Nixon-Humphrey race was close, it has been clear in consequent elections that Wallace's 14 percent was an antiliberal welfare state vote, because they have all gone against the liberal Democrats in every Presidential election since.

In 1972, the liberal welfare state candidate, George McGovern, only received 38 percent of the vote.

In 1976, the choice was confused by the fact that Jimmy Carter had campaigned as a populist, commonsense, Southern Democrat, who won the nomination by opposing liberal candidates. In the fall election, many conservative Democrats found Carter acceptable, and he received 50 percent of the national vote, to Ford's 48 percent. However, note that even with a Southern semiconservative candidate, the Democrats could only receive 50 percent of the vote, and that is the high-water mark for the Democratic Party in five elections for President.

By 1980, the liberal welfare state was collapsing, with 13-percent inflation, 22-percent interest rates, rising unemployment, American helicopters burning in the Iranian desert, a Soviet Army in Afghanistan, and a Communist government taking over Nicaragua.

The American people in 1980 rejected the liberal welfare state and the Democrats. The Democratic nominee received only 41 percent of the vote in 1980.

In 1984, the liberal Democrats promised to raise taxes and to return to weakness in foreign policy, and the American people repudiated them. Walter Mondale received only 39 percent of the popular vote.

Thus, in the five Presidential elections since 1968, the Democrats have averaged only 42 percent of the vote. Fifty-eight percent of the American people have rejected the liberal welfare state Democratic Party on the average for five Presidential elections. That is a 20-year pattern of almost three out of every five Americans rejecting the liberal welfare state and its primary advocate, the liberal Democrats at the Presidential level.

If for 20 years the American people have been voting against the liberal welfare state, how has it survived? Even more incredibly, how has the liberal welfare state managed to grow and have taxes raised on the American people to finance it?

Consider how remarkable an achievement the liberal welfare state survival is. For 20 years the American people have voted against the past and for the future. For 20 years, the American people have voted to protect their family budgets against tax increases.

□ 1410

For 20 years, the American people have voted to shrink the Federal budget rather than the family budget. For 20 years, the American people have voted to shift from welfare to work fare.

Despite the clear 58-percent vote for change, the liberal welfare state has survived and flourished. Indeed, the liberal welfare state has grown and taxes have gone up.

Today, the Federal Government takes up a greater share of our incomes than ever before in peacetime.

How has the liberal welfare state avoided the popular will and how is it that the American people have voted for 20 years by 58-percent margins to go in one direction while their Government has gone in a different direction? The answer is to be found in the reality of incumbent advantage.

As David Broder wrote last spring, it is clear that incumbent advantage has slowed down the rate of political realignment. The Presidency is now the office most open to the popular will. Senate seats have shown themselves to be fairly open to popular will. In 1980 there was a decisive shift of Senate seats away from liberal welfare state Democrats and toward opportunity society Republicans. In 1980, Senate incumbents were about 5 times as vulnerable to change as House incumbents.

Today the U.S. House of Representatives is the least vulnerable to change of the three elected Federal offices. Where the Founding Fathers expected the House to be the people's House and, in fact, the most open to change, it has become the incumbent's House and is now the least exposed to the people's will.

How did this happen? After the 1974 Watergate elections the Democrats found themselves in possession of a number of Republican seats because of the unique circumstances of that election, the combination of the oil price shock, the economic pain, and Watergate itself. Freshman Democrats were both very numerous and very scared. They knew that if the elections in 1976 were held as they normally would be, if the incumbent had the normal advantages that 30,000 or 40,000 Democrats would be defeated because they were occupying very Republican seats, that they held only because of scandal and recession.

The result was that the freshman Democrats decided their No. 1 challenge was to build up the incumbent advantages so that they would never face a fair fight. There was a deliberate effort in 1975 and 1976 to increase the office staffs, to increase the mailing privileges, to increase the amount of money available for travel to give the incumbent in effect an official tax paid campaign in addition to what they would face during the election cycle. The result was that in race after race in 1976 and beyond Democrats who were very liberal retained seats in Republican districts that are very conservative. In fact, this incumbency advantage has developed to such a degree that in 1984 Ronald Reagan carried more Democratic seats than he carried Republican seats. Literally, the President of the United States carried more Democratic congressional districts than he carried Republican congressional districts or than there are Republican congressional districts. Ronald Reagan carried 182 Republican congressional districts and he carried 189 Democratic congressional districts. If it had been a parliamentary election in the British or the German sense, the Republican margin in the House today would be 391 seats. But, in fact, because of reapportionment, because of incumbent advantages, because of approximately $1 million in publicity, direct mail, staff, office accounts and other advantages, no incumbent runs as an equal. I say this as a Republican and it is true for all of us.

But if the Congress has been in a 20-year cycle of voting against Democrats, it is the liberal welfare state Democratic incumbents who have been peculiarly helped by being helped through reapportionment and State legislatures, and through incumbent advantages of the taxpayer paid accounts to have an advantage. If you consider this willingness to use, in effect, official advantages to try to rig the election by ensuring that the average voter does not have a really fair choice, that the incumbent Democrats will first start with about $1 million in advantages, and those built up over the years, and then the election starts so that the challenger has almost no real hope of running a serious competitive race in most congressional districts right now, then you can understand why the country, the Nation, the American people can vote 58 percent against the liberal welfare state again and again and again, while at the same time House Democrats just ignore the votes and go about voting for tax increases, for a bigger liberal welfare state and for more government.

In this same setting, the same psychology of the incumbents being able to ignore the will of the people, one has to look at the current argument about whether or not people who are dead or people who have moved away should be taken off the voting rolls. There has been a remarkable process in the last 2 weeks in Democrats with a totally straight face have argued that taking dead people off the voter rolls is clearly an effort to intimidate voters, in effect, that there is a civil right to vote after you die.

Why are they making this argument? The reason is very simple. They know, according to the U.S. attorney for northern Illinois, that in 1982 Democrats stole about 100,000 votes; that is, in the election for Governor in Illinois, which was won by about 5,000 votes, the Democratic candidate received approximately 100,000 votes of people that had either died or moved away. Expressways have been voted, vacant lots have been voted, empty buildings have been voted, and in one case I can cite a person who died and voted in six consecutive Democratic primaries after they were dead, no mean achievement.

In that setting, let me suggest that had the dead and the moved voters not been voted illegally that the Democratic nominee for Governor would have lost by 105,000, a rather significant difference between a very close squeaker of 5,000 and the much larger loss of 105,000.

In Louisiana, in the last decade, two Members of the U.S. House of Representatives have resigned from their seats under indictment for stealing an election. One of the two subsequently

went to jail for having stolen an election.

In Indiana just this year Democractic election officials in southern Indiana have been indicted by a Federal grand jury for buying votes and for being involved in trying to steal an election.

This is a very important question. If one of the purposes of a democracy is to have only live voters allowed to vote and to have honest elections where your vote counts, it is very clear at the national level when the margin is 58 percent against the liberal welfare state and 42 percent for the liberal welfare state Democrats that it is impossible to steal a national election on that scale. But when that popular will gets down to a local congressional race or a local State legislative race, 5,000 illegal votes, 5,000 dead voters can make a big difference. In effect, the incumbency advantage and the dead voter, former voter advantage of legal elections that are stolen are two of the major ways in which the liberal welfare state Democrats have propped up the past.

The process that is underway is fascinating. If you think about it, the Republican Party has become a opportunity society party of the future, a party of new ideas, a party trying to change the Government. We are out trying to encourage young people to register to vote because we are getting something like 65 percent of the young people who register to vote Republican.

At the very same time, the Democratic Party, which has become the party of the past, a Democratic Party that props up a liberal welfare state that is now 30 or 40 years old, that party seeks to keep people voting after they die so that, in effect, the Democratic Party wants to use the votes of the dead to seize power from the votes of the young so that they can continue the Government of the past and stop the development of the future.

In this setting, one of the statements made by the U.S. attorney from northern Illinois is particularly important. He said the only way you can ensure honest elections is to purge voting rolls every 2 years so that there is not a pool of dead and moved voters for the local official to use illegally on election night. If the only people on the rolls are real people who are really eligible to vote, then the election official, even if he is tempted to steal the election, finds it very difficult to set up an election theft. But if you have a voter roll that has 20,000 or 50,000 or 100,000 dead people and people who have moved away sitting on that roll, then the temptation for a liberal welfare state Democrat to save the past by voting the past is very, very powerful indeed.

□ 1440

Now in that setting, we should be reminded of Lord Acton's warning that "power tends to corrupt, and absolute power tends to corrupt absolutely." There was a certain level of chutzpa in having machine Democrats, people who had been elected in a long tradition that goes back to Tammany Hall, to the Cook County machine of Mayor Daley in Chicago, to the stolen elections in Texas of Lyndon Johnson.

To have those kinds of machine Democrats go to the news media with a straight face and pretend that the right of dead people to stay on the rolls is a civil rights issue, only at a time when they had lost any sense, I think, of reasonable, common morality could a politician go and make the case with a perfectly straight face that it is wrong to take dead people and people who have moved away off the rolls, and it is wrong to be concerned, to have an honest election.

The fact is, the Democrats do not have much choice. When you are faced with five consecutive repudiations by the American people at the Presidential level, when it is clear in every poll that the American people want workfare, not welfare, that the American people want smaller government, not higher taxes; that the American people want a strong foreign policy, not the weakness of the liberal welfare state.

When it is clear from every poll that the values and the dreams of the American people rest in an opportunity society future, not a liberal welfare state past, then if you are the Democrats, you have a very difficult time finding a majority coalition.

The fact is, the Democrats want to protect the liberal welfare state Government of the 1970s; the Republicans, and I think the American people, want to create the opportunity society of the 1990s.

Why is this all so important? How does it relate to 1986? This is not just a game; what Frank Kent in a book written in the twenties called The Great Game of Politics. This is the fundamental choice of the American people between the past and the future. It is the fundamental choice of the baby boom generation and its children, of where do we go as a country in the nineties.

To understand how fundamental that choice is, let me carry you back to 1965. Measure in your own mind if I am describing America as you have lived through if for the last 21 years:

Around 1965 the baby boom generation had gained enough momentum and was large enough to begin asking a series of questions, questions that emerged through the sit-in movement, through the free speech movement, through the antiwar movement. There are essentially five of them:

First of all, they said isn't it true that Government creates jobs better than free enterprise, and all of the Socialist professors said yes it is.

Second, they said isn't it true that high technology is more dangerous rather than beneficial. And the left said yes it is.

Third, they said isn't it true that you can't really allow those yokels to have power and we need centralized bureaucracies that are smart to protect us from all of those dumb local governments. The left said yes it is.

Fourth, they said isn't it true that traditional values are old-fashioned and that drugs and radical lifestyles really involve no risks. The left said that's exactly right.

Fifth, finally they asked isn't it true that the world is not dangerous, American leadership is just paranoid. The left said you're exactly right, the world is Epcot Center and the United States is a bully.

The fact is that on all five of the major questions asked by the baby boom generation the American left was fundamentally wrong. But the left was also very powerful for 15 years. And what happened? All of you lived through this and can measure it from your own memories.

By 1980, we had a President whose drug adviser was fired for illegally prescribing drugs. Remember Peter Bourne, people have forgotten him but he was Jimmy Carter's drug adviser. Why do I blame the left for the current drug crisis. Because when the Presidential adviser says "of course we're going to legalize heroin" and goes around illegally prescribing drugs, that helped create the mess we are in. The average young person watching the Carter administration's drug adviser had to be misled. After all, if the President's drug adviser does it, it can't be that bad.

Second, we had tried Government domination of enterprise and it had failed. By 1980, we were at 13 percent inflation, 22 percent interest rates. Do some of you remember these figures? We were heading into the worst unemployment crisis since the Great Depression. By 1980, the American dollar was disintegrating so fast that Italian hotels wouldn't take greenbacks—that was literally true.

Furthermore, our military capability collapsed. When Reagan used the U.S. Navy to send the warning to Qadhafi by bombing Libya, I made the comment that we could not have done that in 1980 because the Navy couldn't have found Libya but that was not bad because they didn't have any bombs anyway.

But remember 1980? American helicopters burning in the Iranian desert. The Soviet Army invading Afghanistan. Communists taking over Nicaragua, while we were told by the liberals

"they're not really Communists, they're just good guys who use the wrong code words."

What was the left's answer. It was the famous "Malaise speech." Remember the Carter attitude? We are all going to live in misery, but as a liberal he promised you it would be equal misery. And the left already had a plan for misery stamps.

If you think I exaggerate how bad it was, as a freshman in 1979, I helped fight against gasoline rationing. Remember the left's energy analysis? At $5 a gallon for gasoline—they were only off by a factor of 10—working people will not be able to afford getting to work. Therefore the left said the only solution is to take power out of your pocketbook and put it in the bureaucrat and let them issue you gasoline stamps.

And if you think I exaggerate, I'll show you the debates in which the liberal Democrats said just that.

Now what happened? Luckily we live in a free society. The average American is not necessarily sophisticated but is reasonably wise—wise enough to buy cars, and buy houses, and find jobs, and drive to work without a wreck most mornings. The average American can do lots of things we don't think about when we get academics into a room to analyze popular opinion. In 1980, the average American said, "Let me understand. I have this unknown, untested guy from California and I have this known tested product that is destroying the country, how should I vote this fall?"

They decided that guaranteed failure was probably not a good idea.

Thus, in 1980 they elected a new team. And in a very shocking upset, they gave Republicans control of the U.S. Senate and they elected a guy who, I will say to you, no one thought would be as great a President as he is.

The truth is that Ronald Reagan now ranks as one of the two or three greatest Presidents in the 20th century with Franklin Roosevelt. He is an extraordinary figure.

The first time I sensed he was going to be extraordinary was the January 1981 day he was sworn in. Sitting up there on the Capitol steps for the inaugural. The Sun was beginning to shine. Word began to pass among us that the American hostages had left Iranian airspace literally while we were sitting there. And Reagan said one sentence that no one on the left could have said. And I'll repeat it to you and you tell me if it's not exactly right.

He said, and I quote: "We have every right to dream heroic dreams, after all we're Americans."

And nobody on the left could have said that because, in the first place, the idea of heroics is romantic and left wingers are no longer romantic, they're cynical. In the second place, nobody on the left could have said that because to suggest that being American is special is nationalistic and chauvinistic and nobody on the left wants to be those things. And in the third place, it was optimistic and the left had given up optimism sometime around 1968.

Yet the country at the gut level reacted because it was what we've always been. It was what made us different. We're not different because we're white or black or yellow or brown. We're not different because we're men or women, or young or old. We're different because we grow up in a fantasy called the American dream.

We're different because we actually believe at some deep gut level that the world can be different, that we can transcend race, nationality, ethnic background, and we can reach out and together create a world that's exciting and dynamic that our children can have a bigger pie and a better hospital that it can all work.

The job is to roll up your sleeve and go to work and not just argue with each other.

And that's different than any other dream on the planet. And we had forgotten that for awhile. We had lost our way.

□ 1430

Ronald Reagan also poses a problem for our generation. Ronald Reagan saved America from the collapse of the liberal welfare state. He literally turned us around psychologically, economically, politically. And that is the most any one person can do for a country of 250 million people.

And to expect him to turn us around, pull us back from the brink, and create the nineties is more than is reasonable to expect of one man, even a giant.

What he has really done is bought time for our generation to get our act together. He has bought us a few years to look out there and see Japan, and Taiwan, and Korea, to look at Germany and to say to ourselves do we want to roll up our sleeves again, do we want to go back and compete or do we want to run and hide and decay like Great Britain?

It's a very real choice we face in the next decade. Let me give you one example: Last year in a test that was conducted, 75 percent of the Japanese scored higher in mathematics than the top 5 percent of Americans. We have a very simple choice in an emerging information industrial society. Either we clean up our process of education so that we're able to compete head to head or we quit the world market. No big complicated choice.

We're not going to stay in the game in the world market when 75 percent of their students are better prepared for the computer age than the top 5 percent of our children.

And you can go through study after study. The Japanese graduate 500 lawyers a year, we graduate 30,000. As the most litigious society on the planet, we're not going to be able to both sue our entrepreneuers and expect them to create jobs. We face a very serious choice, do we want to reform our litigious system or do we want to decay and hide from the world market?

We have doubled the share of our gross national product that goes to health care. We have also dramatically expanded the quality of life for people as we get older. But we better start thinking through how we're going to have dramatic reductions in the cost of health care with less bureaucracy and less red tape. I do not want cost containment I want improved product and less cost. That's the American tradition, something better for less that is what entrepreneurial capitalism and technology are all about.

And that's very different from the mess we're drifting into, which is an increasingly bureaucratized, increasingly socialized, increasingly redtaped medical system. So you take case after case and you can say to yourself, if you're honest about the future, we have to change. Now a lot of people will tell you that politicians should never talk about change. Change, they say, scares people, and it may if you're not Americans.

You know, the other great President of the 20th century, Franklin Delano Roosevelt, a man who had had polio, who could stand only with braces and only with enormous effort, said in his first inaugural we have nothing to fear but fear itself. I think it is in that tradition that Ronald Reagan, who was at one time a Franklin Delano Roosevelt New Deal Democrat, that Ronald Reagan would have said that change is American; to continue to adapt to develop his America.

Let me tell you what I have been saying to older people, because they are statistically the people most afraid of change.

I have been asking people at the American Association of Retired Persons meetings, "How many of you have ever lived in a house that never had electricity?" In Cedartown, two-thirds of the people raised their hands. In Hapeville, one-third raised their hands. Now, think about that for just a moment. Right now today in Cedartown, GA, two-thirds of the folks I was talking with at one time in their life lived in a house without electricity. In one lifetime they went from no electricity to lights, refrigerators, freezers, microwave ovens, videotape recorders, cable television, electric toothbrushes, air-conditioning. In their lives they have experienced change, and they know that most of the time for most Americans change has been progress.

Now that we have agreed that change is American, let us talk about the next cycle of change.

Because none of us have to be afraid of change as long as we are rationally talking about it and we are controlling it. The only changes we have to fear are the changes that come out of the dark because our politicians don't have the guts to tell us about the future.

There have to be major areas of fundamental, discussable change, including health care, education, the welfare system, the process of retirement, mutual trade and the world market, the military, drugs, you can walk through them step by step.

Let me bring this back just for a moment to the whole notion that our history is a very simple one and one that I hope all Americans think about. We are a Nation made up of people who had the courage to cross the oceans when there were no airplanes or steamships. We are a nation made up of people whose ancestors underwent incredible privation for freedom. Some people have driven a greater distance today than would have been possible to move across by covered wagons in a month.

I used to teach the oldest men's class at First Baptist in Carrollton. One of the men in the 1920's followed an oxcart from Tennessee to Carrollton on a dirt road. As late as 1950, Georgia 166 from Carrollton to Atlanta was not paved. The world has changed remarkably in two generations. It can change remarkably in the future.

We need an agenda for America that lets our children and grandchildren have a chance to be free, to be prosperous, to be safe.

In closing, before I yield, let me just say I think the central issue for 1986 is simple: raising taxes to prop up the welfare state keeps us tied to the past. Raising taxes lets the Democrats, who have dominated the House since 1954, avoid the serious changes in the Government they created.

I can appreciate with a Speaker who was first elected to public office in 1936, whose career was devoted to building the liberal welfare state it is hard to change. I can understand why next year with a new Speaker who will have been first elected to office, I believe in 1948, who spent his career building a liberal welfare state it is difficult to change. But the thing the American public should demand is that the election on Election Day 1986 is a choice between the future and the past, it is a choice between taking a no-tax-increase pledge to force the Government to change or those people who want to prop up the past by raising taxes and taking money out of the pocket of the American people.

I would be glad to yield to my friend from Kansas.

Mr. GLICKMAN. First of all, I want to thank you for yielding. I do consider you my friend even though we are on opposite sides of the aisle but our names are right next to each other on the board. So whenever I look for the name Glickman to vote, I see the name Gingrich right above me. Even though we somtimes do not vote the same way, I am sure we have the same goals in mind, which is a prosperous and healthy America.

It is just that as I was listening to the gentleman and that while there are some things I can agree with, I must agree with his characterization in one respect where the gentleman made a statement that he said it demonstrated a degree of hyperbole. I must tell the gentleman I felt there was a remarkable, rather substantial amount of hyperbole in his statement. It reminded me of the old H.L. Mencken quote, "for every complicated problem there is a simple and a .wrong solution." The gentleman has the interesting way of characterizing all of America's problems as somehow dealing with the "liberal Democratic welfare state." In effect, when you go down and look at the way people vote on the floor of this House, there is a demonstrable lack of difference on major votes between Republican and Democrats. In fact, when you look at where most Members of Congress are on issues and where most members of the public are on issues, there is a demonstrable place in the middle of the political spectrum with respect to almost all Americans and most people in this particular Chamber that we serve in. As a matter of fact, most people are pretty pragmatic. That is the great nature of America as we are willing to look and experiment for change.

I just noticed in the CONGRESSIONAL RECORD itself, the gentleman is talking about no taxes. I noticed the gentleman voted for the Superfund bill; so did I. That raises $8.5 billion worth of taxes. But we know that we had to raise those revenues in some capacity to clean up toxic wastes in America so that folks would not be exposed to carcinogenic wastes and other toxic wastes. Nobody wanted to do that but we knew, and the gentleman must have known, because he and I voted the same way on this bill, to clean up toxic wastes in America. I guess my point is I respect what the gentleman is saying, but I think there is a lot of empty air in what he is saying. He knows as well as I do this is a complicated country with a lot of complicated problems. Most Americans have gravitated toward the center, toward the responsible middle in dealing with these problems; both Democrats and Republicans are. Most people want a government that pretty much leaves them alone but do want to be protected against bigness, against antitrust violations. They want to have a remarkable amount of service in terms of electricity, power, water, transportation, those kinds of things. So I guess my closing point, and then I am sure the gentleman will want to respond, is that his remarks are interesting, but I do not think they have very much substance to them.

Mr. GINGRICH. Let me comment for a second because I am fascinated by the way you managed to frame this. In the first place, as I mentioned in my remarks, 58 percent of the America people in the average Presidential election from 1968 to the present voted against the Democratic nominee. Now, 58 percent is a reasonably big margin. That is literally true. Fifty-eight percent on the average, not the landslide, on the average voted against the Democratic nominee if you take 1968, 1972, 1976, 1980, and 1984 and you combine them.

Mr. GLICKMAN. I might characterize it differently, 58 percent voted for the Republican nominee.

Mr. GINGRICH. It does not work out that way because of the Wallace vote and the Anderson vote.

The point I am making which I think is fundamental, and I guess I take exception to what the gentleman said: if you take all the spending bills in this House in the course of 2 years, take the National Taxpayers Union rating, for example, for this year, which is rated now, unlike the past, by volume, by scale; the top 10 percent of big spenders, every single one of them is a Democrat; the bottom 10 percent, every single one of them, the least spenders, are Republicans. There is just no question that is true.

Mr. GLICKMAN. Well, first of all, I would argue with the characterization of the gentleman. I have lived here for 10 years, and I see that the old reference to Everett Dirksen, I once heard a story about him when he was in the Senate, the Senate majority leader—minority leader at that time, and he was putting some money in the water bill, and his colleague, Paul Douglas, said to him, "Everett, I thought you were a conservative, I thought you did not like to add Federal spending. I thought you were a man of principle." Everett responded, "I am a man of principle but my first principle is flexibility."

The fact of the matter is that is true regardless of whether you are a Republican or a Democrat, and I do not like to see anybody hide behind labels whether they are extraneous labels to their party or to themselves, because the fact of the matter is, if I may just finish and go on, no matter how you characterize how Members vote, for the most part Members vote what is best for their districts, for their States, and for their country. That is what we are elected to do up here. I just think the gentleman's characterization about—a certain characteriza-

tion of people on one side and certain on the other side is just not true, totally.

Mr. GINGRICH. The gentleman would not accept as a generalization in the legitimate sense—maybe because I was a college teacher although I was a history teacher and not a political scientist—but the gentleman would not accept as a generalization that it is fair to say that the Democratic Party is likely to have more people favorable to the liberal welfare state than the Republican Party.

Mr. GLICKMAN. I would not because I do not know what the liberal welfare state means in the way you define it.

Mr. GINGRICH. I will give you an example out of the CONGRESSIONAL RECORD. I got up on the floor this year and I offered the amendment to put into the bill the Reagan Workfare Program. There were 183 vote for that amendment, most of them Republican, a few conservative Democrats. There were 220-some votes against that amendment; overwhelmingly they were Democrats.

I would say it is a fair characterization to say that on that day in this House that Republicans were collectively mostly willing to vote for workfare, Democrats collectively were mostly willing to vote against workfare.

Mr. GLICKMAN. OK, now if we may examine that, because in the Agriculture Committee I am working on the workfare concept.

If you look at the Reagan Workfare Program, it offers virtually no flexibility for the States, offers them a great financial disadvantage in getting the program started. But if the gentleman is saying there are certain Members who reject workfare just from a knee-jerk reaction, there may be, and they are wrong, they are wrong.

Mr. GINGRICH. And they tend to be Democrats.

Mr. GLICKMAN. That I will not agree with. I am saying the question you have to define is, Can you demonstrate we can devise as good programs that work?

Mr. GINGRICH. Now, wait, I just have to go on with this because I am fascinated. The gentleman would not agree that, if we did a content analysis of the debate in the last 4 years, that overwhelmingly the largest number of people who ideologically rejected workfare would happen to be Democrats.

Mr. GLICKMAN. I cannot agree with that because I have not seen the statistics. I think it misses the point. I think the point is that we should be working toward reaching a consensus on the issues.

Mr. GINGRICH. But we disagree.

Mr. GLICKMAN. The gentleman's methodology is to polarize.

Mr. GINGRICH. Wait a second. Let me give you one more example. Your nominee for President in 1984.

Mr. GLICKMAN. You mean the Democratic Party nominee.

Mr. GINGRICH. Well, you are a Democrat, and I assume you voted for Mondale.

Mr. GLICKMAN. All right.

Mr. GINGRICH. I know you do not like labels, but you are a Democratic Member of the House.

Mr. GLICKMAN. I accept my nominee, but the way you characterize it, it was like my brother, my sister, my father. He was my nominee for President.

Mr. GINGRICH. The gentleman makes a good point. The nominee of the Democratic Party, 1984, said, fair enough, that in his judgment, and I paraphrase him, he wanted to be honest, taxes have to go up; and he will tell you right now he will do it, and the only difference is Reagan will not tell you but he is going to do it, too.

Now, a number of us on my side of the aisle, and I served on the Republican National Platform Committee that year, a number of us, the gentleman is correct, literally decided to force a choice. We said, "no"; we said as bad as the deficit is, the deficit is not as bad as a massive tax increase, and there is a difference, I think the gentleman will concede, between those funds necessary, about $1.5 billion a year to take care of a public health problem like toxic waste, and a $60 billion tax increase like a colleague of yours was suggesting.

Mr. GLICKMAN. Wait a second now. Did you sign the no-tax-increase pledge?

Mr. GINGRICH. Which is very specific. It says no tax increase on 15- and 28-percent individual rates and no tax increase on the 34-percent corporate rate.

Mr. GLICKMAN. Your colleague from New York, Mr. KEMP, in voting against the Superfund bill indicated the reason why he did that is because he had signed the no-tax-increase pledge.

Mr. GINGRICH. He takes the pledge. The pledge itself is to the rates in the new reform bill.

Mr. GLICKMAN. So it is a very specific pledge.

Mr. GINGRICH. Very specific. Frankly designed over the next 10 years to freeze rates and create a national understanding that you do not raise those rates.

□ 1445

Mr. GLICKMAN. So the gentleman does not view raising taxes other than income taxes to be subject to your pledge.

Mr. GINGRICH. I happen, for example, to favor user fees. I think there are a lot of things we should consider.

Let me carry it back for a second, because I think the gentleman's points are legitimate.

I think the country ought to choose between fundamentally changing the welfare state of fundamentally paying for it. I agree with half of George Wells' argument. Walter Mondale came forward, legitimately, and said, hey, I am a liberal welfare state Democrat, I believe in government, I want more money. We campaigned on the grounds that you ought to have a whole series of reforms, and the work fair plan was one of them, and you should not raise taxes. That is not a consensus issue. That is a fundamental confrontation between a liberal welfare state approach and an opportunity society approach that are different. I mean there is not a compromise ground in the middle. There may be compromises to get to the ultimate destination, but there are really two very different destinations.

Mr. GLICKMAN. I might say to my colleague from Georgia that I venture to say that if we sat down and we discussed issues on a program-by-program basis, whether it has to do with regulation of banks or transportation or other kinds of things, there would not be very much difference between us.

But I guess what I object to is this incredibly extremist rhetoric on the gentleman's part where you characterize and define somebody called liberal welfare state, which, of course, has a pejorative title; then the gentleman characterize opportunity society which has this most incredible fairy tale title.

Mr. GINGRICH. But in the 1950's, liberal welfare state was an academic term, it was not pejorative.

Mr. GLICKMAN. We do not live in the 1950's, and the gentleman knows that that does not exist right now.

Mr. GINGRICH. It has become a pejorative because we have gotten to know it. But in fact it originally was a set of ideas that said let us raise taxes, create a bureaucracy and it will deliver government.

Mr. GLICKMAN. If the gentleman will yield, I really think the fact of the matter is, I go back to this point, that this kind of argument, while I suppose it is interesting for politicians to talk about, does not necessarily do the people any good, people who are facing bank foreclosures because of farm problems, people are facing lack of air service, rail service because of transportation problems in America, the kinds of things that affect average folk in this country. When they need government help, they could really care less whether you are called a liberal welfare state person or an opportunity society person. They want government that helps then take care of themselves and protect them from big,

bad, greedy businesses, big, bad, greedy government.

I have this feeling by talking in the kind of hyperbolic terms we are talking about today, we do not get any closer to reaching solutions to the kinds of problems that average folks face at home.

Mr. GINGRICH. The gentleman's party created a great national majority that has lasted a long time, because you had a President who talked about the New Deal. He said we are going to create a whole series of interesting ideas and interesting new programs. I am confident there were Republicans in that generation who got up and said, "What does the New Deal mean?" But every American had sort of a gut instinct that Franklin Roosevelt had a direction of an activist government. It is legitimate for politicians to talk in symbolic language to create a frame of thoughts.

Let me go back to the point the gentleman just made. Frankly, I have to say that not only are our names close together up there, but the gentleman from Kansas represents a more moderate Democrat than the majority which controls his caucus. The fact is parties do tend to have sort of centers of gravity. The center of gravity of the House Democratic Party is today on the left. It is on the left on foreign policy. It is on the left on taxes. The gentleman's caucus would vote for a tax increase in the morning. They would come back for a special session on Monday if they thought Reagan would sign it.

Mr. GLICKMAN. That is, of course, why the Speaker of the House has brought a tax increase down to this floor in the last 4 years.

Mr. GINGRICH. Reagan has said he will veto it.

Five leading Democrats in the House have said we ought to have a tax increase.

Mr. GLICKMAN. That is like the ads I see on TV that five doctors on a desert island say that they would prefer Anacin over aspirin. It is an irrelevant statistic.

Mr. GINGRICH. We are talking about the Speaker, the majority leader, the chairman of the Ways and Means Committee, the head of the conference and a senior member of the Budget Committee. These are not random back-bench Democrats we picked off in the corner and got drunk. These are very serious leaders of the National Democratic Party. And I do not disagree with them from their value system. If you believe in a liberal welfare state, you ought to pay for it.

Mr. GLICKMAN. If the gentleman will yield, I do not think that is any way believing the liberal welfare state. That is being a prudent, responsible, balanced person, whether in business, whatever government you have, you ought to pay for it.

Mr. GINGRICH. My point, as I said earlier, maybe before the gentleman came to the floor, is in 5 consecutive elections, 58 percent of the people have voted, on the average, have voted against the Presidential candidate of bigger government. I think that is a fair summarization.

Mr. GLICKMAN. I do not accept that characterization. During the same period of time, a majority of votes have been cast for Democrats in congressional and senatorial races.

Mr. GINGRICH. I also made the point in this House, maybe before the gentleman got here, that there are two big factors to that. One of them is the enormous incumbency advantage that the class of 1974 created as soon as it got here. As the gentleman knows, it is incredibly hard to beat an incumbent who does not get real sloppy; I mean just the weight of paid staff, direct mail; second, gerrymandering which, in balance, marginally helps your party; and third, an issue which came up last week, which is in some States and in some districts, people have voted who are dead. I mean in close races in Indiana in the seat where the gentleman was seated, they have now indicted enough officials involved in enough votes that it is clear the Democrat could have won.

Mr. GLICKMAN. Wait a second. The gentleman is speaking in Orwellian language now. I do not countenance vote fraud whereever it occurs in this country. The gentleman cannot paint that with a brush on either political party in this country.

Mr. GINGRICH. Oh, come on.

Mr. GLICKMAN. It is ridiculous.

Mr. GINGRICH. It is not ridiculous.

Mr. GLICKMAN. It is ridiculous. But I guess we could get into a——

Mr. GINGRICH. Let me ask you because I am quite serious, this is at a good government level, and I think the gentleman will agree with me, who controls, most of the big city machines?

Mr. GLICKMAN. I do not know the answer to the question, because there are a lot of Republican mayors being elected around this country.

The point is most public officials are honest. Most State officials are honest around the country, period.

Mr. GINGRICH. But it was estimated, for example, in Illinois in 1982 by the U.S. attorney that 100,000 votes were cast by people who do not exist.

Mr. GLICKMAN. I have not seen the report.

Let me go back to just one thing, because I am going to have to run. I appreciate the gentleman yielding me the time.

I guess my point in all this is go back to the situation that we have a lot of problems in America, problems that affect average people, problems of trade deficits, banking, transportation and opportunity in the future. I do not want my party to be the party of the status quo and not accept change. I think that is wrong, and I do not think you could find very many people in my party who want to pursue that mode.

But the fact of the matter is the American people do not want to hear blame. They figure there is enough blame and historical hyperbole to go around 100 times over. They want a country that moves forward, and they want solutions to their problems.

I hope that the dialog produces that kind of result, and I appreciate the gentleman yielding to me.

Mr. GINGRICH. I was glad to yield.

I just want to say that I hope next week to bring to the floor 30 or 40 specific proposals for change that have been killed in the subcommittee or committee by the Democratic Party in the House, each of which were to save money.

My only point is to make the case that the Reagan administration and the new ideas Republicans who really think opportunity society really is more than hyperbole really have been trying to move forward a whole wave of change. And it is very, very difficult to get it through in a Democratic House that has been dominated, as I said, by a Speaker who was first elected to office in 1936 and a majority leader who was first elected to office in 1948, and whose natural instincts are to protect the liberal welfare state they created.

Mr. Speaker, I yield to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Speaker, I thank the gentleman for yielding to me.

I came over because the gentleman mentioned on several occasions user fees. I would like to ask the gentleman a question. When the gentleman talks about raising taxes and you say you are against raising taxes, but I think I hear the gentleman say that he would be for user fees.

If the gentleman is for user fees, does not the gentleman think that hurts the people who really need the help, the poor farmers around this country who are reaching out and asking for help in almost every way possible. If we come up with user fees, we are really hurting the folks who we should try to help.

□ 1455

Mr. GINGRICH. I appreciate very much the gentleman's intervention. Let me give you an example of the user fee that is totally appropriate.

That is whether or not the Coast Guard should be reimbursed when it tows in some clown whose yacht ran out of fuel because he did not check before he left the port. Now we have had a system where the Coast Guard will go out and free of charge will tow you in, frankly, for public safety reasons, we do not want you to drown be-

cause you are stupid, but I would ask you the question: If a man can afford a pretty fancy motor yacht and he is 25 miles offshore and because he either was not paying attention or he got a little sloppy or something he has to get towed in, is it really fair for people in your district, most of whom, I suspect, do not own yachts, is it fair for them to have to pay through General Treasury so the Coast Guard is available to go get that guy's yacht, or should we charge a user fee to that guy and say you are going to pay your share of the cost of the Coast Guard coming out here to get you?

Mr. TOWNS. If the gentleman will yield, but what does that really do when you look at the total deficit? When you look at the problems that farmers are having in this country today, what does that really do?

Mr. GINGRICH. You have raised, I think, the central question here. My impression is, and in my own life my experience has been that when a family gets in trouble financially that in fact nickels and dimes do add up. You do learn to be a lot more careful. That if we save, let us say, I am guessing, $70 million, almost nothing by the standards of Washington, but a lot for people in your district, $70 million on that user fee. If we find other appropriate user fees, and user fees by themselves are not going to solve the whole problem. But they are going to raise, the administration proposed, collectively $4.5 or $5 billion. A billion; now billions are moderately big. Five billion dollars is a step in the right direction.

Now, the other thing I would like to see us do, frankly, is rethink from the ground up, virtually the entire Government. Before I want to ask a single family in your district to pinch pennies in their family budget because we raise their taxes, I want to pinch pennies in this city, in this Government.

I will give you an example which normally you would expect to come more from a liberal Democrat. I think procurement in the Pentagon is ridiculous. I think it is crazy the way we procure goods. I think it is crazy. I am not going to go out here and say to your family or your neighborhood, "I am going to raise taxes $750 because we cannot find guys smart enough to buy a $50 toilet seat, so they are buying $800 toilet seats." I am just not going to do it.

Mr. TOWNS. I can understand that and I will agree with you. I think the thing that disturbs me deeply is that when we talk about user fees we generally talk about the driver's license, the marriage license, we talk about boats or yachts or anything of that nature. We talk about the things that really hurt people that are barely making it.

Mr. GINGRICH. Were you in the State legislature? Because the two you mention, driver's licenses and marriage licenses would be at the State level and I frankly have never studied that; I think you have made a good point.

Mr. TOWNS. The point I am making is that we set the tone and if we begin to behave that way here, what will happen in terms of local governments; that is the thing I am talking about. I think that we need to face up to some real issues here. That we have tremendous deficit; how do we close it?

You know as well as I do that the only way to close is to look for revenue. We cannot cut our way out of this mess.

Mr. GINGRICH. Let me ask you something because I really appreciate your coming over and discussing this with me. Are you really prepared to go back home to your district and say to people who are working hard and who work really for take-home pay, they do not work for gross income; they work for the money left on Friday after the Government takes the taxes.

Are you prepared to say to them that in your best judgment we in the Congress have done a good enough job at squeezing waste out of Government and rethinking Government and that we are going to use their pennies wisely? Do you not down deep have to go back home and say, "Look, we do not have the Pentagon really trimmed up, we do not have health care really debureaucratized, we have not really solved these other problems, but I am going to raise taxes anyway because, frankly, it is just too big a job and I cannot get waste out of Washington so I am going to make you get waste out of your family budget."

Does this not sort of bother you that we waste as much money as we do in this city and you would suggest raising taxes?

Mr. TOWNS. The point is that when you talk about waste, that is a separate issue. You know as well as I do that one of the areas that we have a lot of waste in is the defense budget. You know as well as I do. I have looked at it from day one and I continue to say that, that we need to begin to look at some reform and to do some things in some areas that could be cut.

In the meantime, while we are not thinking about that, what are we going to do for poor people in this country that cannot make it? That, as we approach the winter there are people that cannot afford to buy oil. Do we not have an obligation and responsibility in Government to reach and to provide services for those people?

We have people who are homeless in this country that have no way of getting a home. At the same time, we are cutting money out of HUD. I just do not understand our thinking. You seem to be a person that, every now and then, you show great compassion and I am always excited when that happens, but when you look at what is happening in the direction that we are moving in, I think it would have to disturb you as well as it disturbs me.

Mr. GINGRICH. It does. I appreciate the "every now and then," but let me ask you a question. I assume you were talking about heating oil which, as a Georgian, we frankly do not buy a whole lot of it, but is it not fair to say that, from the standpoint of the poor, dropping the price of gasoline from about $1.20 a gallon—in my area right now it is about 60 cents a gallon—that that helped the average poor person, of course, not in New York City where they tend to take the subway more than the car, but the comparable drop in heating oil price, that in fact ending inflation or bringing it down to 2 percent a year, bringing interest rates down from 22 percent to where we have TV ads right now for 2.9 percent financing for cars. Do not those things in the general economy help tremendously for that poor person who is out there who has barely enough money to go to work and now they are only paying 59 or 60 cents a gallon where they were paying $1.20 a gallon under Jimmy Carter. Does that not make a big difference?

Mr. TOWNS. I agree that makes a big difference, but I think the point I really want to make and the point that I came to the floor to make is that as we look at our plans and as you continue to ask people to sign up, do not lose sight of those people who are unemployed, those people who are underemployed, those people who can barely make it because of the lack of income.

When you get people to sign the pledge, ask them to please think about those folks in the process.

Mr. GINGRICH. Before you leave, I want to ask you about one other thing because you have touched on something that really bothers me, and I want to talk about this for a second.

One of the reasons I am so strongly in favor of a no tax increase pledge is that I have seen the record now for the last 46 months where we have created something like 12 million new jobs. We have not done all we should, we certainly have problems in agriculture, we have problems in oil, but it is true that in the last 46 months we have created 12 million new jobs. That has helped everybody; black, white, yellow, brown; we are a little better off.

I guess part of what I mean by an opportunity society is the, what I think is a fact, that private entrepreneurs are more likely to create jobs in Brooklyn or Queens or the Bronx or Manhattan than the Government is. That if we can keep tax rates at 34 percent for corporations and 28 and 15 for individuals, we liberate the energy

and the drive and the creativity of all of those rising young people who want to get out there and invent a job and create a factory and do the things that employ the very people that you describe.

You watch France for a second, and the French tried socialism under Miterrand in 1981, 1982, and 1983 and it failed so badly they are now trying Reaganomics. You look at Hong Kong and Taiwan and Singapore and South Korean and Japan and you see this surge of new jobs.

I guess all I would ask my good friend is, and I do not want to put you on the spot but, is it not fair to say that for a poor black living in the central city, if we could have an explosion with enterprise zones and with lower rates and with new money available and new drive and entrepreneurship, that is more likely in the next decade to create the real job that they keep for a lifetime than another Government program.

Mr. TOWNS. But it will not happen unless there is some incentive, and that is the thing that bothers me. If you do not have any incentives, business is not going to come into major urban areas to create any job. I think we are kidding ourselves if we think they are going to do so. When you eliminate the kind of special incentives for them to do it, they are not coming.

Let me just say this in closing. As you continue to encourage people to sign your pledge, do not forget as you do that to think about the people that are homeless, the people that have no jobs, the people that are starving in the United States of America. When you show me that you are committed to that cause, I will sign your pledge, too.

Mr. GINGRICH. I think that is fair and frankly that is one reason that I wish we could have passed enterprise zone bills this year to create the incentive in the inner city to create the jobs.

I just want to say in closing, and I hope this dialog has been helpful to my colleagues.

I really do think the choice in 1986 is between the past and future. It is between propping up a liberal welfare state that was created in the 1960's and 1970's or moving forward to an opportunity society. It is between raising taxes to pay for the Government of the past or refusing to raise taxes and forcing the politicians in Washington to rethink the welfare state, to move toward workfare, toward privatization, toward less bureaucracy and less redtape, and toward a system that I think is vital because our generation has to make use of the time Ronald Reagan has bought us.

We are faced in the 1990's with a very severe challenge of competing economically with West Germany and Japan; competing military with the Soviet Union. If we are going to be competitive again, we have to rethink a great deal the way we do business. We have to have much better education, much better health care, a much more efficient and effective government, and we are going to have to get the job done.

If we raise taxes, we take the pressure off of the liberal welfare state politicians and let them avoid that difficult, complex process.

□ 1505

If we refuse to raise taxes, we then send the signal to Washington, go out and find a new idea, go out and find the new approaches, get the system to work so you can live within a trillion dollar budget because, frankly, a trillion dollars is enough. We ought to be able to get the job done for a trillion dollars if we will get smart and roll up our sleeves and reform the system until it works.

COLA'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 30 minutes.

Mr. RAY. Mr. Speaker, there has been considerable controversy between the various groups of Federal employees, Federal retirees, and military retirees, concerning the inequity and unfairness of the manner in which the Federal Government treats cost of living increases [COLA's].

For instance, Federal employees complain that their pensions are taxable, yet Social Security benefits are in large part tax free.

In addition, it has been pointed out by many Federal and military retirees that they are being discriminated against in having their COLA's denied because some 37 million Social Security recipients expect to receive a COLA in 1987, which will cost at least $2 billion.

I completely agree. Fairness and equity are important and are not being practiced in this instance. No COLA's, in my opinion, should be given to any group during times of national financial trauma.

For 1987, the budget assumes with the President's blessing, a 1 to 1.3 percent COLA for all Social Security recipients, but the Gramm-Rudman-Hollings legislation could preclude military retirees and civil service retirees from receiving a COLA again for the second time in 2 years.

These groups complain about the unfairness, the inequity, and uncertainty of this treatment, and I agree that the Government is simply not being fair.

I will point out later in my presentation a glaring inequity between the pay of Federal employees and COLA's of Federal retirees.

Take the case of two Federal employees in late 1969.

No. 1 retires at an annual benefit of $10,000.

No. 2 begins a job at an annual salary of $10,000.

Seventeen years later in 1986, No. 1 has a Federal retirement of $29,700 because of COLA increases.

No. 2 has a salary of $23,000 at his Federal job, $6,700 less than his retired colleague. No. 1 is making more in retirement than No. 2 is working.

I don't want to demean Federal retirees in any fashion, in fact I salute them for their past service to America. I have fought to maintain their 3-year basis recovery rule in the tax bill and I will continue to work for them.

It is also my impression that the Federal retirees to their credit are willing to forgo the COLA's during deficit years on two conditions.

Those conditions are,

First, that all retirees, including social security recipients, forgo them, in a fair and equal manner.

Second, that the cuts are meaningful and that they directly contribute to a decrease in the deficit.

There is an area in which Federal employees are definitely being discriminated against. As I have pointed out, they have not received the same percentage increase that retirees have through the years. That doesn't make sense to me, since Federal employees who are working today are buying homes, educating children, paying Federal income taxes, and paying into the current retirement fund.

This, of course, means that when the 7-percent retirement deduction is taken from a civil servant's check each month, it is sent indirectly to a retiree. If Federal workers stop paying into the retirement fund, more dollars would have to be allocated from general revenues to meet the Government's obligation to pay benefits as required by law.

Let me astound you with a tale of percentage increases during the years 1969 to 1986, provided by the Congressional Research Service.

The Consumer Price Index, which we use to measure how much we pay for the items that we need to live, increased by 193 percent during these 17 years.

The Federal civil service pay has lagged behind at 133 percent.

Federal and military retiree benefits with COLA's have increased by 197 percent.

The private sector average wages have increased by 193 percent.

Social Security benefits, because of general benefit increases and COLA's, have increased by 260 percent, far in excess of the rise in the cost of living over that period.

In order for me to better explain the effects that COLA's have on the

budget and to the recipients, I want to display the following charts, with facts provided by the Congressional Research Service.

Let me draw some examples for you based on that information:

Looking at chart 1 you will note that a 30-year civil service retiree who retired at 55 with a base retirement benefit of $10,000 in late 1969 would be drawing an income of $29,700 in 1986—an increase of 197 percent.

The same retiree with a base retirement of $20,000, 53 percent of a $38,000 salary, would now have a retirement income of $59,400, an increase of 197 percent.

CHART 1.—CONGRESSMAN RICHARD RAY AGGREGATE INCREASE IN CIVIL SERVICE RETIREES BENEFITS

Annual benefits Dec. 1969	Annual benefits 1986	Percentage increase
$10,000	$29,700	197
$20,000	$59,400	197

Turning to chart 2, a military retiree who retired in 1970 and whose first annual retirement benefit payment was $10,000 would now be receiving $29,700.

A military retiree at $25,000 would receive $74,300, an amount higher than the highest paid general schedule employee, which is $68,700. This represents an almost 200-percent increase in 16 years.

Civil Service and military retirees were authorized automatic COLA's in 1962 and 1963 respectively. Social Security recipients have received periodic increases since 1950. However, in 1972 the Congress guaranteed annual COLA's to Social Security recipients beginning in 1975 if the 3 percent CPI trigger were cleared.

CHART 2.—CONGRESSMAN RICHARD RAY AGGREGATE INCREASE IN MILITARY RETIREES BENEFITS

Annual benefits Dec. 1969	Annual benefits 1986	Percentage increase
$10,000	$29,700	197
$25,000	$79,400	197

Flipping now to chart 3, it shows that over the last 17 years, Social Security benefits have increased over 260 percent because of COLA's and increases. In the years 1970–72 Social Security recipients received an increase in their benefits of over 50 percent.

The average Social Security recipient who retired in late 1969 with a base benefit of $1,000 would now be receiving $3,600. A retired couple receiving $2,500 in 1969 would now be receiving $9,000.

CHART 3.—CONGRESSMAN RICHARD RAY—AGGREGATE INCREASE IN CIVIL SERVICE RETIREES BENEFITS

Annual benefits Dec. 1969	Annual benefits 1985	Percentage increase
$1,000	$3,600	262
$2,500	$9,000	262

Turning to the final chart you will note that there is a bigger difference between retirees and current employees with regard to the comparison of their salaries and benefits. While the CPI has gone up 193 percent and Federal retirees benefits have increased 197 percent, Federal civil service pay has lagged behind with only 133 percent increase over the same 15 years. For example, a civil servant, who retired December 31, 1969 making $10,000, would currently be receiving $23,000. Another Federal employee earning $20,000 would now be earning $46,700.

CHART 4.—CONGRESSMAN RICHARD RAY—AGGREGATE INCREASE IN CIVIL SERVICE PAY

Annual salary Dec. 1969	Annual salary 1986	Percentage increase
$10,000	$23,000	133
$20,000	$46,700	133

I am frequently criticized for not supporting cost of living increases.

My reason being the treacherous national debt and the philosophy that it's all right to continue spending $5 for every $4 of income, which has driven America into the category of a debtor nation.

It's my impression that the general public, including retirees, doesn't understand how generous the Federal retirement programs are and how costly they are.

I can understand why the Federal and military retirees get up-in-arms when COLA's are delayed. COLA's are contributing significantly to their retirement income and they add up to "megabuck" expenses for the taxpayers, who, by the way, are also beginning to grumble about the cost.

It's obvious that a cap on COLA's must take place. I would urge the leaders and members of Federal retiree organizations to take the initiative in this respect, before the goose that laid the golden egg is killed by the debt and the deficit.

I am seriously concerned that the financial stability of America is in such jeopardy that many basic programs, including basic pensions, could be in danger. To fund COLA's in the financial deficit atmosphere of the 1987 budget may be politically feasible but it is not sound policy.

In some cases, farmers, textile workers, housewives, small business people and others who have retired, many involuntarily have no retirement pensions. Some 100,000 farmers may have to leave their livelihoods in 1987 with only limited unemployment benefits, if even that.

We are all familiar with the plight of textile workers of which over 400,000 have been laid off, many with meager benefits, the majority with none.

The Social Security law currently does not allow for a COLA when inflation—as mirrored in the Consumer Price Index—does not rise above 3 percent.

The budget committees and the legislative bodies are sensitive to election year politics and have included veterans benefits, railroad retirees, civil service retirees, veterans compensation and other retirement programs which all add up to more than $5 billion if paid at the expected increase.

This is done at the same time that Gramm-Rudman-Hollings seeks to balance the budget by 1991 and mandates that Federal borrowing cannot exceed $144 billion for 1987.

Cost of living adjustments, along with other fringe benefit expenses, should be constrained, if funding them will cause the basic pensions and other programs such as education, health care, and essential quality of life programs to be endangered.

With or without Gramm-Rudman, increases or cuts or perhaps both will be necessary between 1986 and 1991 to bring the country's spending into balance with its income.

If Gramm-Rudman is successful, it will be nothing short of a miracle and if so the big job will begin in 1991, when we should focus on and begin reducing the $2 trillion debt, which we have a moral responsibility to face up to.

It's my opinion that America is at a crossroads from which there might be no return. Thus, we as Americans have an opportunity and a responsibility, at this time, to make Gramm-Rudman or a program of fiscal responsibility work.

It's not the best statute and we could have passed better legislation, but it is the only law in existence which forces this country to focus on the fiscal responsibility which has built America and which is imperative if we are going to save America as we know it.

The Congress has finally passed a budget—meeting the 1987 Gramm-Rudman spending levels, but I'm discouraged that we failed to make hard spending cuts to meet the levels and, instead, used a smoke-and-mirror process to project spending reductions which may not happen. A national magazine last week called the budget—Government by Gimmick!

For too many years, America has been over-generous, and indeed wasteful, to the point of using up the re-

sources of the future and obligating the incomes of not only the present generation but for the millions of yet unborn children and grandchildren who deserve as much opportunity as we do in this wonderful land. Instead they must shoulder the debt that we have incurred.

While I believe, as I have previously said, that to pay annual COLA's during deficit years is a bankrupting program, if we are going to do so, working Federal employees should be given a higher priority and percentage than retirees. Again, they are buying their homes, educating their children and paying into the retirement fund so retirees can draw their higher basic pensions.

Quoting from an article by Bruce Bartlett of the Heritage Foundation on April 16, 1986,

Legislation designed to hold the elderly harmless from inflation actually gave them an enviable inflation bonus. At the same time, however, the real wages of working people, whose taxes pay for Social Security benefits, were falling.

Average weekly earnings, adjusted for inflation, tumbled from $145 in 1973 to $125 in 1984, while average monthly Social Security benefits climbed from $166 to $197 in the same period.

For example: Average weekly earnings fell to $139 in 1974, $135 in 1979, $124 in 1981, and $125 in 1983. Meanwhile, average Social Security benefits rose to $170 in 1974, $181 in 1979, $188 in 1981, and $197 in 1983.

So, I would prefer that we simply postpone all automatic increases until the country is operating within its income and without a deficit.

I urge all Americans to join me in this effort in these dire financial straits. We simply cannot do business as usual, but instead must make sacrifices.

We must all do our share to remove from our country the unwelcome title of the largest debtor nation in the world.

Mr. Speaker, I am inserting the following chart into the RECORD, to which I referred earlier.

INCREASES IN SOCIAL SECURITY BENEFITS, FEDERAL CIVILIAN AND MILITARY RETIREMENT, MILITARY PAY, FEDERAL PAY, VETERANS COMPENSATION, AVERAGE WAGES, AND THE CONSUMER PRICE INDEX

Year	Social security			Federal/civilian military retire			Federal pay			Military pay [1]		
	Month	Percent	Amount	Month	Percent	Amount	Month	Percent	Amount	Month	Percent	Amount
			100.00			100.00			100.00			100.00
1970	January	15.0	115.00	August	5.6	105.60	January	6.0	106.00	January	6.6	106.60
1971	January	10.0	126.50	June	4.5	110.35	January	6.0	112.36	January	6.8	113.05
										November	14.2	130.02
1972	September	20.0	151.80	July	4.8	115.65	January	5.5	118.54	January	5.4	137.04
1973				July	6.1	122.70	January	5.1	124.59	January	6.0	145.20
							October	4.8	130.57	October	7.3	155.86
1974	June	11.0	168.50	January	5.5	129.45	October	5.5	137.75	October	5.5	164.43
				July	6.3	137.61						
1975	June	8.0	181.98	January	7.3	147.65	October	5.0	144.63	October	5.0	172.66
				August	5.1	155.18						
1976	June	6.4	193.62	March	5.4	163.56	October	4.8	151.58	October	4.8	180.94
1977	June	5.9	205.05	March	4.8	171.41	October	7.0	162.19	October	7.1	193.79
				September	4.3	178.79						
1978	June	6.5	218.38	March	2.4	183.08	October	5.5	171.11	October	5.5	204.45
				September	4.9	192.05						
1979	June	9.9	240.00	March	3.9	199.54	October	7.0	183.08	October	7.0	218.76
				September	6.9	213.30						
1980	June	14.3	274.32	March	6.0	226.10	October	9.1	199.78	September	0.9	220.73
				September	7.7	243.51				October	11.7	246.56
1981	June	11.2	305.04	March	4.4	254.23	October	4.8	209.37	October	14.3	281.81
1982	June	7.4	327.61	March	8.7	276.34	October	4.0	217.75			
1983	December	3.5	339.08	April	3.9	287.12				January	4.0	293.08
1984	December	3.5	350.95	December	3.5	297.17	January	3.5	225.37	January	4.0	304.81
1985	December	3.1	361.82	December	0.0	297.17	January	3.5	233.25	January	4.0	317.00
										October	3.0	326.51
1986							January	0.0	233.25			

[1] Weighted average increase in basic pay, basic allowance for quarters, and basic allowance for subsistence.

INCREASES IN SOCIAL SECURITY BENEFITS, FEDERAL CIVILIAN AND MILITARY RETIREMENT, MILITARY PAY, FEDERAL PAY, VETERANS COMPENSATION, AVERAGE WAGES, AND THE CONSUMER PRICE INDEX

Year	Veterans comp			Average wages [1]			Consumner price index-w [2]			Pay for members of Congress		
	Month	Percent	Amount	Month	Percent	Amount	Month	Percent	Amount	Month	Percent	Amount
			100.00			100.00			100.00			100.00
1970	July	10.0	110.00	July	6.6	106.62	July	5.9	105.90			
1971				July	7.2	114.24	July	4.4	110.53			
1972	August	10.0	121.00	July	6.1	121.20	July	3.0	113.88			
1973				July	6.3	128.83	July	5.7	120.42			
1974	May	17.2	141.81	July	8.0	139.13	July	11.5	134.30			
1975	August	11.8	158.55	July	8.3	150.62	July	9.7	147.28	October	4.9	104.90
1976	October	8.0	171.23	July	7.1	161.27	July	5.4	155.26			
1977	October	6.6	182.53	July	7.8	173.79	July	6.7	165.70	March	28.9	135.22
1978	October	7.3	195.86	July	8.3	188.15	July	7.7	178.49			
1979	October	9.9	215.25	July	7.8	202.85	July	11.5	199.09	October	5.5	142.65
1980	October	14.3	246.03	July	9.2	221.43	July	13.0	225.05			
1981	October	11.2	273.58	July	8.8	241.02	July	10.7	249.18			
1982	October	7.4	293.82	July	7.1	258.13	July	6.3	264.79	December	15.1	164.19
1983				July	4.3	269.12	July	2.2	270.60			
1984	April	3.5	304.11	July	3.5	278.64	July	3.1	279.04	January	3.4	169.78
	December	3.2	313.84									
1985	December	3.1	323.57	July	2.9	286.64	July	3.8	289.56	January	3.4	175.55
1986												

[1] Hourly earnings index for private, nonfarm workers (HEI).
[2] Consumer price index for wage earners and clerical workers [CPI–W].

□ 1515

MY ADVICE TO THE PRIVILEGED ORDERS AND THE CRIME KING CONTINUES TO BE KING

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to advise the Speaker as well as some of my colleagues who may be listed as following me that it is not my intention to utilize 1 hour. In fact, I believe that no more than 15 minutes should suffice for me to discuss the matter that impels me to seek this special order.

For about more than 2 years I have spoken out on what I generally label as "King Crime." The reason was that things happened back in the district that I felt also transgressed the purely local or parochial situation, but rather reflected a national, a greater issue that was permeating the entire Nation, and that was the insidious, pervasive presence of the most sophisticated organized crime and criminal activity, much of it, if not that which was the most powerful and richest, so sophisticated that with otherwise legitimate business fronts, very, very few, even some officers of corporations that fronted or in effect were owned by organized crime themselves were not aware first to anticipate what just in a matter of 1 year and a half became a national energy crisis. It seems to me that our communities are small, but nevertheless vital links in this chain of either strength or weakness, and as has long been said, no chain is any stronger than its weakest link and our Nation is really not that strong, but what it is brittle and susceptible to very grave social dislocations and the presence of this pervasive kind of pattern of illegality which eventually leads to such things as this out-of-control traffic in drugs, murder, homicide, prostitution, which are all tied in and are natural consequences of what we have allowed to happen in our country, and even in the case of what happened just a few years after I initiated my concerns, spoke out, at the time I spoke here on the forum, not only here but back home, I had critics who said, "What's this all about? Why do you want to importune the Congress about this?"

□ 1530

Then of course things happened in the intervening years, culminating in the attempted assassination or murder of the assistant district attorney for the Federal judicial district in western Texas, which is part and parcel of that western district that comprises my own district.

Then, following that, I spoke to the House continuously, demanding that that attempted murder of the assistant Federal district attorney be really investigated, that the culprits and those behind them particularly be rooted out, prosecuted vigorously, and punished in accordance with the magnitude of the crime, only to find that even there I received criticism.

Then, when this same assistant Federal district attorney, who had been the object of this try, not now in that part of the county that is in my district, but which at one time was, because my district comprised the entire county, I nevertheless raised my voice, because I predicted that this was only the beginning of more serious attempts.

I felt that the issue was the intimidation of the third branch of our Government, the judiciary, at least in those areas in which the feeling was secure on the part of these powerful, powerful criminal masterminds and these criminal corporate heads of the syndicate who felt so brazen that they thought such could be done, and in fact they did.

We had a period of about 2 years in which the judiciary and all of the employees in the judiciary were in effect compelled to have U.S. marshal surveillance and custody or care or some kind of security, until I was informed on the occasion of the visit of the assistant district attorney who came, of all things, to Washington to receive a commendation from the Justice Department, and for the first time called, and I met him.

I was very much apprehensive when he said that the Federal district judge that worked mostly in that area, in the El Paso area of the western judicial district, had said that he was going to remove his U.S. marshals, and in fact had done so just a few weeks before.

I urged the district attorney to go back and plead with the judge to recall the marshals, because I felt that the threat was very present. To me it was very present. To me it was very clear. Sure enough, the very Tuesday following, on May 28, to be precise, 1979, to be exact, the judge was murdered—the first kind of crime against the judiciary of this kind in the entire history of the American judiciary.

So I then took the floor, and for 2 years, and sometimes meeting absolute obstruction, I imposed on the then President, who went so far as to send his special assistant, who brought his DEA liaison man at the White House and sat in my office and said, "Well, what is it you want?"

I said:

What do I want? It's not what I want, it's what I think we owe the American people, and that is that at least on the Federal level, you have some coordination of effort between the Federal agencies and the State and the local agencies. But I'll settle if you can just coordinate your Federal agencies.

In the meantime, another mysterious crime, which to this day has been relegated to the dust of history, took place, and that was the mysterious lingering death or coma and eventual death of the Drug Enforcement Administration man in the Mexico City bureau, who had been arrested in a San Antonio hotel for bribery under very peculiar circumstances, and then immediately transported about 80 miles north to Kerr County for security purposes until his lawyer complained that he did not have access, and they brought him back to the county jail in Bexar County, in San Antonio. He had not been there 1 day before he was given a peanut-butter-and-jelly sandwich, went into a coma, never got out of that coma, and died 6 months later. The man never had a chance to have his day in court on any kind of an accusation.

Nevertheless, the case was closed as if he had been guilty.

Who would think that one would choke up on a peanut-butter-and-jelly sandwich and go into a coma and die 6 months later, that that was strictly a normal, natural occurrence. Well, if anybody believes that, of course, they are ready to believe in the tooth fairy.

The reason that I am bringing this up is that after speaking for 2 years, finally, to me the biggest satisfaction was having 1 day, a Friday, in my hometown, in my home, a phone call from Washington from the Director of the FBI, Mr. Webster, who said:

We're calling you because we give you credit, more than anybody else, for having helped us at least resolve this, and we're giving you a little advance information that in about 4 hours, we will announce the first indictments in this case. I am happy about all of that.

I then, after that, did not speak out.

I now speak because, rather than having closed out this case, the fact remains that to me it still remains very much unsolved. I must also remind everybody interested that the attack and the attempted killing of the assistant Federal district attorney has not been resolved. However, there is no question about it, it was connected.

Then we had the trial of some of those that were indicted. However, I am firm in my opinion that those above those that were apprehended—the hit man was finally flushed out—but those who made the contract with the hit man were in my opinion middle. There are higher and more powerful forces behind.

What was the issue? The issue was what I had anticipated in going before the grand jury and speaking out in the local press about the existence of the opening of what became known later as the brown heroin trade. When the French Connection was closed, much due to the efforts of Santa Barrio, the DEA agent that died as I said after a coma, after eating a peanut-butter-

and-jelly sandwich, which I think ought to disturb all mothers who are accustomed to giving that to their children—it is their usual fare—that we better look out here and see, maybe we should have some nutrition expert investigate all of this.

Nevertheless, the point remains that a pattern has continued. The bombing, for instance, or the blowing up of an automobile belonging to a colleague of mine not too far from the area in which I reside naturally was a matter of concern. This followed not too long after the FBI had reported a contract on my life for $35,000, and then refused to give me a report.

I had to go through the Freedom of Information in order to glean something, and discovered to my amazement that not only had that been one time, the one that I was asking information about, but that the FBI had knowledge of three prior threats that had been made but never once had been reported to me.

□ 1540

And what is more important, they had a most interesting dossier ever since I had been in the State senate. So when the bombing of this Congressman, a colleague of ours from Texas who does not represent a district in the immediate vicinity of mine, but the bombing having taken place right in the heart of my district, I naturally made sure that there would be some Federal presence, and I requested the San Antonio Police Department, at that time the head of the homicide division, who had been a long-time friend, our friendship going back to when he started his career and I was the chief juvenile probation officer for Bexar County, so that when some officers and some administrators and some people say, "Well, what is your source of information," well it goes back to the day that I was in law enforcement, and that is part and parcel of it.

In the case of this gentleman who headed the division on homicide and who has since retired, I ask him to please make sure that the Federal agents and agencies who have a presence under the responsibility of the code, as amended by title 18. However, that case disappeared into the dust of history, but it did not from my mind.

Then comes the incident just a few weeks ago in which a very bizarre homicide was recorded, one San Antonio policeman killing another policeman and the circumstances surrounding. So I then wrote Director William Webster a request that he please have the Federal Bureau of Investigation look into the circumstances surrounding this pattern of behavior because I felt that constituents who belonged to a certain segment of my society had been exposed by the actions of this particular police officer and some in his association.

I will place in the RECORD the letter that I received in reply to my request. My letter was dated September 4 and the letter dated September 24 which I received day before yesterday by way of reply from Director Webster, and also my reply to this letter as of October 9, yesterday, to Director Webster.

The letters referred to follow:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 24, 1986.

Hon. HENRY B. GONZALEZ,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GONZALEZ: I have received your letter of September 4th expressing your concern regarding recent incidents involving officers of the San Antonio Police Department and requesting an FBI investigation. We are currently looking into the matter involving the shooting of Officer Stephen Smith. In view of your knowledge and interest, we believe it would be beneficial for FBI representatives to discuss with you the shooting incident and the other matters you mentioned. I understand my colleagues in San Antonio have been in contact with your local office regarding such a meeting, and I hope your schedule will permit you to meet with our representatives at the earliest possible date. I can assure you that we will diligently follow up on any information which would indicate a possible violation of Federal law falling within our investigative jurisdiction.

Thank you for your interest and for advising me of your concerns.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 9, 1986.

Hon. WILLIAM H. WEBSTER,
Director, Federal Bureau of Investigation,
Department of Justice, Washington, DC.

DEAR DIRECTOR WEBSTER: I am glad to know that the Federal Bureau of Investigation is "looking into" the matters raised in my letter to you dated September 4. However, my concern is not much assured for I do not have the sense that the Bureau has given this inquiry the status or urgency it deserves. Clearly the conduct of Officer Stephen Smith most probably violated the rights of a large number of individuals. It seems likely that this conduct was known by others and had been known for some time. Yet as far as I can ascertain there is no effort to investigate the very broad and grave implications raised by Officer Smith's strange death, let alone the questions that arise by the appearance that his activities were known but left undisciplined.

My staff did of course advise me of the request your representatives made for a meeting. Aside from the fact that my schedule does not now permit me the time to arrange such a meeting, I do not feel it would be productive. I am asking the Bureau to use it resources to investigate fully circumstances that suggest substantial problems in a major police department. I do not have access to the information and resources that you do. If I do acquire any data that might be useful I will immediately convey it to you. My request was, and I reiterate it, for the Bureau to investigate the incident and its implications, so that the integrity of the San Antonio Police Department can be assured and the people of the city may have confidence in the professionalism, efficiency and conduct of their police.

With every good wish, I am

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

Mr. GONZALEZ. The point is that what we have reached is a point in our history that I think is more troublesome than perhaps any other, and that is where a sophisticated, highly organized crime has been able to gather such power that it has even greater power than our duly constituted law enforcement agents because they have infiltrated our Government, they have infiltrated our political system, they have infiltrated and now have substantial interests in business that otherwise has very honorable fronts. With this kind of combination, how can we ask a poor policeman, how can we ask even an FBI agent? This is the reason why in our society we can have such a thing as the disappearance and the presumable homicide or death of such a person as Jimmy Hoffa who still is a sort of a mystery, and the reason is that Jimmy Hoffa was involved in the highest, the intricacies of involement not only with organized crime of the highest type but with political forces in our Government and political parties, and because even our President does not escape the shadow of suspicion because the first $4 million that President Reagan made in Hollywood were the result of moneys that enabled him to be received by a going concern in Hollywood that was heavily infiltrated by organized crime. It has always been a well-established fact that Hollywood generally has had an unwholesome pervasive presence of organized crime.

So what I am saying is that I hope that we can have the kind of backing of our law enforcement agents that can help us in the communities that do not have the resources to have a comprehensive look into and safeguarding against these very, very powerful forces that operate intrastate, interstate, and internationally against which a poor local municipal police force does not have a chance.

Mr. Speaker, I yield back the balance of my time.

PARTNERS IN PREVENTION

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from Minnesota [Mr. STANGELAND] is recognized for 30 minutes.

Mr. STANGELAND. Mr. Speaker, drug abuse and its prevention are uppermost in the mind of much of America today. I rise today to speak about a drug prevention program in my district known as PIP-fests; Partners in Prevention Festivals. This program started in 1981 as an outgrowth of the

Partner's Institute at the Unversity of Minnesota Duluth, and funded through a grant awarded by the U.S. National Institute of Drug Abuse. The first program was held in Little Falls, MN, and is on going at the present time. In 1982, a corporation called PIP-Fest International was formed and today that organization does its business as Partners In Prevention. The leaders locally are volunteers.

Partners in Prevention is an experienced group of professionals providing programs, directed at adolescents and adults, that offer schools, communities, businesses and service organizations a proven, cost- and time-effective method which presents alternatives to drug abuse through the promotion of emotional and physical health. Partners in Prevention is a primary prevention organization providing high school students and concerned adults with an experience that helps them better understand themselves and others, improve their communication skills, and raise their self-esteem. This helps to minimize the abuse to drugs as well as enhance already present leadership skills. Those attending the PIP-festivals programs will have the opportunity to become life-long partners with chemical abuse prevention and healthy living.

Partners in Prevention is currently experiencing its 6th consecutive year of growth and expansion. There are 20 high school PIP-festivals targeted for this school year and new programs are currently being written and developed for high school athletes, for adults and for families. There is a continuing need for extending the network of people who are interested in preventing chemical abuse.

Mr. Speaker, I think that it's important to note that this program is one that is generated by public involvement and concern about the drug problem facing our Nation. All the money in the world won't solve the drug problem unless the public at large is educated and takes part in rejecting this menace from our streets and neighborhoods forever. Partners in Prevention is a program which reaches our children in every segment of our society. It encourages parents and their children to fight against drugs by developing a lifestyle that raises one's self-esteem, confidence and leadership skills.

Partners in Prevention stresses beating drug use to the punch. By its very name PIP attempts to prevent drug abuse before it becomes a problem. As any expert in the field of drug abuse can tell you prevention is not only the best way in dealing with the drug problem at large, but it is also the most cost effective. Prevention also eliminates the side effects to drug abuse such as violent crime, runaways and broken families, not to mention the broken dreams of the parents and friends of the drug abuser.

The idea of combining the family element into this program reaches deep to the core of what America is all about. Taking care of one's family should be, and is the No. 1 priority for each and everyone of us. PIP does just that by opening up the lines of communication between parents and their children. Mr. Speaker, how many times have we heard it said by drug users: "* * * if somebody had just told me they cared. * * *." With this program parents and children learn how to express their feelings in a way that enables both parties involved to show that they care.

Mr. Speaker, Partners in Prevention is a program that has worked. For 6 years it has been preventing drug abuse and contributing to the lives of hundreds of people who want to say no to drugs. I urge my fellow colleagues to encourage the development of similar programs in their own States if they don't already exist.

Mr. Speaker, I am submitting for the record the full text of a letter I received from the vice president of Partners in Prevention, Mr. Dave Sjoblad, in case other Members would like to contact him and find out more on just how their program works.

Members may also contact my office for more information as well.

The letter referred to follows:

PARTNERS IN PREVENTION,
Little Falls, MN, September 2, 1986.

Hon. ARLAN STANGELAND,
Longworth House Office Building,
Washington, D.C. 20515

DEAR MR. STANGELAND: Thank you again for visiting us at Partners In Prevention. We appreciate your time and the support you showed for our program. We are especially pleased that you agreed to read us into the Congressional Record. Enclosed you will find the document which we would like you to read. If there are any questions or suggestions you may have, please feel free to contact our office.

Good luck in the coming election.

Sincerely,

Dave Sjoblad, *Vice President.*

PARTNERS IN PREVENTION

PIP-Fests, Partners In Prevention-Festivals, started in 1981 as an outgrowth of the Partner's Institute at the University of Minnesota Duluth, and through a grant awarded by the United States National Institute of Drug Abuse. The first program was held in Little Falls, Minnesota. In 1982, a corporation called PIP-Fest International, Inc. was formed and today that organization does its business as Partners In Prevention.

Partners in Prevention is an experienced group of professionals providing programs, directed at adolescents and adults, that offer schools, communities, businesses and service organizations a proven, cost- and time-effective method which presents alternatives to drug abuse through the promotion of emotional and physical health. Partners in Prevention is a primary prevention organization providing high school students and concerned adults with an experience that helps them better understand themselves and others, improve their communication skills, and raise their self-esteem. This helps to minimize the abuse of drugs as well as enhance already present leadership skills. Those attending the PIP-Fest programs will have the opportunity to become life-long partners with chemical abuse prevention and healthy living.

A PIP-Fest is a weekend retreat filled with activities whose primary goal is to prevent chemical abuse among adolescents. In large group settings, students and adults are provided with information about building relationships, healthy ways of dealing with feelings, chemical dependency as a family disease, the art of listening and helping others solve problems, maintaining self-esteem and chemical abuse prevention. In small groups, they have an opportunity to personalize the large group presentations and to practice communications skills. The PIP-Fest weekend is a time for students and adults to learn more about themselves, to learn how to show care and support for others and to learn new ways to have fun without using chemicals.

In the past five years there have been over 60 PIP-Fests in four States and one Canadian Province. Almost 10 thousand high school adolescents have attended. The program has proven to be an effective one. By addressing the issues of awareness, self-esteem and alternatives to chemical use, many young people and adults have been given the power to say "no" to drugs.

Partners in Prevention is currently experiencing its sixth consecutive year of growth and expansion. There are 20 high school PIP-Fests targeted for this school year and new programs are currently being written and developed for high school athletes, for adults and for families. There is a continuing need for extending the network of people who are interested in preventing chemical abuse. Partners in Prevention can be contacted by writing to P.O. Box 43, Little Falls, MN 56345. Telephone 612-632-2165.

□ 1550

PROTECTING THE AMERICAN CONSUMER AND MANUFACTURER AGAINST FAULTY FOREIGN-MADE GOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, yesterday I introduced a bill to require the posting of a surety bond with respect to products manufactured in foreign countries or customs unions. This legislation is an effort to give the American consumer and manufacturer protection against fraudulent, shoddy, or—possibly—dangerous products produced and imported from abroad.

At the present time, there is no legal recourse against bad performance for the consumer of foreign products whether the item is a component part of a computer or an airplane engine or whether it is a chain saw sold directly through our retail outlets to the public.

There is a tremendous liability involved here which is going uncovered.

Our domestic manufacturers are being hammered into the ground on the costs of product liability. In this litigious society—which is modern America—the necessity for liability insurance is a given and built in additional cost for all American products.

We are told that in order for our American products to compete against foreign products inside our own markets, they must be competitively priced. The cost of protecting the American public by providing liability coverage is carried by only the manufacturers of "made in America."

This is not fair to American producers, Mr. Speaker, but more than that, it is not fair to the American consumer.

Increasingly we are seeing counterfeit products coming in from abroad. For a long time we have heard of fraudulent fashion items such as handbags, clothing, perfumes, and trendy watches. But, now the stories are becoming grimmer. We are hearing about fraudulent bolts and screws—industrial fasteners—which have found their way into nuclear powerplants, helicopters, and defense systems.

The extent of this inundation is so great that the question of quality control becomes moot. In one operation dealing with the Space Program, the engineer in charge of quality control examined eight bins of size 8 bolts with the correct markings for heat tolerance. Selecting one bolt, at random, from each bin, he tested for accuracy of the markings.

All eight were counterfeits. All had come from the Philadelphia Disc Supply Depot which feeds our total defense industrial base effort.

Good quality control would mandate throwing the bad fasteners out, but we have gotten ourselves into the situation that at this point in time, the counterfeits are such a great part of our internal supplies, that the bad bolts would only be replaced by more fraudulent bolts.

What is happening in the civilian sector we can only speculate. But, if it is anything like what is happening in the defense sector, we certainly need some kind of legislation which will make the guilty parties liable for their fraud.

American insurers and manufacturers should not be responsible for accidents caused by counterfeit component parts buried in the depths of some malfunctioning engine of an airplane or bus. The way our system of international justice works right now, the liability would fall totally on the American producer because he is the only one covered by liability which can be reached by our court system.

My legislation, originally cosponsored by Mr. MURTHA of Pennsylvania; from Ohio, Mr. KASICH, Ms. KAPTUR, and Ms. OAKAR; from West Virginia, Mr. RAHALL; from Connecticut, Mrs. JOHNSON; from Pennsylvania, Mr. CLINGER; and from Maryland, Mrs. BYRON and Mr. DYSON would create a surety bond equal to 20 percent of the value of all the products imported from that producer.

This would serve to establish the validity of the foreign manufacturer and in case of bad performance or fraudulant representation, create a pool of money against which recovery of loss or damages can be made.

This legislation, I would hope, should begin to shake out the fraudulent manufacturers right away. Fly-by-night importers or producers would not be likely to post a bond for what would be tantamount to immediate forfeiture.

As we moved into the global economy at the beginning of this decade, many of the standards of U.S. manufacturing—which had grown up through years of American industrialization—were taken for granted. In opening up our market to foreign products, we forgot that U.S. law for years had been policing us through liability legislation into standardization of quality.

If shoddy or dangerous products were produced, the U.S. justice system allowed the consumer to "get at" the guilty producer.

I would judge that now over 50 percent of what we are purchasing is outside of that system of justice. The global village needs some way of holding accountable those international manufacturers and importers who operate not only outside of the moral law, but operate outside of U.S. jurisdictional law.

I hope we have found the way. I also hope that many of my colleagues will come aboard along with me and the several original cosponsors of this legislation. We think it is an idea whose time has come.

COMMUNICATION FROM THE HONORABLE CHARLES O. WHITLEY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. CHARLES O. WHITLEY:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, U.S. Congress, Washington, DC.

DEAR MR. SPEAKER: I herewith tender my resignation as a member of the 99th Congress representing the Third Congressional District of the State of North Carolina to be effective at midnight, December 31, 1986.

This letter is being executed in triplicate originals with one being directed to you; one to the Governor of North Carolina; and one to the Sergeant at Arms of the United States House of Representatives.

Please advise if any additional action is required on my part to effectuate the official termination of my status as a United States Representative at the time specified herein.

Respectfully,

CHARLES O. WHITLEY,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TRAXLER (at the request of Mr. WRIGHT), for today, on account of medical reasons.

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of a necessary absence.

Mr. RAHALL (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STRATTON, for 60 minutes, on October 15.

(The following Member (at the request of Mr. DELAY) to revise and extend his remarks and include extraneous material:)

Mr. LEACH of Iowa, for 5 minutes, today.

(The following Members (at the request of Mr. RAY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. LELAND, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. DICKS, for 60 minutes, today.
Mr. BYRON, for 60 minutes, today.
Mr. HOYER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DELAY) and to include extraneous matter:)

Mr. SOLOMON.
Mr. FRENZEL in five instances.
Mr. LIGHTFOOT.
Mr. CONTE.
Mr. HUNTER.
Mr. GOODLING.
Mr. CLINGER.
Mr. MCCANDLESS.
Mr. GEKAS in two instances.
Mr. BEREUTER in two instances.
Mr. LEWIS of California.
Mr. STUMP.
Mr. DIOGUARDI.
Mr. MCKERNAN.

(The following Members (at the request of Mr. RAY) and to include extraneous matter:)

Mr. ENGLISH.
Mr. LANTOS.
Mr. MAZZOLI.
Mr. BORSKI.

Mr. LAFALCE.
Mr. MARKEY.
Mr. RODINO.
Mr. LELAND.
Mr. KILDEE in two instances.
Mr. FRANK.
Mr. MURTHA.
Mr. COELHO.
Mr. WYDEN.
Mr. LEHMAN of California.
Mrs. SCHROEDER.
Mr. ABERCROMBIE.
Mr. RAY.
Mr. GARCIA.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 786. An act to establish an Information Age Commission; to the Committees on Government Operations and Science and Technology.

S. 1209. An act to establish the National Commission to Prevent Infant Mortality; to the Committee on Energy and Commerce.

S. 2055. An act to establish the Columbia Gorge National Scenic Area, and for other purposes; to the Committees on Interior and Insular Affairs and Agriculture.

S. 2370. An act to authorize the Francis Scott Key Park Foundation, Inc. to erect a memorial in the District of Columbia; to the Committee on House Administration.

S. 2452. An act to designate the U.S. Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr., Post Office Building"; to the Committee on Post Office and Civil Service.

S.J. Res. 359. Joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 407. Joint resolution designating November 12, 1986, as "Salute to School Volunteers Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1598. An act for the relief of Steven McKenna;

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

H.R. 2224. An act to amend the Immigration and Nationality Act to permit nonimmigrant alien crewmen on fishing vessels to stop temporarily at ports in Guam;

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes;

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng Il Jang;

H.R. 5073. An act to amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes;

H.J. Res. 17. Joint resolution to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920;

H.J. Res. 438. Joint resolution to designate October 31, 1986, as "National Child Identification and Safety Information Day";

H.J. Res. 517. Joint resolution providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles;

S. 816. An act to establish the Pine Ridge National Recreation Area and Soldier Creek Wilderness in the State of Nebraska, and for other purposes, and

S. 2048. An act to encourage international efforts to designate the shipwreck of the R.M.S. *Titanic* as an international maritime memorial and to provide for reasonable research, exploration, and, if appropriate, salvage activities with respect to the shipwreck.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 58 minutes p.m.) under its previous order, the House adjourned until Tuesday, October 14, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4327. A letter from the Director, the Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-278); to the Committee on Appropriations and ordered to be printed.

4328. A letter from the General Counsel, Department of Energy, transmitting a notice of meetings related to the International Energy Program to be held on October 14, 1986, at the offices of UNESCO, Paris, France; to the Committee on Energy and Commerce.

4329. A letter from the Secretary of the Interior, transmitting the 1985 report on the state of domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, pursuant to 30 U.S.C. 21a; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. Report on the traffic alert and collision avoidance system: a technological contribution to air safety (Rept. 99-987). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 586. Resolution providing for disagreeing to the Senate amendment to House Joint Resolution 668 (Rept. 99-988). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 587. Resolution waiving certain points of order against the conference report on H.R. 6 and against the consideration of such conference (Rept. 99-989). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 588. Resolution waiving certain points of order against the conference report on S. 1128 a bill to amend the Clean Water Act, and against the consideration of such conference report (Rept. 99-990). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 5406. The Committee on the Judiciary discharged from further consideration of H.R. 5406; H.R. 5406 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN (for himself, Mr. WILLIAMS, and Mr. GOODLING):

H.R. 5690. A bill to amend the Older Americans Act to authorize grants to States for demonstration projects that provide to older individuals services in return for certain volunteer services provided to other individuals; to the Committee on Education and Labor.

By Mr. WYDEN:

H.R. 5691. A bill to establish a preference for nondevelopment items in nondefense Government procurement; to the Committee on Government Operations.

By Mr. ABERCROMBIE (for himself, Mr. MILLER of California, Mr. DOWNEY of New York, Mr. AKAKA, Mr. HOWARD, Mr. YATES, Ms. MIKULSKI, Mr. YOUNG of Missouri, Mr. LEHMAN of Florida, Mr. WALDON, Mr. MARTINEZ, Mr. MCCLOSKEY, Mr. WOLPE, Mr. TOWNS, Mr. FAUNTROY, Mr. BUSTAMANTE, and Mr. EVANS of Illinois):

H.R. 5692. A bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investiga-

tion and adjudication of child sex abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 5693. A bill to amend the Internal Revenue Code of 1954 to restore prior law for purposes of claiming a dependency exemption where, under a pre-1985 instrument, the noncustodial parent provides $1,200 or more for the support of a child; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. ANTHONY, Mr. FUQUA, Mr. BARTON of Texas, Mr. ARCHER, Mr. DUNCAN, and Mr. DICKS):

H.R. 5694. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefit of an institution of higher education; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 5695. A bill to assure the appropriate and safe use of artificially produced growth hormones; to the Committee on Energy and Commerce.

By Mr. MILLER of California (for himself and Mr. LEACH of Iowa):

H. Con. Res. 409. Concurrent resolution expressing the support of Congress for the petition drive of the National Forum requesting a televised educational forum on nuclear arms issues; to the Committee on Energy and Commerce.

By Mr. MICHEL:

H. Res. 584. Resolution electing Representative HILLIS of Indiana to the Committee on Armed Services; and Representative DORNAN of California to the Committee on Education and Labor; considered and agreed to.

By Ms. OAKAR:

H. Res. 585. Resolution designating membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 442: Mr. LEWIS of California.

H.R. 3842: Mr. COURTER, Mr. DURBIN, Mr. GEKAS, Mr. GEPHARDT, Mr. HUTTO, Mr. SPRATT, Mr. STRATTON, Mr. CARR, and Mr. MOODY.

H.R. 4025: Mr. DUNCAN.

H.R. 5067: Mrs. VUCANOVICH.

H.R. 5272: Mr. TORRICELLI.

H.R. 5512: Mr. TORRICELLI and Mr. RUSSO.

H.R. 5535: Mr. MCEWEN, Mr. FOWLER, Mr. BRYANT, Mr. FRENZEL, Mr. KOLTER, Mr. KINDNESS, Mr. DARDEN, Mr. BUSTAMANTE, Mr. ROWLAND of Georgia, Mr. GARCIA, Mr. SOLOMON, Mr. RANGEL, and Mr. THOMAS of Georgia.

H.R. 5587: Mr. FEIGHAN, Mr. VENTO, and Mr. WORTLEY.

H.R. 5588: Mr. HAYES, Mr. WOLPE, Mr. FROST, and Mr. WEBER.

H.R. 5596: Mr. ROEMER, Mr. WORTLEY, and Mrs. BENTLEY.

H.R. 5603: Mr. BUSTAMANTE, Mr. HUBBARD, Mr. ROWLAND of Georgia, Mr. THOMAS of Georgia, and Mr. KOLTER.

H.R. 5604: Mrs. HOLT, Mr. CHENEY, Mr. FIELDS, Mr. GARCIA, Mr. MONSON, Mr. MARTINEZ, Mr. MITCHELL, Mr. SMITH of New Jersey, Mr. LEATH of Texas, Mr. LEWIS of Florida, Mr. LAGOMARSINO, and Mr. SHELBY.

H.R. 5618: Mr. FAZIO, Mr. GRAY of Illinois, and Mr. RANGEL.

H.R. 5683: Mr. DORNAN of California, Mr. KEMP, Mr. GILMAN, Mrs. BENTLEY, Mr. DREIER of California, Mr. GREGG, Mr. GEKAS, Mr. DUNCAN, Mr. DAUB, Ms. FIEDLER, Mr. KILDEE, Mr. CRANE, Mr. BURTON of Indiana, Mr. MCKINNEY, Mr. BONIOR of Michigan, Mr. HENRY, Mr. VANDER JAGT, Mr. PURSELL, Mr. FORD of Michigan, Mr. LANTOS, Mr. PASHAYAN, Mr. LAGOMARSINO, Mr. TAYLOR, Mr. HYDE, Mr. SUNDQUIST, Mr. MILLER of Washington, Mr. CONTE, Mr. HAMMERSCHMIDT, Mr. HILLIS, Mr. SCHAEFER, Mr. ZSCHAU, Mr. BROWN of Colorado, Mr. YOUNG of Alaska, Mr. CARR, Mr. SCHUETTE, Mr. SILJANDER, Mr. LEVIN of Michigan, Mr. DAVIS, Mr. WOLPE, Mr. MICHEL, Mr. EMERSON, Mr. WEBER, Mr. LUNGREN, Mr. MILLER of Ohio, Mr. COMBEST, Mr. BADHAM, Mr. LEACH of Iowa, Mr. LEWIS of California, Ms. SNOWE, Mr. QUILLEN, Mr. LIVINGSTON, Mr. SAXTON, Mr. MADIGAN, Mr. SCHUMER, Mr. LEVINE of California, Mr. LOTT, Mr. CARNEY, Mr. WALKER, Mr. ROTH, Mr. ECKERT of New York, Mr. HORTON, Mr. LEWIS of Florida, Mr. PETRI, Mr. LENT, Mr. CROCKETT, Mr. HUNTER, Mr. BIAGGI, Mr. SMITH of Florida, Mr. PERKINS, Mr. DARDEN, Ms. OAKAR, Mr. RAHALL, Mr. SISISKY, Mr. MICA, Mr. HUGHES, Mr. HUBBARD, Mr. DINGELL, Mr. DASCHLE, Mr. LOWRY of Washington, Mr. LUKEN, Mr. LELAND, Mr. DE LUGO, Mr. APPLEGATE, Mr. BROWN of California, Mrs. BOXER, Mr. BUSTAMANTE, Mr. RANGEL, Mrs. SCHROEDER, Mr. ORTIZ, Mr. WEAVER, Mr. GLICKMAN, Mr. MILLER of California, Mr. SKELTON, Mr. STRATTON, Mr. TRAFICANT, Mr. TORRES, Mr. ATKINS, Mr. MOAKLEY, Mr. TAUZIN, Mr. GOODLING, Mrs. MEYERS of Kansas, Mr. BILIRAKIS, Mr. LUJAN, Mr. STRANG, Mr. RITTER, Mr. REGULA, Mr. ROGERS, Mr. SPENCE, Mr. YOUNG of Florida, Mr. MCCOLLUM, Mrs. MARTIN of Illinois, Mr. BEREUTER, Mr. MCDADE, Mr. IRELAND, Mr. GUNDERSON, and Mr. COLEMAN of Missouri.

H.J. Res. 244: Mr. WIRTH and Mr. IRELAND.

H.J. Res. 681: Mr. SYNAR, Mr. MURTHA, Mr. ANTHONY, and Mr. STRATTON.

H.J. Res. 693: Mr. VENTO, Mr. MICA, Mr. HENDON, and Mr. MONTGOMERY.

H.J. Res. 706: Mr. FRENZEL.

H.J. Res. 740: Mr. ROBERTS, Mr. MOODY, Mr. COLEMAN of Texas, Mr. BARNARD, Mr. LOTT, Mr. DELAY, and Mr. RALPH M. HALL.

H.J. Res. 745: Mrs. BOGGS.

H. Con. Res. 129: Mr. OXLEY, Mr. MCEWEN, Mr. LEACH of Iowa, Mr. COMBEST, Mr. KASICH, Mr. BOLAND, and Mr. MATSUI.

H. Con. Res. 407: Mr. BLILEY, Mr. RICHARDSON, Mr. GEPHARDT, Mr. DIXON, Mr. FAZIO, Mr. BONER of Tennessee, Mr. SCHEUER, Mr. BRUCE, Mr. KRAMER, Mr. WALDON, and Mr. SAXTON.

H. Res. 488: Mr. SAXTON, Mr. SCHUETTE, Mr. STENHOLM, Mr. WHITEHURST, Mr. SHUMWAY, Mr. BARTON of Texas, Mr. PARRIS, and Mr. HUGHES.

H. Res. 566: Mr. HOWARD, Mr. ABERCROMBIE, Mrs. COLLINS, Mr. STOKES, Mr. CONYERS, Mr. HAWKINS, Mr. DIXON, and Mr. SAVAGE.

H. Res. 573: Mr. SOLOMON, Mr. BADHAM, Mr. CHAPPIE, Mr. DAVIS, Mr. EVANS of Iowa, Mr. FISH, Mr. GOODLING, Mr. HANSEN, Mr. LEACH of Iowa, Mr. LUJAN, Mr. MOLINARI, and Mr. SWEENEY.

H. Res. 581: Mr. SOLARZ, Mr. WHEAT, Mr. MANTON, Mr. FRANK, Mr. WORTLEY, Mr. FUSTER, Mr. STOKES, Mr. FAUNTROY, Mr. ACKERMAN, Mr. GARCIA, Mr. LUNDINE, and Mr. HAYES.

SENATE—*Friday, October 10, 1986*

(Legislative day of Monday, October 6, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of Abraham, Isaac, and Israel, it seems providential that the Senate has faced its painful, difficult duty during Rosh Hashana—a time of penitence and dedication to the reign of freedom, justice, and peace—in anticipation of Yom Kippur, Day of Atonement. Thank you Merciful Father, for faithful public servants who honored their stewardship with such sober, reverent demeanor. Having fulfilled their heavy responsibility, may each Senator find rest in the assurance that he acted on obedience to conscience and may each be renewed for the business confronting the Senate these final days. Infuse this place with your wisdom, peace, and love that the 99th Senate may adjourn without regrets and with satisfaction of a job well done.

Lord of history, be with President Reagan as he meets with General Secretary Gorbachev. Guide these two world leaders to understanding, reconciliation, and friendship which will bless all the peoples of the Earth. In the name of the Prince of Peace, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE of Kansas, is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND of South Carolina.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each followed by special orders for Senator HAWKINS, Senator PROXMIRE, and Senator BAUCUS for not to exceed 5 minutes each; and morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, there are a couple of things we would hope to do today. One is to take action on the drug bill. There are a number of options available. I am not certain any of them are good, but there are a number of options available.

Second, we would like to complete action today on reconciliation. I am not certain how near we are to working out the final two or three differences in an enormous package. But, there are still two or three differences where the views are strongly held on both sides, and I am not certain. The last information I had was that Senator PACKWOOD and Senator LONG had sent another offer over to the House Ways and Means Committee. That was late last evening. As far as I know there has been no report. But if we can do that today, it would certainly be helpful. I hope we can complete our work by Wednesday evening of next week.

I have been visiting some with Senator BIDEN on some way to deal with certain provisions in the drug bill. We hope to convene a meeting later today with Senator THURMOND, Senator BIDEN, Senators on each side of the aisle who played the primary roles in the drugs legislation, Senator HAWKINS, Senator CHILES, and others to see if we can work out some agreement to take action on the drug bill.

TRIBUTE TO SENATOR RUSSELL B. LONG

Mr. DOLE. Mr. President, those of us who have been around the Senate for any length of time know that friendships here are built on special ground. Party affiliation has very little to do with it. It is more a matter of mutual interest, trust, and respect, and we know that as a very select group of American citizens we bear a special responsibility. We rely as friends on those who understand and respect that responsibility.

So it is an honor and a joy for me to call RUSSELL LONG a friend—one of my best friends in the Senate. And his retirement from this body after 38 years of service will create a void that will be hard if not impossible to fill—for me, the people of Louisiana, and for the Nation.

RUSSELL LONG learned politics at the knee of his father and his uncle. So I learned what I know about the Senate and what makes it and its Members run by sitting next to RUSSELL in the Finance Committee.

His knowledge of U.S. tax law is unparalleled. His mastery of Senate rules and procedures legendary. But perhaps his most unique ability is an uncanny sense of what it takes to get something done, and when to do it. It is a form of art—one many of us strive for, but few achieve.

That night back in 1980, when Howard Baker called to tell me I would be chairman of the Finance Committee in January, I said, "That's great, but who's going to tell RUSSELL."

The transition was not an easy one for either of us. But it was made smoother by RUSSELL'S accessibility and affability. It also helped that both of us appreciate how important it is to have a sense of humor. I tend to favor one-liners, and RUSSELL tends to favor down-home Louisiana anecdotes. Whatever the style, both of us, I think, understand that while what we do here in the Senate is very serious—it is dangerous to take ourselves too seriously.

When he announced his retirement, RUSSELL said, "Every Senator should decide for himself at what point he thinks he should retire. After 36 years here I've made that decision."

I do not disagree with Senator LONG'S contention, though I do regret his decision. The Senate has changed in many ways over the years RUSSELL LONG has served here. But it has not changed so much that we cannot recognize and revere a man as special as RUSSELL LONG.

NICARAGUA

Mr. DOLE. Mr. President, I want to add to some previous comments I made yesterday about the Americans now being held captive by the Sandinistas.

First, in all the hullabaloo about the incident—and the phony Sandinista charges of "CIA involvement" continue to dominate the headlines—the press is giving scant mention to one important fact. If the House leadership had not stonewalled and stalled for months and months on the Contra aid package that both bodies passed in identical form long ago, then official American aid would long since have been going to the Contras.

Private efforts like those in which Mr. Hasenfus was directly involved would not be going on at all. I thought our system was supposed to be one where the majority rules. In this case, the majority in both Houses, a bipartisan majority in both Houses, has

spoken and spoken in favor of giving the Contras aid.

□ 1010

I believe it is about time that the willful minority—and again that is a bipartisan minority—who happen to be the ones who control the flow of work, particularly in the House, stand aside and let the majority prevail. I find the same people as I watch television at night condemning America and our credibility in Nicaragua are the same ones who have been stonewalling aid to the Contras. You cannot have it both ways. We voted in the Senate two or three times. They voted in the House, And we are still waiting for official aid to the freedom fighters in Nicaragua.

The other point I want to make is this: The headlines are screaming about this one American. It is unfortunate. He is there. About this one American who is trying to help the Contras. But so far I have not seen a word in the papers or heard anything at all on television about what I understand are hundreds of private Americans down in Nicaragua right now helping the Sandinistas.

I do not know what that tells you. It tells me something. If one American helps somebody who wants their freedom, that is headlines. It is not positive; it is negative. But what of all those who are down there helping Daniel Ortega? I do not question the right of these private citizens to do what they are doing, nor do I challenge their motivation—that is up to them. But there seems to be so much hue and cry about Mr. Hasenfus, people raising the Neutrality Act and who knows what else, that maybe it is time we focus some attention on the broader question of Americans, private Americans, involved down there on either side or on both sides.

If we are going to focus on those who are helping the Contras, let us focus on those who are helping the Sandinistas. I asked that this question be raised this morning in the Foreign Relations Committee briefing on the Hasenfus case and I intend to pursue it directly with the administration in the days ahead.

There is almost a frenzy, a panic, in the media to build some gigantic story out of the fact that private American citizens were helping those who want freedom in Nicaragua. I did not know that wanting freedom was such a bad thing.

But I do not see any effort by anyone in the media who is taking a look at what is happening on the other side, or is questioning why Congress has not acted and why we have not helped the Contras.

As I said earlier, had we done what the Congress, in a bipartisan majority said we should do months and months ago, this story would not be on the front page. There would not be any story.

So if anyone is at fault for the predicament we find some of these hapless Americans in, with now two having lost their lives, it is not the administration. The larger question, I believe, if we are going to have an examination of what Americans are doing in Nicaragua, is let us examine both sides, and let us do what we can to free the American who is held captive now by the Sandinistas.

I watched him on television last night. I am not certain be was telling the truth. When you are paraded around by Sandinista goons what are you supposed to tell the American people? He said he worked for the CIA. Did he? I do not know. Maybe we ought to find out.

But if we do that, I think we also, in fairness to the American people who watch the news, who do not believe it all but who watch it and read it, who know there is a liberal tilt to most of it, maybe we ought to hear the other side, too.

RECOGNITION OF MINORITY LEADER

The PRESIDENT pro tempore. The able and distinguished democratic leader, Senator ROBERT BYRD, of West Virginia, is recognized.

Mr. BYRD. I thank the Chair.

THE ADMINISTRATION'S "BORROW AND SPEND" ECONOMIC PROGRAM

Mr. BYRD. Mr. President, this administration's "borrow and spend" economic program has created a veneer of prosperity at a great cost to our future. With President Reagan as the architect, we are building a shining city on a hill that has all the permanence and soundness of the storefronts for a cowboy movie.

For its entire 5 years, this administration's economic program has been controversial. As the economy has become increasingly weak over the last 2 years, the administration has been left with fewer and fewer economic success stories. Now it seems reduced to saying, "Well, at least we have managed to avoid a recession." With each day's economic news, even that feat seems more in doubt.

Back in 1981, we were told that adoption of the administration's supply side program would unleash an unprecedented boom in our economy. Savings and investment would soar, jobs would become plentiful, unemployment would shrink, output and productivity would turn robust, and Government revenues would come pouring in and wipe out the deficit.

As the economy has moved up and down over the last 5 years, so have evaluations of the administration's program. For the first year-and-a-half of the administration's program, the economy took a nose dive steeper than any recession since the Great Depression. Then, for the next 18 months, the economy staged a strong recovery going in to the elections of 1984.

It has now become apparent that the steep upward climb of 1983 and the first half of 1984 did not indicate that the administration's Economic Program would fulfill its long-term promises. Those 18 months of strong growth represented only a rebound which was steep on the upside only because the preceeding recession had been so steep on the downside.

We now have 2 more years of experience by which to judge the legacy of Reaganomics. Although we have avoided recession these last 2 years, all the key indicators of the economy's basic health—employment, real income, GNP, productivity, industrial production, savings, and investment—have stagnated or declined. We must also confront key indicators of the economy's basic sickness: First, uncontrolled trade deficits; second, foreign borrowing; third, an explosion of private and public debt; and, fourth, recent sharp declines in the measures of investor and consumer confidence.

During this administration, the economy has performed even more poorly than it did during the 1970's. The economy was jolted by two recessions and two oil shocks during the decade of the 1970's and turned in a lackluster 2.8-percent average annual growth in real GNP. For the last 2 years, we have not had a recession or major shock to the economy, but we have managed only a 2.5-percent rate of growth. For the 5 years of this administration, we have averaged only 2.2 percent growth.

Employment gains have also been sluggish during this administration. During the 1970's, we were expanding jobs by an average of 2.4 percent annually. If that rate had been maintained throughout this administration, we would have created 14.2 million additional jobs by now. That is 44 percent more than the 9.9 million jobs that have actually been added during the Reagan term.

Our standard of living depends directly on raising our productivity. Unfortunately, during this administration, the rate of increase in productivity has fallen short of the abysmal 1.3-percent rate of the 1970's. The last 2 years have seen a scant 0.8-percent rate of increase in our productivity, less than 1 percent.

With the slowdown in both jobs and productivity, there has been a squeeze on real income growth. Real after tax income of American families grew by 3.3 percent a year during the 1970's. If that rate had been maintained during this administration, American families

would be taking home an additonal $38 billion in income this year. That would be an additonal $430 per American family.

When the administration's supply side program began, the most glowing promises were reserved for savings and investment. Unfortunately, the performances of both savings and investment have been more dismal than anything else. Investment in plant and equipment has grown at half the rate of the 1970's. For manufacturing and mining alone, such investment is actually lower today than it was when this administration took office. Those two sectors would be spending 21 percent more on plant and equipment today if they had increased their spending at the same rate they did in the 1970's.

The large tax cuts granted to corporations and high-income people have not boosted savings as promised. Corporations have spent their tax cuts primarily on mergers, stock buy-backs, dividends, and bonuses for top management. Meanwhile, households are saving much less than they did 5 years ago and the percentage of their income saved has hit the lowest level since the hoarding spree at the outbreak of the Korean war.

Despite the poor health of the economy, Americans have increased both private and public purchases by 20 percent over the last 5 years. That far exceeds the 12-percent growth in national production and income. An unprecedented expansion in debt has permitted families, businesses, and government to increase purchases much more than their incomes, profits, and tax revenues would otherwise permit.

In the last 2 years, the real debt burden of the Federal Government has grown at a 13-percent rate and the private sector has almost kept pace. Nonfarm businesses have added to their real debt load at an 11-percent rate and the burden for households has been compounding at a 9-percent rate.

Just as these individual sectors have been borrowing and spending beyond their means, the Nation as a whole has been spending much faster than it has increased production and income. This shows up in the explosion in the trade deficit and foreign debt. When this administration took office, the Nation was running a modest surplus in its current account, the broadest measure of payments and receipts for trade in goods and services. This year we are expected to run a current account deficit of roughly $130 billion. In the last 6 years, our exports have dropped. To finance our huge surge in imports, we have been forced to sell more than $600 billion in domestic assets.

All this borrowing and spending might be justified if the Nation had chosen to invest heavily to raise our future standard of living. Sadly, the fact is that, the exact opposite has occurred. As I noted earlier, businesses have actually slowed their investment in plant and equipment during this period. Just as important, we have lagged in our investment in education and training. In the last 5 years, we have cut Federal support for retraining programs in half and aid to education by 16 percent, in real terms.

One of Aesop's best-known fables contrasts the grasshopper and the ant. The grasshopper lived for the moment and put nothing away for the future. Meanwhile, the ant carefully stored away food for the winter. We all know who survived the winter and lived to prosper.

Mr. President, this administration has promoted the grasshopper's economic policy for the Nation. We must make a permanent sacrifice of tens of billions of dollars a year just to service our new foreign debts. Instead of strengthening our capacity to pay those debts, we have cut back our investments in people and equipment. We shall pay dearly for this shortsighted policy in coming years. We all know who survived the winter and lived to survive.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I congratulate the Democratic leader for his fine speech on the economy, made in spite of a very painful cold.

It is true we have suffered lower growth, less real wages, less full-time employment, poor productivity, as the Senator has so well said, a full-fledged farm depression, more debt—Federal, corporate, and private, personal—than we have ever had in our history, at every level.

Mr. President, we have a miserable trade balance, an almost ruined textile industry, as the Presiding Officer knows better than anybody in the Senate, and a totally ruined shoe industry.

So, Mr. President, I think the Democratic leader made an excellent speech this morning, right on target. I think he is completely right and the facts are undeniable.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

STAR WARS—THE ROAD TO NOWHERE

Mr. PROXMIRE. The President's latest proposal on star wars in his speech at the United Nations on September 22 would provide for 5 years of research within the limits of the Anti-Ballistic Missile Treaty. It would then provide for 2 years of superpower negotiations about how to share the results of that SDI research between the superpowers and then 6 months' notice before canceling restraints against production of the star wars hardware and its deployment. If this sounds like a reasonable proposition, it is because you have not been following the pronouncement of star wars officials. The President is offering nothing. He gives the illusion of making a concession to the Soviets by slowing the star wars timetable. Is he? No way. The timetable for star wars announced by the President is not slower than the present star wars timetable. It is much faster.

When will star wars, in fact, be ready for deployment? The best informed and also one of the most optimistic experts on star wars is the man who is directing the project, Gen. James Nathanson. He has said that we could not deploy star wars until 1996. The 1996 estimate is almost surely very optimistic. Here we have the most technologically complex military project in history. It will also be far and away the most expensive. An impressive array of experts tell us the computer software necessary to operate this project as a coherent and successful defense is impossible. Scientific and military experts consistently tell the Senate Appropriations Committee that the cost of building and deploying the hardware will exceed $1 trillion and will take 10 years or more to produce and move into orbit after research is completed 10 years from now.

So what does this mean? This means that if—and it's a very big if, indeed—if research has been completed successfully 10 years or so from now and if the impressive majority of scientific experts are wrong when they say the software problem for such an immense and complex scientific project is insoluble, the star wars project might go ahead as early as 1996. But that is less than half the problem. A much bigger part of the problem is whether the Congress that is in office 10 years from now will be willing to spend $100 billion a year in 1986 dollars on a project the President had said we will share with the Soviet Union.

Just think of it, Mr. President, this means that the President and the Congress we elect in 1988 must support full funding of star wars as the cost continues to increase sharply in each successive year. It means the President and the Congress elected in 1992 must also have the same prostar wars commitment. And it means the President who moves into the oval office in 1996 and the Congress must also continue to favor full funding. And the cost goes on.

The President and Congress elected in the year 2000 must also accept the $100 billion annual cost. Keep in mind that the Congress has not given the

President anything like the increased funding for star wars he has called for. This year, for example, the President called for an 80-percent increase in funding. What will he get? About 10 percent, if he's lucky. But the President has to date been asking for $4 or $5 billion. How will Congress react when he needs and calls for $100 billion?

And, Mr. President, this never ends. Former Defense Secretary Harold Brown is today probably the outstanding independent expert in this field. He served as director of the Livermore Lab. He is a world-class physicist. And, of course, he was Secretary of Defense for 4 years. What does this expert tell us of the continuing cost of star wars for maintenance and modernization once it is deployed? Brown has told us that the cost would be $100 billion each and every year in 1986 dollars in perpetuity. That is right—forever.

Mr. President, one of the phoniest aspects of the administration's position is that the Soviets would agree to a big quid pro quo in return for being able to share the star wars technology. The obstacles to this country in building, deploying and successfully operating a star wars system are immense. In the judgment of many experts they are insuperable. The obstacles for the Soviets taking advantage of the star wars technology are much greater.

This country could painfully afford to spend $1 trillion for a star wars system even though that system has about 1 chance in 10 of succeeding. The Soviets could not. This country could afford to spend $100 billion a year to modernize and maintain such a system. The Soviets could not. This country is at least 30 years ahead of the Soviet Union in computer fabrication, operation, and maintenance. Even if we gave the Soviets our star wars computer technology, they could not maintain and operate it.

So what would they do if we proceeded with our star wars missile defense? The answer is simple. They would have no choice. They would build up their offensive missiles to overcome it. That is a sure thing. Why a sure thing? Because the credibility of their deterrent would be at stake. Their status as a superpower would be on the line. They would have no choice except to reject star wars and go sled length for an offensive capability that would penetrate it, underfly it, overwhelm it, spoof it.

Would they succeed? The odds are overwhelming that they would. Most of our independent experts believe star wars could not work. But Mr. President, we would never know. No President of the United States would be able to rely on a system that could never be tested under actual combat conditions, a system that had so little support in the independent, scientific community.

So, what would be this country's response to the predictable Soviet offensive nuclear build up? That's easy. We would match it or surpass it. So star wars would do one thing for sure. It would make effective nuclear arms control impossible. The Soviets would never accept an arms control agreement that would limit or reduce the credibility of their offensive deterrent once we begin to construct and deploy an antimissile system designed to nullify that deterrent. And this is precisely what star wars is designed to do.

So, Mr. President we have a choice. We can spend $1 trillion to build and deploy star wars and $100 billion every year in perpetuity to modernize and maintain it and we will kill arms control in the process. Or we can stop the star wars project and rely on two things to keep the peace: First, a credible American nuclear deterrent—that has kept the peace for 40 years. And, second, a steady progress in arms control that would make the deterrent as stable and invulnerable as possible; arms control that would continue to take every step to prevent the prospect of accidental war and arms control that would limit as much as possible the spread of nuclear weapons.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that Senators control their political campaigns. A few years ago, a campaign for a U.S. Senate seat in essence reflected the views and personalities of the candidates.

These campaigns were "seat-of-the-pants" affairs. A candidate who was well known in the State or district could gather a few friends and mount a serious campaign. To win, you went out and pressed the flesh. Money was important, but it was seldom an insurmountable obstacle. Hard work, and a good pair of shoes, were more important.

What about today's campaigns? You might as well compare Thomas Edison to American Telephone & Telegraph Co., better known as AT&T. Mr. Edison was an entrepreneur while AT&T is a giant corporation, as are many of today's campaigns.

The candidate is surrounded not by a few friends, but by a horde of campaign consultants. These consultants advise the candidate on what to say, how to smile, and where to go. They design the campaign commercials and raise the money to get those commercials broadcast.

Raising money becomes the most important function of the campaign. Without money, first of all, those campaign consultants rapidly lose their enthusiasm. Then media "buys" disappear. Finally, the candidate is left adrift and must resort to a desperation move—going out and meeting the voters. The campaign, at least among the smart money set, has become a joke.

Today's smart campaigns seem to want to hide the candidate. All that money is spent not to identify the candidate but to sell him or her. Hard work becomes less important, cute television more so.

The ultimate danger to this trend is not that voters will be deceived and elect "brand X" candidates. The ultimate danger is that political debate, which literally involves life and death issues, will be debased beyond repair. Down that road lurk demagoguery and demagogues.

Mr. President, there are some hopeful signs that this trend toward corporate campaigns may be cresting. Money, how it's raised and spent, what it buys, and what is sold to raise it has become an issue in a number of campaigns. The voters may well decisively reject this new approach. That would be a happy day for this country.

□ 1030

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1040

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, no Senator seeks recognition at this point. I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT CREDIBILITY

Mr. BYRD. Mr. President, State Department spokesman and Assistant Secretary of State for Public Affairs Bernard Kalb resigned Wednesday with an eloquent dissent to the administration's disinformation program.

The administration is right about our national disgust for the likes of Qadhafi, but it is wrong in assuming that anything goes. It is wrong in assuming that the American people share the discouraging view that a good end justifies any means.

Playing fast and loose with the truth is a dangerous course for the officials of any government based on trust. Qadhafi is a gnat in comparison to the importance of the faith of our people in their government. Once a lie is discovered, can the words of the perpetrator ever be heard again without skepticism?

I regret that the administration did not better evaluate the consequences of misleading the press in terms of future credibility. At this point in our history, when trust in elected officials is already at a low point, the problem need not be exacerbated. The greatest mistake we who believe in a democratic government can make is to lose sight of the fundamental pillars of our way of life because of the heat of the moment. Certain trust cannot be violated without serious and far-reaching costs.

The Washington Post's October 8 edition reports the crash of an aircraft, shot down in Nicaragua. On the same page that the Post reports charges of CIA involvement by the Nicaraguan Government and assertions by the wife of an American survivor that her husband worked for the CIA, the Post reports a denial of any CIA involvement by the administration. Coming on the heels of the disinformation campaign, can anybody read these accounts with any confidence in the denial? This is not the first time that the Reagan administration has applied its own standard of truth. David Stockman "cooked" the numbers, destroyed the integrity of the budget process, gave us the magic asterisks, and gave us the deficits bleeding our Nation's future. The contrast between word and deed is, I fear, deepening within this administration. Saying that a summit is not a summit, that a deal is not a deal, that a swap is not a swap, serves to reinforce the perception that the truth to this White House is only what the administration thinks it ought to be on any given day.

Words have meaning. When they lose their integrity, they lose their meaning and are no longer believed. When there is no longer faith in the integrity of the leadership of a nation the essential bond that binds that nation together is lost.

Those of us who have been in politics for a long time certainly understand the art of putting the best face on a case. But, when the administration foolishly compromises its credibility and the international credibility of our country by deliberate means, it damages us all and it does the citizens of this Nation a grave disservice.

I urge that a closer look be taken at the consequences of promulgating "disinformation" by those at the White House who make public pronouncements. The resignation of Mr. Bernard Kalb in protest on October 8 should drive home a hard lesson. Trust once lost is a hard commodity to regain, and the loss of that trust will have ramifications for Mr. Reagan, his successor, and indeed, for all public officials.

It has taken years for us to recover from the national trauma of Watergate. Those of us who hold public trust should not make the egregious mistake of deliberately misleading the people. No cause excuses that violation. No end justifies that means.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the resignation announcement by State Department spokesman Bernard Kalb on Wednesday, October 8, 1986.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESIGNATION ANNOUNCEMENT BY STATE DEPARTMENT SPOKESMAN BERNARD KALB

BERNARD KALB. I'm a little later than usual, but sometimes these things do happen. I just want to share some thoughts with you against the background of what Chuck said about an hour or so ago.

Much to my surprise, and perhaps to a lot of other people, I've been in this job as spokesman and as Assistant Secretary of State for Public Affairs for almost two years, a journalist-turned-spokesman. The guidelines that go with the job were set forth by Secretary Shultz: No lies, no misleading, to be as forthcoming as possible within security constraints. I've sought to abide by those guidelines. I've sought to expand the frontiers of official disclosure; that is, by handling (?) a newsman's requirements in the building to try to get out as much information as possible.

You may have felt at times that I was offering you more calories than vitamins. But I did not, in keeping with the Secretary's credo and my own credo, I did not throw in any artificial additives. But now a controversy has swirled up around a question of credibility. According to a published report, there was a memo forwarded by the National Security Advisor that talks about what is called in this report a disinformation program. I take it you've read it in the newspapers.

So you face a choice—as an American, as a spokesman, as a journalist—whether to allow one's self to be absorbed in the ranks of silence, whether to vanish into unopposed acquiescence, or to enter a modest dissent. In taking this action, I want to emphasize that I am not dissenting from Secretary Shultz, a man of integrity, a man of credibility. Rather, I am dissenting from the reported disinformation program.

I'm concerned about the impact of any such program on the credibility of the United States. Faith in the word of America is the pulse beat of our democracy. Anything that hurts America's credibility hurts America. And then, on a much, much, much lower level, there's the question of my own credibility, both as a spokesman and a journalist—a spokesman for a couple of years, a journalist for more years than I want to remember. In fact, I sometimes privately thought of myself as a journalist masquerading as a spokesman. In any case, I do not want my own credibility to be caught up, to be subsumed in this controversy.

It seems that in the last few days the controversy has dropped off, or so it seems. I even read a story about Western Europe apparently shrugging off the story. The controversy may vanish, but when you are sitting alone, it does not go away. And so I have taken this step of stepping down.

A couple of other things I'd like to say at this point. I want to say that I remain grateful to Secretary Shultz for having offered me the honor, a couple of years ago, of serving our country. It has been a rare, it has been a precious experience to have had the opportunity to be with him as he sought to advance America's interests, to make the world safer for us all. To me, he is a monument of credibility, integrity, courage, strength. And I've encountered these same qualities with my other colleagues here in the State Department.

I'd like to take a moment, too, to thank the Secretary for the kind words he said about me that Chuck shared with you a little while ago.

And a final word, if I may, that my best wishes go to the President and the Secretary as they get ready for Iceland, that they succeed in their continuing efforts to advance the cause of peace.

That's about what I have to say.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, seeing that no other Senator wishes recognition, I wish to speak on another subject, out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

□ 1050

PRAYER AND THE SENATE

Mr. BYRD. Mr. President, as the 99th Congress draws to a close, I want to express my appreciation to our Chaplain, Dr. Halverson, for his contributions to our daily work here in the Senate.

Some people do not understand the Senate Chaplain's place in and significance to the Senate's life. The prayers that initiate each day's meeting of the Senate have a long history, however, and are, I believe, a vital part of the Senate's heritage, tradition, and atmosphere.

Chancellor Otto von Bismarck once remarked that, "Anybody who loves sausage or the law should never watch either being made."

That epigram is quite realistic, and perhaps as a result of that truth, we have our daily invocation by the Chaplain or by a guest minister.

During the Constitutional Convention nearly 200 years ago, divisions, wrangles, disputes, animosities, and quarrels hit such a peak that, at times, the very existence of the new American Republic seemed threatened.

At that point, Benjamin Franklin, who was the oldest member of that gathering, stood to his feet one day and addressed the chair in which sat Gen. George Washington, the future first President of the Republic.

Franklin said to Washington and to the illustrious gathering about him:

Sir, I have lived a long time. And the longer I live, the more convincing proofs I see that God still governs in the affairs of men. If a sparrow cannot fall to the ground without our Father's notice, is it possible that we could build an empire without our Father's aid? I believe the sacred writings, sir, which say, "except the Lord build the house, they labor in vain that build it.

Except the Lord keep the city, the watchman waketh but in vain."

Franklin went on to say:

I move you, sir, that henceforth we begin our deliberations with prayer, else we shall succeed no better than did the builders of Babel.

So that wise gathering heeded the admonition of that wise man, Benjamin Franklin, and henceforth there was prayer at the beginning of each day's deliberations.

The result was that out of the convention evolved the greatest document of its kind that was written, the Constitution of the United States.

Upon the closure of that convention, Dr. Franklin was approached by a lady who, coming up to him, said, "Dr. Franklin, what have you given us?" His response, "A Republic, Madam, if you can keep it."

Well, a part of keeping that Republic, Mr. President, is our remembrance of the Divine Being who watches over this Nation, who watches over it and guides it. We must not forget that the people who founded this Republic and those who founded the colonies before it, who hewed the forests before that, and who carried—from the shores of the Atlantic Ocean across the Alleghenies, across the prairies, to the great Pacific—an axe, a bag of seed, a rifle, and a Bible believed in an omnipotent God who would guide their footsteps and favor their undertakings.

Those founders of this Republic believed in a higher power. Some were Catholics, some were Jews, some were Methodists, Presbyterians, Episcopalians, Baptists, Lutherans, Quakers, men and women of all denominations and descriptions, but whatever their denominational faiths, their beliefs in God were unshakeable.

That was the kind of faith that built this great Nation. That is the kind of faith that, in Dr. Franklin's words, "will preserve this Republic."

We find that spiritual awareness running like a long, unbroken thread throughout the history of our country, as President after President, from George Washington to Ronald Reagan, have referred to a divine providence, all of them in their inaugural addresses.

Wise, experienced man that he was, Franklin saw his colleagues becoming swamped in regional pettiness and lost in legal trivia. Franklin realized that many in the Constitutional Convention were losing sight of the importance of giving our country a philosophical foundation and a framework based on an eternal perspective. The daily prayer that Franklin suggested was intended to shed the light of the divinity on the mundane job of writing a constitution, paragraph by paragraph and article by article. Thus, Franklin reminded his colleagues of the sacred work that they were about.

The process of legislating today is not much more attractive perhaps than when Bismarck made his observation or when Franklin made his suggestion. But I believe that we have proved Franklin correct every day by beginning our deliberations with prayer.

Too often, like our predecessors in the Constitutional Convention, we can become bogged down in the intricacies of our work. Parliamentary procedures, quorum calls, amendments, concurrent resolutions, joint resolutions, simple resolutions, everything that we do here has a purpose. But sometimes even Senators can lose sight of the great goals toward which we are laboring in our legislating, bill by bill, amendment by amendment, hearing by hearing, and conference by conference. The Chaplain's prayer helps keep our eyes focussed and our hearts tuned to a much clearer frequency, and to help us to be steadier in our larger purposes.

We need only again to turn to the inscription over this door back of me and fronting the Presiding Officer. Over that door are the words "In God we Trust."

In God we trust. This kind of Biblical perspective on life allows our daily concerns in this Chamber to assume more realistic proportions and helps us not to lose sight of the vast forest while we are tangled in the legislative underbrush.

Mr. President, I am a firm believer in the principle of the separation of church and state. Around the world, we witness the catastrophes wrought by sectarian bitterness, particularly when one sect subverts the power of the state to its own advantage. The arm of the state should never be an appendage of one sect or another.

But though I believe in the separation of church and state, I do not believe in the exclusion of God from our national life, or the divorce of religious and eternal principle from the legislative process. Indeed, like Benjamin Franklin, I believe that no nation can fully succeed without divine involvement in its affairs or in the lives of its people. Throughout our history, eternal inspiration has played a decisive role in American life. That is appropriate, and that should be a matter of gratitude and a cause for thanksgiving by all Americans.

Again, then, I thank Dr. Halverson for his sincere labors to remind us each day of our responsibility to God and to cast our work together in the Senate in the light of God's judgment. The prism of Biblical faith changes man's view of truth, legislative or otherwise. In their invocations, Dr. Halverson and those guests who are invited here from time to time stand before us to keep our minds set on the high calling that is ours, and they help us to steer this Nation aright. For that service, I and all of our colleagues are grateful.

The Lord is my shepherd; I shall not want.

He maketh me to lie down in green pastures: he leadeth me beside the still waters.

He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake.

Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me.

Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over.

Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business with statements therein limited to 5 minutes each.

The Senator from South Carolina.

ORDER VITIATING SPECIAL ORDERS FOR SENATOR HAWKINS AND SENATOR BAUCUS

Mr. THURMOND. Mr. President, I understand the two special orders, one by Senator HAWKINS and one by Senator BAUCUS, have been canceled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1120

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

THE SENATE CHAPLAIN

Mr. GRASSLEY. Mr. President, I had the opportunity while I was presiding over the Senate to listen to the statement of the Senate Democratic leader on the role of the Chaplain in the U.S. Senate, and a dissertation on the spiritual foundation of our Nation.

I want to compliment the Senate Democratic leader for that statement. Hopefully in the process of my complimenting him and bringing the atten-

tion of other Members to the statement, it will be read by those who could not hear it and also, hopefully, even people beyond the Senate paying considerable attention to it. I think it is very important and very worth noting when a person as important in the leadership of the country as the Senate Democratic leader states those standards and reminds all of us as to the heritage of our country. I want to particularly compliment him for that role he just played, and also to say that I very much agree with his statement and only wish that I had had the opportunity to be here on the floor and to expand on it at that particular time.

LOWER COLORADO WATER SUPPLY ACT

Mr. JOHNSTON. Mr. President, H.R. 5028, the Lower Colorado Water Supply Act, is an excellent piece of water legislation. It is necessary because the city of Needles, CA, and various individuals will soon lose their Colorado River water supplies as a result of full operation of the central Arizona project. The bill would authorize the Bureau of Reclamation to drill wells near the All-American and Coachella Canals—which are connected to the Colorado River—for purposes of tapping a large aquifer that has developed from canal seepage and natural ground water. Water from the aquifer would be placed into the canals, thus allowing the city of Needles and other beneficiaries to make equivalent withdrawals from the Colorado River.

Mr. President, this bill should satisfy even the harshest critics of the Reclamation Program. The authorization is for the relatively small sum of $1.8 million. The portion of this cost not allocated to Federal beneficiaries is reimbursable with full interest. Under the provisions of an amendment to be offered by Senator METZENBAUM, the bill will also require operation and maintenance expenses to be paid on a current basis and require the city of Needles and other incorporated entities to provide 20 percent up-front cost shares.

I think that this legislation is demonstrably in the public interest and urge its passage.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. HECHT. Mr. President, the adjournment of the 99th Congress brings to a close the Senate career of PAUL LAXALT. I am sorry to say he is leaving this great body, Mr. President, because in the over 20 years of our friendship, PAUL LAXALT has been a true friend and adviser and I will miss his presence greatly.

As Nevada's favorite son, Mr. President, PAUL LAXALT has proven that the spirit of the West is transplantable to this body. He lent that spirit to the Reagan revolution which has brought about a strong and revitalized economy, renewed worldwide respect, and peace and prosperity at home. He has accepted the call of his President in difficult international situations, and has successfully led his party to increased prosperity and stature.

While PAUL has served his country above and beyond the call, Mr. President, his first and foremost commitment has always been to Nevada. PAUL LAXALT has shown the world that Nevada is one of our most beautiful States and has contributed greatly to making Nevada one of America's fastest growing. I attribute these facts to the very presence of PAUL LAXALT as a Member of the U.S. Senate, but even more to his stature as a truly American leader in the tradition of our greatest statesmen.

We of this body, Mr. President, will miss PAUL LAXALT. His record is a legacy for us all to serve by. In the near future, Mr. President, I have an inclination that PAUL LAXALT will once again accept the call to leadership of this great Nation. We send him off with all best wishes.

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. HECHT. Mr. President, the 99th Congress could not come to a close without acknowledging the brilliant and distinguished career of my good friend from Arizona, Senator BARRY GOLDWATER. In 1963, Mr. President, it was BARRY GOLDWATER who's call to conscience instilled in me what it was to be a conservative. He extolled the virtues of why America must have a strong defense and defend her borders from aggression, why we must exercise fiscal restraint at the Federal level to keep America prosperous, and why we must fight tyranny in the form of communism wherever it rears its ugly head. He is known to us and the Nation as "Mr. Conservative" and no more fitting label could be applied to what he stands for and the way he has served in public life.

Mr. President, BARRY GOLDWATER is a man of wisdom and uncanny commonsense. He is one of our most respected and inspirational Members who I am sure will go down in the history books as one of this bodies greatest and most valued Senators. BARRY GOLDWATER will be missed as an honest and sure voice, Mr. President, and while we regret his departure, we wish him all the very best for the future.

THE CLAIBORNE IMPEACHMENT TRIAL

Mr. DECONCINI. Mr. President, an impeachment trial is a rare event, thankfully. Our corps of Federal judges on the whole are a marvelous collection of people who exhibit the combination of intelligence, fairness, and integrity. It is a sad day for them and for the country when we are made aware that a Federal judge has so conducted himself that a jury finds beyond a reasonable doubt that the judge is guilty of a felony. Our duty in the legislative branch, first to bring articles of impeachment and then to conduct a trial, must follow if the convicted individual has not resigned.

Having observed Judge Harry Claiborne over a number of days during hearings of the Special Impeachment Committee that received evidence, and having observed the various witnesses before that committee and reviewed the written record of events related to Judge Clairborne's activities, I concluded that Harry Claiborne violated his high position of public trust and must be removed from office.

The evidence that he violated the criminal tax laws is overwhelming. Let me briefly summarize some of the factors that led me to this conclusion.

I will begin with tax year 1980. This was the year that Claiborne changed from his accountant and friend of 30 years, Mr. Joseph Wright, to Jerry Watson of Creative Tax Planning. For the second straight year, Claiborne engaged in what may be described as surreptitious cash transactions by cashing a large check at a local casino rather than depositing it in his bank.

For the taxable year 1980, Claiborne substantially understated his taxable income. He failed to recognize a $214,812 capital gain, and failed to report $87,912 in legal fee income. This was in addition to his salary as a Federal judge, $54,000, and his investment income of $2,751. On this income well in excess of $300,000, Claiborne paid a total tax of $1,103. His tax liability, had it been paid as required by law, would have been $97,864. It is inconceivable to me that this would not have raised questions in Claiborne's mind.

Other factors on this return are also most troubling. The errors that were made just happened to be on forms that are not ordinarily reviewed by the IRS in their automatic data verification. The offsetting of ordinary income against supposed capital losses on schedule D defies belief. The attempt to take a capital loss of $250,000 on a sale that never occurred is preposterous. The wholesale miscalculation of the sale of his home—all errors being in his favor, naturally—simply adds to list factors that make me believe that Claiborne knowingly and willfully winked at obvious errors on

his tax return that redounded to his benefit.

Claiborne was also convicted by a jury for willful violation of the tax laws as they related to his 1979 return. In short, the evidence is that Claiborne again underreported his income from legal fees by about one-half. Claiborne received approximately $44,000 in legal fees from his former legal associates. He reported a little over $22,000 of this to his accountant. Contrary to his long held practice of cashing checks received for legal work, he cashed 8 of the 14 checks he received in 1979, at local casinos.

The total amount of legal fee income in 1979 is variously reported by Claiborne. In a letter of circa March 1, 1979, to his account, Claiborne claimed legal fee income of $45,371; in a letter Claiborne claims to have sent to Wright on April 11, but which Wright has no knowledge of, Claiborne claims income of $41,073; on his May 15, judicial ethics disclosure form he listed income of $23,050; and finally, on his tax return he listed income of $22,332. Four different figures within 100 days. The net result was that Claiborne underreported his income by approximately $18,000.

Claiborne was convicted for his violations of the tax law for 1979 and 1980, but these years only appear to be a part of a much larger pattern of underpayment of his taxes. In 1978, he was required to pay a tax deficiency of approximately $75,000 on his 1977 return; we have discussed his underreporting in 1979 and 1980; but yet again in 1981, as a result of his claim of a tax loss carryforward from 1980, he offset, illegally, $40,000 in ordinary income against this capital loss, as well as taking the $3,000 deduction he would have been entitled to if the underlying transaction has not been fraudulent. It certainly appears that Claiborne engaged in a long-term pattern of tax evasion and misrepresentation.

Mr. President, throughout the proceedings, I have been troubled by what I sense is an evasion by Judge Claiborne of the issues for which he is being tried. As the chairman of the House Managers stated during his presentation, Judge Claiborne wants us to try everybody but Harry Claiborne. His testimony before the full Senate is devoid of any comment of explanation concerning his 1980 return; it does not try to explain how he justified his payment of just over $1,000 in taxes in 1980 when every indicator pointed toward payment of a higher amount. Indeed, just weeks before he filed his return he had written a check to the IRS for over $20,000 when he assumed his liability to the Government for that year would be about $43,000 in total. His testimony doesn't explain why, when in 1979, his accountant, Joseph Wright, asked him for checks for $16,000 and $4,000 to pay his 1979 tax liability and make his quarterly payment of estimated taxes for 1980, he instead gave Wright checks for $8,000 and $2,500.

One excuse we did hear from the judge was that he was overworked. Now, I can sympathize with many Federal judges I know who do put in long and strenuous hours, but the statistical record reflects that Harry Claiborne didn't even match the average productivity of his brethren. For example, in 1979, Claiborne disposed of 185 cases, the national norm was 325; in 1980, Claiborne disposed of 303 cases while his brethren averaged 349; it was the same again in 1981 with Claiborne at 245 and the national average being 384; and again in 1982 with the national average being 409, for Claiborne it was 351. I realize that statistics don't always truly reflect workload, but a multiyear sampling like this certainly might lead one to conclude that Claiborne wasn't quite the dynamo of judicial activity that he portrays.

Finally, I would like to express my overall concern about Judge Claiborne's fitness and integrity to serve on the Federal bench. Symptomatic of this general concern are the actions taken by Judge Claiborne in the *Matter of the Sealed Affidavit; U.S.* v. *Joseph Agosto; U.S.* v. *the United States District Court for the District of Nevada,* 600 F.2d 1256 (1979). This was a case in which Judge Claiborne unsealed and released to Oscar Goodman, a 131-page master affidavit describing an ongoing Federal investigation of substantial proportion. A similar affidavit had been sealed by another Federal judge until a later date "to avoid disrupting the nationwide investigation of which the Las Vegas investigation was a part." In so releasing these documents, I believe Judge Claiborne exercised extremely poor judgment. I say this with the greatest of understatement. In looking back upon the seeds of the distrust with which the Las Vegas strike force viewed Judge Claiborne, this event may well have been the catalyst to later aggressive behavior on their part. It is clear that the strike force concluded that the judge, by releasing this information, had not merely engaged in poor judicial judgment, but possibly in actions a good deal more sinister in their import.

Mr. President, I would like to conclude by praising Senators MATHIAS and SARBANES for the diligence and fairness with which they conducted the committee of 12 that received evidence in this case. Every effort was made to give Judge Claiborne the greatest possible latitude in seeking evidence and witnesses. At all times these gentlemen, as chairman and cochairman, exhibited the highest values associated with due process and the rights of the individual. The same can also be said for the other members of the committee. The high level of discussion and interest in the rights of the individual and fair play carried over to the closed Senate debates and I congratulate my colleagues for their professionalism.

Finally, I would be remiss if I didn't heap particular praise on the Senate Legal Counsel's office so ably headed by Michael Davidson. Mr. Davidson was thoroughly professional at all times, under the most trying of circumstances, and battling legal issues for which no precedents existed. At all times he has been a credit to the legal profession and to the Senate. He was ably assisted by Ken Benjamin, Nancy Bradshaw, Morgan Frankel, Sarah Fox-Jones, and Barbara Thoreson. We appreciate their dedicated public service and that of the staff of the Rules Committee.

I also want to thank Bob Feidler, counsel to the Senate Judiciary Committee, who has worked closely with me on this matter, and two outstanding legal interns with the committee, Brad Kerby and Doug Drury, for all their assistance.

TRIBUTE TO SENATOR GARY HART

Mr. HATFIELD. Mr. President, as we wind down the 99th Congress, our range of emotions is somewhat limited. We have been worn to weariness by long days filled with elation, frustration and sometimes resignation. But despite our numbness, we still are aware of the impending loss of six retiring Senators, including the senior Senator from Colorado.

GARY HART came to the U.S. Senate with an established record as a creative thinker equally at home discussing local issues or debating global policy. He has honed a keen knowledge of politics from the grassroots level on up to the national level. In his two terms, GARY has gained the respect of the Members of this Chamber and gained national prominence because of his commitment to finding solutions to difficult problems.

Despite our placements with respect to the center aisle, GARY and I often have found ourselves in agreement regarding matters of military and foreign policy. GARY has long spoken out for the need to gain agreement with the Soviet Union to curb the nuclear arms race. His critiques of our conventional defense system have shed new light on the argument that "more is not necessarily better" when it comes to weaponry; he has challenged us to rethink our military policy.

For the past 17 years the United States has had a moratorium on production of lethal nerve gas weapons. GARY and I have worked side-by-side to deny the administration the option

of replacing our existing stockpile. Together we shared the belief that these terrible weapons should never again be used on mankind. I will miss a trusted ally in this cause.

I doubt that GARY is foresaking politics to pursue a career as a full-time mystery writer. As he leaves the U.S. Senate and follows a new path, I am hopeful that my friend and colleague will find personal satisfaction and success, and I wish him all the best.

RETIREMENT OF SENATOR BARRY GOLDWATER

Mr. HATFIELD. Mr. President, I do not look forward to adjournment because it will mark the close of the distinguished Senate careers of a number of my colleagues and friends. One such friend is the Senator from Arizona, Senator BARRY GOLDWATER. Known as a Senator who is truly "one of a kind," he has been one who has never lost perspective or taken himself too seriously during the time I have known him.

My relationship with Senator GOLDWATER began in 1964 when I was a delegate to the Republican National Convention. At the time I was Governor of the State of Oregon. Although I went to the convention as a committed Rockefeller delegate, I left as a supporter of the Goldwater/Miller ticket.

During the many weeks of campaigning for the Goldwater/Miller ticket, I was frequently asked if I had changed my political views? People found it difficult to reconcile my positions on the issues of the day with my strong support for BARRY GOLDWATER. No, Mr. President, I had not changed my views. My support for BARRY GOLDWATER in 1964 was not based on his adhering to my political philosophy or on my adopting his philosophy. My support was on the basis of his strong character and personal integrity and devotion to the decentralization of Government, which transcended our political differences.

Throughout our service together in the Senate, my deep respect for the distinguished Senator from Arizona has remained constant. In characteristic fashion, Senator GOLDWATER has always been fair and forthright. Although our differences on issues at times have been very strong, he has not allowed those differences to rupture our relationship.

Mr. President, the Senator's high degree of integrity, strong convictions and dedication to public service over the years have been the backbone of his successful political career. His willingness to hold firm to his convictions of what America should be, at home and abroad, has been a powerful example to us all. The retirement of the Senator from Arizona will be a loss to the Senate and to the Nation.

TRIBUTE TO SENATOR THOMAS EAGLETON

Mr. BOREN. Mr. President, when THOMAS EAGLETON first began his political career as circuit attorney in St. Louis, he was often referred to as Missouri's "boy wonder." During 30 years of public service, Missouri's "boy wonder" has evolved into an outstanding legislator whose service to his State and our Nation will not be forgotten. The end of the 99th session of Congress will signify the end of Senator EAGLETON's third and final term in this body and we wish him well in his future endeavors.

Senator EAGLETON has earned the respect of his colleagues through his consistent dedication to the people of Missouri and to his country. The vast knowledge which he has brought to a variety of issues has contributed to his legislative success. He is that rare breed of politician who is willing to do what he believes is right rather than what is politically popular or personally advantageous at the time.

A man of indominatable spirit, THOMAS EAGLETON is recognized as one of the most effective Senators in floor debate. His ability to bring clarity and insightfulness to even the most complex issues is respected by Democrats and Republicans alike.

Senator EAGLETON has played a key role in the enactment of several pieces of significant legislation in the past 15 years. During his years as a member of the Labor and Appropriations Committees, TOM EAGLETON has led the way in providing improved services to our Nation's elderly. He was a primary figure in establishing the National Institute on Aging and for expanding the services available to the elderly under the Older Americans Act.

Senator EAGLETON's concern for the U.S. involvement abroad has prompted him to take an active role in a wide-range of foreign policy issues. THOMAS EAGLETON has worked with determination to establish limits on the President's war-making powers. In 1973 he led the successful campaign to cut off funds for the United States bombing of Cambodia. In 1974 Senator EAGLETON was instrumental in the passage of the Turkish arms embargo after Turkey used American-supplied weapons in its invasion of Cyprus. As a member of the Senate Foreign Relations Committee, Senator EAGLETON has remained actively concerned over United States foreign policy, with particular regard for our role in the conflict in Lebanon.

THOMAS EAGLETON is a man of enormous personal courage and public dedication. His notable abilities and perserverance as a legislator have earned him both the respect and the admiration of his colleagues. His popularity in his home State of Missouri has never been challenged. I join with the other Senators and Members of Congress in expressing our deep appreciation to Senator THOMAS EAGLETON for his outstanding service to our country.

TRIBUTE TO SENATOR BARRY GOLDWATER.

Mr. BOREN. Mr. President, when the 99th Congress adjourns it will mean that this body must say farewell to one of its most esteemed and senior Members, Senator BARRY GOLDWATER of Arizona. His contributions to our Nation as a Senator will be sorely missed.

Senator GOLDWATER is a man of principle and of the utmost integrity. His personal political philosophy, which includes a staunch belief in the free enterprise system and in individual freedom over Government regulation, has made its mark on our Nation. He has worked diligently to preserve our Nation's military strength.

I have been honored that he has been the principal coauthor with me of campaign finance reform legislation to limit the amount of political action committee money going into Federal election campaigns. His support of this much-needed reform will be missed next year when we renew our battle to gain enactment of this change in our campaign laws.

As chairman of the Senate Armed Services Committee, this year Senator GOLDWATER has accomplished what would have earlier been termed an impossible task—the most comprehensive reorganization of the Department of Defense in DOD history.

When asked recently by a newspaper reporter what I would term the greatest success of the 99th Congress, I cited Senator GOLDWATER'S Pentagon reorganization bill. This legislation, which Senator GOLDWATER pursued with a single-minded purpose, will do much to eliminate the parochial views of the separate branches of the armed services that presently often impede interservice cooperation and the giving of coherent military advice to the President. It does so by granting more authority to the Chairman of the Joint Chiefs of Staff and other major Pentagon entities who are charged with coordinating the operations of the separate services.

Senator GOLDWATER has also served this body and his Nation for 4 years as chairman of the Senate Select Committee on Intelligence, where he took an active role in the important congressional oversight responsibilities of U.S. intelligence activities.

As a member of the Senate Small Business Committee, Senator GOLDWATER has propounded his staunch belief in the free enterprise system and his feeling that our economy is better off with less Government regulation of private business. He has said

that unless overburdensome Government regulation is stopped, "This country will face a full-fledged economic collapse of its free institutions."

During his service as chairman of the Commerce Subcommittee on Communications in 1981, Senator GOLDWATER successfully gained passage of legislation to deregulate the telecommunications industry. Later, in 1984, he won passage of a bill to establish a national policy for cable television.

Senator GOLDWATER has supported a constitutional amendment to require a balanced Federal budget and has continually recognized the importance of our Nation's energy independence to our overall national security, opposing a windfall profits tax and supporting deregulation of oil.

Senator GOLDWATER started his political career while managing his family's department store in Phoenix when he was elected to the Phoenix City Council in 1949. In 1952, he defeated Senate Majority Leader Ernest W. McFarland to take his seat in the U.S. Senate, interrupting his Senate service only once, between 1964–68 to run for President of the United States on the Republican ticket in 1964.

He is a graduate of Staunton Military Academy and attended the University of Arizona. He served in the U.S. Army Reserves and Air Force Reserves for 37 years, attaining the rank of major general USAFR.

Senator GOLDWATER has served his country and this body at great personal sacrifice. I first met Senator GOLDWATER while I was still a college student and had the privilege of introducing him to a forum at Yale University. Since then I have been privileged to count him as a personal friend. His encouragement has meant a great deal to me. His example of absolute integrity and devotion to principle has exerted a substantial influence upon countless young people who aspired to be public servants in the highest and best sense.

Within the U.S. Senate as an institution, BARRY GOLDWATER has himself been an institution. His hard-working ways, unfailing support of his political philosophy and principles, and his honest, no-nonsense remarks about the direction our country should be taking can never be replaced.

I have no doubt that Senator GOLDWATER will continue to make contributions to our country in his new role in the private sector. I join all my colleagues in this body in thanking Senator GOLDWATER for his service to his State, his Nation, and to the U.S. Senate.

□ 1200

DEATH OF BILL TESINSKI

Mr. MELCHER. Mr. President, this evening in Great Falls, MT, there will be the funeral services for Bill Tesinski who is 38 years of age and met a very tragic and untimely death a few days ago.

Bill Tesinski was a mechanic at the City Motors in Great Falls for some 19 years, half of his life, and of late he has been an amateur photographer of some note. Over the past weekend Bill was involved in attempting to take some pictures in Yellowstone National Park. No one witnessed his death. It occurred because of a grizzly bear. Bill was not attempting to take pictures of grizzly bears. He was attempting to take pictures of elk when this accident, this tragic accident occurred.

He had been missing from home for a couple days and it was unexplained. He was thought to be taking pictures in other areas of Montana.

The remains of Bill Tesinski were found by park rangers in Yellowstone near Canyon when they became aware of the presence of a female grizzly who had returned to the area, having spent most of the summer in that particular area with her two cubs. The grizzly had been removed from there by the park rangers to a considerable distance to the eastern edge of Yellowstone National Park. So when she was collared with a signaling device, that was picked up by the park rangers monitoring the signaling devices and the park rangers went there just to see where she was. They found the grizzly or saw the grizzly bear from a distance and it was dragging off something and upon coming closer they found that it was the remains of Bill Tesinski.

The grizzly bear was shot and killed then as is the management practice of the park rangers in Yellowstone when it happens to be a grizzly that attacks a human being.

□ 1210

I talked to the family to offer my condolences.

RESOLUTION URGING GRIZZLY BEAR STUDY

I am now submitting in the Senate today a sense-of-the-Senate resolution that I believe might help avoid tragedies like this in the future.

Mr. President, all of us in the country and perhaps throughout the world want to protect this endangered species, the grizzly bear. But we also want to alleviate the conflict between grizzly and man.

The sense-of-the-Senate resolution that I am submitting today merely instructs the Secretary of the Interior, using both Federal and private wildlife biologists, to institute an investigative study in one or more experimental programs in managing grizzly bears in the Yellowstone National Park with a set of goals.

The first and most primary goal is to avoid the conflict between man and grizzly bears. I would hope that we can have enlightened management of grizzly bears and avoid such tragedies as befell the Tesinski families. To his parents and to his daughters, Shantal Lee Tesinski and Monique Marie Plant, I offer my heartfelt condolences.

The resolution is as follows:

Resolved, That it is the sense of the Senate that the Secretary of Interior using federal and private wildlife biologists shall institute an investigative study and one or more experimental projects in managing grizzly bears in Yellowstone National Park with these goals:

1. Avoiding conflict between man and grizzly bears.
2. Assuring stability of the numbers of the Yellowstone Park grizzly aggregation.
3. Documenting the nutritional needs of grizzlies necessary for normal reproduction.
4. Determining whether the effects of eco-center management would contribute to alleviate conflict and secure grizzly nutrition.

Mr. MELCHER. Mr. President, I ask unanimous consent that an article by Bert Lindler of the Great Falls Tribune staff be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Great Falls Tribune, Oct. 8, 1986]

MISSING GREAT FALLS MAN DEAD IN PARK

(By Bert Lindler)

A Great Falls wildlife photographer missing since Saturday evening in Yellowstone National Park was found dead Tuesday morning by rangers who killed a grizzly bear standing near his partially consumed body.

Park officials were withholding the man's name pending notification of next-of-kin.

Yellowstone rangers noticed the man's car parked along the road between Canyon and Lake both Saturday and Sunday.

When the car was still there late Sunday night, rangers ran a license check to see if they could find out why the car hadn't been moved.

Monday afternoon rangers were able to contact friends and relatives who told them the man had left Great Falls Friday and expected to return Saturday evening. They thought he had been taking pictures in the Crazy Mountains and had reported him missing there.

A hasty search was begun Monday evening while a major search was planned for Tuesday. At 7 a.m. Tuesday rangers aided by a helicopter, search dogs and horses were preparing for the search.

Meanwhile, rangers with a radio receiver picked up the signal of Bear No. 59, a radio-collared sow grizzly whose signal had been noticed in the area the day before. The grizzly has been in the Canyon area most of the summer, where she grazed in meadows along the roadside with her two cubs.

Although hundreds of tourists watched her, she is never known to have shown any form of aggression other than normal defense of her cubs, said Dan Sholly, the park's chief ranger.

Two rangers went to check on Bear 59 as preparations for the search continued. They found her standing above and dragging what appeared to be a body.

When they notified search leaders, other rangers armed with rifles came and killed the bear, Sholly said. An autopsy showed that the bear had consumed parts of a human body.

A camera with a zoom lens was on a tripod that had been knocked over. The film in the

camera is being developed and may help determine what happened, Sholly said.

An autopsy is being performed on the man's body, he said.

The body was found at 7:40 a.m. near Otter Creek about one-half mile from the Grand Loop Road between Canyon and Lake.

Bear No. 59 was first trapped as a subadult in 1980 at the employee's trailer park near Canyon. She was trapped again in 1981 and twice more in 1984.

On Sept. 4 she and her two cubs were trapped near Canyon and moved to the eastern boundary of the park because they had been feeding on garbage. Ten days later she had returned to the Canyon area without her cubs.

She was seen along the roadsides in the area as recently as Friday, Sholly said.

This summer when hundreds of people were watching the bear and her cubs along the roadsides, rangers kept the crowds away from the bears, Sholly said.

"We don't care to have people and bears in close proximity to each other," Sholly said, but the park didn't want to chase off either the bear or the bystanders.

Mr. MELCHER. Mr. President, the name of the deceased in this article is Bill Tesinski. He is survived by his father, John Tesinski, his mother, Terri Knott Madler, and his daughters, Shantal Lee Tesinski and Monique Marie Plant.

Mr. President, I thank the Chair, I suggest the absence of the quorum.

The assistant legislative clerk proceeded to call the roll.

□ 1300

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues who may be listening in their offices or in conferences that we know there are probably a dozen or more meetings going on between the House Members and Senators. I also know that there are some Senators on each side who have commitments outside Washington, DC today or late today. They would like to know precisely what may happen.

The only problem is I cannot tell them precisely what may happen. We had hoped by now to have the reconciliation measure before the Senate, and act on it today. I was advised not long ago that it is probably not going to happen today because there is still a rather firm area of disagreement between the Senate Finance Committee, bipartisan I might add, and the House Ways and Means Committee. We have gone as far as to call Don Regan in Iceland yesterday afternoon. He spoke with me, Senator LONG, and Senator PACKWOOD.

□ 1340

We have not seen any resolution of that.

The other area that is certainly of concern to every Member, and we want to act on it, is the drug enforcement bill. There is a bipartisan agreement on this side except for one provision, the death penalty in certain extreme cases. There are meetings going on as I speak concerning some way to resolve that issue so we do not hang up that very importance piece of legislation.

There is some possibility we might be able to take some action on that today.

I hope to be in a position to indicate to my colleagues within the hour whether that is going to happen.

Finally, there is the brief extension of the continuing resolution. Again, reflecting the views of the President, he does not wish to sign another extension of a continuing resolution, not even for 1 day or 2 days, unless he can be assured that we are making some progress on the overall continuing resolution.

I know the House passed an additional continuing resolution that would extend through Wednesday midnight. I must say at this point we have no plans to take that up. There will be a meeting at 5 o'clock of the conferees of the Appropriations Committee of the House and the Senate. If they can give us some reading at 6 or 7 o'clock that they are about to wrap up the big continuing resolution, we might then be able to address the short term. I would hope we could do that on a voice vote.

I regret that we are not in a position to tell Members that we are finished for the day. I would guess there is a 50-50 chance we may be, but I would not want any Member leaving and missing a vote, or suggesting that we had not been candid. I just do not know.

There are a number of Senators talking to House Members and other Senators to see whether they can bring their matters to the attention of the Senate yet this afternoon. I just cannot be any more explicit than that. If somebody has to go, just go, but he might miss a vote or two.

Mr. DIXON. If the leader will yield, does he anticipate any votes tomorrow?

Mr. DOLE. I do not anticipate any votes tomorrow. There will not be a Monday session.

Mr. BYRD. Does the majority leader anticipate a session tomorrow?

Mr. DOLE. There could be a pro forma session if we file cloture on the House message on the drug bill. We would come in for that either tomorrow or Monday, but I think it might be better to come in tomorrow for a brief moment so that the cloture motion could be acted upon by Tuesday.

Mr. BYRD. Do I hear the majority leader saying if there are any rollcall votes this afternoon they will be in relation to the drug bill in all likelihood?

Mr. DOLE. I think I am prepared to say that. I understand there is very little hope of having the reconciliation matter before us today.

Mr. BYRD. And, further, that we should know within the hour?

Mr. DOLE. I would hope so. I know the distinguished Senator from Delaware is on the floor. He has been meeting with a number of Senators. I know that the staff on each side, the Republican and Democratic staff members, worked up until 10 or 11 o'clock last night and worked again this morning. They have now completed a bipartisan amendment which we can offer to the House message. The whole area of disagreement in the whole amendment is the death penalty. I do not know how that will be resolved at this point.

Mr. BYRD. I thank the majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1400

Mr. ROCKFELLER. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without ojection, it is so ordered.

UNITED AGAINST DRUGS

Mr. ROCKEFELLER. Mr. President, based on recent events, the American people have the right to question just how committed the Congress is to enacting major antidrug legislation. The fact that the Senate and the House of Representatives have yet to reach an agreement on a final package at this very late date sends a disturbing message to the public—namely, that we may allow election year politics or individual agendas to get in the way of acting on what we have all recognized as one of the Nation's most serious problems, drug abuse.

As someone who has been actively involved in writing the Senate's drug legislation, I know what enormously hard work and leadership have gone into working out a bipartisan approach to the drug problem. Twelve days ago, a sound, ambitious, thoughtful bill was passed by the Senate—thanks to the willingness of Members on both sides of the aisle to make concessions, reach agreements on numerous issues, and refrain from insisting on controversial or divisive proposals. I

thought that we had succeeded in doing what we had intended to do to initiate a major war on our Nation's drug problem.

But then, we got signals from our colleagues in the House of Representatives that they would not accept our bill nor participate in a conference to hammer out a final package. Most troubling is the condition placed by the House and supported by some of our colleagues in the Senate—that the death penalty must be included in its drug legislation.

Thus, Mr. President we are at an impasse. For reasons which I respect, some of our Senate colleagues have indicated that they will filibuster the drug bill if it contains the death penalty. I support capital punishment—only under, however, the most stringent circumstances sanctioned by the Supreme Court. But I do not believe that the proposed federally-mandated death penalty should determine the fate of the drug bill. In my view, we will do a major disservice to the American people if we let this single, tremendously divisive issue prevent us from conducting the war on drugs that we have declared and promised in these recent months. The irony is that the death penalty is already legal and used in many States across the country. However, the resources, the programs, and the mandate to fight drugs are not yet in place—that is what our legislation intends to do—and they will not be until we pass a comprehensive drug bill.

Mr. President, there is a great deal at stake. We have the opportunity to pass legislation to eradicate drugs in other countries, to stop traffickers and smugglers at our borders, to take swift and harsh action against these and other drug-related criminals, to educate our citizens about the dangers of drugs, and to provide treatment to help children and individuals recover from their dangerous use of drugs. Now is the time to take historic action against drug abuse. To delay any longer runs the risk of losing the momentum and bipartisan support needed to achieve this critical objective. If we permit the death penalty issue or political posturing to block the passage of an anti-drug bill, I believe we would perform a grave injustice, and would deserve the American people's cynical reaction to any further claims we might make about wanting to do something to end the drug crisis. I urge my colleagues in the Senate and the House to join together and mount a united front against drugs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

EUGENE HASENFUS AND THE DOWNING OF THE C-123

Mr. HARKIN. Mr. President, as more news of the Hasenfus mission unfolds, it is becoming apparent to this Senator that the Reagan administration is playing an elaborate and dangerous game of hide and seek.

It is a game of hide and seek with the truth;

It is a game of hide and seek with the law; and

It is a game of hide and seek with the American people.

Yesterday, the distinguished Senator from Minnesota, the chairman of the Senate Intelligence Committee, challenged the White House to disclose what it knows about the Hasenfus mission. I join him in making that challenge.

It is time that this administration step out of the closet and come clean about whatever role it may have had in the Hasenfus incident.

Before beginning the third in a series of questions—this is the third day I wish to pose some questions about this issue—I want to send a single and simple message to the Nicaraguans: "Two wrongs don't make a right."

I ask the government in Managua to adhere to international law and permit the U.S. consul in Managua to visit Mr. Hasenfus.

The Nicaraguans should obey international law. That law provides that our Embassy in Nicaragua ought to have access to Mr. Hasenfus in the most expedient and forthright manner. The Nicaraguans should obey the law, even though this administration has not necessarily obeyed international law in the past.

Furthermore, I am appalled by the manner in which the Nicaraguans presented the coffins carrying the two dead Americans to the American Embassy in Managua. Reports have it that the two bodies were incinerated or cremated and then delivered on a cattle truck and dumped in front of the door of the Embassy in Managua.

Mr. President, this administration's refusal to respect the rules of civilized behavior by continuing to support a war that kills of thousands of Nicaraguans does not in any way excuse the Sandinistas from violating acceptable laws of behavior.

While I do not condone or in any way sanction what those Americans were doing in carrying out their covert war against the Government of Nicaragua, nonetheless, two wrongs do not make a right; and the Nicaraguan Government's reported action in handling the coffins of the two dead Americans violates what I consider to be the norms of civilized behavior.

On Wednesday and Thursday, I asked a series of questions regarding what assistance, if any, the U.S. Government provided the Hasenfus flight. Since my statement, Eugene Hasenfus has stated that his supply flights were directly supervised by members of the Central Intelligence Agency in El Salvador.

In response to the question of whether any Defense Department or U.S. Government employee assisted Hasenfus in loading his C-123 cargo plan, Hasenfus responded: "Two Cuban naturalized Americans that work for the CIA did most of the coordination for the flights and oversaw all of our housing, transportation, also refueling and flight plans."

Hasenfus identified the naturalized Cubans as Max Gomez and Ramon Medina.

Furthermore, Hasenfus claims that the entire operation at Illopango, consisting of 24-26 employees, is a "company"—or CIA—operation.

Is this truth or fiction, Mr. President?

I believe the American people ought to have a right to know; the administration should come forward and give us the facts concerning the CIA operations at Illopango.

Hasenfus and his two flight companions, Wallace Sawyer and William Cooper, all had Salvadoran Air Force ID cards identifying them as U.S. military advisers. It is my understanding that the U.S. Embassy in San Salvador reviews all such cards before they are granted to Americans.

Was our Embassy in San Salvador involved in any way with Mr. Hasenfus, his associates, and the other Americans flying arms supply missions for the Contras? Was the U.S. military group in San Salvador aware of these supply flights, and did the milgroup assist these flights? It is one thing to know about them, which obviously would not be a violation of the law. It is quite another thing if they helped them in any way to load or refuel. That would be a violation of the law.

Who financed the Hasenfus mission? An October 9 Newsday story charges that the Hasenfus flight had been paid for by Saudi Arabian funds. Cost of the cargo, salaries of the crew, and the chartering and equipping of the plane was less than $250,000, according to U.S. defense source. Is this truth or fiction? Were the Saudis involved or were they not?

The man who organized the flight, and who established the connections between the Saudis and the Contras was retired Air Force Maj. Gen. Richard Secord. Secord, an adviser to Secretary of Defense Weinberger until he

retired in May 1983, was the administration's chief pointman for the sale of AWACS to Saudi Arabia in 1981.

The person, who allegedly connected Secord to the Contras, however, was Col. Oliver North. North was also involved in the AWACS sale and has since been charged with being the administration's pointman for coordinating private U.S. support for the Contras.

Colonel North now works for the National Security Council.

Mr. President, is the Newsday piece accurate? If so, was the U.S. Government aware of secret Saudi support for the Contras, and did it provide advice or support for this arrangement?

Or, perhaps, are we chasing the wrong rabbit? Does the CIA really know about this? Maybe they do but perhaps the CIA has not been involved. Maybe they have not broken any laws. Has the White House done an end run around the Agency and gone through the National Security Council and through Colonel North and to retired Gen. Richard Secord in arranging these flights? The administration has to come clean on this.

The Hasenfus missions raises another series of questions regarding the complicity of our allies in the region.

An October 9, Baltimore Sun story reports that three to five flights take off every week from a restricted part of the air base at Illopango, El Salvador's main air base. The ID tags worn by Hasenfus were signed by Gen. Rafael Bustillo, head of the Salvadoran Air Force. Documents recovered from the Hasenfus flight show the registry numbers of five Contras supply planes based at Illopango.

President Duarte and the Salvadoran military have issued strong denials to these charges. But they apparently are concerned enough about operations at Illopango to have ordered Salvadoran Treasury Police to hold for 2 hours an Associated Press reporter and her Salvadoran photographer for taking unauthorized pictures of the airbase.

Hasenfus' charges about Salvadoran involvement—fact or fiction, Mr. President?

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article that appeared in the October 9 Baltimore Sun, entitled "Salvadoran Role in Supplying 'Contras' Starts to Come Into the Open."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALVADORAN ROLE IN SUPPLYING "CONTRAS" STARTS TO COME INTO THE OPEN

(By Chris Norton)

SAN SALVADOR, EL SALVADOR—El Salvador's position as a transfer point for supplies to U.S.-backed "Contras" has long been an open secret, say informed sources here.

President Jose Napoleon Duarte, however, adamantly denied yesterday that a C-123 twin-engine cargo plane shot down over Nicaragua had taken off from El Salvador. "We have no information on that. I have asked the [armed forces] high command, and they say no." President Duarte said.

Still two of the Americans killed in the crash allegedly were carrying cards giving them access to a restricted part of San Salvador's Ilopango air base, which is used by both the Salvadoran air force and civilian planes.

Ilopango personnel say that three to five flights take off every week from a restricted part of the air base used by the Americans. These flights are believed to be used to supply the U.S.-backed Nicaraguan contra forces.

U.S. government officials deny that the plane was theirs and say that the plane belonged to the private contra-aid group called the United States Council for World Freedom, headed by retired U.S. Maj. Gen. John K. Singlaub. One of the Americans who died, however, also carried a business card from the State Department's Humanitarian Aid Office in Washington, which had been a channel for funds for the contras.

Informed sources say that the Salvadoran air force has given the contras the use of several warehouses to store shipments before they are reloaded onto smaller planes bound for the contras. These sources say that permission to use the warehouses was given by the head of the Salvadoran air force, Gen. Rafael Bustillo, the powerful rightist commander closely linked to the contra effort.

Sources say that the rebels have used Ilopango at least since 1984, and probably earlier, to ship supplies to ex-Sandinista contra leader Eden Pastora, who was based in Costa Rica. Bombing raids in 1984 against Nicaragua also were believed to have originated at Ilopango.

CIA supplies to Mr. Pastora, however, were cut off when he resisted merging his forces with the main CIA-supported contra force, the Nicaraguan Democratic Force (FDN), claiming that they were controlled by former officials of ousted dictator Anastasio Somoza's National Guard.

Late in 1985, contra flights out of Ilopango reportedly picked up again after the Honduran government restricted contra shipments through its territory in what many observers say was an attempt to extract more U.S. aid.

On April 24, 1985, five European and U.S. mercenaries were captured in Costa Rico trying to link up with the FDN contras. U.S. citizen Steven P. Carr said that he was brought from Miami to Ilopango on a large DC-3 cargo plane loaded with weapons for the rebels.

The Salvadoran government officially denies aid to the contras. It is not known whether the aid is official government policy or merely carried out on the private initiative of General Bustillo.

Although President Duarte is commander-in-chief of the armed forces, top military officers such as General Bustillo have wide leeway to operate in areas related to national security.

On June 14, Panamanian authorities seized a large shipment of weapons originating in East Germany. At first the destination was a mystery, but the bill of lading revealed that the cargo—2,000 AK automatic rifles, 1,500 anti-tank rockets and 38 four-wheel-drive military trucks—was bound for the Salvadoran military. The real destination of the AK assault rifles was believed to be the contras, because the Salvadoran army uses the U.S. made M16 rather than the Eastern bloc-style AK rifle, which is the contras' standard weapon.

□ 1420

Mr. HARKIN. Mr. President, the President and his advisers again are straining their credibility if they want us to believe all of the denials. Furthermore, I find it even more incredible that some of my colleagues are being asked to swallow the charge that Congress, because of its failure to approve the Contra funding, is responsible for this fiasco.

We are being assailed that since we did not fund the Contras we brought this on ourselves. I find that hard to believe.

As I remarked yesterday, Mr. President, in the words of Lewis Carroll, this story is getting curiouser and curiouser as we go along.

Mr. KERRY. Mr. President, will the Senator yield?

Mr. HARKIN. I am delighted to yield to my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to congratulate my colleague and really call to the attention of the Senate the service that he is performing in continuing to ask what are very serious questions about this particular flight.

I think most of us who have been following the situation in Central America understand that this administration has made it very clear about how grateful they are to these private groups that have been literally circumventing the U.S. Congress, and it is clear that they could not do so if it were not for that encouragement.

I wonder if my colleague shares with me the belief that there are many, many unanswered questions which raise serious questions in and of themselves about this administration's willingness to adhere to the law, about the whole question of whether or not the constitutional process of the Congress having stated an intent and having it abused, that subversion does not represent a fundamental breach of trust and faith with respect to that relationship?

Mr. HARKIN. I thank my colleague from Massachusetts. I think he is quite right to point out that what good does it do us to pass the Boland amendment or laws restricting the CIA if in fact the White House will do an end run, through the National Security Council or other agencies to support the Contras.

So, you wonder just how many "i's" do we have to dot, how many "t's" do we have to cross, just how specific we have to be in instructing the administration what our policy ought to be.

The Boland amendment which restricts the kind of aid that can be provided the Contras, has been skirted. It looks like an end run has been done. As the Senator from Massachusetts has pointed out, trying to find the truth of this is like chasing the cheshire cat. It is there for a minute and then it is gone. There are all kinds of shady things going on with this administration's policy.

As the distinguished Senator from Vermont has said, perhaps a lot of these things are going on with a "wink and a nod" from the administration. I find that not in keeping with the constitutional processes of government.

Mr. KERRY. I share my colleague's feeling. I know that we learned today that Mr. Hasenfus apparently was receiving some $3,000 a month or so per mission that was placed in a bank account.

I think we could answer a lot of the questions if the administration were to help us in getting that bank record and trying to determine where that money came from and who is paying this money.

This Senator certainly finds it no small coincidence that three former employees of the CIA are flying a plane which was formerly contracted with the CIA which is dealing with a couple of people who are formerly the CIA, all simultaneously coming together in this one mission that winds up with the first prisoner of war of this conflict in Central America.

I think that when the Congress of the United States says we do not want direct or indirect assistance that that law ought to be upheld. I think the administration ought to be held accountable on this and I hope we are going to continue to ask those questions.

Mr. HARKIN. I would appreciate my colleague's response on this observation. I know the Senator from Massachusetts, myself, and most of our colleagues in this body have been very supportive of Napoleon Duarte of El Salvador, of his efforts to bring democracy to El Salvador, in trying to return that country to its feet.

We all have the highest respect for President Duarte, and it appears now we may be putting him in a very difficult situation.

In fact, if the U.S. Government were not involved in refueling and resupplying and helping the aircraft that fly out of Ilopango, then the Salvadorans must be responsible. That puts the El Salvadoran Government in a very difficult position with their Central American neighbors.

So it seems now we have the worst of both possible worlds. There is shadiness about the truth of U.S. involvement, and there is the question of Salvadoran involvement in this operation.

Does the Senator from Massachusetts have any observations on this matter?

Mr. KERRY. Again I think it just raises the question of what is happening here. Everybody is denying that they have anything to do with this aircraft. Yet this aircraft has a lot of weapons in it. It turns out that in the wallet of one of the dead crewmen is the name on a business card of a Mr. Robert Owen. We know that Mr. Robert Owen is involved with the Humanitarian Assistance Program. He has connections to Mr. Oliver North at the National Security Council. That is a well-known fact as a matter of public record. And the question is why is somebody who is transporting those weapons carrying that business card? What are the connections? Is there in fact through that wink and the nod the carrying out by these individuals of almost a tacit Government program? Even though it is obviously not directly Government, it is with such clear approval and such permissiveness that it becomes quasi-governmental.

I think these are questions which Congress, if it cares about the laws that it passes and if it cares about the separation of powers and the appropriate treatment of the Constitution, that has to be answered.

Mr. HARKIN. Let me ask the Senator another followup question. Perhaps we are chasing the wrong rabbit here. Perhaps the Central Intelligence Agency is being painted with a brush with which they ought not to be painted. Perhaps the CIA has in fact adhered to the law.

Does the Senator think that it could be possible that the Hasenfus and similar operations could be run out of the White House, through the National Security Council, by people like Colonel Norton and retired General Second; that the NSC could be doing an end run around the CIA. Maybe we ought to be looking at the National Security Council, and not the Central Intelligence Agency.

Mr. KERRY. This Senator has made it very clear as a matter of public record and reiterated again today that I think the pertinent individuals from the National Security Council ought to be brought before us. The Foreign Relations Committee is conducting an investigation and I hope the chairman of that committee will in fact, in his effort, which I think is a genuine and clear one to try to get the answers, call the appropriate people before us, put them under oath, and take the appropriate testimony. I am confident if we do that, we can lift a cloud.

I think the Senator has a point. I think it may be that these groups have been operating in conjunction with the approval of the administration and that the CIA has had former employees conceivably just part of that network because they are there and available, but again, we do not know the answers to these things. I do not know the answers. I know the Senator does not.

The Senator sat in on a long classified briefing today. While it helped in some respects and cleared up certain things, it raised a lot of other questions.

I think again before the CIA is put in the position of managing $100 million of lethal assistance and before we go into this whole new phase of our policy in Central America, we ought to lift the cloud. The CIA ought to be cleared of any wrongdoing if in fact it can be so that we do not proceed into this next phase with a sense of mistrust about the willingness of the CIA to in fact carry out our restrictions with respect to 20 kilometers from any action and no military personnel being involved in the line of fire.

I wonder why is it that we, Congress, have been willing to set a restriction on the military's ability to come into harm's way and yet we are willing to take other Americans and put them in harm's way. I mean what is the difference? It seems to me that it is clear that America one way or another is getting involved dangerously in this conflict and that the American people have made it clear that they do not want it, they do not want it in surrogate subgroups that are somehow supposedly volunteer efforts.

What average American can go out and get an airplane, fly it out of Miami, land it in Illopango Air Base in El Salvador, pick up a crew, fly over to Honduras, get some weapons, fly it down without someone in the United States Government or the CIA, or some kind of winking, saying, "Yes, there goes that flight. We know what that is doing. That is resupplying the Contras."

□ 1430

Now, if that is not approval, if that is not condoning it, if that is not saying we like that—let me tell you something: If the United States Government did not allow it, if that plane were flying down there to supply the Nicaraguans, do not think for an instant that it would have been allowed to land at one of those places or that it would have gotten off the ground. So it is clear that this represents a policy effort to circumvent the law of this country.

I think we have a responsibility to understand how that happens and who has been responsible for it. I thank my colleague for a chance to discuss this.

Mr. HARKIN. I thank my colleague.

I end on this note by saying the more I read about this and the more I hear about it and the more I look into it, it becomes almost more and more apparent to this Senator that we have got some people down at the White House, perhaps in the National Securi-

ty Council, who have been watching too many Rambo movies. And, quite frankly, they are unprofessionals, they do not know how to handle things like this. And what they are doing is they are giving not only our country a bad name, I think they are giving the professionals in the Central Intelligence Agency and in other areas a bad name. They are painting them with their brush. And it is better to leave it to them rather than these so-called Rambo-types in the White House who are trying to carry this thing out.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1520

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHIAS). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I take the floor at this time because no other Senators are seeking recognition. I will be happy to yield the floor at any time there is business to be transacted.

I am hoping that we can very soon indicate to our colleagues whether or not there will be rollcall votes this afternoon. Meanwhile, I would like to address my remarks at this time, briefly, to one of our departing Members.

SENATOR CHARLES McC. MATHIAS

Mr. BYRD. Mr. President, in saying farewell to Senator CHARLES "MAC" MATHIAS, this Chamber says goodbye to a member of a family that is steeped in a wealth of political history. His great-grandfather, for example, was a State senator who ran on Abraham Lincoln's ticket in 1860, and his grandfather was a State senator who campaigned with Theodore Roosevelt for the Bull Moose ticket.

But in saying farewell to Senator MATHIAS, this Chamber says goodbye to a Senator who himself is personally steeped in a wealth of political accomplishments and history.

Mr. MATHIAS was first elected to the Senate in 1968 after having served four terms in the U.S. House of Representatives.

As a Senator, MAC MATHIAS has served on the Senate Judiciary and Foreign Relations Committees, as well as on the Aeronautical and Space Sciences Committee, the Joint Committee on the Library, the Government Affairs Committee, and the District of Columbia Committee.

He has been the chairman of the Joint Committee on Printing, the Committee on Rules and Administration, the Judiciary Subcommittee on Criminal Justice, the Subcommittee on Governmental Efficiency, and the District of Columbia Committee. While on the Foreign Relations Committee, he served as chairman of the Subcommittee on International Economic Policy.

Senator MATHIAS has been a forceful advocate of election law reform and copyright protection laws. As a proponent of a long-range energy policy, he has encouraged science and industry to develop new sources of energy. He was one of the original architects of the war powers resolution.

He has been involved deeply as Rules Committee chairman in assuring that the Senate as an institution functions properly and efficiently so that this great body can conduct and complete the vital work American voters send us here to do. All of us owe him a debt of gratitude for his tireless efforts in this respect.

But it will be for his accomplishments in the fields of human and civil rights that Senator MATHIAS will be long remembered and because of which he will occupy an important place in American history. The legislation he proposed resulted in the historic Civil Rights Act of 1964—which we now know propelled the cause of social and political equality for blacks, and freedom and democracy for all Americans.

Because of his effective work for the betterment of all Americans, Senate majority leader, Mike Mansfield, once called Senator MATHIAS "The conscience of the Senate." No one disputed that well-earned label.

Because of his successful work on behalf of the people of his beloved State of Maryland, and for all Americans, Parade magazine, February 15, 1977, rated him as "one of the most industrious, intelligent, and brilliant legislators" in the Nation. No one disputed that, either.

Senator MATHIAS' social conscience has occasionally put him at odds with Members of his own political party, including Presidents of his own party. But Senator MATHIAS has never been at odds with the people of Maryland who have appreciated him as much as he loves them.

In his 1974 election, he received 57 percent of the vote. This was the highest voting percentage that a Member of his party received in a Senate race that year.

In his 1980 election, Senator MATHIAS received the largest number of votes any elected official has ever received in the history of his State.

I have personally appreciated and highly regarded the Senator from Maryland. As I have said before, on August 11, 1986, in the CONGRESSIONAL RECORD, this great Senator and outstanding American has been one of the "most cooperative, most decent, most principled Members of the Senate." He has shown that grace, integrity, objectivity, reason, and statesmanship are integral parts of his character and how much those attributes on the part of a Senator can contribute to this body. For these and other reasons, I have always regarded his friendship as one of the most valuable intangible rewards of my own service in the Senate.

□ 1530

Now Senator MATHIAS leaves us. His departure from the affairs of our Nation creates a deficit in leadership and wisdom that will be difficult to correct, fulfill, and replace. But his accomplishments will forever be a part of the history of this Chamber and of American history.

I understand that he will probably retire to his restored, 200 year-old farm, "Bullskin." I am sure that he will be happy there. For one thing, the farm is so close to the great State of West Virginia that I am sure it is beautiful, comfortable, and very, very pleasant. And as a citation he received from Washington College upon receiving an honorary doctor of law degree noted:

> He [Senator Mathias] is a man of many parts, comfortable in Washington, yet happiest on his Appalachian farm where he raises sheep and other animals.

His gain will certainly be our loss because we lose a Member who has contributed mightily to the good of this Chamber and the well-being of the United States. He will be fondly remembered for the effective, hard-worker that he is, and for the kind spirited person that he is and always will be. I will personally miss him here, as will many other Senators.

Mr. President, I was saying only yesterday to another Senator as I spoke of Senator MATHIAS, and I said this with the greatest of care and very measured thought. Senator MATHIAS is a Senator—this is what I said yesterday to another Senator—he is a Senator who very well could have been one of those who sat in the first Congress of the United States in those first 2 years of the Senate's history. I said he very well could have been one as I have pictured him, a gentleman, wise, analytical, careful, thoughtful, forward looking, a man of vision, he could

71-059 O-87-13 (Pt. 21)

have sat among our illustrious forebears in that Constitutional Convention in 1787.

I can easily see in my imagination a Senator MATHIAS among those men of that day. That is the way I feel about MAC MATHIAS.

We cannot help but to extend our fond and sincere hopes for happiness and contentment, so richly deserved, to MAC and his wife Ann, and my good wife Erma and I extend to MAC and to Ann our good wishes for a very happy, satisfactory, retirement and along with these words go our good wishes for these things: work for your hands, a straight path for your feet, a coin for your purse, a song in your treetop at morning, sunshine on your windowpane at evening, soft rains for your garden, a hand of friendship on your latchstring, happiness in your hearts, love at your fireside and God's blessing always.

The PRESIDING OFFICER (Mr. MATHIAS). Under the rules and the precedents of the Senate, it is impossible for the Chair to respond, but if it were otherwise, he would.

The Senator from Ohio.

Mr. GLENN. Mr. President, I wish to associate myself in spades with those remarks of our distinguished minority leader of the Senate.

In looking at those leaving I know of no one who will leave a bigger gap as a Senator here than MAC MATHIAS. He is not a showboat. He is not out here all the time trying to just pick up on what may be the next press release. He is one of the most thoughtful Senators we have and in that respect he will be sorely missed.

I certainly do wish to associate myself with that eloquent speech by the distinguished minority leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1550

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. HECHT). The Senator from Oregon.

BILL DIEFENDERFER, CHIEF OF STAFF, COMMITTEE ON FINANCE

Mr. PACKWOOD. Mr. President, it is seldom in life that one has the opportunity to view from a distance, let alone work closely with, pure genius. It has been my pleasure to work with such a man. That is Bill Diefenderfer, chief of staff of the Senate Committee on Finance.

I first met Bill Diefenderfer in May of 1979 just after I had become ranking member of the Senate Commerce Committee. He came to work as minority counsel for the committee. It was one of those lucky events that happens to you only occasionally in life. Bill and I stayed together for almost 4 years through 1983 when Bill left the Commerce Committee for what I'm sure he thought would be a long stint in private life.

When I had the good fortune, however, to be elected chairman of the Finance Committee, I asked Bill to return as chief of staff. He willingly left private life, but came back only with the promise that he would "see the tax reform bill through." Little did he know what kind of a promise he was undertaking. It wasn't going to be a year and the usual tax bill. It turned out to be a year and three-quarters and the most extraordinary tax bill passed since the Internal Revenue Code was adopted in 1913. It was passed in large measure due to Bill Diefenderfer's leadership. His intellectual capacity is matchless. His political intuition is unrivaled. His wisdom is without peer. And my friendship for him is eternal. Not in my lifetime will I again know his equal. When he leaves, the Government will have lost an extraordinary servant. Hopefully, his departure will be temporary and he will return again soon. I would welcome him back anyplace, anytime, and under any circumstances.

ARMS CONTROL AND THE SUMMIT

Mr. BYRD. Mr. President, I congratulate the distinguished managers of the Department of Defense authorization bill for fiscal year 1987, for achieving an acceptable compromise with the House on the range of arms control and strategic systems provisions in that bill. In particular, I congratulate the statesmanship of the House leadership in reaching an accommodation with the President on the matter of the SALT II no-undercut policy, and, furthermore, the very significant achievement which has been accomplished—a major breakthrough on the issue of nuclear testing. The distinguished Senator from Georgia, [Mr. NUNN] is to be congratulated for his efforts and creativity in bringing about this result, as is the distinguished Senator from Virginia [Mr. WARNER].

Mr. President, for the first time since President Reagan took office, the administration has agreed to request Senate advice and consent on the ratification of the two nuclear testing treaties which were signed, but have languished since the mid-1970's. Furthermore, and of great importance, the administration has agreed to propose formal negotiations with the Soviets on the matter of a comprehensive nuclear testing ban when those two testing treaties have been ratified, as is likely they will be. This finally puts the administration or record supporting a policy which was promoted by every President since Mr. Eisenhower.

This action will serve to undercut the Soviet propaganda campaign, which has been underway for some 13 months, on the subject of a nuclear testing moratorium. It will serve to put the Soviets on the defensive, to test the willingness of Mr. Gorbachev to engage in real arms control.

On the matter of cutting through the central strategic system sublimits of the SALT II Treaty, I believe there is a strong consensus in both Chambers that the United States should not be the first to break through those limits. Therefore, the fact that this conference agreement on the DOD bill does not bind the administration to adhere to those limits—but urges him to do so—I believe it would be a great mistake for the administration to scuttle the key terms of that agreement. It would hand Mr. Gorbachev a pretext for breaking through those ceilings, and it would run against American national security interests. This legislation also contains a study which I added as an amendment on the floor which requires a detailed assessment by the Joint Chiefs of Staff as to the military impacts of breaking through those ceilings. I expect that this study will be comprehensive, and will be of help in determining the detailed impacts of such a breakthrough on our security.

Mr. President, there are many other features of the armed services bill which can be commended here. The SDI compromise, amounting to about 15 percent real growth over last year, seems to me to be a fair compromise. The Midgetman system will go to a full-scale development in fiscal year 1987. The agreement retains a provision I offered, as well, to cap the B-1B Bomber Program at 100 aircraft and to pursue the Stealth bomber with dispatch.

I believe the action by the conferees and by the leadership in both Chambers today is very commendable, is in the national interest, and will help the President at the summit. All Americans can unite behind these provisions, and behind their President in Iceland. We all wish him well in his discussions with Mr. Gorbachev.

DEPARTMENT OF LABOR EXECUTIVE LEVEL CONFORMING AMENDMENTS

Mr. PACKWOOD. Mr. President, I would first like to turn to Calendar No. 977, S. 2864.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2864) to provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3271

(Purpose: To make a modification with respect to Assistant Secretaries to make a technical correction)

Mr. PACKWOOD. Mr. President, I send a technical amendment to the desk on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. HATCH, proposes an amendment numbered 3271.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment to section 5315 of title 5, United States Code, made by section 2(b)(2), strike "(9)" and insert "(10)".

In section 2(e), strike out "Act" and insert "section".

Mr. PACKWOOD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3271) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2864) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This act may be cited as the "Department of Labor Executive Level Conforming Amendments of 1986".

SEC. 2. (a)(1) Section 1 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 552), as amended, is amended by striking out "Under" wherever it appears in such section and inserting in lieu thereof "Deputy".

(2) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof:

"Deputy Secretary of Labor.".

(3) Section 5314 of title 5, United States Code, is amended by striking:

"Under Secretary of Labor.".

(4) Any reference to the Under Secretary of Labor in any law, rule, regulation, certificate, directive, or other document in force on the date of enactment of this Act shall be deemed to refer and apply to the Deputy Secretary of Labor.

(b)(1) Section 2 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 553), as amended, is amended by striking out "five" in the first sentence of such section and inserting in lieu thereof "nine".

(2) Section 5315 of title 5, United States Code, is amended by striking:

"Assistant Secretaries of Labor (5)." and substituting therefor:

"Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for veterans' Employment and Training.".

(3) Any reference in any law, regulation, certificate, directive, or other document to the Assistant Secretary of Labor for Veterans' Employment in force on the date of enactment of this Act shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment and Training.

(c)(1) Section 3 of Reorganization Plan No. 6 of 1950 is repealed.

(2) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Administration.".

(d) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Veterans' Employment.".

(e) Subsection (c) of this section shall become effective on the day upon which the individual who is the incumbent of the position abolished by such subsection, as of the date of enactment, ceases to hold the position.

(f)(1) The incumbent in the position of Under Secretary of Labor on the date of enactment of this Act may serve as Deputy Secretary of Labor at the pleasure of the President after such date and the amendments made by subsection (a)(2) shall apply to such incumbent.

(2) The incumbent in the position of Assistant Secretary of Labor for Veterans' Employment on the date of enactment of this Act may serve as Assistant Secretary of Labor for Veterans' Employment and Training at the pleasure of the President after such date and the amendments made by subsection (b)(2) shall apply to such incumbent.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1019, H.R. 5495, the NASA Authorization Act.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 5495) to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3272

(Purpose: To make an amendment in the nature of a substitute)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senator GORTON in the nature of a substitute, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. GORTON, Mr. DANFORTH, Mr. RIEGLE, Mr. PRESSLER, and Mr. HOLLINGS, proposes an amendment numbered 3272 in the nature of a substitute.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

□ 1610

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (3272) was agreed to.

Mr. GORTON. Mr. President, today I offer for consideration H.R. 5495, as an amendment in the nature of a substitute. This bill authorizes appropriations for the National Aeronautics and Space Administration [NASA] for research and development; space flight, control, and data communications; construction of facilities; and research and program management; and for other purposes in fiscal year 1987.

Mr. President, this bill reflects a coordinated effort on the part of the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology. Furthermore, it represents an authorization which, I believe, incorporates the best elements of S. 2714, fiscal year 1987 the NASA authorization bill that the Senate Commerce Committee reported on August 14 and H.R. 5495, the fiscal year 1987 NASA authorization bill that the House passed on September 25. Moreover, this bill authorizes the funding that addresses NASA's post-*Challenger* budget requirements and provides the policy direction that should enable our Civil Aeronautics and Space Program to move to the front once again among space-faring nations.

The Commerce Committee's bill and this bill before us are the products of considerable preparation and deliberation on the part of several of our colleagues. Accordingly, I wish to express

my appreciation to the chairman of the Commerce Committee, Senator DANFORTH; the ranking Democrat on the Commerce Committee, Senator HOLLINGS; the ranking Democrat on the Subcommittee on Science, Technology, and Space, Senator RIEGLE; and Senator PRESSLER, for their roles and effort in preparing this legislation.

Mr. President, at no other time in the history of our Space Program has funding for NASA been more crucial than it is now. Without the availability of the shuttle until, at least, early 1988, and with the untimely accidents of two of our major expendable launch vehicle systems this year, our Space Program has been faced with the grim reality of being unable to gain access to space. Yet, this is no reason for any of us to give up; NASA has brought in new leadership and is in the process of restoring the shuttle to flight readiness. NASA cannot do the job, however, without adequate support from Congress, and this is where we can contribute to this space recovery plan.

This authorization bill gives NASA the resources to make the necessary changes to the shuttle system and to continue the ongoing scientific and technological programs which will use the shuttle once it is flight-ready. Even though we will not be able to fly for another 18 months at the earliest, there still remain many other programs and activities which, if properly funded, will yield productive and meaningful scientific and technological returns. Consequently, these programs take on an even greater significance during the shuttle downtime.

This bill, which I offer on behalf of Senators DANFORTH, HOLLINGS, RIEGLE, and PRESSLER, authorizes $8.598 billion, a funding level that is consistent with NASA's revised fiscal year 1987 budget request of $7.966 billion and the Commerce Committee's authorization of $7.795 billion. The funding levels of this bill, the Commerce Committee's bill, and the administration's revised fiscal year 1987 budget request are quite similar, with the exception of three items, which I will describe below.

The first of these three items is an authorization for continued funding for the Advanced Communications Technology Satellite [ACTS] Program, which the administration has annually opposed and has excluded from the fiscal year 1987 budget request. The Commerce Committee bill authorizes $85 million for ACTS and the bill before us authorizes $80 million. Since the ACTS Program was initiated in fiscal year 1985, Congress has supported this program as a critical element in our Nation's efforts to stay in the forefront of the development of Communications technologies. Therefore, consistent with prior years' actions, the Commerce Committee included the ACTS Program in its fiscal year 1987 NASA authorization bill, and funding for the ACTS programs is included in this bill that has been developed with the House Science and Technology Committee.

The second of these additional authorizations in $272 million for the purpose of replacing the space shuttle *Challenger* and other associated equipment lost in the *Challenger* accident. The Commerce Committee had authorized the construction of this orbiter on the conditions that the President make such a recommendation and that the funding for the replacement is made available in addition to that provided in the committee bill. The purpose of this second condition was to ensure that NASA's other programs were not raided to support this replacement activity. Now, the President has requested additional budget authority of $272 million to replace the orbiter and associated equipment lost in the accident. Also, the Senate has approved in the fiscal year 1987 continuing resolution appropriations bill the appropriation of $2.96 billion from Department of Defense [DOD] funds for the replacement of the *Challenger* and other equipment lost in the accident.

Mr. President, I would like to make it clear that we do not pretend to have the authority in the NASA authorization bill to authorize appropriations for DOD. The purpose of this authorization, nevertheless, is to indicate support for the replacement orbiter and to endorse the Senate-approved plan to appropriate DOD funds for the replacement orbiter.

Mr. President, the third additional authorization that accounts for the difference between this bill's authorization and that of the Commerce Committee and the administration's revised budget request is $531 million, which represents the amount of shuttle services payments that DOD is scheduled to pay NASA in fiscal year 1987. The Senate Appropriations Committee, however, has deleted this payment from the fiscal year 1987 DOD appropriations bill and has made available these funds in the HUD-Independent Agencies Subcommittee appropriations bill.

By way of background, under the terms of a current agreement between NASA and the Department of Defense [DOD], DOD annually pays to NASA a predetermined reimbursement for shuttle services. The scheduled fiscal year 1987 reimbursement to NASA is $531 million. Due to the fact, however, that the shuttle will not fly until 1988, at the earliest, and that DOD already has made payments to NASA sufficient to support 10 future DOD shuttle flights, the Senate Appropriations Committee has deleted from its fiscal year 1987 DOD appropriations bill this reimbursement of $531 million.

I should point out that there is no disagreement among NASA, DOD, or OMB that this reimbursement is obviated due to the downtime of the shuttle and due to the credit balance that DOD has already established with NASA for the 10 future shuttle missions. After the accident, however, NASA, DOD, and OMB agreed that DOD should still make the payment in fiscal year 1987 as the most effective way to support our national space recovery plan. Furthermore, NASA, DOD, and OMB agreed that NASA would credit DOD in the fiscal year 1988 budget process for this fiscal year 1987 payment.

Mr. President, I would like to remind my colleagues that on August 7, after the Armed Services Committee had excluded this shuttle services payment from the DOD authorization bill, the Senate voted to restore this payment to the DOD authorization bill. Therefore, there should be no doubt as to the will of the Senate that NASA should receive these payments.

Now, an agreement has been reached between the HUD-Independent Agencies Appropriations Subcommittee and the Defense Appropriations Subcommittee, whereby the Defense Appropriations Subcommittee has agreed to pay for the replacement of the space shuttle *Challenger* and the HUD-Independent Agencies Subcommittee has agreed to compensate NASA for the shuttle services payments that the DOD Appropriations Subcommittee has deleted from its bill. Therefore, the purpose of this additional authorization of $531 million is to authorize these critical funds that the Appropriations Committee has agreed to provide, yet through a different subcommittee bill.

Mr. President, I cannot overstate the importance of this reimbursement to NASA. It represents almost 7 percent of NASA's total budget. As evidenced by the August 7 amendment to the DOD authorization bill, the Senate has already recorded its support for NASA's receipt of this reimbursement. Now, circumstances have placed this reimbursement on a different playing field, and the authorization of this reimbursement must be approved once again to permit NASA to address the post-accident requirements and to give our Space Program a chance to get back on track. Without this reimbursement, NASA will have to delay even further the flight-readiness of the shuttle, a delay which could have serious implications not only for our Civil Space Program but also for our national security.

Mr. President, I should point out that with the exception of the $272 million authorization for the replacement orbiter and the $531 million authorization to compensate for the anticipated loss in DOD shuttle services

payments, the funding in this bill before us is almost identical to that of the Commerce Committee's bill. The $272 million authorization is identical to the President's request and plays a critical role in our national space recovery plan. The $531 million authorization is consistent with the actions of the Appropriations Committee and, likewise, is critical to NASA and our Nation's space recovery plan.

Now I will briefly mention some of the major programs funded in this fiscal year 1987 NASA authorization bill.

This bill authorizes $515 million for space transportation capability development which supports, among other things, NASA's Spacelab Program, the orbital maneuvering vehicle, and the development of alternative upper stage options for NASA's planetary programs. This bill provides $410 million for the Space Station Program, an authorization which is identical to the administration's request. This funding will keep the Space Station Program on schedule so that actual development may begin in fiscal year 1987 and so that the program will continue to enjoy strong international and commercial support.

In this bill, NASA's space science programs are authorized at a funding level of $978 million. This funding level maintains the scientific teams which are critical to the eventual success of the scientific missions that were scheduled for launch in 1986 and whose launch will be delayed for as much as 2 or 3 years. This bill also maintains the administration's budget request in space science research and analysis, which provides an important lifeline between NASA's space science programs and our universities and colleges.

Also, space applications is authorized at a level of $552 million. These programs support critical research and development in advanced communications technologies, the observation and study of the Earth and its surrounding environment, and the development of new and better materials and products through space-based processing. Included in this authorization is a new start for the ocean topography experiment [Topex], a joint program with the French to study the circulation of the world's oceans.

The authorization in this bill provides $376 million for NASA's aeronautical research and technology programs, which is identical to the administration's budget request. Our support of these programs is critical to maintaining a competitive U.S. position in the global arenas of aeronautical technology and sales.

Funding for the second new start in this authorization bill is provided in transatmospheric research and technology. This program is NASA's contribution to the joint NASA/DOD Program, the National Aerospace Plane Program, which, if successful, could revolutionize our ability to enter space and transport passengers around the globe. This authorization of $40 million, which is $5 million below the budget request, enables NASA to conduct on schedule its technology analysis in new propulsion systems and in advanced materials, both of which are critical to the success of this program.

This bill's authorization for NASA's space flight, control, and data communications programs is $3,096 million, a funding level which is $27 million more than the budget request. These programs support, among other things, the operations of our Space Shuttle Program and will also provide the primary support for the recovery of our shuttle launch capability. I should point out that at this time, NASA is unable, understandably, to define precisely all of the costs associated with this effort. There may eventually be more, but this authorization bill supports NASA's space recovery requirements that have been currently identified.

Mr. President, as we all know, NASA is studying various options to improve the shuttle's solid rocket motors [SRM]. This study effort has followed two tracks—one is to redesign the SRM by using the existing hardware and the other is to upgrade the SRM by creating an entirely new design. This bill requires the NASA Administrator, upon completion of this study effort, to report back to Congress in March 1987 with a decision on whether NASA intends to redesign the existing SRM or to upgrade the SRM with an entirely new design. If the decision is to redesign the existing SRM, the Administrator is required to issue an RFP for a second source. If the decision is to upgrade the SRM to an entirely new design, the Administrator is required to issue an RFP for a single source for this upgraded design, with the understanding that a second source for this upgraded design would be considered in the future after the upgraded design is tested and found valid.

The purpose of this provision is for NASA to determine if a second source for the shuttle's SRM provides certain economic efficiencies or, otherwise, is in the national interests. This provision does not force NASA to establish a second source; it simply requests NASA to consider the feasibility of establishing a second source for future SRM's.

I would like to mention another provision of this bill which has been carefully worked out with the House Science and Technology Committee, and that provision refers to the role of the shuttle. This provision reaffirms the shuttle as the primary launch system for manned missions and missions needing the unique capabilities of their shuttle. It also states that the shuttle shall be available for the launch of foreign and commercial payloads that do not necessarily require the unique capabilities of the shuttle.

As we all know, the administration announced on August 15 that the shuttle would no longer launch foreign and commercial payloads that are not shuttle unique or that are not associated with overriding national security or foreign policy interests. The intent of this administration announcement is, among other things, to creat a more favorable environment for a viable U.S. commercial expendable launch vehicle [ELV] industry, a goal that I also share. I am concerned, however, that by prohibiting the shuttle from launching these foreign and commercial payloads, just to narrow the competition, we could unintentionally drive some of these payloads into the arms of our foreign competitors, whose own launch systems are subsidized and thereby hold an economic advantage over any U.S. commercial launch system.

The purpose of this provision in this bill is to ensure that, in the face of growing international competition in the world launch market, the shuttle will be available in case a U.S. domestic ELV industry is unable to compete effectively or is otherwise unable to provide a launch for a particular payload. While I support the creation of a viable U.S. ELV industry, I believe that, especially in the formative years of this industry, the United States should not "place all of its eggs in one basket" in terms of relying solely on this new industry to compete with foreign launch systems.

Mr. President, due to the *Challenger* accident, we are now experiencing the worst-case scenario of having relied on a national launch capability with a single point-of-failure. Due to this single-launch-system policy, we have an incredibly long list of payloads whose launches are being delayed from 2 to 3 years. We cannot afford ever again to become solely dependent on a single launch system and risk being unable to gain access to space. Accordingly, this bill recognizes the importance of a mixed fleet of space shuttles and ELV's and also recognizes that some Government payloads are better served by an ELV launch than by a shuttle launch. Furthermore, this bill requires the NASA Administrator to report to Congress a plan on intends to use ELV's and how its use of ELVs can be carried out in a manner that fosters the development of a competitive domestic ELV industry.

Mr. President, this bill also reestablishes a White House National Aeronautics and Space Council, one form of which existed from 1958 to 1973. The interest in reestablishing this Council has grown out of the frustra-

tion that Congress has experienced this year as the administration's senior interagency group [SIG] on space deliberated on a space recovery plan. The Congress has been ill-informed throughout the year as to the options and considerations being discussed by the SIG. Therefore, to create better communication between Congress and the administration regarding space policy issues, the Commerce Committee approved the reestablishment of the National Aeronautics and Space Council.

In reestablishing this Council, this bill would designate the Vice President as Chairman of the Council. The rest of the NASC would be composed of the NASA Administrator; the Secretaries of Defense, State, Commerce, and Transportation; and the Director of Central Intelligence. The purpose of reestablishing the NASC is to elevate space policy issues on the national agenda and to provide for a more timely and appropriate resolution of aeronautical and space policy issues.

This bill would also direct the NASA Administrator to review the report of the National Commission on Space and provide to the relevant committees of Congress a long-range implementation plan, including a specific agenda for the next 5 years. At a time when we are looking for specific direction for our Space Program, such a plan would be an immeasurable assistance to the Congress as we attempt to restore our once unchallenged Space Program to its position of preeminence.

This bill also includes technical amendments to the Land Remote Sensing Commercialization Act of 1984, Public Law 98-365. The amendments clarify the intent of some of the act's provisions and define relationships between Federal agencies, remote sensing data users, and private system operators as responsibility for the Federal Government's Landsat system is transferred to private hands.

The most significant of these technical amendments allows system operators to provide free or discounted data for research purposes, as opposed to commercial purposes. The act's requirement that data be disseminated on a nondiscriminatory basis prohibited such distinction between research and commercial users of data, and inhibited the availability of data for researchers. The amendment will encourage development of new data applications without threatening the commercial viability of private remote sensing systems.

This substitute bill includes authorization for the atmospheric and satellite programs of the National Oceanic and Atmospheric Administration [NOAA]. These programs include the public warning and forecast activities of the National Weather Service; atmospheric and hydrological research; and procurement, operation, and data management of NOAA's weather satellite systems. The Commerce Committee reported S. 2708, which authorizes the same programs, and the funding levels authorized in the substitute bill are those provided by the Senate Appropriations Committee. I remind my colleagues that full authorization has been provided for the National Climate Program, Public Law 99-272, and commercialization of NOAA's land remote sensing satellite, Landsat, system (Public Law 99-62), and this bill does not authorize those programs.

Section 27 of this bill creates the position of NOAA chief scientist, to be appointed by the President and confirmed by the Senate. I am happy to include this provision at the request of Senators WEICKER and HOLLINGS, as I was an original cosponsor of their bill to create this position.

Finally, Mr. President, as our colleagues consider this bill and any other funding bill related to our Space Program, I would like to mention one other element of our Space Program that often goes unnoticed. That element is public opinion. In the wake of the *Challenger* accident, it is easy to lose sight of the many successes of NASA and the contributions made by our Space Program to the well-being and standard of living of all Americans. Also, it is easy to assume that public support for our Nation's space endeavors has diminished. It is, therefore, reassuring to see reflected in a recent national public opinion survey a broad and strong statement of support from the American people on behalf of U.S. space activities, including manned space exploration.

The public opinion poll was conducted by Market Opinion Research in early August, after the Rogers Commission had completed its report and before the President recommended the replacement of the orbiter. Rather than a waning of public support and enthusiasm, the poll found an overall increase in public support when compared with the results of an earlier survey taken in January, before the *Challenger* accident. Some key highlights from the poll include:

85 percent support building a new shuttle and pressing ahead with the civilian space program;

89 percent support resuming Shuttle flight operations, knowing that there will always be risks associated with manned space flight;

69 percent support proceeding with the NASA space station program;

52 percent disagree that space program expenditures should be cut, and responses to three different questions demonstrated more than 56 percent support significant increases in the NASA budget; and

83 percent support the policy of encouraging private industry to provide space services.

Mr. President, I ask unanimous consent that the executive summary of this opinion survey that provides further detail on the range of issues addressed and the public's responses be printed in the RECORD.

Mr. President, the needs of our Space Program are immediate, crucial, and vast. This authorization bill provides a funding level which will meet NASA's post-accident requirements and needs as we know them today, but to authorize any less would be tantamount to advocating a second-class Space Program. Our Space Program is at a crucial juncture, and to shortchange NASA at the time of its most urgent need should not even be an option to consider. Therefore, I urge my colleagues to support this authorization bill for NASA. Our civilian Space Program has recorded a rich history of unprecedented achievements, and there is no reason why we should expect any less from our Space Program of the future.

I ask my colleagues to approve by unanimous consent the bill before us, H.R. 5495, an amendment in the nature of a substitute. If we take a minute to reflect on the importance of our Space Program over the past 28 years and beyond, we will all recognize that we have no option other than to provide our continued support for our Space Program through passage of this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF MARKET OPINION RESEARCH SURVEY OF AMERICAN ATTITUDES TOWARD THE SPACE PROGRAM

In August, 1986 Market Opinion Research conducted a telephone survey of 1200 adult Americans to investigate their attitudes toward the space program and related issues. This brief summary presents the key findings from the August survey. The findings are also compared with the results of an earlier study of American attitudes toward space conducted in January, 1986.

These two surveys—one conducted prior to the Shuttle Challenger accident and the other conducted prior to President Reagan's announcement of his decision to build a replacement shuttle—represent a unique perspective on American attitudes toward the space program.

(Overall, the U.S. public strongly supports the American space program and wants it to move ahead.)

The public was given a number of different opportunities to register approval for the program—by stating whether they approved (agreement = 70 percent) of the civilian space program, whether the civilian space program should be continued (76 percent) and whether it should be expanded (57 percent). Now that the Rogers Commission has finished its work, the public was asked, can the space program proceed? Nearly three quarters of the public want the program to proceed. Americans believe that manned flight should be resumed (89 percent), since experts state that there will always be some risks associated with space shuttle flights. Eighty five percent (85 per-

cent) of the American people believe there should be a replacement shuttle and astronauts and certain key civilians should travel on the shuttle (76 percent agree).

These findings are consistent with the results of polls conducted by the television networks and the national news organizations that have also confirmed an increase in public support for the space program (from 63 percent before the accident to 70 percent today). The initial, post-accident wave of emotional support appears to have receded to today's level of a 7-percent-plus increase in support over early Janaury.

(The U.S. public views the space shuttle as a key element in achieving payoffs from the space program.)

Americans overwhelmingly agree with the statement that obtaining benefits for medicine, industry and science requires a replacement shuttle for the Challenger (79 percent). They also agree with the statements that a replacement shuttle is needed to avoid abandoning the benefits that are attainable from the investment in the space program to date (73 percent); and that we should avoid wasting money in the long run by saving money now and limiting the program with three shuttles (67 percent). The public agrees that without the replacement shuttle, U.S. space capabilities would be crippled (63 percent); and without a replacement, the U.S. will "fall further behind the Soviet Union" (58 percent). A plurality of the public believes in a balanced program.

(The American public favors the space station as a long term U.S. space goal.)

The American public supports a number of different long term goals for the space program. A majority of the public agrees that a U.S. mission to Mars should be a goal for the civilian space program (56 percent); and a majority agree that a joint U.S.-Soviet Union manned mission to Mars should be a goal of the space program (58 percent). An even stronger majority (78 percent) believe that a manned earth orbiting space station and unmanned exploration of the planets should be a goal of the U.S. space program.

(Support for NASA's new space station program has increased since January, 1986.)

Americans favor NASA's new space station program by a margin of sixty-nine percent (69 percent) to fifteen percent (15 percent) today as compared with fifty-eight percent (58 percent) to twenty-five percent (25 percent) before the Challenger accident. Three out of four men (76 percent) approve of the space station. Two out of three women (63 percent) approve of the government's plans. Support from men has increased eleven percent (11 percent) and from women to fifteen percent (15 percent). At the same time, a larger number of men than women state that they are aware of other countries that are planning or currently operating a manned space station. Twice as many men as women state that they are aware of such foreign activity.

(Americans support increasing funding for NASA's civilian space program.)

Far more Americans disagree (52 percent) than agree (34 percent) with the statement that expenditures for America's civilian space program should be cut back. A solid majority (60 percent) believes that the U.S. government should spend "whatever is necessary to maintain U.S. leadership in space."

When asked whether NASA's spending on the space program should be increased from seven-tenths of one percent of the annual federal budget to about one percent of the total federal government's budget to maintain U.S. leadership in space following the Challenger accident, a strong majority (59 percent) outnumbers those who disagree by more than two to one. When the cost of this small percentage increase is explained to be about two billion dollars a year, more in the current and next several years, a strong majority still outnumbers those who disagree by a significant margin (56 percent to 30 percent).

CHIEF SCIENTIST AMENDMENT TO H.R. 5495

Mr. HOLLINGS. Mr. President, I am pleased that an amendment has been included in H.R. 5495, the NASA authorization bill, that would create within the National Oceanic and Atmospheric Administration [NOAA] the position of Chief Scientist. This new post will take the place of the current Associate Administrator position.

Mr. President, I know my colleagues are aware of the major role I played in the establishment of NOAA back in 1970. Since that time, I have followed the agency's progress with great interest. I have worked to develop its program and budgets through my work on the Commerce and Appropriations Committees. And I remain committed to the goals and ideals that led to the formation of the agency 16 years ago. This is why today I am keenly interested in the replacement of the Associate Administrator position in NOAA with that of a Chief Scientist.

It simply makes good sense to require that someone in NOAA's upper management have direct scientific experience relevant to the agency's work. NOAA has numerous scientific responsibilities vital to the national interest—natural resource conservation, weather forecasting and public warning, aviation and marine safety, the national geodetic network, and oceanic and atmospheric research and services. To successfully accomplish these various missions, NOAA has a vast array of scientific expertise in a number of areas. The Chief Scientist's job will be to coordinate NOAA's internal talent and act as liaison to the scientific community outside of NOAA. In addition, the Chief Scientist will be the principal scientific adviser to the NOAA Administrator.

I think this change is a good idea and urge my colleagues to join with me in support of H.R. 5495 and the establishment of the post of the Chief Scientist in NOAA.

Mr. RIEGLE. Mr. President, I strongly endorse H.R. 5495, as amended, and ask my colleagues to do the same.

H.R. 5495, as amended, represents the best effort on the part of the Senate and the House to draft a bill that addresses the short-, mid-, and long-term programmatic and policy requirements of the Civilian Space Program. This bill is an improvement over the committee-reported legislation, and all Members of the House Science and Technology Committee and the Senate Committee on Commerce, Science, and Transportation should be complimented for their contributions to this legislation. The final bill combines the comprehensive policy provisions of the House with the necessary budget decisions of the Senate. The end result is a bill that should do much to put NASA back on track.

I am especially pleased that the final bill includes most of the initiatives originally included in the Civilian Space Program Restoration Act, H.R. 5495, a bill I introduced with the other distinguished Democratic Members of the Subcommittee on Science, Technology, and Space—Senators HOLLINGS, GORE, and ROCKEFELLER. In particular, I am pleased that the fiscal year 1987 NASA authorization bill before the Senate makes 10 critical decisions.

First, it authorizes $272 million for a new orbiter as requested by the President. These funds were not included in the committee-reported measure, despite the fact the hearing record strongly justified funding of an orbiter, and I am pleased they are included in this bill.

Second, this measure authorizes an additional $531 million to accommodate the Senate-passed fiscal year 1987 HUD-Independent Agencies Appropriations bill assumption concerning the importance of the DOD reimbursables to NASA corrective activities. In particular, these moneys will help ensure timely resolution of the shuttle fixes and the review of all critical items on the shuttle.

These two items combined, the orbiter and reimbursables, represent the basic budgetary difference between the Senate Commerce Committee-reported authorization of $7.795 billion and the bill before the Members today which is at $8.598 billion.

Third, the bill fully funds the fiscal year 1987 budget request for space station, $410 million, to maintain the competitive posture of the Nation and to initiate the next logical step in space.

Fourth, the bill reestablishes the National Aeronautics and Space Council in the White House—a Riegle/Hollings initiative in the Senate—and puts space policymaking in the right hands and at the right level. The Council is the key policy provision included in this bill, and I believe it could do more for the future of the Civilian Space Program than any other provision included in the bill.

Fifth, it requires NASA to include a separate line item for safety in the budget submission—a Gore initiative—and highlights the overall importance of safety, reliability, and quality assurance to the space program.

Sixth, it requires NASA to submit an implementation plan for the recommendations of the National Commission on Space, the Paine Commission, and to assist the Congress in develop-

ing a blueprint for the Civilian Space Program.

Seventh, H.R. 5495 includes technical amendments to the Land Remote-Sensing Commercialization Act that should clarify any confusion about the use of experimental data.

Eighth, it emphasizes the importance of future technology development activities by increasing the advanced space research and technology development account above the fiscal year 1987 budget request.

Ninth, it establishes a practical process with reasonable criteria for second sourcing redesigned solid rocket motors or competing upgraded solid rocket motors to ensure competition, quality control, technical integrity, and adequate base of production.

Tenth, and finally, the bill states that NASA must do its best to honor existing launch service agreements and that foreign and commercial communications satellites should not be totally banned from the shuttle. Where it is impossible to accommodate these payloads with existing agreements on the shuttle, I believe every effort must be made to encourage these payloads to fly on domestic ELV's. I realize these statements do not conform totally with the current White House position, but I am reluctant to say foreign and commercial communications satellites may "never" fly on the shuttle. Already, there exists a shuttle-related industry of users, upper stage manufacturers, and payload processors whose prior investments cannot be totally ignored. The use of the shuttle as a "secondary" commercial launch service is a concept that should not be perceived as inimical to a domestic ELV industry. Rather, it should be seen as an insurance policy to retain the leadership of the U.S. in launch service markets and as an important tool of U.S. foreign policy.

For the next 5 years, I fully realize there are limited flight opportunities on the shuttle. I also realize there is a consensus the shuttle should never again be treated as a commercial airliner and that future flight rates will be more conservative in order to ensure safety, reliability, and quality control. Therefore, in the short term, the number of flight opportunities for foreign and commercial communications satellites is minimal. However, space policy must be visionary, not shortsighted. The shortsightedness of trying to make the shuttle fully operational had devastating consequences. Let's not let our shortsightedness concerning launch policy jeopardize U.S. technological leadership in space or the U.S. share of the launch services market.

To ensure such a visionary policy, the National Aeronautics and Space Council must be reestablished, and it will be if H.R. 5495 is signed into law. It's interesting to note there are some persons in the administration who equate the Council with a renunciation of the current space policymaking apparatus, and there are some Members of Congress who equate the Council with an endorsement of the current executive branch space policymaking procedures. Personally, I see reestablishment of the Council as a statement of two critical facts: First, our space program is critical to the economic well-being and national security of the United States; and second, space policy formulation should be done at the highest level of Government. I also believe the Council will provide for a more open policymaking environment and that the creation of the user adivsory group will help the private sector and Federal Government retain the viable partnership that has been a key element of the space program. In addition, the Council will provide the best possible forum for the comprehensive discussion of the future launch requirements of the U.S. Government—civil and military—and the Council will ensure the formulation of a comprehensive advanced technology development plan to meet those future requirements. The Nation's space program needs the Council, and I hope that the fiscal year 1987 NASA authorization bill will reestablish this much needed policymaking mechanism.

Mr. President, let me indicate that there were several House provisions we are unable to accommodate in the fiscal year 1987 NASA authorization bill due to time constraints, jurisdictional problems or other legislative obstacles. In particular, I would like to address the House patent law provisions for inventions made in outer space. This is an issue the Senate must address, and I would like to indicate that I intend to introduce legislation on this matter at the start of the next session of Congress. Hopefully, the House and Senate will be able to enact legislation early next year in this area that will clarify the applicability of U.S. patent law provisions to activities in outer space and facilitate activities on the future space station.

In closing, let me say that overall H.R. 5495 is a blend of the House and Senate provisions and an excellent piece of legislation. The $8.6 billion provided in this measure reflects NASA's fiscal year 1986 level of activity and the minimum requirements of the Civilian Space Program. It is still uncertain in the appropriations process as to where funding for a new orbiter and reimbursables will be included. But it is certain that NASA requires a total of $8.6 billion in fiscal year 1987 to put the Civilian Space Program back on track.

Mr. President, this has not been an easy year for NASA or the space program. The shuttle disaster was an incomprehensible loss. However, the bill before you today, H.R. 5495 as amended, and the policy and budgetary provisions of this legislation represent an important step in restoring NASA and the space program to its former stature.

I urge my colleagues to support this measure, and I urge my colleagues to continue to support our Civilian Space Program. The dreams of Dick Scobee, Mike Smith, Judy Resnik, Ellison Onizuka, Gregory Jarvis, Ronald McNair, and Christa McAuliffe must not be forgotten because they are our dreams and our children's dreams.

Mr. GORE. Mr. President, I rise in support of this legislation. As my colleagues are well aware, this has been a difficult year for the Space Program. The *Challenger* accident and the resulting disclosures have shown that the Space Program was not in the fine condition we all believed. We have a need to fulfill, and that is to put NASA back on the footing it was during the 1960's.

This authorization bill begins us in that direction.

It gives the agency enough of a boost beyond the administration request so that they have a realistic chance of implementing the recommendations of the Rogers Commission.

It calls for the restoration of our national space council, and independent policy body that would wrest control of the Space Program from the White House, and avoid the torpor and indecision we experienced this summer.

Lastly, I call on NASA to report to Congress every year on the level of commitment to quality assurance, which has been in such a disastrous, yet untraceable, decline since the days of Apollo.

This legislation is a good compromise, and it deserves our support.

NOAA

Mr. HOLLINGS. Mr. President, sections 22 through 26 of this amendment to H.R. 5495 contain fiscal year authorizations for the atmospheric and satellite programs of the National Oceanic and Atmospheric Administration. These funding levels are consistent with Senate and House appropriations actions for NOAA programs.

Among the important matters covered by these five sections are the NOAA share of the tri-agency next-generation weather radar program known as NEXRAD, procurement of advanced systems for meteorological data processing and communications, continued research on localized severe weather, and the Program for Regional Observing and Forecasting Services. In addition, the authorizations permit NOAA to maintain its existing system of polar-orbiting and geostationary weather satellites. These kinds of activities form the backbone of NOAA's

operational meteorology and atmospheric research.

On July 16 of this year, the Senate passed my STORM resolution [S. Con. Res. 137], which is aimed at helping Americans safeguard their lives and property from the effects of violent weather. The resolution's prime objective is a comprehensive program of operations and research to bring about major improvements in the forecasting and warning of tornadoes, flash floods, hail storms, and other severe storms that occur in a localized area. The resolution also focuses on the need to keep up NOAA's hurricane prediction capability, especially by means of the geostationary satellites and hurricane reconnaissance flights.

The modest authorization levels provided in this amendment are a step toward the fulfillment of the goals embodied in the STORM resolution. There is little doubt that we must do all we can to maintain an effective warning and forecast capacity for hurricanes and localized severe weather like tornadoes. In South Carolina, we have had ample experience with both types of weather. I urge my colleagues to work with me now and in the future to ensure the continued existence of such a capacity.

CHIEF SCIENTIST FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. WEICKER. Mr. President, I rise in support of section 27 of S. 2714, which would designate the Associate Administrator of the National Oceanic and Atmospheric Administration [NOAA] as Chief Scientist.

The appointment of a Chief Scientist to replace the Associate Administrator's position will assure that NOAA has the benefit of having someone in upper management with direct scientific experience relevant to the agency's activities. The Chief Scientist would act as the principal scientific adviser to the Administrator, and would be required to have experience in oceanic, atmospheric, or other scientific disciplines important to NOAA's missions. It only makes sense that creating a Chief Scientist position will strengthen the agency's scientific direction.

Mr. President, this language is supported by the administration. I am pleased at the inclusion of this section in the bill, so that NOAA can continue as the principal agency within the Federal Government for the administration of the Nation's civilian marine and atmospheric programs.

Mr. ROCKEFELLER. Mr. President, I am pleased that the House and Senate have a common version of the NASA authorization bill ready for final approval. For members of the authorizing committees, the problems posed by the *Challenger* disaster have been exceptionally difficult. The budgetary consequences of the accident, along with the grounding of the shuttle for at least 2 years, are clearly enormous. Virtually the entire NASA budget is affected by these developments in some way, and it may take years for us to fully understand the ramifications.

The legislation before us begins the process of reassessing the needs of the Space Program in the wake of the accident. In most major respects, the bill resembles the proposal I supported in the Commerce Committee. The authorization levels, overall, are more realistic than those reported by the committee: they explicitly provide for the procurement of a fourth orbiter and address the issue of DOD reimbursements to NASA—amounting to over half a billion dollars in fiscal 1987—for future military missions on the shuttle.

But beyond the multitude of technical and managerial problems confronting NASA, *Challenger* exposed a pervasive lack of direction in the Civilian Space Program. The Shuttle Program had become almost an end in itself, rather than a means of achieving the goals of space exploration. Under considerable pressure to hold down costs, NASA was striving to reach a flight rate—by the end of this decade—that produced greater efficiencies in the operation of the shuttle. But the spirit and focus that had guided the agency through the Apollo period and other triumphs was missing.

Solving this problem is clearly a long-term proposition, well beyond the scope of this authorization bill. But it should be a central responsibility for us, who serve on the authorizing committee, to decide what it is we want the Space Program to accomplish. I'd like to see an ambitious blueprint: I'm intrigued, for example, by the vision of the future described in the Paine Commission report. The Commission proposes a fascinating sequence of activities—progressing from present plans to develop a space station to manned outposts on the Moon and Mars in the next century. It's exciting to think that during our lifetimes we might see people living and working in space for extended periods of time. And it's the kind of agenda that could inspire our youth and generate new interest in math, science, engineering and other fields on which our technological advancement depends.

The gains to our society from space exploration are potentially enormous. The zero-gravity conditions in space provide an ideal laboratory for certain kinds of scientific inquiry: processes can be studied which accelerate the development of new medicines and new materials. Technology developed for the Space Program can also have important applications on this planet: scientists are looking, for example, at whether remote-sensing technology developed by NASA can be helpful in predicting the spread of malaria and other epidemics in underdeveloped countries. If we have the foresight to make a strong enough commitment to the Space Program, I'm convinced that we can greatly expand our knowledge of the universe, advance our technological development, and make discoveries that could substantially improve the quality of life here on Earth.

The danger is that our commitment of resources to space exploration won't come close to matching the level of our aspirations. The Paine Commission, for example, recommended an immediate tripling of NASA's expenditures on technological research, to parallel the kind of effort made during the Apollo period. But our present struggle in the Congress is to prevent cuts in NASA's budget. This authorization allows for an increase in NASA's R&D budget, but—apart from space station research—not on the scale proposed by the Commission.

This bill, as I have indicated, starts the process of rebuilding the Civilian Space Program, It does not address all major policy issues, nor settle the fundamental question of the program's priorities. But if viewed as a beginning, and a response to some of the problems posed by the shuttle accident, the effort is commendable, and deserves the support of the full Senate.

Mr. DANFORTH. Mr. President, I rise in support of H.R. 5495, the fiscal year 1987 NASA authorization bill that is presented as an amendment in the nature of a substitute. I also am pleased that this bill has been developed in cooperation with the House Science Technology Committee. Furthermore, it is encouraging to note that the funding levels and the other provisions of this bill are, by and large, acceptable to the House Science and Technology Committee.

Due to the January 28 accident of the space shuttle *Challenger,* our Space Program is faced with the difficult task of reconstituting our national space launch capability, as well as that of modifying missions and activities to reflect the results of the accident. NASA has made a strong start in undertaking this task. NASA has made considerable progress in redesigning the shuttle's solid rocket motors and in establishing the management and leadership that is especially critical during this recovery period.

However, we should not overlook the fact that Congress has certain responsibilities during this recovery period, and providing NASA with the necessary resources is unquestionably, one of our most important responsibilities. This authorization bill will fulfill that responsibility and help get our space program back on track.

This bill's authorization of $8.598 billion supports, among other things, the redesign of the shuttle's solid

rocket motor and the other changes required to improve the safety and performance, as identified in the post-accident examination of the space shuttle system. Also, this authorization provides continued support for the Space Station Program, which will ultimately enable many grander opportunities for space exploration and development. This bill's space station authorization of $410 million will allow NASA to initiate the development of the space station in fiscal year 1987, a milestone which, in and of itself, should enhance the international and commercial participation in this program.

In addition, I am pleased that this bill authorizes $40 million for a new start for the National Aerospace Plane Program, which would revolutionize our ability to deliver payloads to orbit and eventually transport passengers from one end of the globe to the other. Also, this authorization provides $376 million for NASA's Aeronautical Research and Technology Programs, the purpose of which is to conduct the aeronautical research that is too risky and whose payoffs are too distant for the commercial aviation industry to undertake. This authorization for aeronautical research and technology should help maintain the technological base for the United States to remain competitive in the global arena of aeronautical sales and technology.

Mr. President, since the shuttle is not expected to resume flying until, at the earliest, the first quarter of 1988, many of our space science initiatives are being delayed for several years. Regrettably, what was to have been our "Year of Space Science," with the shuttle launch of the Hubble Space Telescope and the planetary missions—Galileo and Ulysses, has now evolved into a year in which NASA has had to refocus its space science and applications efforts and resources.

Yet, NASA's Space Science and Applications Programs still engage in meaningful and productive work during this shuttle recovery period. Therefore, I am pleased that this bill authorizes $1,534.6 million for NASA's Space Science and Applications Programs and provides the administration's request in the Research and Analysis Programs and in other Space Science and Applications Programs which have a direct link to the space science and applications programs of our universities and colleges.

Without restating the elements of this bill which the Chairman of the Subcommittee on Science, Technology, and Space, Senator GORTON, has already mentioned, I believe that it is important to note that this bill responds to NASA's revised budget requirements that reflect the effects of the *Challenger* accident, as we know them today. Admittedly, these revised fiscal year 1987 requirements may change as NASA defines more precisely the actions needed to recover from the accident; yet, for the time being, this bill will enable NASA to address adequately the necessary fixes required to restore our space launch capability.

Mr. President, I also would like to comment on the authorization in this bill to restore $531 million in Department of Defense [DOD] shuttle services payments that have been deleted by the Defense Appropriations Subcommittee in its fiscal year 1987 DOD appropriations bill. I feel compelled to remind our colleagues how on August 7, after the Armed Services Committee had deleted from its fiscal year 1987 DOD authorization bill these payments to NASA, the full Senate restored that funding.

Now, the issue of this payment has shifted from the defense authorization and appropriations subcommittees to the committees that fund NASA. The Appropriations Committee has agreed that the Defense Appropriations Subcommittee provide funding to replace the *Challenger* and that the HUD-Independent Agencies Appropriations Subcommittee make available in its funding for NASA the DOD shuttle services payments of $531 million. This $531 million authorization in the bill before us is consistent with the actions of the HUD-Independent Agencies Appropriations Subcommittee and, more importantly, authorizes funding for NASA that is nothing short of critical. If these funds are not made available to NASA, it will be tantamount to imposing on NASA an across-the-board reduction of almost 7 percent. If we are serious about having anything more than a second-class space program, we will approve this bill and the restoration of these DOD shuttle services payments to NASA.

I should point out, also, that the intent of this amendment is not to allow NASA to renege on an obligation. After the *Challenger* accident, NASA, OMB, and DOD all agreed that the most effective way to recover from the shuttle accident is for DOD to honor this fiscal year 1987 payment to NASA and for NASA to "credit" DOD in the fiscal year 1988 budget process. I believe that this makes perfectly good sense. NASA should not be forced to endure yet another hardship by absorbing on such short notice the loss of this anticipated revenue.

Mr. President, as we all know, on September 9, the President submitted a formal budget request of $272 million for a replacement orbiter. This authorization bill acknowledges that request and, in a manner that is consistent with the Commerce Committee's authorization bill, provides a specific authorization of $272 million to replace the *Challenger.*The restoration of our shuttle fleet to four orbiters is absolutely critical if our space launch capability is to provide anything more than a marginal capability.

Mr. President, finally, I call to the attention of the U.S. Senate the efforts of students of Gladden Elementary School in Belton, MO, on behalf of our space program.

These young students worked for many months collecting pennies to help replace the space shuttle *Challenger.* As a result, they have presented to the President of the United States $759.78—the sum of the thousands of pennies contributed by schoolmates and fellow Belton citizens.

I am proud of the Gladden Elementary students and commend them for the fine job they have done.

Mr. President, I would like to take this opportunity to commend the chairman of the Subcommittee on Science, Technology, and Space, Senator GORTON; the ranking democrat of the Commerce Committee, Senator HOLLINGS; the ranking Democrat of the Science, Technology, and Space Subcommittee, Senator RIEGLE; and Senator PRESSLER for their diligence and cooperation in developing the Commerce Committee's bill and the revised bill before us. The committee and the House Science and Technology Committee have worked extremely hard to blend together the most reasonable elements of each bill. I believe that this bill provides NASA the necessary authorization to address the problems identified with the *Challenger* accident. It also ensures that NASA's other aeronautical and space programs have the support necessary to achieve the same measure of success that the Nation and the world have come to expect from NASA. I urge my colleagues to accept this bill as an affirmation of our continued support for the future of our Space Program.

Mr. HOLLINGS. Mr. President, I support passage of the fiscal year 1987 NASA authorization bill, H.R. 5495, and I ask my colleagues to do the same.

Mr. President, the bill before the Senate today is the result of several weeks of informal negotiations between House and Senate Members and represents a concerted effort to pass a NASA authorization in a most critical year for the civilian space program. The bill is not perfect. But considering the events of the past year and the ramifications of the shuttle disaster, it is a best effort to put the civilian space program back on track.

H.R. 5495, as amended, tries to respond to NASA's needs—fiscal, programmatic and policy needs—in a pragmatic and responsible manner. The bill also tries to lay a firm foundation for future civilian space activities by reestablishing the National Aeronautics and Space Council and by re-

questing an implementation plan for the recommendations of the National Commission on Space—the Paine Commission.

Mr. President, the events of January 28 will not easily be forgotten by this Member, the families of the *Challenger* crew, NASA, or the Nation. It was a tragedy of the worst type—an avoidable tragedy! As a result of this tragedy, we realized that there were many lessons to be learned. First, and perhaps most importantly, was the fact that safety, quality control and reliability must constantly be the hallmarks of the manned space program. Second, the success of any major program is an open line of communications between all players, at all levels. Never again can we have a breakdown of communications such as that which occurred on January 27-28, 1986. Third, competition is a key element in maintaining the overall technical performance and quality of critical shuttle components. Sole source contracts must be carefully scrutinized, and where possible, second sourcing should be pursued. Fourth, the shuttle is and always will be a research and development vehicle. It was never intended to be a commercial airliner, and its treatment as such led to unrealistic schedules and phenomenal launch pressures. Finally, it must be recognized that assured access to space is critical to the economic and national security of the country. Never again can the Congress endorse an administration policy that lets budget presssures force reliance upon a sole launch system, especially a man-rated system.

I am pleased to say that H.R. 5495, as amended, tries to address each of these lessons in one way or another. It places a proper emphasis on safety, and it highlights the need for a higher level space policymaking forum—the National Aeronautics and Space Council. It also includes a reporting requirement as to the feasibility of using expendable launch vehicles (ELVs) for Government payloads and establishes a sensible procedure for second sourcing redesigned solid rocket boosters or competing upgraded solid rocket boosters. The bill also provides an adequate level of funding for anomaly resolution activities and the review of all critical items on the shuttle. The bill is a best effort to add a sense of realism to the goals and objectives of the Nation's space program without displacing the agency's ability to dream.

Mr. President, H.R. 5495, as amended, is not a cure-all. But it does represent a concerted effort on the part of the members of the House Science and Technology Committee and the Senate Commerce Committee to deal with a most complex set of issues at a most critical moment in the history of the civilian space program. At this juncture, there is a real and apparent need to meet the requirements of NASA and the civilian space program, to manifest the resolve to maintain U.S. technological leadership in space.

H.R. 5495, as amended, is a first step in that direction, and it is a step that must be taken.

Mr. HOLLINGS. Would the chairman of the Subcommittee on Science, Technology and Space yield for a question concerning section 11 of the fiscal year 1987 NASA Authorization bill?

Mr. GORTON. I am glad to yield to the ranking member of the Senate Commerce Committee.

Mr. HOLLINGS. Am I correct to say the bill before the Senate today instructs NASA to initiate a request for proposal for a second source producer of solid rocket motors or, and I emphasize the word "or," a request for proposal for an open competition for an upgraded version of the solid rocket motors once the Administrator has determined which course of action will be pursued to fix the shuttle?

Mr. GORTON. The Senator is correct.

Mr. HOLLINGS. Am I also correct to say that the bill has established criteria for the selection of the second source manufacturer of redesigned solid rocket motors, as well as for the manufacturer of upgraded solid rocket motors?

Mr. GORTON. Once again, the Senator is correct in his interpretation of the language. The bill indicates that the Competition in Contracting Act should be referenced for the selection criteria. In particular, section 2304(b)(1) of title 10 of the United States Code is applicable in the case of second sourcing, and section 2304(a)(1) of title 10 of the United States Code is applicable in the case of a competition for an upgraded solid rocket motor.

Mr. HOLLINGS. There is language in subsection (B) of section 11 that indicates the Administrator of NASA may not sign or extend a production contract for a follow-on solid rocket motor, be that a redesigned version or an upgraded version, until he has issued a request for proposal for either the redesigned solid rocket motor or the upgraded solid rocket motor. In addition, subsection (f) of section 11 indicates that if the administrator intends to sign or extend such a follow-on contract, he must notify the Congress of his intentions and then wait 30 days during which either House of Congress is in session.

Am I correct to assume that this language was included to ensure the creation of a competitive procurement process for solid rocket motors?

Mr. GORTON. The Senator is correct. Once the Administrator has thoroughly assessed the proposed solid rocket booster fix and submitted his findings to the Congress according to the reporting requirement found in subsection (a) of section 11, it is my understanding a competitive selection process will be initiated.

Mr. HOLLINGS. At the same time, am I correct to assume that if the Administrator finds that additional solid rocket motors are required and there is still no alternative source, he can enter into an extension of Buy II with the current manufacturer so that the shuttle fleet is not adversely affected?

Mr. GORTON. It is clear that in the case of either a second source of the redesigned solid rocket motor or an upgrade of the motor, there could be a period when the current manufacturer is the only possible supplier of solid rocket motors. In such a situation, the Administrator may extend or sign a new production contract with the encumbent pursuant to the conditions found in subsection (f)—that is, the notification of Congress of the planned procurement and then a 30-day waiting period.

Mr. HOLLINGS. I thank the chairman, I just wanted to be perfectly clear about the gap filler provisions and to be sure that they did not provide a vehicle whereby the intent of section 11 was diluted.

Finally, Mr. President, for those Members who have not had time to read the General Accounting Office report "Space Shuttle: NASA's Procurement of Solid Rocket Boosters," I would like to read a statement from that report so they will understand why I feel so strongly about second sourcing:

> When the Government becomes dependent on a sole source of supply for a critical subsystem on a large and long-term program such as the shuttle, the contractor may not have the incentive to identify and correct problems in areas such as quality control and safety. The Government does not have maximum leverage to ensure correction of problems. The chance of winning a Government contract or the threat of losing it provides a key incentive for greater efficiency and effectiveness.

I think the chairman of the subcommittee will agree, it is the intention of our committee to reestablish safety, reliability, and quality as the hallmarks of NASA. Hopefully, section 11 of the fiscal year 1987 NASA Authorization is another step in that direction. I thank the subcommittee chairman for yielding and for his discussion of this issue.

Mr. HEFLIN. I rise in support of the fiscal year 1987 NASA authorization bill that is being considered today in the Senate.

Mr. President, as we all know, these are difficult times because of the excessive Federal deficits and the budgetary pressures that exist for all programs. Each and every committee as well as each and every member has been called upon to do their fair share to reduce the Federal deficit and to get our economy back on track.

With this thought in mind, the Subcommittee on Science, Technology, and Space has an even greater burden to bear—that of the tragic and numbing loss of the space shuttle *Challenger.* The loss of the *Challenger* is still fresh in our minds and still weighs heavily on our hearts. Yet in the aftermath of mourning, the Nation's Space Program, much like the firebird, must and will go ever onward to reach new plateaus and new horizons in the eternal quest for the understanding of our cosmos and our place in it. With the recent release of the space shuttle manifest and the beautiful vision of the space shuttle *Atlantis* from the launching pad at Kennedy Space Center, NASA appears to be heading in the right direction.

I must note that I am most pleased that the Subcommittee on Science, Technology, and Space of the Senate Commerce Committee was able to draft a bill that complies with the deficit reduction program while simultaneously protecting the civilian Space Program and our techological leadership in space in light of the *Challenger* accident. I salute my good friend, Senator GORTON, the chairman of the Subcommittee on Science, Technology, and Space, and the ranking member of this subcommittee, Senator RIEGLE, for another job well done.

I also salute my good friend, the ranking member of the full committee, Senator HOLLINGS, for the invaluable input he has made to this bill. His knowledge of the appropriations, budget and authorization process, combined with his knowledge of our civilian Space Program, helped immensely with the formulation of this authorization bill being recommended for NASA in fiscal year 1987. Mr. President, in April 1985, I made a statement which appears in the RECORD. In that statement, I indicated that:

> The United States must vigorously pursue several space and technology areas if we are to remain strong economically and technologically. Our investment in these areas is an investment in the future of humanity's possibilities. We must continue to push frontiers of space and technology, expanding humanity's horizon for the benefit of all.

Mr. President, this is indeed what we need to do and the fiscal year 1987 NASA authorization bill is a step in the right direction.

Let me give you an idea of what I mean.

First, the bill before us today, despite extreme budget pressures, provides strong support for the space station—a permanently manned facility which would fly in low Earth orbit. This program should do much to help with the development of material science, biotechnology, electronic and chemical engineering advances, as well as provide valuable information that will improve manufacturing processes and the quality of life here on Earth.

The bill authorizes $400 million for the space station for fiscal year 1987. While this is $10 million below NASA's budget request, the Appropriations Committee in its HUD and Independent Agencies appropriations bill, through which NASA is funded, has fully funded the Space Station Program. I commend the Appropriations Committee for this action.

Second, the bill recognizes the importance of the Materials Processing Program, a program which I am pleased to say several universities in my State are intimately involved. This program fully funds the fiscal year 1987 NASA budget request of $43.9 million. While I am in total agreement with the sponsors that this is still not enough and that more support is required if the United States is to be competitive with the Europeans and the Japanese in this critical area. I think the bill correctly establishes the priority nature of activity by granting the fiscal year 1987 request.

Also, I completely agree with the committee in its approval of NASA's programmatic decision to use the shuttle down time to modernize its microgravity related equipment. This will effectively utilize this resource to enable a more productive materials processing in space program. When shuttle flights resume, this effective use of resources should enable a more productive and reliable materials processing in space program and should facilitate the technological and commercial development of space.

Third, once again, the bill correctly prioritizes NASA's activities. It also points to the basic reality that the research of today represents the discoveries and break-throughs of tomorrow and that the United States must train its university students if we are to be competitive in future world markets.

This is one of the reasons that I have cosponsored a bill introduced by my distinguished colleague from Texas, Senator BENTSEN, which would establish a Space Grant College Program. The program will provide financial and other assistance for space-related projects administered by a space grant university. Senator BENTSEN's bill will establish a system that will coordinate the national needs and the research efforts of our colleges and universities related to space. Undoubtedly, the Senate will not have time to take up the space grant college bill in this Congress. However, it is my hope that the 100th Congress will consider and pass the space grant college legislation.

Fourth, the bill is able to significantly reduce NASA's fiscal year 1987 budget request in an equitable manner but without terminating any of the major programmatic activities. In this manner, the United States will be able to continue to push the frontiers of space and to expand our knowledge of the universe. In a like manner, we will be able to continue to support necessary space applications experiments that represent the commercial markets of tomorrow.

Fifth and finally, the bill is able to provide funding for the only 1986 new start included in NASA's budget request—the orbital maneuvering vehicle [OMV]. This initiative is critical to the development of space infrastructure which is required to do space science experiments and commercial space activities in low Earth orbit. the OMV will also be used to reboost the Hubble Space Telescope, one of NASA's most exciting.

Mr. President, this bill helps pave the way to the future while at the same time, helping to reduce the Federal deficit. It is a bill that I am pleased to support and a bill that I urge my colleagues to likewise support.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. PACKWOOD. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Calendar No. 1012, S. 2714, the companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF BOUNDARIES OF OLYMPIC NATIONAL PARK AND OLYMPIC NATIONAL FOREST

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 1033, S. 2351, dealing with the Olympic Forest.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

> A bill (S. 2351) to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to

strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. (a) The boundary of Olympic National Park, Washington, is hereby revised to include within the park—

(1) all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, Washington;

(2) all surveyed and unsurveyed islands lying off the coast of the State of Washington in the Pacific Ocean between latitudes 48 degrees 23 minutes North and 47 degrees 38 minutes North;

(3) those lands between mean high tide and the lowest low tide beginning in section 22, Township 24 North, Range 13 West Willamette Meridian, at the common boundary between the Olympic National Park and the Quinault Indian Reservation, to section 18, Township 32 North, range 15 West Willamette Meridian, at the common boundary between the Olympic National Park and the Makah Indian Reservation, except those lands directly adjacent to and west of the Hoh, Ozette, and Quillayute Indian Reservations: *Provided,* That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington; and

(4) approximately nine thousand six hundred and thirty-eight acres, and to exclude from the park approximately three thousand three hundred and fifty-two acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheets 1 through 9, and dated September 1986, which shall be on file and available for public inspection in the office of the National Park Service, United States Department of the Interior.

(b) The boundary of Olympic National Forest, Washington, is hereby revised to include in the national forest approximately three thousand three hundred and fifty-two acres and to exclude from the national forest approximately nine thousand three hundred and twenty-four acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheets 1 through 10, and dated September 1986, which shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture.

(c) Section 3 of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301) is amended—

(1) by striking subsection (2) and inserting in lieu thereof the following new subsection:

"(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty four thousand four hundred and seventy-four acres, as generally depicted on a map entitled 'Buckhorn Wilderness—Revised', numbered 98-339-3(2), sheets 1 and 2, and dated September 1986, and which shall be known as the Buckhorn Wilderness;";

(2) by striking subsection (13) and inserting in lieu thereof the following new subsection:

"(13) certain lands in the Olympic National Forest, Washington, which comprise approximately thirteen thousand and fifteen acres, as generally depicted on a map entitled 'Mount Skokomish Wilderness—Revised', numbered 98-339-3(13) and dated September 1986, and which shall be known as the 'Mount Skokomish Wilderness—Revised', dated September 1986, and which shall be known as the Mount Skokomish Wilderness;"; and

(3) by striking subsection (19) and inserting in lieu thereof the following new subsection:

"(19) certain lands in the Olympic National Forest, Washington, which comprise approximately sixteen thousand six hundred and eighty-two acres, as generally depicted on a map entitled 'The Brothers Wilderness—Revised', numbered 98-339-3(19) and dated September 1986, and which shall be known as the 'Brothers Wilderness; '.".

SEC. 2. (a) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Forest which are included within the boundary of Olympic National Park pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the park, and shall be subject to all the laws and regulations applicable to the park: *Provided further,* That within section 15, Township 15 North, Range 9 West Willamette Meridian, and within an area extending not more than one mile north of such section, nothing herein shall be construed to limit or otherwise modify the authority of the Secretary of Agriculture to design and construct a forest logging road east of the park boundary: *Provided, however,* That the Secretary of Agriculture shall not construct the road as close as practically possible to the park boundary but not more than five hundred feet east of the divide. Following construction, the Secretary of the Interior is hereby authorized and directed to redescribe and relocate the boundary of the park along the eastern clearing limits of the road.

(b) Federal lands, waters, and interests therein formerly within the boundary of Olympic Park which are excluded therefrom pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of Olympic National Forest, and shall be subject to all the laws and regulations applicable to the National Forest System: *Provided,* That any lands deleted from the park and included within the Buckhorn Wilderness, Mount Skokomish Wilderness, or the Brothers Wilderness pursuant to this Act shall be managed in accordance with the provisions of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301).

SEC. 3. (a) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any non-Federal lands, waters, and interests therein included within the boundary of Olympic National Park pursuant to section 1 of this Act: *Provided,* That any lands, waters, or interests therein owned by the State of Washington or any political subdivision thereof may be acquired only by donation or exchange.

(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundary of the Olympic National Forest, as modified pursuant to section 1 of this Act, shall be treated as if it was the boundary of that national forest on January 1, 1965.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, except that the total amounts authorized to be appropriated for the purpose of acquisition of lands, waters, and interests therein pursuant to this Act shall not exceed $1,000,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. EVANS. Mr. President, I urge passage of S. 2351, a bill I introduced with Senator GORTON to revise the boundaries of the Olympic National Park in Washington State. The bill incorporates the recommendations of the National Park Service and the National Forest Service for modification of their common boundaries. The bill also authorizes two minor additions to the park as recommended by the National Park Service. Finally, the bill incorporates a number of changes to the National Park which came as a result of a hearing held before the Senate Energy and Natural Resources Committee in June of this year, namely, including the tidelands and islands offshore of the Olympic National Park coastal strip.

The Olympic National Forest and the Olympic National Park share many common boundaries. A high degree of cooperation has existed between these Federal land management jurisdictions on a variety of programs. But some of the existing boundaries separating park and forest have created problems for both agencies in fulfilling their respective missions. These are found in selected areas where existing boundaries do not follow natural topographic features and hydrographic divides.

Established earlier in the century, many of the boundaries are drawn on township and section lines which do not always meet logical resource management needs or serve the best interests of the public. Existing straight line boundaries do not protect complete watersheds. The upper portions of some park watersheds lie outside park boundaries thus allowing land uses that could affect the visual integrity within drainages. In other places, the existing park boundary effectively blocks access to portions of the Olympic National Forest since logging roads cannot be built through the park.

Mr. President, the S. 2351 incorporates the joint recommendations of the National Park Service and the U.S. Forest Service to modify further their common boundaries. The bill will include within the park 9,324 acres and will transfer to the National Forest 3,352 acres formerly within the boundaries of the park. Furthermore, the bill will include within the National Park several miles of islands offshore and the tidelands along the coastal strip. Finally, the bill includes within the park the submerged lands under Lake Ozette and the Ozette River,

thereby completing the national park coastal strip all the way to the Pacific Ocean.

Mr. President, I have visited scores of the ocean beaches, hiked virtually every river valley, and climbed most of the Olympic Mountains during the last 45 years. Each visit is a return pilgrimage to a mountain paradise only gently touched by human hands. Vivid technicolor memories recall, instantly, the serenity and savagery of wilderness mountains.

The national park which dominates the Olympic Peninsula has preserved a wilderness land virtually untouched by human habitation. In an increasingly technological and crowded world it is essential that we preserve these windows to the past. Our great grandchildren who may explore the stars must know their heritage and what their world was like before humans came.

Our responsibility to future generations requires our continued vigilance on issues of management of our national parks. This bill will help resolve some of these issues for the Olympic National Park. I hope that the Senate will pass this bill.

Mr. GORTON. Mr. President, I am proud to join my distinguished colleague from my State in sponsoring this legislation to revise the boundaries of the Olympic National Park and the Olympic National Forest in Washington. All of the proposed changes will correct nonsensical straight lines, following section and township lines, that bear no relation to the natural features of the land, and, instead, place them along topographic and hydrographic lines. All of the proposed changes are supported by both the National Park Service and the Forest Service.

Located on the Olympic Peninsula in Washington, both the Olympic National Park and the Olympic National Forest contain a vast abundance of natural resources covering over 1.5 million acres. Both the national park and the national forest share miles of common borders. As a result of their close proximity, the two agencies work together very cooperatively. I would like to say at the outset that both agencies are to be commended for their efforts in developing the basis for this legislative proposal.

When boundaries were established years ago, much of the land was inadequately surveyed. Boundaries were frequently drawn along township and section lines. Many of these boundary lines do not correspond with the natural topographic, hydrographic, and ecological features of the land itself. Redrawing boundary lines along these natural features is far more logical. it will enable both these agencies to better manage and protect their resources.

This legislation will result in 9,638 acres that will be included within the boundaries of the Olympic National Park. A total of 3,352 acres will be taken out of the national park's jurisdiction, and transferred to the national forest. A total of 9,324 acres will be deleted from the jurisdiction of the National Forest Service.

This bill will also authorize the acquisition of 234 acres of private land along the Soleduck Road and 80 acres of private land along Lake Crescent. The Soleduck Road is an important access corridor into the park. The land along the road contains older second growth forest. If the property is not acquired soon, the private landowner will have no choice but to log it.

The submerged lands of Lake Ozette and the Ozette River will be included within the boundaries of the national park. In 1976, this Congress passed legislation that expanded the boundaries of the national park to encompass all of Lake Ozette. It was an oversight at the time to not include the bed of the lake itself. This legislation will correct that oversight.

Also transferred to the jurisdiction of the National Park Service is the intertidal zone on the portion of the park which extends along the Pacific Coast. This will allow the Park Service to better protect the resources in the tidelands, which have experienced problems with the extensive scraping of all forms of shellfish and other marine life from the tidepools. The bill will also add to the park offshore rocks that are presently under the jurisdiction of the Fish and Wildlife Service.

This bill will remedy many of the land management problems that both agencies face as a result of these illogical boundaries. The Park Service will be better able to protect entire watersheds and ecosystems. The Forest Service will be able to reach timber management sites that have had blocked access because park land separates the forest land.

Mr. President, this is legislation that is supported by both administrative agencies, and the many people who heavily use both the Olympic Park and the Olympic Forest. It is supported by Congressman AL SWIFT, in whose district the Olympic Peninsula falls, and by the House of Representatives. I expect their timely consideration of this bill soon after it has passed the Senate. I strongly urge my colleagues to support its passage.

The PRESIDING OFFICER. If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. PACKWOOD. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEPENDENT SAFETY BOARD ACT AUTHORIZATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 1035, H.R. 4961.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (H.R. 4961), to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3273

(Purpose: To add a provision regarding airport insurance)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. EXON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. EXON, proposes an amendment numbered 3273.

Mr. BYRD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 7. AVIATION LIABILITY INSURANCE.

(a) The Secretary of Transportation and the Administrator of the Federal Aviation Administration shall—

(1) not later than March 1, 1987, submit an interim report, and

(2) not later than March 1, 1988, submit a comprehensive final report,

concerning the extent of and causes for the rapidly increasing costs to United States public use airport sponsors for general liability insurance coverage. Such reports shall consider the probable implications of such increasing costs on the future capacity of the airport runway and taxiway system of the United States, particularly at smaller airports, and shall include any recommendations of the secretary and the Administrator for actions which the Federal Government might undertake to assist in ameliorating the liability insurance difficulties of such public use airport sponsors.

(b)(1) The Administrator shall, within sixty days after the date of enactment of this Act, contract with a nonprofit foundation to establish an information clearinghouse concerning general liability insurance coverage at such public use airports.

(2) The clearinghouse shall gather and distribute without charge to such airports information on premiums, coverage limits and insurance availability. All information generated by such clearinghouse shall be made available promptly to the Secretary

and the Administrator for use as appropriate in the reports required under subsection (a) of this section.

(3) There shall be available for the purposes of this subsection $250,000 of funds appropriated for the Federal Aviation Administration for each of the fiscal years 1987 and 1988.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3273) was agreed to.

Mr. EXON. Mr. President, I rise in strong support of H.R. 4961, legislation authorizing expenditures for the National Transportation Safety Board for fiscal years 1987, 1988, and 1989. This legislation is needed prior to the adjournment of this Congress to ensure the continued operations of this important Federal agency.

In recent years, the NTSB has been on the forefront of ensuring that the Department of Transportation and the individual aviation, surface, and water transportation industries do all they can to promote safety. For example, only last week the Board recommended a number of new proposals for crew training, increased surveillance, and new flight safety equipment for the commuter airline industry. Without this type of leadership, we would likely fall short of fulfilling our mandate for providing an adequate margin of safety.

The present bill, which passed the House of Representatives on September 30, 1986, without objection, is similar to a bill reported earlier this year by the Senate Commerce Committee. The major change is a provision which I believe is extremely important for the well-being of our Nation's airport system. It is much less than what I originally sought and was successful in including in the Senate bill during Commerce Committee consideration, but I believe it will provide significant assistance to the many smaller airports around the country that have been hit hard by increasing liability insurance costs.

Very simply, this measure would require the Secretary of Transportation and the Federal Aviation Administration to undertake a joint study of the problems created by the rapidly escalating insurance premiums for public airports and the effect these increased costs are having on limiting airport capacity. An interim report is called for early next year, with the final study to be transmitted to the Congress no later than March 1, 1988. Among other items, we have asked DOT/FAA to provide any recommendations for Federal actions that should be undertaken to help alleviate the airport liability insurance problem.

To assist public airports in obtaining the insurance needed to remain operationally viable, this bill also calls for the creation of a nonprofit clearinghouse that would provide information on the availability of insurance, premium levels, and coverage limits. This information, which would be provided by the clearinghouse at no charge to the airports, is desperately needed by smaller- and medium-sized airports who do not have the staff required to stay on top of the ever-changing insurance market.

Public airports have suffered under the current liability insurance crisis. The Aviation Subcommittee heard of numerous instances where the rapidly increasing liability insurance premium costs have threatened the ability of many smaller public airports to remain in operation. Yet, unlike many businesses, these airports are severely limited in their ability to pass on these higher costs.

I had hoped we could do even more for smaller airports to assist them in their efforts to cope with the insurance crisis. However, my interest is principally in obtaining some aid for these airports, a sentiment that I know is shared by the chairman of the Aviation Subcommittee, Senator KASSEBAUM. And I trust our friends in the House of Representatives will look upon this effort, and in particular, this provision, in the same light.

As a whole, I believe this is a good bill. It follows many of the recommendations made by the Board itself, to better equip it to handle its every-increasing role in ensuring the enhancement of safety. And it provides some assistance to smaller airports who have been hurt by the liability insurance crisis.

I urge my colleagues to support its passage.

Mrs. KASSEBAUM. Mr. President, I would ask my colleagues to support H.R. 4961, legislation similar to S. 2807, which was reported by the Commerce Committee earlier this session to reauthorize appropriations for the National Transportation Safety Board [NTSB]. This agency plays a crucial role in maintaining and improving standards of safety related to air, highway, rail, pipeline, and marine transportation, as well as to the movement of hazardous materials by those modes.

Specifically, the legislation does the following:

1. authorizes appropriations of $24.0, $25.4, and $27.0 million for fiscal years 1987, 1988, and 1989, respectively;

2. provides the NTSB with authority for a $1 million emergency fund for use in years where there is an unusually large number of accidents;

3. deletes certain Federal Register notice requirements which are unnecessary, thus saving $25,000 annually;

4. redirects tuition funds collected from non-NTSB employees attending accident investigation training courses to NTSB's appropriations in order to offset costs; and

5. requires federal agencies and state, local, and foreign governments, who request assistance with accident investigations, to make payments, which would be applied to NTSB's appropriations.

These provisions would reduce unnecessary expenditures and allow the NTSB to better utilize staff capabilities. The funding levels assume a continuation of current activities and no new responsibilities. The slight dollar increases over this year's appropriations reflect the effects of inflation and other uncontrollable cost increases.

I urge the support of my colleagues for H.R. 4961.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment of the amendment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. PACKWOOD. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—S. 2807

Mr. PACKWOOD. Mr. President, I ask unanimous consent that consideration of Calendar No. 893, S. 2807, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 3415

Mr. PACKWOOD. I ask unanimous consent that when the Senate receives from the House, H.R. 3415, the Bicentennial Coins and Medals Act, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESTRICTION OF USE OF GOVERNMENT VEHICLES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to consideration of H.R. 3614, dealing with the use of Government vehicles now being held at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (H.R. 3614) to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3274

(Purpose: To substitute alternate provisions)

Mr. PACKWOOD. I send an amendment to the desk on behalf of Senators ROTH and PROXMIRE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] for Mr. ROTH and Mr. PROXMIRE, proposes an amendment numbered 3274.

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 1344 of title 31, United States Code, is amended to read as follows:

"§ 1344. Passenger carrier use

"(a)(1) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose.

"(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

"(A) required for the performance of field work, in accordance with regulations prescribed pursuant to subsection (e) of this section, or

"(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties, is transportation for an official purpose, when approved in writing by the head of the Federal agency.

"(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

"(1)(A) the President and the Vice President;

"(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

"(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

"(2)(A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

"(B) a single principal deputy to an officer described in subparagraph (A) of this paragraph, when a determination is made by such officer that such transportation is appropriate;

"(3) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

"(4) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

"(5) the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;

"(6) the Chairman of the Board of Governors of the Federal Reserve System;

"(7) the Comptroller General of the United States and the Postmaster General of the United States; and

"(8) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to paragraph (8) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be effective for not more than 15 calendar days.

"(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956 or section 8(a)(1) of the Central Intelligence Agency Act of 1949.

"(d)(1) Any determination made under paragraph (8) of subsection (b) shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

"(2) If a clear and present danger, an emergency, or a compelling operational consideration described in paragraph (8) of subsection (b) extends or may extend for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each such period, and, where appropriate, a subsequent determination may be made whether such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

"(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2), (b)(2)(B), and (b)(8) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(8) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer or employee.

"(4) Notification of each designation or determination made under paragraphs (1), (2)(B), and (8) of subsection (b) and under paragraph (2) of this subsection, including the name and title of the officer or employee affected, the reason for any determination under paragraph (8) of subsection (b), and the expected duration of any authorization under such paragraph, shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of Management and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(8), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section.

"(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term 'field work' for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transporation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

"(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section.

"(g) As used in this section—

"(1) the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

"(2) the term 'Federal agency' means—

"(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 51));

"(B) an Executive department (as such term is defined in section 101 of title 5);

"(C) a military department (as such term is defined in section 102 of title 5);

"(D) a Government corporation (as such term is defined in section 103(1) of title 5);

"(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

"(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

"(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

"(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of title 44);

"(I) the Smithsonian Institution; and

"(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia.

"(h) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.".

(b) The table of sections for chapter 13 of such title is amended by striking out the item relating to section 1344 and inserting in lieu thereof the following:

"1344. Passenger carrier use.".

SEC. 2. (a) Title 10, United States Code, is amended—

(1) by striking out section 2637 thereof; and

(2) in the table of contents of chapter 157 thereof, by striking out the item pertaining to section 2637.

(b) Section 636(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(5)) is amended by striking out "(without regard to the limitations contained in section 5 of Public Law 63-127, as amended (31 U.S.C. 639a(c)(2)), and section 201 of Public Law 85-468 (31 U.S.C. 638c))".

(c) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "without regard to the limitations contained in section 78(c) of title 5 of the United States Code".

(d) Section 11 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678) is repealed.

(e) Section 660 of title 14, United States Code, is amended by striking out subsection (e).

SEC. 3. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare, in consultation with the Marshal of the Supreme Court of the United States, the Clerk of the United States Court of Military Appeals and the Court Administrator of the United States Tax Court, and transmit to the Congress, appropriate recommendations concerning the transportation needs of the judicial branch and of courts established pursuant to Article I of the Constitution.

Mr. PROXMIRE. Mr. President, I am delighted to join as a cosponsor of the pending substitute to H.R. 3614, legislation to restrict the use of federally owned or leased vehicles for home-to-work transportation.

The substitute we are offering today has been the result of long and hard bargaining on both sides of the aisle and by Members of both Houses.

Even with this substitute, this bill is far from perfect. But on balance, this bill goes a long way toward clarifying a law which has been cavalierly ignored by Federal bureaucrats for far too long.

A BRIEF HISTORY

Mr. President, legislation has been on the books since 1946 prohibiting the use of federally owned or leased vehicles for home-to-work transportation of Federal employees.

While this legislation has often been referred to as "the limo law," its coverage is far broader than a mere prohibition on the use of expensive limousine-type automobiles. It even goes beyond cases in which a Federal driver or chauffeur is employed. This law flatly prohibits the use of any federally owned vehicle or leased vehicle for home-to-work transportation, even where the employee drives himself or herself.

The only exceptions to that law are spelled out in the existing statute, recently recodified in section 1344 of title 31 of the United States Code.

While the law has always been quite clear to Chairman BROOKS of the House Government Operations Committee and myself, apparently there is not a bureaucrat in town who finds the statute clear. They have been particularly adept at finding, or creating, loopholes large enough to accommodate a Federal car.

After all, home-to-work transportation is the ultimate status symbol for a Federal bureaucrat. It sends a clear message to his friends and neighbors that here comes "Mr. Big" or "Ms. Big."

My surveys of all Federal agencies over the last decade have repeatedly found 140 to 200 Federal bureaucrats using this perk, far in excess of the number entitled under Federal law. Just last year a report by the General Accounting Office for Chairman BROOKS of the House Government Operations found similar results.

As a result, it has become clear that the best course of action is to rewrite the 1946 statute and specify more clearly the individuals who are entitled to home-to-work transportation. In addition, because of a myriad of General Accounting Office opinions on related issues—some of which are contradictory as GAO's own views have evolved on this issue—this bill also addresses the rare circumstances under which exceptions can be considered.

THE PENDING SUBSTITUTE

Mr. President, Chairman BROOKS is to be congratulated for his committee's tremendous work in restructuring the "home-to-work" statute. If the negotiations over this substitute are any indication, the task which Chairman BROOKS and his committee faced was clearly formidable.

The pending substitute builds upon the tremendous work of the House Government Operations Committee. It makes a number of important changes in clarifying the application of this revised statute. In light of the fact that this bill has been held at the desk and, therefore, there will be no committee report, it is crucial that these changes be emphasized now for the purpose of future legislative history.

COVERAGE OF THE JUDICIAL BRANCH AND LEGISLATIVE SUPPORT AGENCIES

The first key change is the substitution of the word "Federal" agency for "executive" agency and the reference in (f)(2) of the substitute to section 18 of the act of August 2, 1946 (41 U.S.C. 5a).

The choice of terms and reference was done very carefully. After the House completed action on their bill, it was discovered that the choice of the term "executive" agency in their bill had the inadvertent effect of exempting the entire judicial branch as well as all of the legislative branch support agencies, such as the General Accounting Office, the Government Printing Office, the Congressional Budget Office, the Congressional Research Service, and so on.

The change we are making in this substitute will restore the existing coverage of the judicial branch and the legislative support agencies. It is crucial that these principles be applied to all three branches of Government.

MONITORING COMPLIANCE

Mr. President, Federal agencies have repeatedly ignored rulings of the Comptroller General regarding the interpretation of the present statute, arguing that they were only bound by the ruling of their own agency's general counsel.

The substitute language we are proposing today vests rulemaking authority for the entire Federal Government in the General Services Administration [GSA] but provides that the GSA Administrator must consult with representatives of all three branches of Government before promulgating regulations: for the executive branch, the Office of Management and Budget; for the legislative branch, the General Accounting Office; and, for the judiciary, the Director of the Administrative Office of the United States Courts.

The significance of this change should not be overlooked:

First, it reaffirms that all three branches of the Federal Government are subject to the restrictions of this title.

Second, it establishes consistency in the application of Governmentwide rules on home-to-work transportation. Individual agencies will no longer be in a position to substitute their own judgment on the applicability of the law.

Third, it reflects our clear intent that these regulations will be promulgated through the Federal Register and receive the public scrutiny and comment they require.

APPROPRIATE RECORDKEEPING

The third change draws on the experience of the General Accounting Office. This change will require that every agency maintain logs or other records each time a Federal employee receives home-to-work transportation.

Mr. President, this requirement is essential if the GAO is to effectively monitor compliance with this statute. In their efforts to assess compliance with the existing statute, the GAO was repeatedly stymied by the fact that many agencies simply did not maintain adequate records.

This provision makes their responsibility crystal clear and all agency heads should take notice of it.

PROXMIRE CONCERNS

Mr. President, having discussed the positive aspects of this substitute, I would be remiss if I did not point out my areas of disagreement.

First, the substitute and the House bill simply permit too many Federal officials to make use of home-to-work transportation. While the bill represents a significant improvement over the current confused state of affairs, we should have pared away even more positions—both in the executive branch and we should have taken action on the legislative branch as well.

For example, we should not be extending this perk to the principal deputy of Cabinet secretaries.

And I want to put the Senate on notice that I intend to offer legislation next year to reduce both the number of executive and legislative branch officials eligible for home-to-work transportation.

Second, this substitute goes in the wrong direction by adding the position of the Comptroller General or the Postmaster General to the list of exempt officials. This sends the wrong signal at the very time we are paring down the executive branch.

Third, there needs to be more specificity regarding the exemptions contained in section (a)(2)(B) for "intelligence, counterintelligence, criminal law duties, or protective services." These activities are essential and, in certain circumstances, warrant exemption from the restrictions of this title. But by exempting them from the review of the GSA in the rulemaking section of the substitute, we are increasing the potential for abuse. It is crucial that the conference committee will clearly spell out congressional expectations regarding the way in which compliance will be monitored.

CONCLUSION

Mr. President, despite my reservations regarding specific compromises reached in this substitute, I believe that this substitute deserves the Senate's support.

Clearly, this substitute is a compromise proposal. One that I hope we can improve in the future. But this proposal builds upon the best concepts embodied in the House bill and makes substantive progress toward eliminating the abuse that has pervaded home-to-work transportation for far too long.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3274) was agreed to.

Mr. ROTH. Mr. President, H.R. 3614 was designed to "restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment." It was meant to resolve a number of longstanding Government transportation problems that have repeatedly been pointed out on audit by the General Accounting Office.

The underlying difficulty in providing home-to-work transportation for Government officials and employees or in the use of Government vehicles for that purpose is that existing law on the subject gives an uncertain and confusing mandate. In an area such as this, however, legislative imprecision invites conflicting opinions and abuse.

Specifically, the latest report of the General Accounting Office on the matter, issued just over a year ago, identified 128 officials who were provided transportation between their residences and their places of employment. In addition, on some occasions 17 relatives of officials were provided transportation to various locations. According to the GAO, under current law, more than one-half of those officials and their relatives received home-to-work transportation that was unauthorized. At the same time, and because of the imprecise nature of the existing statute, legal counsel for the Departments of State and Defense, and the U.S. Postal Service, among others, have disagreed with some of GAO's interpretations.

Mr. President, it is time to end the dispute over conflicting interpretations. It is also time to end the absues that continue to occur in the use of Government vehicles. A clear and realistic line must be drawn between those who are and those who are not entitled to home-to-work transportation at Government expense.

At the same time, legislation in this area must be flexible enough to make allowances for security concerns where there is a clear and present danger of attack, for genuine emergencies, and for other compelling operational considerations. Flexibility must also be preserved for effective intelligence and counterintelligence operations, protective services, and for criminal law enforcement. In addition many "field work" activities of investigators, auditors, and inspectors may be made most efficient where home-to-workplace use of vehicles is permitted. But in all of these kinds of situations, appropriate safeguards must be provided under carefully devised regulations.

Since H.R. 3614 was received from the other body last March 5, my staff and I have worked with many other Members of the Senate and their staffs, with Chairman JACK BROOKS of the House Government Operations Committee and his staff, with the General Accounting Office, and with staffs of various departments and the White House in order to resolve a number of difficult and intractable technical problems that remained in the House-passed measure. This was a bipartisan, bicameral effort to strike a precise balance between control and accountability on the one hand and efficient flexibility on the other.

Mr. President, I believe that, as the result of that effort, such a balance has been struck in the amendment I offer in the nature of a substitute for H.R. 3614. This amendment specifically identifies and carefully limits the number of officials of the Federal Government who will be entitled to home-to-work transportation while also allowing restricted Presidential and Cabinet-level discretion for additional transportation of this kind where specifically authorized. It also provides for written authorization of agency vehicle use for intelligence, counter intelligence, protective services, criminal law enforcement duties, and for "field work," that may involve home-to-work use of vehicles under the guidance of properly adopted regulations.

This amendment will not only end a lingering and potentially costly legal quarrel, it will also reduce markedly and make definite the number of home-to-work transportation services now provided for Government officials. Further, it will demand proper record keeping in connection with all such transportation services, and it will extend the restricitons on home-to-work transportation to the judicial branch and to legislative branch support agencies.

Mr. President, it has come to my attention that the Smithsonian Intitution asserts that the secretary is not an officer or employee of the Federal Government. He is appointed under the authority of the Board of Regents of the Institution (20 U.S.C. 41 et seq.) and is paid from non-Federal resources. Furthermore, the Institution contends it has never been and is not a Federal agency. Rather it is a trust established to carry out the obligations assumed by the Congress under the will of James Smithson in 1836. It is important for this bill to be acted upon this year, but Congress may well wish to take a look in the next session at the arguments presented by the Smithsonian and consider changing the law to reflect these facts.

Mr. President, I urge the adoption of H.R. 3614, as amended.

Mr. LEAHY. Mr. President, I strongly support the purposes of H.R. 3614 to limit the use of limousines by Government officials and to eliminate unneeded and improper use of Government vehicles for home to work transportation.

However, I believe that the House bill and its accompanying report contain a serious defect which, if enacted, would have a devastating impact on the Government's ability to properly execute its law enforcement, intelligence, counterintelligence, and protective functions.

I had intended to offer an amendment to cure that defect but I am pleased that the substitute offered by Senator ROTH incorporates my suggestions.

The bill amends section 1344 of title 31, United States Code, which regulates the use of Government vehicles for official purposes. Currently, section 1344 limits the use of Government vehicles for home to work transportation, but contains a broad field work exception. Agencies such as the FBI, Secret Service, and the DEA have relied on the field work exception to permit a limited number of agents to take their vehicles home to ensure

that the agency had an emergency response capability. These agents who would be on call during the night would be able to respond to emergency situations without having to first get back to a government garage where they could obtain a government vehicle.

In response to GAO findings that nonlaw enforcement agencies were abusing the field work exception, H.R. 3614 narrows the definition of the field work exception. The House report accompanying the bill states:

> The field work exception may not be used (1) when the individual's work day begins at his or her official government duty station, or when the individual normally commutes to a fixed location, however far removed from his or her official duty station. Although their daily work station is not located in a government office, these individuals are not performing field work. * * * Like all government employees, individuals working in a field office are responsible for their own commuting costs. (H. Rept. 99-451.)

This language, while appropriate to eliminate abuses in other contexts, would virtually eliminate the ability of agencies carrying out law enforcement, foreign intelligence, counterintelligence, and protective functions to provide emergency response capabilities. Judge Webster, the Director of the FBI, testified before the Subcommittee on Security and Terrorism that this language would have a devastating effect on the FBI's ability to fulfill its missions. The Secret Service has similarly complained to the subcommittee that it could not carry out its duties if restrained by this language.

To remedy this problem, I proposed to create a narrow exception to restrictions contained in the bill, which have been incorporated in the Roth substitute. It permits home to work transportation for officers or employees of certain executive agencies where such transportation is necessary for the safe and efficient performance of intelligence, counterintelligence, protective, or criminal law enforcement functions specifically assigned to such officer or employee by the head of the agency. The transportation must be approved in writing by the head of the agency.

I believe that the bill as now drafted preserves all the essential features of H.R. 3614 while curing its most important defect.

I would like to thank Senator ROTH and especially Senator PROXMIRE for working with me and being helpful in resolving my concerns about this legislation.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. PACKWOOD. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPEACHMENT JUDGE HARRY E. CLAIBORNE

Mr. BYRD. Mr. President, the responsibility imposed on the Congress for article II, section 4 of our U.S. Constitution, is perhaps the most solemn and painful duty that we Members of the legislative branch must perform.

That section states:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

This is the only instance in which the legislative branch of our Government acts in a purely judicial capacity. Article I, section 2, clause 5 we find these words,

> The House of Representatives * * * shall have the sole power of impeachment.

We find in article I, section 3, clauses 6 and 7:

> The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two-thirds of the Members present.
>
> Judgement in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

Article II of section 2, clause 1 states as follows:

> The President shall * * * have Power to grant Reprieves and Pardons for Offenses against the United States except in Cases of Impeachment.

I have already read article II, section 4. Article III, section 2, clause 3 states:

> The trial of all crimes except in cases of impeachment shall be by jury.

So, Mr. President, this is an awesome power that the Senate holds under the Constitution. And similarly, it is an awesome duty upon Senators. No official who comes within the parameters of that constitutional language, and no person, no Vice President, no civil officer of the United States can escape the reach of article II, section 4. The Senate can remove any President, any Vice President, any civil officer of the United States in impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. And no Presidential pardon can be given to any such party who is impeached and convicted under those constitutional provisions.

The historical antecedents of this impeachment process extend back through history over a period of hundreds of years. Impeachment has been described by the notable historians as the chief institution for the preservation of government. It developed as a logical way for the Parliament of England to exercise control over the British judicial system and to keep the King and his ministers from becoming too authoritarian.

The framers of our U.S. Constitution were very familiar with its essential purpose in maintaining a democratic form of government. They included it in our own Constitution to assure that all officers in our Government remained accountable to the people—to the people through their elected representatives. Now for the 13th time in our Nation's history, and the first time in over 50 years, the U.S. Senate has been required to try an impeachment of a civil officer, U.S. District Court Judge Harry E. Claiborne.

I believe that the Senate undertook this duty responsibly, and with a judicious sense of purpose. The committee of 12 Senators appointed by the distinguished majority leader and myself pursuant to Senate Resolution 481 passed on August 14 of this year spent 7 full days in hearing witnesses, and compiling testimony for the Senate as a whole to evaluate and to analyze. The transcript of these proceedings, almost 1,200 pages of text, as well as 3 additional volumes of exhibits, were printed for each Senator to study.

I take this opportunity to praise publicly, as I previously have done privately, the diligence and the exceptional hard work of those members of that committee, Chairman MATHIAS and Vice Chairman SARBANES, both of Maryland, and Senators HATCH, WARNER, RUDMAN, PRESSLER, MCCONNELL, HEFLIN, DECONCINI, PRYOR, GORE, and BINGAMAN.

I carefully studied the transcript and the posttrial briefs of the two parties. And I concluded that there was more than sufficient evidence on the record to sustain a verdict that Judge Claiborne did willfully and knowingly file tax returns for tax years 1979 and 1980 that understated his taxable income by substantial amounts. He signed and verified those returns with a written declaration under penalties of perjury.

I believe it is clear that Judge Claiborne either knew of the substantial understatement of his taxable income on his returns or he went to such great lengths to avoid knowing that he may be deemed to have had constructive knowledge of the returns' falsities. A jury of 12 of the Judge's peers found

him guilty of two counts of violating section 7206(1) of title 26, United States Code, which is the criminal statute for committing tax fraud or filing a false return. By having been convicted of these felony charges by a trial jury of the judicial branch of our Government—a verdict with which I can fully agree based on my review of the evidence—Judge Claiborne has brought dishonor and opprobrium on our Federal judiciary. Mr. President, I voted to convict Judge Claiborne on three of the four articles of impeachment brought by the House of Representatives. I would now like to briefly summarize the evidence that I believe was probative and helped me reach the verdict of guilty.

The critical issue that must be decided to sustain a violation of title 26, United States Code, section 7206(1) is whether the conduct was done "willfully." Section 7206 provides in pertinent part:

> Any person who—
> (1) * * * willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter * * * shall be guilty of a felony * * *.

The Supreme Court has recently refined the definition of "willfulness" in construing that statute as "a voluntary, intentional violation of a known legal duty." As the House managers pointed out in their posttrial brief: "A crime whose very purposes is to conceal is not often telegraphed with direct proof."

Consequently, Mr. President, courts have held that "intent" may be inferred from statements and conduct. *United States* v. *Cusino*, 694 F.2d 185, 1867 (9th Cir. 1982). Several court opinions have laid out the elements of circumstantial evidence on which the Government may rely to prove "willfulness."

The case that I found particularly meaningful in detailing certain of these elements was one in which Judge Claiborne had served as defense counsel, which proves that the judge was aware of these elements, *United States* v. *Conforte*, 624 F.2d, 869 (9th Cir. 1978). The decision in that case held that "willfulness" may be inferred from: "The extensive use of currency and cashier's checks to satisfy obligations"; a "pattern of understatement of income in successive years"; the "use of memory, surmise, estimates, or a careless disregard in making of tax returns"; a "taxpayer's effort not to learn what his tax obligations are"; and the "presence of large sums of money in cash not deposited in a bank."

The transcript of the committee hearings shows numerous examples where the judge conducted his business affairs in a manner comparable to those listed above.

"Extensive use of currency and cashier's checks to satisfy obligations": Judge Claiborne cashed increasing numbers of legal fee checks at the local hotels and casinos in Las Vegas, which had the effect of making the receipt of this income much more difficult to trace. When questioned about why one would need $37,500 in cash in his pocket—one legal fee check—or $44,256 in cash from a Government tax refund check cashed at the Golden Nugget Casino, his answers were unconvincing and raised questions about other laws that he may have violated. He said that he paid workers in cash to remodel his house and stated incorrectly, when asked, that he had no obligation to pay Social Security withholding on those workers' wages.

He claimed that he cashed the $44,256 refund check because he was considering purchasing some quarter horses in Mexico. He never concluded that purchase and stated that he ended up buying some real estate with the cash. No explanation was given for why the money was not deposited in a bank, why large payments on real estate would not better be done by check, or even how one can carry that much cash in one's pockets, let alone feel safe while doing it.

The one salient bit of information that I did glean from this peculiar pattern was that Judge Claiborne did have time to pursue personal projects like buying livestock, supervising numerous remodeling projects, and working on real estate investments. This would seem to contradict one of his main lines of defense; namely, that he had let his personal financial affairs go to pieces because he was so all consumed by his judicial duties. He stated that his 14-hour work days left him no time to examine his tax returns as they were prepared or to keep records of his business income.

However, when it served his financial interests, Judge Claiborne was capable of compiling and listing carefully detailed financial information. He delivered to his accountant, Jerry Watson, a three-page listing of the items comprising the cost basis on the house that he sold, in meticulous detail down to the last cent.

A "pattern of understatement of income in successive years": The facts presented at both trials and admitted into evidence by the Senate Impeachment Committee prove without dispute that Judge Claiborne understated his taxable income by $18,740.06 in tax year 1979. For the 1980 return, the judge failed to report $87,911.83 in legal fees by incorrectly and illegally writing them off against a phony capital loss on the nonexistent sale of his law practice that he had previously fully depreciated in 1978. In addition, he failed to report a new capital gain on the sale of his house of $214,000. In tax years 1981 and 1982, he again used the fabricated capital loss to offset $40,000 in 1981 and a comparable amount in 1982 in legal fees that should have been reported as ordinary income. In addition, with a careful reading of the committee's transcript, we must deduce that the judge significantly underreported his 1977 tax obligation as well, because he withdrew $74,000 from a safe deposit box in a hotel—the balance of a $100,000 gift from a friend and kept in the hotel's safe—in August 1978, to pay a tax deficiency for tax year 1977.

"Use of memory, surmise, estimates, or a careless disregard in making tax return": The record before us in the Senate was replete with evidence on this point. We are told that the judge had previously deposited all fee checks in his bank account. His accountant, Joseph Wright, was instructed to compute his legal fee income each year by tabulating those deposits from statements sent to Wright by the bank. Then we learned that the judge no longer deposited all fee checks in the bank but cashed some of them at casinos; he also stopped sending his bank statements to Mr. Wright. Mr. Wright no longer had any way of verifying Judge Claiborne's income.

The judge at various points in the spring of 1980 gave Wright different, conflicting figures for his 1979 legal fee income, that I will detail below. In addition, the judge testified that his personal system for keeping track of his income consisted of writing the amount of each fee check on a slip of paper at work, putting the slips in an envelope, and periodically carrying the envelope home to write the amounts in a personal financial diary at some later date. But he did not use this system methodically: Sometimes the slips were misplaced; the envelope was lost at one point during a move, and this required him to estimate his income several different times. The record clearly indicates that the judge displayed a "careless disregard" in compiling his personal records and in the making of his tax returns.

A "taxpayer's effort not to learn what his tax obligations are": This is the indicator of willfulness that I find to be most blatant. Judge Claiborne testifed that he signed his 1979 return in blank—although this point is disputed—and never looked at it when he got a final copy. Before hiring Jerry Watson to fill out his 1980 return, he had been told that he would owe a significant amount of tax for that year, as indeed he should have. He himself seems to have prepared the form 4868 requesting an extension for filing his return; on that form he reported that his 1980 taxes would be $42,847.96, and he submitted a check for $20,817.59—the difference between what had been

withheld and what he estimated he owed. Just 2 months later he signed the return prepared by Watson that showed him owing not $42,847.96 as he himself had computed, but $1,103.00. He signed a return that just wreaks of being defective. Filled out in pencil, with arrows indicating needed changes on the form, and including errors that even the slowest neophyte on taxes would not make, the judge signed it. The only question he asked Mr. Watson was "are you sure that this is correct?" But he had never asked the preliminary question that would have made a "yes" answer meaningful: What are your qualifications to fill out and evaluate a return? What is your educational and professional background? What experience have you ever had in coping with a professional personal-service business and the schedule C form, capital gains and losses and the schedule D form, and the form 2119 for the sale of a residence?

It is clear to me that Judge Claiborne deliberately did not want to know anything about his tax obligations, based on the overview of the evidence that I have listed above. There is, however, a substantial body of case law that states that a jury may properly infer that a taxpayer has read and approved his tax return if his signature appears on the return. See, for example: *United States* v. *Romanow*, 505 F.2D 813 (1st Cir. 1974). "The signature at the bottom of the return is prima facie evidence that the signor knows the contents of the return." *United States* v. *Harper*, 458 F.2D 891, 894–895 (7th Cir. 1971). The judge signed his tax returns. He, like every other "average" citizen has a sworn duty to believe and support the information included on his tax return. I believe that the evidence fully supports, beyond any doubt, that Judge Claiborne committed "a voluntary, intentional violation of a known legal duty". His conduct was "willful" as required to prove a violation of 26 U.S.C. sec. 7206(1).

THE 1979 TAX YEAR

During 1979, Judge Claiborne received 14 fee income checks that totaled $41,072.93. This amount is confirmed by adding up the checks listed as House managers' exhibits 1–14 and also by adding up the notations the judge made in his personal record book for fee income received in 1979.

In March 1980, the judge sent his accountant, Joseph Wright, a note asking that Wright notify a mortgage company that the Claiborne legal fee income for 1979 was $45,371.93 (later changed to $46,371.93). The note included a list of earnings identified as being a "tabulation taken from my deposits and authentic." Because this was the only figure that Wright had received by the time the judge's request for an extension form 4868 had to be filed, he used it to compute the estimated tax due for 1979. When Wright told Claiborne that he would need to send in $16,000 to cover the taxes owed, Claiborne responded by saying that the tax owed would be less. He sent a check for $8,000 on April 11, 1980.

Judge Claiborne says that he talked with Wright sometime before April 11, 1980, and indicated that of a $20,622.17 deposit, only $10,000 was actually a fee, with the balance being a rollover of a time certificate of deposit with interest. This was erroneous, and Claiborne rests his case on a letter that he says he drafted and had delivered to Mr. Wright on April 11. The letter states that his fee income was $41,073.93.

However, Joseph Wright testified that he never received that letter and had not seen it until Mr. Goodman showed it to him (produced from the judge's files) in late 1983. On May 22, 1980, Wright still had the understanding that Claiborne's legal fee income for 1979 was $45,371.93, and he used that figure in letters to mortgage companies. But he claims that Judge Claiborne called him between May 22 and June 15, when the tax return was filed, and eliminated certain items of income so that the total was dropped to $22,332.87. This amount was listed on his schedule C for that year as fee income. The judge himself used a figure of $23,050.76 to report his 1979 legal fee income to the judicial ethics committee.

The resolution of this controversy largely depends on whether one believes Judge Claiborne or Joseph Wright. I personally cannot understand how anyone could supposedly write a letter on April 11 that said his legal fee income was $41,073.93 and barely 1 month later, on May 13, fill out his judicial ethics financial disclosure form listing legal fee income of $23,050.76.

I believe Mr. Wright's explanation of what must have happened, and I find the judge's version lacks credibility. But I might have been inclined to grant him some benefit of the doubt were it not for the incredible tax return the judge filed in 1980.

THE 1980 TAX YEAR

In the spring of 1981, during the time 1980 tax returns typically were being prepared, Judge Claiborne in effect fired his long-time accountant, Joseph Wright. He made the acquaintance of Jerry Watson, who purported to be a financial adviser and tax consultant and who owned the Creative Tax Planning Co. In fact, Mr. Watson only had a high school diploma, had no training at all in any accounting or business courses, and had been fired from several previous jobs that he had held. Witnesses testified before the committee that Jerry Watson had a generally poor reputation around town for the quality of his work. The judge, however, on first meeting Watson, was impressed with his manner and mentioned to him that he had been told previously that he would owe substantial taxes for the 1980 tax year and might need some assistance.

But the judge did not retain Watson until after he had received a letter from Watson, dated April 6, 1981, elaborating on how a business loss could be taken on the judge's old law practice. The letter also indicated that no tax would be owed on the sale of the judge's house. Less than 1 week later, the judge personally filed a request for extension form 4868 that indicated he expected to owe $42,847.96 in taxes for 1980. He submitted a check for $20,817.59 as the balance due on this estimated return.

In the meantime, the judge discussed with Jerry Watson at least twice, and possibly three times, the possibility of taking a loss on his law practice that he had abandoned upon taking the bench in September 1978. Watson testified, and the judge did not deny it, that they spent more than 1 hour in total time discussing the fair market value of the firm (including valuations of $5,000 for his rolodex file—which he admitted at the hearing he did not even have; $5,000 for his phone number and yellow page ad; $110,000 for 26 years of goodwill; the value of a client list; accounts receivable for cases still pending; valuations for briefs, points, and authorities; and so on.)

Watson arbitrarily decided that the fair market value of the firm had to have been at least $250,000. But at this point, several facts leap out that strike anyone right in the face with any tax knowledge, or anyone who merely reads the schedule D form, as simply outrageous:

First, they listed the law firm as an asset acquired in 1978, when in fact the judge had started it from nothing more than 25 years before;

Second, they listed the cost basis of the firm as $250,000 when, in fact, that was their "guesstimate" of fair market value; all tangible assets of the firm had been fully depreciated in tax year 1978, so that the cost basis was actually zero. Again I emphasize, they used their "ballparked" (their term) estimate of fair market value which is totally incorrect in determining a capital loss;

Third, they determined that the sale price was $150,000, even though there had been no sale, never had been any sale. From this they subtracted the phony, fabricated cost basis of $250,000 to create an equally phony loss of $100,000.

The really creative part of this return was discovered when it was admitted by Watson that he had taken the judge's $87,911 of legal fee ordi-

nary income for 1980 added to that roughly $12,000 of fully depreciated law books that he had simply given away and invented the remaining $50,000 to equal the sales price of $100,000.

Fourth, no schedule C on which ordinary income from a personal business was listed was filed even though Clairborne had filed that form for at least the preceding 20 years.

The judge and his accountant had in effect masked ordinary income as a deduction against a fabricated capital loss. They also used this fabricated capital loss to offset ordinary income for the 2 years that followed. That is the transaction that never was.

The judge later tried to slough off any culpability by saying that he had not looked at the return and really was not knowledgeable about these types of tax matters. When he received his return from Watson that showed him owing $1,103 instead of the $42,848 that he himself had calculated 2 months earlier, he took no action; when he received a refund check for $44,256 some time later, he still did not look at the return to try to determine what the problem might be.

Evidence was also presented before the Senate hearing that showed flagrant miscalculations on the judge's form 2119 so that it showed no tax owing on the house he sold for $725,000 on which he had a cost basis of $362,000. Because the house he purchased subsequently only cost $285,000, the judge owed tax on his accumulated capital gain of $314,000 minus the $100,000 he appropriately excluded for being over 55 years of age. This $214,000 capital gain was omitted from his return.

With the facts there presented, I have no difficulty in determining that Judge Harry Claiborne did not believe these returns to be true and correct as to every material matter, and that he well knew and believed that he received, and failed to report, substantial income in addition to that stated on the returns, in violation of section 7206(1) of title 26, United States Code. So, I think the Senate righly adjudged him to be guilty of misbehavior and guilty of high crimes and misdemeanors. These facts lead me inexorably to conclude that his impeachment and removal from office under articles I and II of the impeachment resolution were fully warranted.

Article III of the impeachment resolution states that, because a 12-person jury of his peers found the judge guilty of two felony convictions for which he is serving a 2 year prison sentence and has paid a $10,000 fine, he is guilty of misbehavior and is guilty of high crimes and should be removed from office.

Mr. President, I voted "present" on that article. I did not want the support of that article to be misinterpreted as meaning that the Senate has no role to play when a person has been convicted previously by our judicial branch of Government. Nor did I want the Senate, in a future case in which the court may have failed to convict an individual, to ipso facto infer that the Senate should not convict that same individual on an impeachment article or articles brought by the other body.

I supported article IV of the Impeachment Resolution because I believed it obvious that Judge Claiborne had betrayed the trust of the people of the United States by falsifying his tax returns and had reduced confidence in the integrity and impartiality of the judiciary, which therefore brings disreput on the Federal courts and their ability to administer justice. This violated his oath of office and for that I thought he should be removed from office.

I think that all Senators and all citizens need to focus on the bottom line of this proceeding. If Judge Clairborne had been found not guilty on these charges of filing false tax returns it would have made a mockery of every citizen's legal duty and civic obligation to pay his taxes.

When Judge Claiborne stood here in the well before this assembled body he spoke for 35 minutes to a still Chamber. Yet in those 35 minutes he did not respond to the critical charges that had been made to him by the managers of the House of Representatives who sat also in the well of the Chamber. Judge Claiborne's comments did not go to the gravamen of the charges that had been made against him in Articles of Impeachment brought by the other House.

Instead he told us that he had been a "fair" judge.

All judges are expected to be fair.

He told the Senate and those listening in the galleries and those listening and watching on TV and radio that he had worked hard.

And yet all judges are expected to work hard. There is plenty for all to do.

He said that he was too busy, in other words, too busy to study the tax return.

I read from his statement directly from the record as to the 1979 tax returns. He said, "This is plainly a matter, in my opinion, that they did not believe my secretary."

In speaking of his 1980 returns he said that he had very little time for his personal business. "* * * I had very little time for my personal business, very little time. And I am not alone. I don't think there is a Federal judge in America on the bench that has time for his personal business. I can honestly state that I believe this, that Federal judges of this Nation are killing themselves. You cannot imagine the long hours they are working. You cannot imagine the time they spend on the bench. During recess, they are dictating orders or signing orders or reading briefs or preparing opinions, sustaining opinions. Then they go on the bench and try a case. They cut their lunch hours short, they stay at night and get into their offices sometimes as early as 6:30 a.m.

Mr. President, those words fell upon rather unsympathetic ears here in this Chamber. Senators are accustomed to working hard also. Also I suppose that there are a good many Senators who cut their lunch hours short, who work into the evenings. That is no excuse for not paying one's taxes.

No, he did not address the charges that had been made against him by the managers of the other body.

In those 35 minutes, he said, "I could not walk away because I have not violated a single law of the United States. I have not defrauded my Government. I have not been corrupt in my office."

Mr. President, there are few rather than many who, upon the commission of crimes, are willing to admit that they have violated the law. Most of them say they have not violated the law.

I was reading in the newspapers recently about the arrest of an individual who had just shot three or four police officers in the District of Columbia. When he was being carried away, he said, "I ain't done nothin'. I ain't done nothin'."

Even the hardest criminals, upon arrest, have often been known to say they have not violated any law.

Did G. Gordon Liddy say that he had violated any law in the Watergate episode? Did President Nixon say that he had violated any law when he resigned from that high office? Aaron Burr, who was the third Vice President of the United States, shot and killed Alexander Hamilton in a duel in July 1804. Murdered Hamilton. And yet Burr had the affrontery to come back, after fleeing to Georgia, come back to the Senate and preside over the Senate as though nothing had ever happened. Later he was tried for treason.

So often those who commit crimes will say that they "never violated the law."

We heard that mournful plea as we sat here yesterday and listened to the judge. But the facts, Mr. President, in the case did not and do not support his contention. He was found guilty by a Federal district court. A special three-judge panel of judges, named by the Chief Justice of the United States, confirmed the judgment of the district court by a vote of three to nothing. And then Judge Claiborne asked the entire Ninth Circuit to sit en banc for a rehearing of his case. I am told that

there are 25 members within that circuit. Six of them recused themselves and of the remaining 19, 16 voted to deny the rehearing. Only 3 dissented.

And then Judge Claiborne petitioned for a writ of certiorari to the Supreme Court of the United States, and that was denied.

He then went to the penitentiary and began serving his time. He refused to resign from the high office to which he had been appointed by the President of the United States and for which he had once been confirmed by the Senate of the United States.

Then he came here to this Chamber. The House of Representatives impeached him and he appeared before the bar of the Senate, saying that he had violated no law; saying that he had not defrauded his Government; saying that he had not been corrupt in his office; saying that "I did nothing, I don't think, that the average American citizen does."

Mr. President, the average American citizen is not a Federal judge and the average American citizen just does not know what it is to file a tax return with an income of roughly $356,000, I believe it was, in one year—$54,500 salary as a district judge, almost $88,000 in legal fees, $214,000 in capital gains. And he filed a return claiming that the Government owed him almost $22,000. The average citizen does not have an income of that size.

Mr. President, I believe, as most Senators did, that Judge Claiborne was guilty. He was a convicted felon serving in a penitentiary in Alabama. He continued to draw his salary of a Federal district judge, $78,700 a year. He refused to resign from office. I voted to remove him from office and strip him, strip him of that salary which he did not deserve and which came out of the pockets of the honest taxpayers of this country.

Mr. President, the Senate fulfilled its responsibility under the Constitution. I again wish to compliment the committee of Senators, bipartisan in its makeup, Republican and Democrat, who belabored so dutifully and so faithfully in hearing the evidence, taking the testimony, compiling the facts, and submitting the report to the Senate. They worked diligently and faithfully, and they did their work well.

I hope that this example will be a lesson and I would hope that that lesson might not be lost on not only Federal judges but also all other officials in high places in our country.

On yesterday, I asked unanimous consent that my two statements that were made during the course of the closed sessions of the Senate on yesterday and the day before, appear in the public record. I now include, at the conclusion of these remarks, those two statements excerpted from the closed record and they will hereafter appear in the public record.

The statements follow:

REMARKS OF WEDNESDAY, OCTOBER 8, 1986

Mr. BYRD. Mr. President, I do not think that the respondent should be permitted to go away and say that the Senate did not vote on the substance of his motions. At the same time, I do not think the Senate has to accept his language. It is very cleverly crafted, "a full and fair trial."

Shortly, I shall ask unanimous consent to set aside this motion and have the Chair put before the Senate a motion which contains the substance of the respondent's request, to is it; one, that rule XI of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials is unconstitutional; and, two, that the Senate issue subpoenas to, and hear the testimony of in open Senate, the witnesses listed in Judge Claiborne's application for issuance of subpoenas.

Now that motion would contain the substance of Judge Claiborne's request, stripped, stripped of the overblown rhetoric. I think that the Senate is required to do no more than that.

Mr. President, while I am on my feet, let me address the substance of the respondent's motion. Actually, as I see it, it would be divided in two parts. But in the second part, it is so worded as to include not only those witnesses who were called before the committee but also the additional witnesses that Judge Claiborne is requesting in the memo that is at the bar.

Mr. President, first of all, I hope that we will keep in mind that the Senate is not sitting as a court of law. Second, we should keep in mind that our responsibility is to focus on, and render judgments with respect to the Articles of Impeachment that have been presented to the Senate by the House managers.

Now, as to the respondent's contention that rule XI is unconstitutional, let us go to the Constitution. The Constitution, in section 5, paragraph 2, of article I, says, "Each house may determine the rules of its proceedings." Every Senator knows that. Every Senator knows that this Senate can constitute a committee to take evidence, to take testimony, and to report back to the Senate in respect to the impeachment involving the respondent. It was done in impeachment cases heretofore, and Senators need only look in the little book "Procedure and Guidelines for Impeachment Trials in the United States Senate" and they will find such instances on page 43, for example:

"In the trial of Judge Peck in 1830, following the impeachment at the bar of the Senate by two members of the House of Representatives, the Senate proceeded to consider the message from the House and resolved:

That it be referred to a select committee, to consist of three members, to consider and report thereon."

Another case, in the case of Judge Archbald, in 1912:

. . . following the reading of the articles of impeachment and in order that they be printed by the Senate, the articles were referred to a special committee appointed by the President pro tempore, pursuant to a resolution as follows:

"*Resolved*, That the message of the House of Representatives relating to the impeachment of Robert W. Archbald be referred to a select committee, to consist of five Senators, to be appointed by the President pro tempore."

And it goes on to state the names of the Senators who were appointed.

So, in the one case it was referred to a "select" committee and in another instance to a "special" committee. Ergo, the Senate clearly has that power. It has exercised such powers before, and there is no question but that it is constitutional.

So much for that part of the respondent's motion. What the respondent is really asking for, here is another trial. That is what the respondent is asking for, a full trial in open Senate. Actually the respondent has already gone a long way toward getting a new and full trial because under rule XI, I will read this extract therefrom.

"The evidence so received and the testimony so taken shall be considered for all intents and purposes subject to the right of the Senate to determine competency, relevancy, and materiality as having been received and taken before the Senate—

Before the Senate—

but nothing herein shall prevent the Senate . . .—

Ellipsis—

from having the entire trial in open session.

So, the testimony and the material reported by the committee to the Senate in 2,300 pages, and four volumes "shall be considered for all intents and purposes as having been received and taken before the Senate."

The respondent had his case considered in the Federal District Court, and he was found guilty of income tax evasion. Thereafter, an appellate tribunal made up of three judges was appointed by the Chief Justice of the United States to hear the case on appeal. That special tribunal confirmed the decision of the lower court, three to nothing.

The respondent then petitioned for the entire Ninth District Court of Appeals sitting en banc to rehear the case. I am told that there are 25 judges in the ninth circuit. Six of them recused themselves, leaving 19. Of the 19, 16 rejected the petition for rehearing. Three dissented, not meaning necessarily that they thought that the respondent was not guilty, but simply meaning that they felt there should be a rehearing. Then there was the petition for the writ of certiorari which went all the way to the Supreme Court of the United States, and that was rejected.

Hence, the respondent has had his day in court. The district court, the special three-judge appellate panel, the ninth district Appeals Court en banc, the Supreme Court of the United States. Now, he seeks to make the U.S. Senate a super Supreme Court.

I listened to his speech yesterday. I listened to his attorney's speech. I did not hear one thing said that would destroy or was even directed to destroy the case that was made by the managers of the House. And with specific reference to the 1980 tax return, it was said that "like the average American citizen," Judge Claiborne relied on his tax reporter. "I don't think the average citizen goes home and makes a personal audit," it was said. Mr. President, Judge Claiborne is not the "average" citizen. He is a learned man, learned in the law. He is a Federal judge. He has conducted trials of tax cases. He is not the "average citizen". What we are talking about in that particular instance of 1980 was income amounting to $356,400 in 1 year. The "average citizen" does not know anything about that kind of income.

Why did Judge Claiborne not resign when sent to prison, rather than risk impeach-

ment? One might say, why is the judge coming to the U.S. Senate? My opinion is, that he felt he would have two out of three chances of winning. The odds are 2 to 1 here, because it requires a two-thirds vote to declare him guilty of the Articles of Impeachment. So it is a gamble for him.

Should the Senate then accord him a full trial in open Senate? I would hope that the Senate would reject this part of the respondent's motion also.

The special committee was appointed by the majority and minority leaders, using great care, may I say. And the members of that select committee applied themselves studiously. They dutifully attended the meetings. They sat for hours, daily; and they sat for days. They were thorough. In my judgment, they bent over backwards, as they should have done. I think the record is clear that they did that. I think they reflect, and I think the Senate can look with great pride upon their work.

Now, to say that after the respondent has had his case tried in all of the long judicial chain that constitutes legal due process, and then that he should come in here, and that this Senate should accord him what amounts to a new trial in open Senate, it seems to me as going very far. Too far.

Let me just point out another thing to my colleagues. I have read the posttrial brief of the House of Representatives, a blue-backed little booklet. It has only 59 pages in it. In this booklet, I found that in connection with the 1980 tax return, the judge had earned a judicial salary of $54,500 in 1980. He had judicial fees amounting to $87,900. He had a capital gains—on property that he sold for $750,000—of $214,000. His tax return states that he owed the Government only $1,103. Actually, his return declared that the Government owed him $20,900-plus.

He actually got a return of something like $44,000. There were other items. But on his return he claimed that the Government owed him almost $21,000. So Judge Claiborne had a total of $356,000 in income, including capital gains, and, yet, he claimed that the Government owed him almost $21,000.

It is beyond this Senator's ability to imagine that that learned man would not know from that kind of income and that kind of claimed repayment that something was wrong with his tax return.

What about his tax preparer? The judge employed an individual who had not more than a high school education. That is all right. There may have been Presidents who did not have more than a high school education. But this man also had a questionable reputation. He had been fired. He was not a certified tax preparer. But they discussed a scheme, if we are to believe this document, which was prepared by the House of Representatives. They discussed a scheme. The judge had been told that he would be liable for a considerable amount of taxes. As I recall, I think he was told that he would probably owe between $90,000 and $100,000 for that year.

They discussed a scheme in which the following "transaction" took place: they took the judge's legal practice. There was no cost price for the practice. He had built it up over the years. No cost basis for it. They took this practice which had already been written off in 1978. The cost of the library, the cost of the fixed equipment, the cost of the leasehold improvements had been written off, and the judge had recovered in full in 1978. Yet, they came up with this scheme by which they would estimate the cost of this legal practice at $250,000.

Then they established a phony sales price for it of $150,000, so that out of this bogus transaction, the respondent took a loss of $100,000. A $100,000 loss on a transaction that never occurred.

Of course, the $150,000 "sales price" covered the $87,900 legal fees for 1980, plus $40,000 for the next year and about the same for the following year. The judge had 1980, 1981, and 1982 covered in that bogus sales price.

It is beyond the very limited stretches of my imagination and credulity to believe that a Federal judge of this standing, a man with this experience, a man as learned as this man was, would enter into a scheme such as this and sign a return and accept the check, the figures being as I have already set forth.

I say all of this to say that I hope that the Senate will reject this motion for a full trial in open Senate.

As to the request that the Senate proceed now to issue subpoenas and hear the testimony in open Senate of all these witnesses, I hope the Senate will not stultify itself by going through such an extended and unnecessary exercise. Take a look at the facts as shown in this brief. I did not write the brief. This is a posttrial brief. I did not write it. I can only read it. It was prepared by the House. I accept it as being factual. There were those who were present in the hearings and they, of course, have their own viewpoints.

I urge the Senate to reject this motion.

REMARKS OF THURSDAY, OCTOBER 9, 1986

Mr. BYRD. Mr. President, I have listened through most of this debate here on the floor. I have reflected with pride on the attendance throughout most of the debate here of Senators on both sides of the aisle. I have commended and I commend again the committee of 12 that was appointed by the distinguished majority leader and by me under the resolution adopted by the full Senate.

I have listened to those who have said, as they have searched their consciences and their hearts, that they would like to see Judge Claiborne appear before the Senate and answer questions. Yes, they can read the record, they say, that has been prepared and submitted to the Senate by the committee, but they would like to have seen Judge Claiborne as he answered the questions; they would like to have observed his demeanor.

Mr. President, as has already been said, one may observe the judge's demeanor by looking at the video tapes that are available and have been available. But, Mr. President, I observe the demeanor of Judge Claiborne when he was before the Senate yesterday. He stood right here in the well of this Senate and he talked for 30 minutes. He needed more time. The distinguished Senator from Maryland, Mr. MATHIAS, asked unanimous consent and gave Mr. Claiborne an additional 5 minutes. The managers on the part of the House presented their case here in open Senate before the eyes of millions throughout this country.

When it came Judge Claiborne's time to respond, did he respond to the charges that had been made by the managers on the part of the House? Well, no. He had his chance. But he did not respond. What did he say? He said, "I have been fair." Well, what judge would expect to be otherwise than fair? He said, "I have worked hard." Well, what judge would be expected not to work hard? He talked about how the Federal judges are overworked, how they go without lunch, how they work into the evenings, and how they are killing themselves. But did he answer the question? Did he go to the gravamen of the charges that had been made? No. With respect to the 1979 return, here is what he said. "This is plainly a matter, in my opinion, that they did not believe my secretary." That is about all he said about the 1979 return.

On the 1980 returns, what did he say? He said:

"Mind you, the only thing the Government was charging me with on the 1980 return is that I did not declare fees that I collected in the amount of $88,500.

"Mr. Watson's office had treated the $88,500 on a schedule D, which my accountant when he performed my audit after I was indicted said he can't do that. We conceded that he did it incorrectly. But I did not catch that it was done incorrectly. He told me that it was correct.

"When it began to look like I was going to be indicted, I talked to him. I said, "I want to know how you did it. I want to know exactly what you did."

Let me read that again from yesterday's transcript:

"When it began to look like I was going to be indicted"—

Aha—the hour was late.

"When it began to look like I was going to be indicted, I talked to him. I said, "I want to know how you did it. I want to know exactly what you did."

Then, the judge said to Watson,

"Can you support that?"

And then Watson, who prepared the tax return, said,

"Yes. * * * Judge, I have taken your return to two IRS agents, both of whom I trust and have great confidence in their ability. Both of them have told me, * * * 'that your tax return was done correctly.' That reassured me. That reassured me."

Now that is the sum and substance of what Judge Claiborne had to say in answer to the critical charges made against him by the managers on the part of the House. All of the rest of the time he talked about how fair he had been, how hard he had worked, and how he wanted to retrieve his good name. But not once did he go to the gravamen, to the center, to the heart of the charges. Not once did he explain the bogus scheme by which the phony sale of assets had been created in a transaction that had never occurred.

I will not go further into that. I spoke on those things briefly yesterday, and I need not say anything further in that regard.

But let me say to my colleagues we are approaching the hour when we will vote. Not very long ago the Congress of the United States passed a far-reaching tax bill, and its purpose was to make the Tax Code fair. Its purpose was to wipe out the loopholes, to tear down the tax shelters, and to instill confidence in the tax system on the part of the American people.

Now we are about to cast a vote on whether Judge Claiborne should be removed from office. Are we to say that this man is not guilty of tax evasion because he was too busy? Every Senator here knows that every Senator is also busy, but every Senator is also expected to pay his taxes, and we cannot get by with saying we are too busy. Are we going to send a signal that there is to be a double standard—one for Federal judges, and another for other taxpayers?

What are we going to say to that widow out there who is working day and night to pay her bills, to buy clothes for her children, to put her kids through school? How are we going to answer her when she says "I pay my taxes. Why did you vote to let this judge be acquitted on the Articles of Impeachment brought against him for tax evasion?"

What am I going to say to that coal miner in West Virginia? Talk about somebody who works hard. Somebody who has to go into the bowels of the Earth, hear the mountains groaning over his head, hear the timbers cracking to the right and to the left of him, and who pays his taxes on the money that he earns in the sweat of his brow? How am I going to look him in the face and say, "Well, the judge was too busy. He just took his accountant's word. He is a busy man, you know. He has sometimes worked a little bit at lunchtime. Sometimes he has to go back and work a little in the evening."

That coal miner does not have money to invest in apartments or horses as Judge Claiborne did, in Mexico or anywhere else. How am I going to answer him? What are we going to do to the confidence of our people in our tax system if we vote to acquit this man? He has had his chance. I saw his demeanor. And if he were back here before the Senate another hour, another day, how would I still answer that coal miner or that poor widow or that black who is toiling in the factories of the country, in the fields of the West or South, and of the North.

I ask for 2 more minutes.

Mr. MATHIAS. I yield 2 more minutes.

Mr. BYRD. How would we answer those who are justly toiling, who believe that they have a duty to pay their taxes, and who want to live up to the laws of the land, and are doing their best to do it? How can we then say to them, "Well, we judge him by a different standard"? I cannot do it, Mr. President.

I have seen the judge. I have seen his demeanor. I saw him take 35 minutes here in the well of the Senate, and appeal to those watching and listening out there on TV and radio and those in here in this Chamber. What did he say? Nothing to explain his defense against the charges; only that he believed his accountant, and that he was busy, too busy.

Mr. President, each Senator must do his duty according to his own lights, each according to his own conscience, and each Senator wants to be fair. Each Senator wants to live up to his own oath to uphold the Constitution. I have said all I will. Judge Claiborne has had his day in court. He has run through the line of due process. And he has had his day before the U.S. Senate.

I will vote "guilty" on three of the four articles: I, II, and IV.

STATEMENT OF SENATOR STEVENS IN CLOSED SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the statement I made in relation to the impeachment proceedings concerning Judge Claiborne appear similarly in the RECORD following those of my distinguished friend from West Virginia.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR STEVENS DURING CLOSED SESSION

Mr. STEVENS. Mr. President, on Tuesday the Senate sat as a court of impeachment for the first time in a half century. As a former U.S. attorney with substantial experience as a prosecutor, I have serious misgivings about the circumstances under which the impeachment trial of Judge Harry E. Claiborne has been conducted.

The Constitution clearly indicates that the impeachment process is a unique congressional function and is not intended to serve as a substitute for our criminal law process. That fact adds great weight to the argument that the Senate is not bound by all the rules of American criminal law when it sits as we are now, as a court of impeachment. It does not, however, mean that an impeachment trial is a proceeding of less significance and dignity than a criminal trial.

No court of the United States can remove a Federal judge from office, no matter how heinous his or her crime. The Constitution reserves that extraordinary power to Congress. As we know, upon receiving a message that the House of Representatives has approved articles of impeachment against an individual, the Senate is charged by the Constitution with the task of examining the articles and passing judgment on them without regard to determinations that may, or may not, have been made by the judicial branch of the Federal Government.

If the Senate fails to try the charges made against Harry Claiborne by the House of Representatives as an independent legislative court, it will frustrate the intent of the Framers of the Constitution. I do not believe we should allow the impeachment process to deteriorate into a second-rate criminal appeals process.

To be absolutely frank, Mr. President, I do not believe that Members of this Senate have had enough time to weigh independently the evidence that has been presented in the Claiborne trial.

I make this statement because I know I have not had the time to do so. I have been asked to represent the Senate in conference with the House, and I have been present on the floor of the Senate for no more than 35 minutes out of this trial to date.

Those of us who are members of the Appropriations Committee have been presented with a choice between doing the task assigned to us as Members of the Senate in a conference with the House that will determine when this session of Congress will conclude or absenting ourselves there and coming here to listen to this trial. Many of us have pleaded for some way to have time to go through the evidence at least once.

I do not know about the rest of the Members of the Senate, but I was in conference late into the evening on Tuesday and Wednesday. After the conference I spent the rest of my waking hours going through appropriations materials to prepare for the conference on the defense appropriations bill the next day.

I am not criticizing anyone here in the Senate. The extreme pressures we all encounter during the last few weeks of any Congress are simply not conducive to being a part of the impeachment trial process. I take this process very seriously as a Member of the Senate and as someone who has spent a total of almost 40 years in the practice of law and the making of laws.

Since this is the will of the Senate to finish consideration of the charges pending against Judge Claiborne before we adjourn this month, I intend to take the circumstances under which the impeachment trial was conducted into account, as far as I am concerned in deciding how to vote on the articles of impeachment. In my opinion, the burden is on the House managers to demonstrate that these circumstances have not fatally flawed the Senate's consideration of the articles of impeachment. Let us not forget that the timing of the presentation of these articles was decided by the House, not the Senate.

There was no reason for the delay in the approval and presentation of the articles of impeachment, which has forced the Senate to conduct an impeachment trial in the last month of a 2-year Congress.

I hope no one misconstrues my comments. I commend the majority and minority leaders for their efforts to prepare us for the impeachment trial. I have gone through the booklet prepared under their supervision, and it is a very good booklet, an historic document, as a matter of fact, in terms of providing guidelines for the conduct of this trial.

I think the distinguished chairman and vice chairman of the impeachment trial committee have done an excellent job in preparing the record of this trial for our consideration. I sincerely regret that I have not been able to find time to read through even the first volume, let alone the volumes as a whole.

Mr. President, the problems I have identified are not the problems of any individual. They are the product of timing factors beyond the control of any Senator.

I am making this statement to indicate the total frustration of this Senator in attempting to deal with this trial process responsibly, and at the same time, deliver back to the Senate floor by midnight tomorrow, as I have been instructed to do, the defense appropriations bill, the largest of the 13 appropriations bills. Mr. President, it is impossible to do both jobs at the same time, and it is unfair to place such a burden on Senators and on the accused. Unless somebody corrects this unfairness, I shall vote "present" on every charge against Judge Claiborne because as a juror, I have not been able to participate fully in the trial process.

STATEMENT OF SENATOR MATSUNAGA IN CLOSED SESSION

Mr. BYRD. Mr. President, I ask this at Mr. MATSUNAGA'S request. I ask unanimous consent that his statement made during the closed session anent the impeachment of Judge Harry Claiborne appear in the RECORD of today.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MATSUNAGA DURING CLOSED SESSION ON THE IMPEACHMENT OF JUDGE CLAIBORNE

Mr. MATSUNAGA. Mr. President, I sat here listening to the arguments presented on both sides. I came here unprepared to vote either way. As one who served as a public prosecutor back home for 2½ years and subsequently who served as defense counsel in criminal cases, as well, I came here fully prepared to listen to the evidence, read whatever evidence was presented to the committee of 12, and to make up my mind only after all the evidence has been in.

This is my first experience serving as a juror. What disturbs me most, after listening to what has been said on this floor, is

that members of the panel have indicated that they are prepared to find the respondent guilty on article III simply because the respondent was found guilty in a court of law. Now, that violates our basic tenet, our basic concept of three separate and independent branches of Government.

We must serve as a check on the other two branches of Government. That is what the three independent branches of Government were set up for, as checks and balances. And we will have destroyed that by ruling or by deciding on article III. We should completely disregard article III and proceed, if we must, on articles I, II, and IV. And I urge my colleagues not to take article III into consideration at all.

Now, we have this difficulty also: Supposing the respondent's petition for trial de novo is granted and suppose, also, that he is then found not guilty. Had we proceeded to impeach him on article III, where are we then?

So I urge my colleagues, do not proceed on the basis of article III. If you need to go, go on articles I, II, and IV, and that is what I intend to do. I am prepared to proceed on articles I, II, and IV, although I am not prepared yet at this time to determine, to declare, whether I find him guilty or not guilty. I will wait until all the arguments have been made and I have listened to the arguments and I have satisfied myself that without a doubt I am making the right decision.

STATEMENT OF SENATOR MITCHELL ON IMPEACHMENT

Mr. MITCHELL. Mr. President, it is my understanding that by unanimous consent permission has been granted to Members of the Senate to have printed in the RECORD statements made during the closed debate on the impeachment of Judge Claiborne.

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Mr. President, pursuant to that understanding, I ask unanimous consent that the full text of the statement that I made during debate on the Articles of Impeachment on yesterday Thursday, October 9, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MITCHELL ON IMPEACHMENT

Mr. MITCHELL. Mr. President, I think it is important that as we vote on the Articles of Impeachment that we first have clearly in mind what impeachment is and what it is not. Simply put, all that conviction on impeachment means is removal from Federal office. It does not take the place of a judicial proceeding, nor does it preclude a judicial proceeding. Impeachment is a political action in the sense that it is the only means by which certain high Federal officials may be removed from office.

It is essentially a discipline. The impeachment authority is limited. It has great moral force which it gains from its rarity, not from it severity.

So all we are talking about is whether or not Judge Claiborne will be removed from his office as a Federal judge. We have no power other than that.

The question then is whether or not the Articles of Impeachment presented by the House constitute an adequate ground on which to remove Judge Claiborne from office.

The record in this case, which includes the testimony of witnesses called by Judge Claiborne in a lengthy proceeding before the special committee, is available to every Member of the Senate, both in printed form and on video. An examination of that record reveals to me that Judge Claiborne has presented no substantial evidence to cast doubt upon the case against him.

The facts have been so extensively discussed here during this debate that I will not repeat them in detail. I will focus instead just on the one year of 1980 when Judge Claiborne received his judicial salary of $54,000, plus fee income of over $87,000, plus a taxable gain on the sale of his home in excess of $214,000. He was told, and he has admitted that he was told, that he faced a tax liability of over $97,000 for that year. He signed and filed an application to extend the time for filing his tax return in which he estimated that his tax liability would be almost $44,000. Yet, a few weeks later he signed a tax return and paid a tax of $1,103.

Members of the Senate, every American jury hearing a criminal case is instructed by the trial judge not to leave their common sense outside the courtroom when they enter it. And I urge the Members of the Senate not to leave their common sense outside this Senate Chamber when they consider this case.

Here was a man, a lawyer, a skilled trial lawyer, a skilled tax trial lawyer, a Federal judge who had presided over tax trials, who had instructed juries on what the tax laws mean, having income well in excess of $300,000, having been told that his tax liability would be about $97,000, having filed an application for an extension of time in which he said he expected his tax liability to be $44,000, and then he filed a tax return and paid a tax of $1,103. Leave aside every other aspect of your judgment other than common sense, and ask yourselves whether or not that does not constitute willful violation of the tax laws of this country.

There has been a lot of talk here about wilfullness as though somehow the Members of the Senate expect some evidence to come forth from the judge himself establishing his willfulness.

But I say to you that willfulness is an element in virtually every criminal trial. It is proven by circumstantial evidence. It is inferred from other facts.

I think what we have had here is a clear case and nothing in the record justifies our reversing the conclusion of the juries which tried and convicted Judge Claiborne. He has not rebutted the charges against him, even though he had ample opportunities to do so.

In their presentation in this Senate Chamber, the House managers were explicit in setting forth the charges against Judge Claiborne. He spoke after them. He could have responded to their charges. He chose not to do so.

The issue here is not whether there is hostility toward Judge Claiborne in the Justice Department or the strike force. I favor an investigation by an appropriate committee. But that is not the issue. What is at issue is whether or not Judge Claiborne violated the criminal laws of this country when he signed and filed his tax returns in 1979 and 1980. To me, the answer is as clear as it is regrettable.

I am convinced that Judge Harry Claiborne knowingly and willfully committed the crimes for which he was convicted.

Let me say, those are the most difficult words I have had to speak since entering the Senate. The proudest moment of my life was when I was sworn in as a Federal Judge. It is an honor that is difficult to put into words. But with that honor comes a commensurate responsibility. Those persons who are invested with the awesome power to pass judgments on their fellow citizens must themselves adhere to the highest standards. Otherwise, public respect and support for our judicial system will collapse.

I was and I am proud of my association with Federal judges.

I never met Judge Clairborne, but I want to say that I began these proceedings with a considerable amount of sympathy for him. But that sympathy has given way to the facts, and to me the facts are clear.

We have heard the argument that he was entitled to an audit. There is no such right. That is not the issue.

The issue is whether the proper payment of taxes due under the laws of this country is an obligation of all citizens, including Federal judges, and whether the failure to fulfill that obligation constitutes a sufficient basis to remove a judge from office.

Many people have said taxes are the price we pay for civilization. I say Government financed by taxes is the price we pay for civilization. Without government, society could not function. Without Government, every individual, every family, would exist in a state that would be at best chaotic and most brutal. Many of the functions of Government are questionable. Most are controversial. We spend much time in this Senate debating what our Government should or should not do. But the most fundamental function of Government, the one on which there is no disagreement, is that Government must administer justice in our society.

Our courts are the means by which justice is administered in this country, and the individuals presiding have an obligation to fulfill that function which is the most minimally essential to an ordered life, the upholding of the law. In American life, law owes its authority almost entirely to its intergrity. If that integrity is gone, so is the law.

A convicted felon simply cannot sit as a Federal judge. I repeat that, a convicted felon cannot be permitted to sit as a Federal judge. It would totally undermine respect for law and authority in our country.

We simply have to recognize that and do what we must do. It is a very, very difficult vote. It is a very difficult thing for me, a former Federal judge, to say these words about another Federal judge. But when we entered the Senate, we swore an oath to do our duty, and hard as it may be, unpleasant as it may be, that is our duty.

I urge the Members of the Senate to vote for conviction of impeachment. The record is clear. I believe the judge is guilty of the crimes for which he has been convicted, and for the respect that our Nation must maintain for the judicial branch of Government he must be removed from office by this Senate. I thank the Chair.

Mr. BYRD. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1700

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if any Senator wishes the floor, I will be happy to yield the floor at any time for any Senator or for transaction of business.

EVERETT DIRKSEN'S SENATE

Mr. BYRD. Mr. President, I have over the course of the last 6½ years been making a series of statements on the subject of the United States Senate. Today, I speak on the subject of Everett Dirksen's Senate.

Mr. President, the poet Carl Sandburg once described the Rotunda of the United States Capitol as being located "midway between the House and Senate chambers, midway between those seats and aisles of heartbreak and passion." Beginning with the visit of the Marquis de Lafayette in 1824, the Rotunda has served as a place in which we as a nation pay tribute to our heroes. Senator Henry Clay, in 1852, became the first person to lie in state there. He was followed in 1865 by Abraham Lincoln. Since Lincoln's time, eight presidents, from James Garfield to Lyndon Johnson, have lain in state on that hallowed site. Among the men and women whose highest public office has been the Senate of the United States, only six of more than 1,768 have been so honored. In addition to Henry Clay, they include Charles Sumner, John Logan, Robert Taft, Hubert Humphrey, and the senator who is the subject of my remarks today—Everett McKinley Dirksen.

In my previous addresses on the history of the Senate, I have given special attention to those senators who have, in their own way and in their own eras, virtually personified this institution in the eyes of the American public. For the twentieth century those individuals have included party leaders such as Joe Robinson, Alben Barkley, Lyndon Johnson, and Mike Mansfield—on the Democratic side of the aisle. On the Republican side, I have discussed Nelson Aldrich, Henry Cabot Lodge, Sr., Charles Curtis, Arthur Vandenberg, and Robert A. Taft, Sr., among others.

Everett Dirksen, like Robert Taft before him, was widely referred to as "Mr. Republican." Each, in his time, could also have been called "Mr. Senate." During his eleven years as his party's Senate Leader, from 1959 to 1969, Dirksen became more closely identified in the public mind with the Senate than any other member of the era. It is safe to say that today he is among the most remembered former senators of this century.

He was a creative political craftsman. He possessed a razor-sharp mind and a masterful sense of timing. He adopted a sometimes-clowning but always-theatrical style, partly to mask his intentions and partly for the pure fun of it. Such was the case in his perennial campaign to make the marigold the national flower. He gave expression to his wide knowledge of the world's great literature including the Bible and Shakespeare with a voice that he played like a cathedral organ. As to the organ metaphor, one reporter observed, "He could draw out the stops and declaim like a thundering prophet. And in the next breath his voice could drop to the softest whisper and he would let his audience hang on his every word." [1] Dirksen's mellifluous oratory moved his admirers to label him "the Golden Voice of the Senate." His detractors less charitably offered "Old Honey Tonsils", "the Wizard of Ooze", "Oleaginous Ev", and "Irksome Dirksen."

Everett McKinley Dirksen was born on January 4, 1896, in the small farming town of Pekin, Illinois. His parents came to the United States from northern Germany in the 1870's. His father, a modestly prosperous painter and decorator, was a staunch member of the Republican party. In 1894, he named his eldest son after the then most recent former Republican president, Benjamin Harrison. When twin sons arrived two years later, he gave to one the name of Republican House Speaker Thomas B. Reed. The other, Everett, took a middle name in honor of Republican presidential candidate William McKinley. Sadly, the elder Dirksen suffered a paralyzing stroke when Everett was only five and died fours years later.

Under these trying circumstances, Everett and his brothers had to work doubly hard to help the family survive. His mother cultivated within him a deep religious faith. The voice training he received in his church choir built the oratorical power that served him so well in later years. He became an avid reader and a resourceful debater. While a high school senior he met Secretary of State William Jennings Bryan. The three-time Democratic presidential candidate, whose electrifying 1896 "Cross of Gold" speech had made him the nation's best-known orator, counseled Dirksen, "Always speak to the back rows, my boy, and the rest will be sure to hear you." In the years ahead Dirksen would work hard to develop a booming outdoor voice. He learned to size up an audience quickly and to use humor and appropriate anecdotes to great effect.[2]

Upon graduation from high school, Dirksen worked for a year at a local corn refining company and then entered the University of Minnesota, supporting himself with a variety of part-time jobs. The 1916 presidential campaign of Charles Evans Hughes nourished Dirksen's love of politics and drew him into the public arena as a campaign organizer and speech maker. In April 1917, when the United States entered World War I, Dirksen set aside the college life and enlisted in the Army. Early in 1918, he was shipped to France where he earned a commission as an artillery officer. Assigned to a company of spotter balloons, the young lieutenant survived enemy gunfire directed at his balloon perch more than a half-mile above the ground.

At war's end, Dirksen traveled throughout Europe and then returned to Pekin. Abandoning his college studies, he eventually joined his brothers in running a wholesale bakery. The long hours failed to sap Dirksen's limitless energy. During those years he directed his creativity toward writing and the theater. He wrote five novels as well as dozens of short stories and plays. His writing experience proved useful. As journalist Neil MacNeil has observed in his excellent biography, Dirksen was "learning how to handle language, how to create effects with words, how to manipulate the audience."[3]

In 1926, at the age of thirty, Dirksen entered elective politics, winning a seat on the Pekin Town Commission. As an active and visible member of the American Legion, he became a popular public speaker. By 1930, Dirksen felt he was ready to achieve his greatest political goal, a seat in the U.S. House of Representatives. Later he observed, "The ambition to sit in Congress is probably similar to the 'flu'—everybody gets it at some time or another. While it had been lurking in my system like some deadly virus, it did not become virulent until 1930." [4] Although he lost that year's Republican primary to a well-funded and entrenched incumbent, he defeated the same opponent two years later.

As Dirksen prepared for the 1932 general election, he realized that he would need considerable Democratic support. "How", he thought, "could one successfully apologize for Republican leadership when the nation was bleeding from the wounds of the Depression? Shrewdly, Dirksen avoided a partisan approach and carefully identifed himself with the legacy of Democratic President Woodrow Wilson. When President Hoover made a campaign appearance in nearby Peoria, Dirksen realized that if he praised the unpopular chief executive, his own election chances would be doomed. Appearing on the same platform, Dirksen in his address ignored the president and focused instead on George Washington, whose bicentennial the nation was then celebrating. In November, both Republican Everett Dirksen and

Democrat Franklin Roosevelt carried his district with comparable huge majorities.

When Dirksen began his House service in March 1933, Depression-weary voters had reduced his party in that chamber to a hopeless minority. Democrats outnumbered Republicans by a margin of 310 to 117. Over the next four years Republican ranks would suffer an even greater erosion as their numbers dropped to 103 in 1935 and 89 in 1937. With his customary wit, Dirksen observed, "Any member of the minority who essays to speak on any administration measure must feel a great deal like the fellow who was in jail and who, as he saw a buddy going along, called and said, 'Hey, partner, what time is it?' He said, 'What do you care? You are not going anywhere!' So", Dirksen concluded, "we of the minority know we are not going anywhere." [5] Nonetheless, Dirksen intended to be an active and constructive member. He boldly requested committee assignments on the powerful Appropriations, Ways and Means, and Commerce panels. Party leaders rebuked this upstart with assignments to the committees on Territories, Immigration, and the District of Columbia! Only in 1937, with fewer members to fill Republican committee slots, did Dirksen finally land a choice assignment on the Appropriations Committee.

Dirksen soon associated himself with the moderate political views and the pragmatic style of Massachusetts' Joseph Martin, an assistant minority leader. Martin counseled his protege to "Perfect yourself in committee work, and in due course you'll start up the ladder. Study the rules. Those who know the rules know how to operate in the House, because you operate under the rules." [6] Dirksen took this advice seriously. He spent countless hours reading the House rule book and the multi-volume edition of Asher Hinds' *Precedents of the House of Representatives.* With the same diligence, Dirksen took an intensive course in preparation for the bar examination, which he passed in 1936. Although he had no intention of practicing law, he welcomed the prestige among his House peers that membership in the bar offered.

During his early years in the House Dirksen displayed an independence that irritated old guard party leaders. He supported some domestic New Deal programs such as the Agricultural Adjustment Act and the Social Security Act, while opposing the Tennessee Valley Authority and the Securities and Exchange Act. In foreign policy, he executed a dramatic and courageous shift in September 1941. Just months before the attack on Pearl Harbor, Dirksen reversed his isolationist opposition to the draft and aid to Great Britain in favor of a strong internationalism. He remained a vigorous and effective exponent of these views, unpopular with many midwestern Republicans, until he left the House seven years later.

In 1943, *Fortune* magazine selected Everett Dirksen as the subject for a major article entitled "Congressman: A Case History—A Report on How Congress Works and How It Might be Made to Work Better." Late in 1942, Dirksen had launched an attack on Congress' increasing inability to operate on a level of equality with the Roosevelt White House. Lacking sufficient funding and staff resources, Congress was becoming a decidedly secondary institution within the Federal Government. *Fortune*'s reporter saw in the Illinois Representative an example of a "quick-learning, quick-thinking, quick-acting" member who "has found that he can get through his work only by taking almost no time out from it except for sleep." [7] Dirksen contributed greatly to the success of the resulting landmark congressional reform measure, of which I have spoken on numerous occasions, the 1946 Legislative Reorganization Act.

By the end of World War II, Dirksen had risen to a prominent position within the national Republican party. In 1944, he conducted a brief campaign for the presidency, in the hope of securing a vice presidential bid. An August 1946 poll of House members by *Pageant* magazine rated Dirksen as that body's most effective speaker and its second "ablest member." [8] When the Republicans took control of the House in 1947 for the first time in sixteen years, Dirksen became chairman of the District of Columbia Committee and the Appropriations Subcommittee on Agriculture.

Just as Everett Dirksen seemed to be reaching the highest rungs of the political ladder, illness struck. Late in 1947, he experienced a clouding in the vision of his right eye. Doctors advised him that he was suffering a degeneration of the retina, possibly caused by cancer. They recommended removal, but after "weeping and praying" he decided against it. The eye required extensive rest, so in January 1948 the Illinois representative announced his intention to retire at year's end.

As a Member of this body, I can remember Everett Dirksen speaking of that eye which he had been told by the doctors was going blind. I can remember how he spoke of his concerns and worries, his prayers.

Fortunately for Dirksen, his vision returned to normal within several months. Restored and restless, he decided to achieve a new goal—a seat in the United States Senate. Over the next twenty-one months he traveled a quarter of a million miles and delivered two thousand speeches in a vigorous campaign against Senate Majority Leader Scott Lucas. Although Lucas had the benefit of his senior status within the Democratic Party, his duties as majority leader kept him in Washington while Dirksen visited virtually every crossroads hamlet in Illinois. Lucas' Democratic Senate colleague Estes Kefauver only made things worse when he decided that his investigating committee should look into an emerging political scandal involving associates of the Illinois senator. When a Chicago newspaper obtained and published secret committee testimony, days before the election, Lucas' already shaky reelection chances were doomed. Everett Dirksen swept to victory and won immediate national prominence as the man who defeated the Senate's majority leader. [9]

The Senate that Everett Dirksen joined in January 1951 was ideally suited to his newly found conservative political views. In 1949, he had experienced a change of heart and a disaffection from the Republican Party's internationalist wing. No longer a supporter of such ventures as the Marshall Plan, he moved comfortably into the orbit of Senate party chieftian Robert Taft. In an unusual gesture of confidence toward a freshman senator, Taft appointed Dirksen chairman of the Republican Senatorial Campaign Committee.

Then during the summer of Dirksen's first year in the Senate, his daughter Joy, his beloved only child, arrived at the family's summer cottage with a young lawyer whom she had been dating. That lawyer, Howard Baker, Jr., asked the senator to take a walk with him along the beach. As Neil MacNeil tells the story, Baker explained that he and Joy wished to get married. "I didn't ask him," Baker said. "I told him!" Baker later told MacNeil, "He was the most formidable character I'd ever met. He was pretty deeply moved. I'm sure he knew. He listened. He listened, and I ran out of things to say." [10] It is just like Howard Baker to say that. Happily, that marriage took place. Joy Dirksen Baker, in addition to her own accomplishments, would one day secure a unique distinction in the annals of Senate history as the daughter and the wife of Republican floor leaders.

Dirksen worked hard for Robert Taft's nomination during the 1952 presidential campaign. His party's eastern internationalist bloc, whose members advocated Dwight Eisenhower's election, bitterly opposed the Taft forces. At the Republican convention Dirksen delivered the most dramatic and well publicized speech of his entire life, in a last ditch effort to secure the nomination for Taft. Before a national televison audience, Dirksen berated the liberal wing of his party for its habit of winning conventions and losing elections. He reminded his

listeners that he had compaigned vigorously for the internationalist Thomas Dewey in 1944 and 1948. He then glowered down from the podium at Dewey. In a moment of high drama, he shook his finger at the former party standard bearer. "We followed you before," Dirksen cried out, "and you took us down the path to defeat!"

I can just see him, with his unruly hair and speaking with all the force within that great body and with that voice. I have never heard a voice before or since like Dirksen's. In my 34 years in the House and Senate of the United States, plus 6 years in both Houses of the West Virginia Legislature, the two Members whom I most lovingly recall as being the most captivating speakers were Martin Dies of Texas and Everett Dirksen of Illinois.

The convention exploded in anger and turmoil. But Eisenhower delegates gained control and carried the nomination, thus crushing Dirksen's hopes for a vice presidential place on the Taft ticket.[11]

For the remainder of the 1952 campaign, Dirksen worked hard for the election of Republican candidates to the Senate. His effort and Eisenhower's coattails paid off in November. Republicans regained control of the Senate by a slim 48-47 margin, with Oregon's Wayne Morse, a newly declared Independent, voting with the Republicans on organizational matters. Although the Democrats resumed control two years later, the Senate during the 1950's prior to 1959 operated with nearly even party ratios. I have already described those years in previous addresses in this series. I shall not repeat the familiar story here, except to note that Dirksen underwent a shift of political orientation in 1955 reminiscent of his 1950 shift away from his party's international wing. The years 1953-1954 marked a decidedly unhappy chapter in Dirksen's public career. His support of Joseph McCarthy and of the Bricker Amendment to limit the President's treaty powers deepened his estrangement from the Eisenhower White House.

In 1955, Dirksen began to mend fences with the Eisenhower administration. The following year he led a campaign to enact the administration's civil rights bill. Throughout 1956, Dirksen supported the president, frequently at the risk of his standing with his party's conservative Senate hierarchy. Eisenhower repaid this kindness by actively supporting Dirksen's reelection bid. On election day, the president carried Illinois by a landslide and contributed significantly to Dirksen's own victory.

At the start of the Senate's 1957 session, the departure of key Republican conservatives opened several party leadership posts. Republican Leader William Knowland had made up his mind to leave the Senate in 1958 to run for governor of California. He and Policy Committee chairman Styles Bridges feared that Republican Whip Leverett Saltonstall, a prominent member of the party's liberal-internationalist bloc, would advance to the floor leader's position in 1959. Consequently, they convinced Saltonstall, who was unaware of Knowland's plans, to give up the whip's post to become chairman of the Republican Conference. This opened that position for Dirksen, who enjoyed the trust of his conservative and moderate Republican colleagues.

The election of 1958, as I have previously described, brought to the Senate new faces—my own, being one—and new methods of operation. In 1959, as Democrats outnumbered Republicans by a margin of nearly two to one, Everett Dirksen was elected minority leader. In the previous Congress, he had served as acting floor leader during Knowland's frequent absences. In so doing, he developed a particularly close relation with Eisenhower, who was happy to be freed of the inept and cumbersome Knowland.

William Knowland, as Republican Leader, had alienated, rather than drawn together, his party's antagonistic factions. With Dirksen likely to move up to that post, party liberals in 1958 had proposed a modification in the system of committee assignments. That system had worked well for the Democrats since 1953 when Democratic Leader Lyndon Johnson devised it to allow junior members their choice of one major committee assignment before senior senators could make their second selection. Republican Senators Jacob Javits and George Aiken convinced Dirksen that such a system would help restore cohesion for their party as well. The catastrophic election results for the Republicans in November 1958 allowed Dirksen to implement this plan with relative ease. Having lost thirteen seats, the Senate's Republican contingent included only thirty-four members at the start of the 1959 session. With these greatly reduced numbers, it would be less difficult to find attractive assignments.

As the session began, Dirksen faced a threatened split between his party's reduced conservative ranks and its increasingly emboldened moderate-liberal wing. With party elder Styles Bridges, he agreed to support California's Thomas Kuchel, of the liberal faction, for the post of minority whip. Along with President Eisenhower's obvious support for Dirksen, this allowed him to turn back a challenge by Kentucky's John Sherman Cooper. He further strengthened his hold on the allegiance of junior Senator Republicans by yielding his own cherished seat on the Appropriations Committee to open a place for Colorado Republican Gordon Allott. Two years later, he gave up another of his prized assignments to allow Texas' John Tower a seat on the Labor and Public Welfare Committee.

By the time Everett Dirksen settled into his duties as Republican Leader, he had undergone a political and personal reorientation. He abandoned his aspirations for the presidency and channeled his ambition along a new course within the Senate. Instead of seeing the Senate as a path to higher office, he had come to view the Senate as an end in itself. Neil MacNeil has aptly characterized the transformation.

> This is a mystic phenomenon that in time shapes the understanding of some senators, but not of all senators, by any means. Those who are struck by the mystique of the Senate come to believe that service in the Senate is an ennobling experience and that service to the Senate is a calling worthy of selfless devotion. Those who sense the Senate in this wise traditionally have been men who have found in the Senate the summit of their own political careers, and Dirksen was now becoming one of them. He was beginning to find meaning in the office of senator that he had not found before, and to take his place with such Senate stalwarts as Richard Russell of Georgia and John Stennis of Mississippi. They believed in the Senate with a reverence that approached religious intensity.[12]

Dirksen adopted an activist leadership style. An artful persuader, he worked tirelessly to unite his party and to boost its morale in the face of the two-to-one Democratic majority. New Hampshire Republican Norris Cotton considered Dirksen a "gifted" political leader. He believed that the Illinois senator "was endowed by nature with more talents than almost any man I have ever known."[13] Dirksen hosted luncheons for party members on Mondays following the weekly Republican leaders' meeting at the White House. He arranged cocktail parties and formal dinners for Republican senators and their spouses. Unlike his predecessors, Dirksen went out of his way to cultivate the press, supplying reporters with reliable background information. He also instituted weekly news conferences following the Monday luncheons. The *New York Times* suspended its earlier disdain for Dirksen, noting that "It began to occur to everyone * * * that he was probably the most effective leader the Republicans had had in the Senate for years."

Everett Dirksen and Lyndon Johnson, as their parties' leaders during the 1959-1960 sessions, became warm personal friends. They trusted each other completely. Each man realized that the other had a necessary political role to play. But both went out of their way to keep channels of communication open. After the Senate completed its work for the day, one leader would customarily head for the other's

private capitol office for drinks and relaxed conversation. At the end of the 1959 session, Johnson wrote to his Republican counterpart, "Of the leaders with whom I have served, there have been none who can wield the partisan stiletto with quite the gusto and zest that you do. But even though the stiletto cuts deep, it never stings."[14]

Dirksen explained this relationship as follows. "The Senate is a public institution; it must work; it's a two-way street; and that requires the efforts of both parties. One party can not do it on its own because if the opposition, or minority party, wanted to be completely obstructionist, you could tie up the Senate in a minute, even with a handful of people. So we fully understood each other, that's how it had to be." [15]

The election of 1960 greatly reshaped Dirksen's Senate role. For his first two years as floor leader, he had acted as Eisenhower's faithful lieutenant. Now, with the White House in John Kennedy's Democratic hands, the Illinois senator took on to a more assertive and independent position. With House Republican leader Charles Halleck, Dirksen became his party's principal Washington spokesman. In international affairs, he supported the Kennedy administration. This was particularly evident during the 1961 Bay of Pigs fiasco and the Cuban missile crisis that followed a year later. On domestic policy matters, however, Dirksen worked to block or reshape much of the new president's ambitious "New Frontier" program. He observed that the 1962 "State of the Union" address looked "like a Sears Roebuck catalog with all the old prices marked up." [16]

By 1962, his weekly press conferences with Representative Halleck—the "Ev and Charlie Show"—had made Dirksen a national celebrity. Increasingly the public associated his stylized oratory with the very institution that served as his platform. *Time* magazine captured the Dirksen manner:

> He speaks and the words emerge in a soft, sepulchral baritone. They undulate in measured phrases, expire in breathless wisps. He fills his lungs and blows word rings like smoke. The sentences curl upward. They chase each other around the room in dreamy images of Steamboat Gothic. Now he conjures moods of mirth, now of sorrow. He rolls his bright blue eyes heavenward. In funereal tones, he paraphrases the Bible and church bells peal. "Motherhood," he whispers, and grown men weep. "The Flag!" he bugles, and everybody salutes.[17]

Some close observers of the Senate in the mid-1960's contend that Dirksen was its single most powerful member. I believe that, Mr. President. I served in the Senate at that time and I think that I would join my voice with those who say and who said that he was the single most powerful Member. That debate remains to be settled, but the reasons advanced by its proponents are worth examining. They argue that traditional power alignments were disrupted by the low-key, non-directive style of Mike Mansfield. They point to the rise of a new liberal-moderate coalition from northern and midwestern states that undercut the power base of the previously dominant conservative coalition from the South and West. The death of Oklahoma's Robert Kerr, the man Paul Douglas of Illinois derisively called the "Uncrowned King of the Senate," removed a strong, and some say ruthless, contender for power within this body.

In his 1962 campaign, Dirksen recognized that the White House and the Senate's Democratic leadership quietly hoped he would be reelected. As Senator Paul Douglas later observed, the Democrats "apparently wanted to appease, rather than oppose." Earlier that year, Douglas had tried to find a credible Democratic candidate to challenge the seemingly invincible Republican leader.

Among those to whom he turned was a young State legislator named Paul Simon, who now sits over to my left in this Chamber, whom he, Dirksen, considered "brilliant and honorable."

Simon wisely decided to wait and Dirksen defeated Representative Sidney Yates.[18]

Into that relative power vacuum moved Everett Dirksen with his appreciation for the Senate's tradition of unlimited debate. During Dirksen's years as floor leader, until 1969, there were never more than thirty-six Republicans in the Senate. Not surprisingly, he resisted efforts to reduce the number of votes required to cut off debate. He declared, "If I read my history correctly, past and present, whenever the freedom of a parliamentary body is impaired, we go down the road to tyranny. Show me any place in the world where a parliamentary body and its freedoms are impaired, and I will show you an instance of freedom in retreat." [19]

Mr. President, one of Everett Dirksen's greatest assets as a statesman was his ability to change his position on major issues. He did not compromise his convictions but he could change his position on the issues as the shifting sands of facts change. Some critics dismissed this characteristic as a sign of political opportunism, calling him "Mr. Flip Flop" and "the Grand Old Chameleon." Those of us who viewed the man at closer range, during his Senate years, recognized the more positive qualities of courage and political sagacity. In my earlier addresses on the Senate of the 1960's, I have discussed the two issues in which Dirksen's shift from opposition to support accomplished the passage of major legislation.

I shall only mention here the 1963 Limited Nuclear Test Ban Treaty and the 1964 Civil Rights Act. For his support of the test ban treaty, he extracted a promise from President Kennedy that the government would not slacken its weapons development program after the treaty was approved. For the civil rights legislation, he masterfully maneuvered to provide the votes necessary to end a civil rights filibuster for the first time in the Senate's history. Before that vote, he told a hushed chamber, "The time has come for equality in sharing in government and education, and in employment. It will not be stayed or denied. It is here." When the Senate approved the cloture motion on June 10, 1964, Dirksen stood at the pinnacle of his political power in the Senate.

For the remainder of his time in the Senate, Dirksen continued as an effective and responsible leader of his party's minority. On one hand, he actively supported Lyndon Johnson's conduct of the war in Vietnam. He saw that struggle as a clear-cut matter of defending the right of self determination for the South Vietnamese. Ultimately, his determined support of the President cost him a large measure of influence over Senate Republicans. On the domestic front, Dirksen pressed with equal vigor for constitutional amendments to overturn Supreme Court rulings on prayer in public schools and upholding equal representation within State legislatures. He also took on a spirited defense, against heavy labor lobbying, of the Taft-Hartley Act's Section 14(b), which banned union shops.

By 1967, time and health problems began to catch up with Everett Dirksen. In the late 1950's he had suffered a heart attack without knowing it. An enlarged and weakened heart caused him great physical distress over the final decade of his life. A fairly large man with seemingly unlimited energy, Dirksen drove himself at an ever-increasing pace. His legislative prowess and his inimitable style kept him constantly within the spotlight of national attention. He received hundreds of speaking invitations each month. His record album, *Gallant Men*, intensified his public appeal. In 1968, he starred as the grand marshal in the Tournament of Roses parade. In a desperate effort to regain a measure of privacy, he ordered the sign bearing his name removed from the door of his Capitol office, hoping thus to discourage swarms of tourists who regularly wandered in.

For a time the Senate Republican Leader frequently checked in and out of Walter Reed Army Hospital, suffering from acute exhaustion as well as emphysema and stomach disorders. In 1967, he said, "I've been trying for four years to get a vacation. If I don't get one pretty soon, something is going to happen to me." [20] Shortly

afterwards, he was admitted to the hospital with infectious pneumonia so severe that it nearly killed him. At that point he relied increasingly on trusted aides such as John and Glee Gomien and Oliver Dompierre to lighten his heavy burdens.

On August 19, 1969, the 73-year-old senator once again checked in Walter Reed Hospital. There doctors discovered an enlargement of a previously identified tumor on his right lung. Bravely, Dirksen underwent surgery, realizing his chances for survival were, at best, limited. While recovering, on September 7, 1969, he suffered a fatal heart attack.

Speaking at the memorial service at the Capitol Rotunda two days later, Senator Howard Baker aptly compared Dirksen to Abraham Lincoln. He said, "Both men understood with singular clarity that a great and diverse people do not speak with a single voice and that adherence to rigid ideology leaves little room for compromise and response to change." [21] Shortly afterwards, I expressed to the Senate my own feeling that Dirksen's loss was as if a "pillar had been torn away, a pillar that furnished /the Senate/ with central strength and stability, fashioned with grace and elegance and skill." [22]

□ 1800

Mr. President, the jury of historical opinion still deliberates the rightful place of Everett Dirksen. As with other powerful public figures, the Illinois senator has had his ardent defenders and his bitter critics. His congressional service—sixteen years in the House and nineteen in the Senate—spanned an era justly called "the most creative legislative period in the history of the United States." [23] He spent all but four years of that time in the minority party. Although thus cast in the opposition, Dirksen took what Neil MacNeil describes as a "creative and activist's role" in the legislative process. Another perceptive journalist concluded, "Combining Taft's legislative craftsmanship and Johnson's ability to amass Senate votes, Dirksen was the complete senator of the postwar era." [24]

Today, we are surrounded by Dirksen's memorials. In 1972, we named what was then called the "New Senate Office Building" the "Everett McKinley Dirksen Senate Office Building." Three years later, the Everett McKinley Dirksen Congressional Leadership Research Center opened in Pekin, Illinois. This center is intended "to serve as an educational institution for the art and science of American politics and American government /and/ in particular /for/ the role of United States Congressional Leadership." [25] In 1978, Congress appropriated $2.5 million to support the center's programs. These programs include stipends for scholarly research, conferences on congressional leadership, exhibitions, and an annual award for the distinguished reporting of Congress. The winners of the Dirksen Awards, since its inception in 1981, have been Neil MacNeil of *Time* magazine, David Rogers, then of the *Boston Globe*, Martin Tolchin of the *New York Times*, Allen Ehrenhalt of *Congressional Quarterly*, Helen Dewar of the *Washington Post*, and Steven Roberts of the *New York Times*.

Mr. President, as we seek to draw meaning from Everett Dirksen's example as a Senator, a congressional leader, and an American, we would do well to remember a statement that he might have intended as his guiding philosophy. He said, "Life is a matter of development or decay. You can either grow or you can retrogress. There's no standing still. You go backward or forward. The challenge will make you grow, if you are willing to assert a *leadership* and look on the challenge as something to be met and disposed of." [26]

Mr. President, as I remember Everett Dirksen, I remember him as a gentleman, one who was the most erudite and learned, an extremely gifted man, a man who more than any other I have ever seen in this Chamber had the facility for expressing every move and for captivating not only the attention but the heart of every listener. He spoke with feeling, as I have already indicated, with a voice that I never heard before, and that mood could flow from the most passionate, the most stentorian, to the most slightest wisp of a whisper.

I will also remember Everett Dirksen as a man who was not too big to know you, as one who could take a moment out of his busy life and laugh with you, always with a gentle smile, with a sparkle in his eye. And he will always be my favorite Republican Senator.

Mr. President, I ask unaimous consent to insert in the RECORD notes to Everett Dirksen's Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTES TO "EVERETT DIRKSEN'S SENATE"

[1] *Washington Post*, September 8, 1969.

[2] Neil MacNeil, *Dirksen: Portrait of a Public Man* (New York, 1970), 22-28; Edward L. Schapsmeier and Frederick Schapsmeier, *Dirksen of Illinois: Senatorial Statesman* (Urbana, 1985), 3-7.

[3] MacNeil, 31.

[4] Everett M. Dirksen, "Mr. Dirksen (R) Goes to Congress," in *New Outlook*, (March 1933), 23.

[5] MacNeil, 49.

[6] Ibid., 52.

[7] "Congressman: A Case History," *Fortune*, (April 1943), reprinted in *Congressional Record*, 78th Congress, 1st sess. A2346-49.

[8] *Pageant* (August 1946).

[9] Edward L. Schapsmeier and Frederick H. Schapsmeier, "Scott Lucas of Havana: His Rise and Fall as Majority Leader in the United States Senate," in the *Journal of the Illinois State Historical Society* 70 (November 1977), 317-20; Schapsmeier and Schapsmeier, *Dirksen of Illinois*, 61-64.

[10] MacNeil, 98.

[11] Ibid., 103-105.

[12] Ibid., 156.

[13] Norris Cotton, *In the Senate: Amidst the Conflict and the Turmoil* (New York, 1978), 169.

[14] Schapsmeier and Schapsmeier, *Dirksen of Illinois*, 120.

[15] Ibid., 151.

[16] MacNeil, 195.

[17] Ibid., 202.

[18] Paul H. Douglas, *In the Fullness of Time* (New York, 1972), 572-75.

[19] MacNeil, 214.

[20] Ibid., 307.

[21] *Memorial Services . . . Everett McKinley Dirksen*, 91st Congress, 1st sess, (1970), 13.

[22] "*Congressional Record*, 91st Congress, 1st sess., 32131.

[23] MacNeil, 2.

[24] Robert Novak, "Ev Dirksen: The Compleat Senator," *New York Times Book Review* (1970).

[25] Senate Report #95-706, 5.

[26] Dirksen Center promotional pamphlet in files of the Senate Historical Office.

Mr. BYRD. Mr. President, sometime ago, on September 8, 1986, I delivered an address on "Mike Mansfield's Senate: The Great Society Years," as part of my continuing series on the history of the U.S. Senate. My good friend, Senator TED KENNEDY, has provided me with some additional information on the enactment of the 26th amendment, which gave the right to vote to 18-year-olds. This material elaborates on the contributions of other Senators to the amendment, and on the effect of the Supreme Court's decisions on the legislative strategies involved. I certainly appreciate Senator KENNEDY's attention to this matter, and I would like to incorporate his suggestions into the final version of my history, which will be published in commemoration of the Senate's bicentennial.

Mr. President, I ask unanimous consent to include this information in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

For his own part, Senator Mansfield willingly conceded the spotlight and shared the credit for these accomplishments with his colleagues. When asked by the press about his proudest accomplishments, the bill that he delighted in citing was not one of the monumental Great Society laws, but the Twenty-Sixth Amendment to the Constitution, ratified in 1971, which gave eighteen-year-olds the right to vote. Senator Jennings Randolph had been advocating such an amendment since 1942, and is entitled to much credit in the successful outcome, but the idea only began to gain popularity during the Vietnam War, when so many teenage young men were inducted into the armed forces. If one was old enough to die for his country, the reasoning went, he was old enough to vote.

In 1970, Senator Edward Kennedy proposed reducing the voting age to eighteen as an amendment to the Voting Rights Act. Kennedy reasoned that the Supreme Court's decision in *Katzenbach* v. *Morgan* in 1966 would support taking this action by statute rather than by Constitutional amendment. The idea appealed to Senator Warren Magnuson, who took it up with the majority leader. "You know, Mike, Teddy's got a pretty good idea there," Magnuson said. "I was a member of the state legislature in Washington in 1933, and I introduced a bill permitting eighteen-year-olds to

vote. I couldn't get it to the floor for a vote. It still hasn't passed. * * * Suppose you introduce the amendment." Mansfield thought it over and agreed. With his prestige behind it, the Mansfield-Magnuson-Kennedy amendment cleared the Senate and House, and was signed by President Nixon.

The statute was immediately challenged in the courts, and the result was an unusual "double" 5-4 decision by the Supreme Court in *Oregon* v. *Mitchell* in December 1970. Justice Hugo Black cast the swing votes, upholding the eighteen-year-old vote 5-4 in federal elections, but holding it unconstitutional, 5-4, in state and local elections.

To resolve this difficulty, Senator Birch Bayh, who chaired the Constitutional Amendments Subcommittee of the Judiciary Committee, led a successful effort to pass Jennings Randolph's original proposal for a constitutional amendment. The Twenty-Sixth Amendment was ratified by the states in record time in 1971, and it reduced the voting age to eighteen for all elections. Senator Mansfield was delighted with the results and proud of his contribution. It was an appropriate stand for a man whose first political organization consisted of the students from his university classes.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 11:06 a.m., the message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 816. An act to establish the Pine Ridge National Recreation Area and Soldier Creek Wilderness in the State of Nebraska, and for other purposes;

S. 2048. An act to encourage international efforts to designate the shipwreck of R.M.S. TITANIC as an international maritime memorial and to provide for reasonable research, exploration, and, if appropriate, salvage activities with respect to the shipwreck;

H.R. 1598. An act for the relief of Steven McKenna;

H.R. 2224. An act to amend the Immigration and Nationality Act to permit non-immigrant alien crewman on fishing vessels to stop temporarily at ports in Guam;

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng II Jang;

H.J. Res. 517. Joint resolution providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2320. An act to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes; and

S. 2720. An act to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 565) to direct the Secretary of Agriculture to convey, without consideration, to the town of Payson, AR, approximately 30.96 acres of Forest Service lands.

The message further announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 1593. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, Arizona; and

H.R. 4354. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5679. An act to extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers; and

H.J. Res. 751. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes;

H.R. 5073. An act to amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes;

H.J. Res. 17. Joint resolution to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; and

H.J. Res. 438. Joint resolution to designate October 31, 1986, as "National Child Identification and Safety Information Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 3559. An act to amend the Act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes; and

H.R. 3578: An act to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2722) to amend title 13, United States Code, to eliminate the requirement relating to decennial censuses of drainage.

The message further announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 232. Joint resolution to designate October 6, 1986, through October 10, 1986, as "National Social Studies Week";

S.J. Res. 299. Joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 304. Joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week";

S.J. Res. 306. Joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week";

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 322. Joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 339. Joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week";

S.J. Res. 352. Joint resolution to designate the week beginning October 19, 1986, as "Gaucher's Disease Awareness Week";

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 395. Joint resolution to designate the period October 1, 1986, through September 30, 1987, as "National Institute of Health Centennial Year";

S.J. Res. 396. Joint resolution to designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week";

S.J. Res. 407. Joint resolution designating November 12, 1986, as "Salute to School Volunteers Day";

S.J. Res. 410. Joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week";

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day";

S.J. Res. 418. Joint resolution to designate February 4, 1987, as "National Women in Sports Day; and

S.J. Res. 422. Joint resolution commemorating the 100th anniversary of the birth of the first Prime Minister of the State of Israel, David Ben-gurion.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 381. Concurrent resolution expressing the support of the Congress for the awarding of the Ellis Island Medal of Honor as a symbol of the Statue of Liberty Centennial Celebration.

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the entire Senate bill and House amendment: Mr. RODINO, Mr. KASTENMEIER, Mr. SEIBERLING, Mr. MAZZOLI, Mr. SYNAR, Mr. FRANK, Mr. SCHUMER, Mr. SMITH of Florida, Mr. BERMAN, Mr. BOUCHER, Mr. BRYANT, Mr. FISH, Mr. MOORHEAD, Mr. LUNGREN, Mr. MCCOLLUM, Mr. SHAW, and Mr. DEWINE.

From the Committee on Agriculture, solely for consideration of sections 121–125, 202(h), 203, and 304 of the Senate bill and sections 116, 121, 204, 301–305, and 701 of the House amendments: Mr. PANETTA, Mr. HUCKABY, and Mr. MORRISON of Washington.

From the Committee on Education and Labor, solely for consideration of sections 101(d), 121–125, 202(h), 203, 304, 402, and 604 of the Senate bill, and sections 101, 121, 201(h), 204, 301–305, 316(d), 402, 403, and 701 of the House amendments: Mr. HAWKINS, Mr. FORD of Michigan, and Mr. JEFFORDS.

From the Committee on Energy and Commerce, solely for consideration of sections 125(b), 202(h), 203, 304, and 404 of the Senate bill, and sections 121, 201(d), 201(h), 204, 404, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Mr. DINGELL, Mr. WAXMAN, and Mr. DANNEMEYER.

From the Committee on Ways and Means, solely for consideration of sections 121(a), 121(g), 121(h), 124(c), 125(b), 202(h), 203, 304, 404, and 602 of the Senate bill, and sections 121, 201(h), 204, 302(b), 402, 404, 407, 601, 701, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Mr. FORD of Tennessee, Mr. PEASE, and Mr. DAUB.

From the Committee on Rules, solely for the consideration of section 604(b) of the Senate bill, and section 811 of the House amendments, and modifications committed to conference: Mr. BEILENSON and Mr. TAYLOR.

As an additional conferee, solely for consideration of title VIII of the House amendment, and modifications committed to conference: Mr. MOAKLEY.

The message also announced that the House has passed the joint resolution (S.J. Res. 367) to designate September 24, 1986, as "National Kidney Program Day," with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1426) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 5277. An act to transfer certain public lands in Nevada to the Toiyabe, Humboldt, and Inyo National Forests;

H.J. Res. 10. Joint resolution to designate the week beginning January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, 1987, as "Shays' Rebellion Day";

H.J. Res. 594. Joint resolution to designate the week beginning May 3, 1987, as "National Correctional Officers Week"; and

H.J. Res. 620. Joint resolution designating the week beginning January 4, 1987, as "National Bowling Week".

MEASURES REFERRED

The following bill and joint resolutions, received from the House of Representatives on today, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5679. An act to extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers; to the Committee on Finance.

H.J. Res. 10. Joint resolution to designate the week beginning January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, 1987, as "Shays' Rebellion Day"; to the Committee on the Judiciary.

H.J. Res. 594. Joint resolution to designate the week beginning May 3, 1987, as "National Correctional Officers Week"; to the Committee on the Judiciary.

H.J. Res. 620. Joint resolution designating the week beginning January 4, 1987, as "National Bowling Week"; to the Committee on the Judiciary.

The following concurrent resolution, received from the House of Representatives today, was read, and referred as indicated:

H. Con. Res. 381. A concurrent resolution expressing the support of the Congress for the awarding of the Ellis Island Medal of Honor as a symbol of the Statue of Liberty Centennial Celebration; to the Committee on the Judiciary.

The following bills, previously received from the House of Representatives, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5020. An act to expand the United States Secret Service Uniformed Division protective jurisdiction; to the Committee on Finance.

H.R. 5215. An act to authorize the construction by the Secretary of Agriculture of a salinity laboratory at Riverside, California, to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5218. An act to amend title 5, United States Code, to provide that certain individuals be accorded competitive status for purposes of transferring to the competitive service; to the Committee on Governmental Affairs.

H.R. 5343. An act to designate certain segments of the Maurice and the Manumuskin Rivers in New Jersey as study rivers for inclusion in the national wild and scenic rivers system; to the Committee on Energy and Natural Resources.

H.R. 5613. An act to provide for the uniform disclosure of the rates of interest which are payable on savings accounts, to provide for detailed and uniform disclosures of information on interest rates and other fees in applications and solicitations for credit cards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5602. An act to amend the Public Buildings Act fo 1959 to authorize the Administrator of General Services to issue obigations to finance the acquisition and construction of public buildings; to the Committee on Environment and Public Works.

MEASURE PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5420. An act to amend section 3726 of title 31, United States Code, relating to payment for transportation, to permit prepayment audits for selected transportation bills, to permanently authorize payment of transportation audit contractors from carrier overpayments collected, to authorize net overpayments collected to be transferred to the Treasury, and for other purposes.

MEASURE HELD AT THE DESK

The following bill, previously referred from the House of Representatives, was ordered held at the desk by unanimous consent, pending further disposition:

H.R. 3415. An act to authorize the minting of coins in commemoration of the bicentennial of the United States Constitution.

71-059 O-87-14 (Pt. 21)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. PROXMIRE (for himself and Mr. COHEN):

S. 2917. A bill to amend title 10, United States Code, to increase the combat support assignments open to women in the Armed Forces; to the Committee on Armed Services.

By Mr. KERRY:

S. 2918. A bill to amend the Foreign Assistance Act of 1961 to modify provisions relating to the trade and development program; to the Committee on Foreign Relations.

By Mr. ZORINSKY (for himself and Mr. EXON):

S. 2919. A bill to amend the Tax Reform Act of 1986 by repealing the treatment of certain amounts to or for the benefit of certain institutions of higher education; to the Committee on Finance.

By Mr. INOUYE:

S. 2920. A bill to amend titles XVIII and XIX of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 2921. A bill to amend the Public Law 99-396 exception to the Balanced Budget Emergency Deficit Control Act of 1985, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATSUNAGA (for himself and Mr. WARNER):

S. 2922. A bill to amend the Tax Reform Act of 1986 to remove the retroactive effect of the repeal of the 3-year recovery of basis rule in pension plans; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MELCHER (for himself and Mr. BAUCUS):

S. Res. 505. A resolution relating to grizzly bear management; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. Res. 506. A resolution expressing the sense of the Senate that the President should encourage foreign governments to ratify, accept, or approve the Convention on the Physical Protection of Nuclear Materials; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 2918. A bill to amend the Foreign Assistance Act of 1961 to modify provisions relating to the Trade and Development Program; to the Committee on Foreign Relations.

MODIFICATION OF TRADE AND DEVELOPMENT PROGRAM

Mr. KERRY. Mr. President, recently the distinguished Senator from New Mexico, Senator BINGAMAN, came to the floor to introduce a report which was the result of a significant amount of work by a number of my colleagues on the issue of competitiveness. It became clear as a consequence of that report as well frankly as many reports over the course of the last few years, the Young commission, the Packard commission, a number of blue ribbon panels, that this country is fast falling behind in our ability to compete in markets where once before we competed with great ease.

There are many different things that we could do from the question of dealing with our universities, our laboratories, and our ability to be able to put additional funds into research and development, to the fiscal and trade decisions which we must also make.

This bill is directed toward the trade sector, Mr. President, because increasingly we have become concerned over that growing trade deficit and the need for the Government to try somehow to assist American firms in opening new markets in developing countries as a means of reducing that deficit.

The People's Republic of China is obviously a major, long-term market for the export of United States goods and services. Other industrialized nations, all of which we compete with in those foreign markets, are currently utilizing foreign assistance funds as a means of capturing the Chinese market for their exporters.

Since 1981, nine nations have given continuing technical assistance to China as a means of gaining access to that market for their goods.

Australia has provided approximately $13 million per year since 1981 in technical assistance funds, much of it earmarked for agricultural and husbandry development.

Since 1981, the Canadian Development Corporation has provided $20 million a year in such assistance and has pledged a doubling of such aid to $40 million a year. Much of this assistance will be eamarked for energy, agriculture, electric power and forestry development.

The Federal Republic of Germany has provided approximately $18 million in grant assistance per year in addition to another $22.7 million in 30 year loans carrying a 2 percent interest charge. Much of Germany's aid is earmarked for communications, energy, human resources, and technological transfers.

Japan provides approximately $37 million per year in technical assistance.

Since 1983, Italy has provided $20 million a year in assistance.

The United Kingdom provides between 1 to 5 million English pounds per year, mostly earmarked for highway transportation and communications.

Sweden provides soft and mixed loans for training in technology and industry.

Denmark funds some four to five projects a year.

Belgium provides funding for five to six technical assistance projects a year.

The European Economic Community has provided China with 6 million European currency units a year since 1983 for technical assistance projects.

All of these countries are taking pains to invest in a way that will return jobs to their countries. The United States is not following suit.

I believe training programs are essential to opening up potential export markets. It only stands to reason, that if a Chinese technocrat or manager is trained on U.S. technology there will be a desire to import the technology which is compatible with the training.

There is no reason why we should not proceed to try to protect that market and those opportunities.

That is the reason for my introduction of this legislation, which I would characterize as the training for trade bill.

The purpose of this legislation is to provide funds to train citizens of the People's Republic of China in the United States with the principal objective of promoting United States trade with China in sectors which are important to that country's economic development. The funds authorized by this legislation are to be used to complement the ongoing activities of the U.S. Trade and Development Program [TDP], a U.S. Government organization located within the International Development and Cooperation Agency.

TDP presently manages programs authorized by the Congress under section 661 of the Foreign Assistance Act and, as such, is the only source of foreign assistance moneys used in China.

TDP presently utilizes section 661 funds in China and other developing nations to finance the planning of projects which are potential export markets for American goods and services and which are critical to the development of China. Such projects include planning for the construction of dams, powerplants and airports—all of which are markets for U.S. engineering services and such key U.S. high technology exports such are computers.

The $25 million provided for under this legislation is designed to carry out education and training programs in the United States for nationals from the People's Republic of China. It is the intent of this legislation that the

funds authorized in this bill would be used to support the training requirements associated with potential small- and medium-sized businesses with export potential to the People's Republic of China. Some 50 percent of the funds authorized in this bill would be available only for education and training programs administered by such companies as defined by the Small Business Administration.

This legislation is a follow up to a resolution passed April 30 of this year during the sixth meeting of the National Advisory Council to the Senate Committee on Small Business. At that meeting, the following resolution was approved by the Council:

The Congress should authorize foreign aid in the form of technical assistance and training for Chinese and other foreign countries to train on the use of American products, 50 percent of the funds should be set aside for small businesses, as defined by the SBA.

Mr. President, there are numerous small- and medium-sized high technology companies in the United States which, if funding for training programs were available, could realize significant exports to the People's Republic of China. Our industrial allies are very aggressive, through their own training programs and financing packages, in utilizing foreign assistance to promote their own products for export. I believe we have an obligation to our own private sector to utilize foreign assistance programs to promote trade where possible, particularly if the recipient country, such as the People's Republic of China, are highly desirous of receiving such training in the anticipation that they will then import United States technology.

By Mr. ZORINSKY (for himself and Mr. EXON):

S. 2919. A bill to amend the Tax Reform Act of 1986 by repealing the treatment of certain amounts paid to or for the benefit of certain institutions of higher learning; to the Committee on Finance:

TAX TREATMENT OF CERTAIN CONTRIBUTIONS TO INSTITUTIONS OF HIGHER LEARNING

Mr. ZORINSKY. Mr. President, today I am introducing a bill on behalf of almost every college football program in the country. The tax reform bill recently passed by Congress grants a special tax favor to two college football programs. This is unfair to the rest or our hardworking universities. My bill will rid the Tax Code of these two exceptions.

Many schools have booster clubs through which fans obtain their tickets. As a condition of getting their tickets, the fans make contributions to the schools' scholarship funds. The IRS ruled that any contribution made as a condition of receiving tickets is not deductible.

I believe this ruling is wrong. The scholarship funds depend heavily on the deductibility of contributions to attract donors. Work is being done on several fronts to force the IRS to reconsider its decision. I wholeheartedly support those efforts.

Until the IRS changes its mind, however, Congress should not exempt this or that program from the ruling. Yet, section 1608 of the tax reform bill includes just such an exemption for two schools. This is precisely the kind of loophole tax reform was supposed to eliminate.

I hope the chairman of the Senate Committee on Finance will consider this legislation when drafting his technical corrections bill. We should either make the exemption apply to all schools or adopt my bill leaving everyone subject to the ruling.

This legislation gives new meaning to our desire, stated many times during the tax reform debate, to "level the playing field." It simply eliminates the provision which provides the special exemption. I urge my colleagues to support this bill as a small step toward making our tax system fair and our football programs truly competitive.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 1608 of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as if included in the Tax Reform Act of 1986.

By Mr. INOUYE:

S. 2920. A bill to amend titles XVIII and XIX of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes; to the Committee on Finance.

CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES

● Mr. INOUYE. Mr. President, today I have introduced legislation to modify our Nation's Social Security Act in order to ensure that the services of nurse practitioners and clinical nurse specialists will be readily available in nursing homes under both Medicare and Medicaid.

As our Nation's elderly continue to become a larger segment of our overall population, it is becoming increasingly important for us to establish comprehensive health care programs targeted toward their unique needs. In addition, in the wake of Medicare payment reforms in 1983, the length of stay in hospitals has dropped dramatically. Patients are being discharged earlier, but in many cases are still in need of nursing care in skilled nursing facilities or intermediate care facilities. These dramatic changes in the nursing home area are the impetus behind my introduction of the Advanced Nursing Services in Nursing Homes Act of 1986.

The act would let nurse practitioners and clinical nurse specialists, working in collaboration with a physician, certify and recertify the need for certain services in nursing homes, as well as perform the mandatory nursing home patient visits under both Medicare and Medicaid. This bill would also provide payment for certain services furnished by a nurse practitioner or clinical nurse specialist.

The results of numerous studies demonstrate the positive impact that the use of health care teams in nursing homes, which include nurse practitioners and clinical nurse specialists, has had on quality of care and cost effectiveness. For example, a recent Massachusetts study found that when nursing home patients received care by a health care team, rather than solely by a physician, the following results occurred: More timely visits, reduced hospitalizations for emergency and outpatients services, reduced total inpatient hospital days, and reduced overall medical care costs. The study concluded that under the health care team approach, nursing home patients received more timely, appropriate and cost-effective care.

Similarly, a Wyoming study found that when a gerontological nurse practitioner was employed at a facility, hospital transfers were reduced substantially. Accompanying that decrease was an increase of discharges from the nursing home back to the community. Another finding of the study was that gerontological nurse practitioners improved the public image of the nursing home as evidenced by a survey of community residents. Most importantly, via their emphasis on health promotion, disease prevention, early diagnosis, treatment and rehabilitation, gerontological nurse practitioners were able to improve the quality of patient care.

A major barrier to the increased use of nurse practitioners and clinical nurse specialists in nursing homes is embodied in outmoded Federal reimbursement policies that currently do not reimburse providers of nursing home primary care other than physicians. Clearly, a major incentive to transfer the place of care from hospi-

tal to nursing home must be a reimbursement policy that recognizes the utility and fundamental economy of ongoing care in the nursing home via reimbursement for nurse practitioners and clinical nurse specialists.

The bill, which I am proposing today, also promotes cost-effective provision of health care by paying for nursing home visits by nurse practitioners and clinical nurse specialists at a rate equal to 75 percent of the prevailing charge paid for similar services in the same locality. In addition, under my proposal the nursing home resident would personally save money because they would not have to make copayments to nurse practitioners and clinical nurse specialists; mandatory assignment would also be required under Medicare.

The act creates a "win-win" situation by: Containing Medicare and Medicaid Program costs, increasing the quality of care provided to nursing home residents, recognizing the expanded role that nurse practitioners and clinical nurse specialists are qualified to play in providing care in the nursing home, and saving nursing home residents money.

I would like to thank the American Nurses' Association for assistance in drafting this legislation, and I am looking forward to having this bill become public law as soon as possible.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2920

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) MEDICARE CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services of intermediate care facility services, a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician;".

(c) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,",

(d) DEFINITION.—

(1) Section 1861 of such Act (42 U.S.C. 1359x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Speclialist

"(ee)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) holds a masters degree in nursing and is certified or eligible for certification by a national professional nursing organization,

"(ii) holds a masters degree in a related field and is certified by a national professional organization, or

"(iii) has completed a nurse practitioner continuing education program and is certified by a national professional nursing organization.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner'" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 13951(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests;", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1842(s)(2)(J), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10).".

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(10) In providing payment for the items and services described in section 1861(s)(2)(J), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (H),

(2) by adding "and" at the end of subparagraph (I), and

(3) by adding at the end thereof the foloiwng new subparagraph:

"(J) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(J)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after "(5)", and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services

furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialist (as defined in section 1861(ee)) working in collaboration with a physician.".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. McCLURE (by request):

S. 2921. A bill to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; to the Committee on Energy and Natural Resources.

EXCEPTION TO DEFICIT REDUCTION LEGISLATION

● Mr. McCLURE. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of the Interior, I send to the desk a bill to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 19(b) of Public Law 99-396 is amended to read as follows:

"(b) The amounts to be paid into the treasuries of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands, respectively, pursuant to:

"(1) section 4 of the act of April 12, 1900 (31 Stat. 78, 48 U.S.C. 740), as amended, and section 9 of the Act of March 2, 1917 (39 Stat. 954, 48 U.S.C. 734), as amended;

"(2) section 30 of the Act of August 1, 1950 (64 Stat. 392, 48 U.S.C. 1421(h)), as amended;

"(3) section 28(a) of the Act of July 22, 1954 (68 Stat. 508, 48 U.S.C. 1642), as amended, and section 7652 of the Internal Revenue Code of 1954 (68A Stat. 907, 26 U.S.C. 7652), as amended; and

"(4) section 3 of Public Law 94-241 as amended (P.L. 99-396, 100 Stat. 837), and section 703(b) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America as approved in section 1 of Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1681 note),

shall not be reduced pursuant to Public Law 99-177, Public Law 99-366, or any other provision of law enacted to implement Public Law 99-177."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 8, 1986.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes," to provide a technical clarification to language in P.L. 99-396, the omnibus territories legislation. This draft reflects the agreement reached between the President and the Congress that facilitated approval of P.L. 99-396.

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The draft bill would clarify the language of section 19(b) of P.L. 99-396 to reflect the intent of Congress in enacting that section. Specifically, Section 19(b) of P.L. 99-396 makes the Gramm-Rudman-Hollings Act inapplicable to (1) payments made to territories and Puerto Rico equal to United States internal revenue taxes on articles produced in the territories and transported to other United States jurisdictions, (2) payments to Guam of Organic Act of Guam section 30 taxes, and (3) payments to the Northern Mariana Islands of Covenant funds.

The enclosed draft bill makes explicit which funds are to be exempted from the Gramm-Rudman-Hollings Act consistent with correspondence from the Committee leadership of the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs (enclosed).

We urge your prompt consideration and enactment of this technical matter.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

RICK MONTOYA,
Assistant Secretary.●

By Mr. MATSUNAGA (for himself and Mr. WARNER):

S. 2922. A bill to amend the Tax Reform Act of 1986 to remove the retroactive effect of the repeal of the 3-year recovery of basis rule in pension plans; to the Committee on Finance.

REMOVAL OF RETROACTIVE EFFECT OF THE REPEAL OF THE 3-YEAR RECOVERY OF BASIS RULE IN PENSION PLANS

● Mr. MATSUNAGA. Mr. President, in a bill of the magnitude of the Tax Reform Act of 1986, there will often be provisions which we find to be unpalatable. There is one particular area of the tax reform conference agreement which troubles me. I refer specifically to the retroactive effective date of July 1, 1986, for the repeal of the 3-year basis recovery rule for pension benefits. As a member of the conference committee I opposed the retroactive nature of the provision. I worked with other conferees in an effort to obtain a prospective effective date for this change, and argued that Congress should provide for a reasonable transition period so that those who have relied on the current law are not adversely affected by a sudden, dramatic, and retroactive change in policy. A transition to a new tax system is always difficult, but in this instance we are unfairly penalizing taxpayers who retired after July 1, 1986 with the full expectation that they would be able to recover their full basis within the 3-year period. I am, therefore, very much disappointed that this provision is contained in the Tax Reform Act of 1986.

Mr. President, in fairness to those retirees who relied on the law with which they were familiar, I am introducing legislation today to remove the retroactive repeal of the 3-year basis recovery rule for pension plans. This legislation would substitute a January 1, 1987 effective date for the July 1, 1986 date as set forth in the Tax Reform Act of 1986.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVE RETROACTIVE EFFECT OF REPEAL OF 3-YEAR RECOVERY OF BASIS RULE IN PENSION PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 1122(h)(1) of the Tax Reform Act of 1986 (relating to effective dates for amendments relating to taxation of distributions) is amended by striking out "July 1, 1986" and inserting in lieu thereof "January 1, 1987."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Tax Reform Act of 1986.●

● Mr. WARNER. Mr. President, I am pleased to join this evening as an original cosponsor of the measure introduced by my distinguished colleague from Hawaii, Senator SPARK MATSUNAGA. We seek to amend the Tax Reform Act of 1986 to remove the retroactive repeal of the 3-year recovery basis for contributory pension plans.

As my colleagues will recall, this is not the first time this attempt has been made. On June 17, 1986, I joined with my Virginia colleague, Senator TRIBLE, in an effort to eliminate the repeal of the recovery rule from the tax bill altogether. That amendment failed by a vote of 42 to 57, a strong sign of dissent but obviously not enough to carry the day.

Our distinguished chairman of the Finance Committee, Senator PACKWOOD, recognized the concern of those

voting for repeal and attempted in conference to strike a reasonable compromise for the effective date. January 1, 1987, the date proposed by the Senator from Hawaii, was Senator PACKWOOD'S conference proposal as well, but it proved unacceptable to the House conferees. The House insisted on the retention of their original effective date of July 1, 1986.

The measure introduced by Senator MATSUNAGA provides the Senate with what may be our last chance to close one of the most inequitable gaps in the tax bill. Rather than penalizing our most senior Federal employees for their devotion in staying on the job past July 1, 1986, they can be provided with a transition period just as so many other groups have been granted.

I commend Senator MATSUNAGA for this initiative and encourage all of my colleagues to lend us their support. Let us allow all Americans to participate as equal beneficiaries in tax reform.●

ADDITIONAL COSPONSORS

S. 2183

At the request of Mr. METZENBAUM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2183, a bill to improve services for individuals with Alzheimer's disease and their families.

SENATE JOINT RESOLUTION 388

At the request of Mr. LEVIN, the name of the Senator from Rhode Island [Mr. PELL] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 388, a joint resolution designating the week beginning January 4, 1987, as "National Bowling Week".

SENATE JOINT RESOLUTION 426

At the request of Mr. WARNER, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 426, a joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week".

SENATE RESOLUTION 505—RELATING TO GRIZZLY BEAR MANAGEMENT

Mr. MELCHER (for himself and Mr. BAUCUS) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 505

Resolved, That it is the sense of the Senate that the Secretary of Interior using Federal and private wildlife biologists shall institute an investigative study and one or more experimental projects in managing grizzly bears in Yellowstone National Park with these goals:

1. Avoiding conflict between man and grizzly bears.
2. Assuring stability of the numbers of the Yellowstone Park grizzly aggregation.
3. Documenting the nutritional needs of grizzlies necessary for normal reproduction.
4. Determining whether the effects of eco-center management would contribute to alleviate conflict and secure grizzly nutrition.

SENATE RESOLUTION 506—RELATING TO APPROVAL OF THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIALS

Mr. GLENN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 506

Whereas the Convention on the Physical Protection of Nuclear Materials, opened for signature at Vienna and New York on March 3, 1980 (hereafter in this preamble referred to as the "Convention"), by its own terms requires the deposit of 21 instruments of ratification, acceptance, or approval before the Convention may enter into force;

Whereas the Convention has not entered into force for lack of the requisite number of ratifications, acceptances, or approvals; and

Whereas the Convention represents an important step toward international cooperation to prevent nuclear terrorism: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should make vigorous efforts to encourage the governments of signatory countries to ratify, accept, or approve the Convention on the Physical Protection of Nuclear Materials, which was opened for signature at Vienna and New York on March 3, 1980.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. GLENN. Mr. President, as we all know, terrorism in the world is a growing and increasingly significant factor in the international system.

The growth of terrorism coupled with the proliferation of nuclear facilities and nuclear weapons, however, adds up to the most frightening and potentially destabilizing threats of modern times—nuclear terrorism. We know what havoc is wrought upon the world when terrorists decide to use conventional weaponry. It is hard for us to imagine what might happen if we had a nuclear terrorist incident.

All nations in the international community, particularly the developed nations of the West, must be concerned with the rising specter of nuclear terrorism.

In modern societies in which government monopolizes both the organized use of force and the control of nuclear weapons and nuclear materials, the citizenry must look to the state to prevent and combat the threat of nuclear terrorism.

For instance, the thought of nuclear weaponry or materials in the hands of individuals such as Mu'ammar Qadhafi or Idi Amin is staggering. I have followed the issue of nuclear proliferation for many years here in the Senate and I have taken a leadership role in this area. We have closely monitored the efforts of Qadhafi, for instance, to obtain nuclear weaponry, and we dread to think what would happen if someone of his nature and unpredictability obtained a nuclear weapon.

Several years ago, a young student walked into the office of the Subcommittee on Energy, Nuclear Proliferation, and Government Processes, laid some papers on the desk, and said that he would like the staff director, Dr. Leonard Weiss, to look at the drawings and see if in his scientific opinion he thought this atomic bomb design would work.

Well, Dr. Weiss examined those drawings, and he consulted with Dr. Henry Taylor. Dr. Taylor was a nuclear weapons design expert and he said that he thought this design would work.

That was 6 or 7 years ago. The spread of nuclear weapons knowledge around the world has increased since that time.

It would be wrong to think that terrorists could not bring themselves to use such weapons of mass destruction. Technological knowledge, such as that needed to create a nuclear explosive device, is a free good that spreads with the number of states that acquire such knowledge. The next several decades are likely to see a proliferation of nations acquiring nuclear capability. With the growth of nuclear proliferation will come the increased likelihood that these nuclear nations will lose their nuclear weapons, materials, or knowledge to terrorists or unstable revolutionary groups. It is highly unlikely that terrorism and the threat of nuclear terrorism is merely a passing phenomenon. The trend toward the politicization of religion, the increase in ethnic and nationalistic sentiments, and the increasing dichotomy between the haves and have nots in the world point toward its increase as a means of political protest and persuasion.

While terrorist access to nuclear materials represents the most obvious harbinger of nuclear terrorism, several additional factors point to the increased possibility of nuclear terrorism.

As has already been mentioned, the fanaticism which seems to grip terrorists would not preclude their willingness to use nuclear weaponry or materials. The essence of effective terrorism is the use or threat of using force indiscriminately. It is the randomness of applying violence that makes such acts so terrifying. The extraordinary zeal of Islamic fundamentalists is an excellent modern-day example of the fervor that can grip a terrorist or terrorist movement. Islamic zealots, willing to drive a truck full of explosives into the American Embassy in Beirut, Lebanon, display how far fanatics are willing to go to destroy a perceived enemy. These terrorists' belief in their

cause, combined with their unshakable conviction that God is on their side and that their suicide mission will automatically gain them entry into paradise is alien to most Americans. But if such terrorists are willing to make such sacrifices to kill so many, it is within the realm of possibility to think they might utilize nuclear terrorism to attain their goals.

Another factor that points to the possibility that terrorists might use nuclear weapons, closely linked to the previous factor, is the terrorist's apparent insensitivity to orthodox deterrence. A terrorist is someone who is unwilling to abide by social norms and what is generally conceived as being rational behavior. It stands to reason that terrorists gauging the costs and benefits of nuclear terrorism might completely ignore the fear of retaliation against them or the particular cause they espouse. Traditional deterrence, therefore, may have little if any appreciable effect on prospective nuclear terrorists. This dilemma underscores one of the greatest difficulties in dealing with any form of terrorism—combating the threat of terrorism without resorting to tactics that undermine a free society's institutions.

A third factor that points to the increased possibility of nuclear terrorism is the cooperation and collaboration among terrorist groups. This phenomenon has been primarily evident in the volatile Middle East where Qadhafi's regime encourages and supports numerous terrorist groups around the world and the Popular Front for the Liberation of Palestine [PFLP] which has collaborated with numerous terrorist groups from such diverse areas as Germany, Latin America, and Japan. This interterrorist cooperation has several implications. First, such cooperation among terrorist groups greatly increases the opportunities for terrorists to acquire nuclear weapons and materials. Since cooperation increases opportunities for sharing capital resources and expertise, obtaining nuclear weapons and materials is greatly enhanced when acquisition takes the form of self-development from raw fissionable materials. Second, interterrorist cooperation is likely to encourage the proliferation of nonstate nuclear devices, creating a network whereby such weapons can be spread across national borders. Third, interterrorist cooperation will be likely to increase the benefits to be derived from advanced training in the deployment and use of nuclear weaponry and materials. Finally, cooperation among terrorist groups is likely to foster reciprocal privileges such as safe havens and forged documents which would be needed for successful nuclear terrorist operations.

The final factor that points to the increased possibility of nuclear terrorism is the increased tolerance and support of terrorism within the international system. States that support terrorism, such as Khomeini's Iran and Qadhafi's Libya, do so with the belief that terrorism serves their national interests. Terrorists are undoubtedly considered as useful tools in the struggle for power and influence in the global system. Terrorism seems to be increasingly viewed by some states as a surrogate for conventional warfare.

The attraction of terrorism to extremist states seems certain to persist and grow.

AMERICA'S SUSCEPTIBILITY TO NUCLEAR TERRORISM

The United States is an ideal target for terrorism. America's extensive communications system provides the terrorist or terrorist group what it desires more than anything else—publicity for its cause. The enormous media coverage that would occur after a nuclear terrorist threat became public would effectively rivet national attention on the terrorists and their espoused cause and the ensuing hysteria could virtually compel the Government to succumb to terrorist demands. America's vast expanses and widespread transportation system would provide the terrorist with numerous safe-havens and rapid mobility which would permit escape from apprehension. In particular, the United States is the world's foremost modern, technological society, which makes it especially susceptible to the threat of nuclear terrorism.

America's densely populated cities provide the most vivid example of the vulnerability of a technological society. Some years ago, the entire city of New York lost all power after an upstate power transformer was hit by lightning and a technician failed to make the correct circuit adjustment. The city was virtually incapacitated for the duration of the blackout and crime rose dramatically. It is not difficult to imagine what kind of impact the use or threatened use of nuclear material would have on a large urban area.

America is a free society which justifiably prides itself on its openness and civil liberties. This very aspect of the United States makes it an appealing target for nuclear terrorism. The terrorist would not be subject to the constant surveillance and scrutiny that is evident in more repressive societies that lessen the opportunity to accumulate the necessary knowledge and materials to commit an act of nuclear terrorism. The Iranian hostage crisis also demonstrated the enormous prestige to be derived by a comparatively weak power incapacitating the United States. America stands as a symbol of strength in the international system and to be able to successfully extort demands from the most powerful nation in the world would be considered by many to be a considerable temptation.

Since World War II, it has been established that thousands of pounds of uranium and plutonium, materials needed for the construction of a nuclear device, have not been accounted for in the United States. Most experts agree that it is entirely possible for individuals to construct a crude nuclear device.

The threat of exploding a homemade nuclear device is not the only possibility. Terrorists may explode a crude nuclear weapon without warning in an effort to avoid detection and capture, and even misidentify themselves in the hope of igniting domestic repression or international chaos. One can only imagine the damage to be wrought by a 1 kiloton weapon, 20 times less powerful than the Hiroshima bomb, exploded outside the Capitol Building during a State of the Union Message. The U.S. Government would virtually cease to exist.

Another dimension to the threat of terrorism with nuclear weapons is the possibility that a terrorist group could steal a weapon from the U.S. arsenal of over 30,000 nuclear devices stockpiled in more than 100 military installations in the United States and abroad. While there is enormous security surrounding American nuclear weapons around the world, and while most American nuclear devices have highly sophisticated devices to prevent their unauthorized explosion, the possibility still exists that these nuclear weapons could fall into the hands of terrorists and be detonated.

Protection of America's far-flung nuclear arsenal is hampered by their wide dispersal around the globe where American security systems are dependent on the security systems of the host nation which are of varying reliability. Also, the weakness of local law enforcement agencies in most parts of the United States means that they are of little help in assisting Federal authorities in the event of a nuclear weapon theft.

Radiation dispersal devices in the hands of terrorists pose another serious threat to the United States. Radiation dispersal devices, in contrast to nuclear weapons, require less expertise, nuclear material, and production time by a terrorist group. Dispersal of a highly toxic carcinogen such as plutonium could have a devastating effect on the American public. The U.S. Atomic Energy Commission has estimated that the release of 4.4 pounds of plutonium oxide in fine powder form would result in 100 percent probability of developing lung or bone cancer up to 1,800 feet from the area of release, and a 1-percent risk of developing such cancer up to 40 miles downwind.

For the nuclear terrorist, the dispersion of nuclear material would undoubtedly be an attractive means to obtain his political ends. Authorities would be virtually unable to prevent the release of plutonium when it would be effectively dispersed over a wide, dense area by using such a simple device as a leaking container attached to the underside of a vehicle or dropping it from a tall building. Construction of such a dispersal device would require only a basic knowledge of nuclear chemistry and would thereby lessen the risks inherent in forming a larger terrorist network to design and assemble a nuclear weapon. Also, the enormous social and economic chaos that would certainly result after the announcement of radiation leakages would be tempting to terrorists in possession of plutonium.

The increased production of plutonium is another inducement to terrorists. A 1,000 megawatt light-water nuclear power reactor generates an estimated 440 pounds of plutonium each year—an appealing target to terrorists.

A third possible target for nuclear terrorists in the United States is a nuclear facility itself. While the construction of nuclear power reactors has slowed in the United States in the past decade, it is likely to grow in the future and with that growth is the increased risk that a terrorist group will seek to damage a nuclear facility in order to precipitate a radiation release.

CONFRONTING THE THREAT OF NUCLEAR TERRORISM

Mr. President, some individuals believe that it is essential to eradicate the conditions that spawn terrorism. It is argued that greater attention should be given to the legitimate economic, social, and political grievances of individuals in the United States and throughout the world as a viable means of combating terrorism and thereby reducing the threat of nuclear terrorism.

Undeniably, the injustices of the international system require attention, but to attempt to correct these grievances as the sole means of combating the menace of terrorism and the threat of nuclear terrorism is naive and unrealistic. When a neighborhood is confronted with a rising crime rate, the community does not initiate a study of the reasons for the criminals' behavior, but undertakes a program of increased vigilance and deterrence. The same is true of the nuclear threat to the United States.

As I have discussed, the threat of nuclear terrorism in the United States is real and growing. The American military's protection of the U.S. nuclear arsenal, private enterprise's control of nuclear materials pursuant to the regulations of the Atomic Energy Commission, and the nuclear emergency search team's ability to trace nuclear terrorist threats all provide considerable security from the threat of nuclear terrorism, yet no safeguard can be considered completely fail safe.

The United States is not a secure island, but a major force in a highly diverse international system whose members have widely divergent views as to what constitutes acceptable national behavior. As terrorism increases and nuclear knowledge, weapons, and materials spread throughout the world, the United States is increasingly likely to be the site of a nuclear terrorist incident. We must do everything we can to insure that such a catastrophic possibility does not occur.

THE REPORT OF THE INTERNATIONAL TASK FORCE ON THE PREVENTION OF NUCLEAR TERRORISM

Mr. President, on June 25, 1986, the Nuclear Control Institute of Washington, DC, issued a report by the International Task Force on the Prevention of Nuclear Terrorism. I believe that this report contains important suggestions on one of the most serious threats confronting the United States today.

The report contains numerous recommendations dealing with, among other things, the protection of nuclear weapons, nuclear materials, and nuclear facilities. I have written the Secretaries of Defense and Energy and the Chairman of the U.S. Nuclear Regulatory Commission to request their comments on the report's recommendations and what their respective agencies are going to do to encourage and implement the report's recommendations.

Mr. President, today I rise to offer a resolution that states that it is the sense of the Senate that the President should make vigorous efforts to encourage the governments of signatory countries to ratify, accept, or approve the Convention on the Physical Protection of Nuclear Materials.

This treaty, although chiefly directed to shipments of peaceful nuclear materials between nations, does define a large range of nuclear terrorist acts and requires parties to make them criminal offenses and to provide for the prosecution of extradition of offenders under domestic law. The convention, which applies to "nuclear material used for peaceful purposes while in international transport," was agreed to in 1980 but has not come into force because only 18 of the required 21 states—including the United States—have ratified it. The Convention on the Physical Protection of Nuclear Materials represents an important step toward international cooperation to prevent nuclear terrorism.

Mr. President, I ask unanimous consent that a copy of the treaty itself, be printed in the RECORD.

There being no objection, the treaty was ordered to be printed in the RECORD, as follows:

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Signed at New York March 3, 1980.

Ratification advised by U.S. Senate July 30, 1981.

Ratified by U.S. President September 4, 1981.

The States Parties to This Convention,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy.

Convinced of the need for facilitating international co-operation in the peaceful application of nuclear energy.

Desiring to avert the potential dangers posed by the unlawful taking and use of nuclear material.

Convinced that offenses relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offenses,

Aware of the Need for international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

Convinced that this Convention should facilitate the safe transfer of nuclear material,

Stressing also the importance of the physical protection of nuclear material in domestic use, storage and transport,

Recognizing the important of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

Have Agreed as follows:

* * *

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

ARTICLE 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

ARTICLE 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

ARTICLE 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

(i) co-ordinate their efforts through diplomatic and other agreed channels;

(ii) render assistance, if requested;

(iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

ARTICLE 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

ARTICLE 7

1. The intentional commission of:

(a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(b) a theft or robbery of nuclear material;

(c) an embezzlement or fraudulent obtaining of nuclear material;

(d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation.

(e) a threat:

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or

(ii) to commit an offense described in subparagraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(f) an attempt to commit any offense described in paragraphs (a), (b) or (c); and

(g) an act which constitutes participation in any offense described in paragraphs (a) to (f) shall be made a punishable offense by each State Party under its national law.

2. Each State Party shall make the offenses described in this article punishable by appropriate penalties which take into account their grave nature.

ARTICLE 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offenses set forth in article 7 in the following cases:

(a) when the offense is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offenses in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the State Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offenses set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

ARTICLE 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction to article 8 and, where appropriate, all other States concerned.

ARTICLE 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

ARTICLE 11

1. The offenses in article 7 shall be deemed to be included as extraditable offenses in any extradition treaty existing between States Parties. States Parties undertake to include those offenses as extraditable offenses in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offenses. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offenses as extraditable offenses between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offenses shall be treated for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

ARTICLE 12

Any person regarding whom proceedings are being carried out in connection with any of the offenses set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

ARTICLE 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offenses set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect of this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome

of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offense involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offense was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offense.

ARTICLE 15

The Annexes constitute an integral part of this Convention.

ARTICLE 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

ARTICLE 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted in arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

ARTICLE 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to States Parties.

(c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.

(d) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

ARTICLE 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

ARTICLE 21

1. Any State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

ARTICLE 22

The depositary shall promptly notify all States of:

(a) each signature of this Convention;

(b) each deposit of an instrument of ratification, acceptance, approval or accession;

(c) any reservation or withdrawal in accordance with article 17;

(d) any communication made by an organization in accordance with paragraph 4(c) of article 18;

(e) the entry into force of this Convention;

(f) the entry into force of any amendment to this Convention; and

(g) any denunciation made under article 21.

ARTICLE 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

ANNEX I

LEVELS OF PHYSICAL PROTECTION TO BE APPLIED IN INTERNATIONAL TRANSPORT OF NUCLEAR MATERIAL AS CATEGORIZED IN ANNEX II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(a) For Category III materials, storage within an area to which access is controlled;

(b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection:

(c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

(a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;

(b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

(c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

In witness whereof, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

AMENDMENTS SUBMITTED

ADDITIONAL POSITIONS IN THE DEPARTMENT OF LABOR

HATCH AMENDMENT NO. 3271

Mr. PACKWOOD (for Mr. HATCH) proposed an amendment to the bill (S. 2864) to provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes as follows:

In the amendment to section 5315 of title 5, United States Code, made by section 2(b)(2), strike "(9)" and insert "(10)".

In section 2(e), strike out "Act" and insert "section".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

GORTON AMENDMENT NO. 3272

Mr. PACKWOOD (for Mr. GORTON) proposed an amendment to the bill (H.R. 5495) to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1987".

SEC. 2. There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1986:

(a) For "Research and development", for the following programs:

(1) Space station, $410,000,000;

(2) Space transportation capability development, $515,500,000;

(3) Physics and astronomy, $529,400,000;

(4) Life sciences, $74,300,000;

(5) Planetary exploration, $374,300,000;

(6) Space applications; $552,600,000;

(7) Technology utilization, $13,300,000;

(8) Commercial use of space, $27,000,000;

(9) Aeronautical research and technology, $376,000,000;

(10) Transatmospheric research and technology, $40,000,000;

(11) Space research and technology, $183,200,000; and

(12) Tracking and data advanced systems, $17,100,000.

(b) For "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $783,800,000;

(2) Space transportation operations, $1,350,700,000; and

(3) Space and ground network, communications and data systems, $860,900,000.

(c) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of addition to Orbiter Processing Facility Annex, John F. Kennedy Space Center, $3,400,000;

(2) Construction of addition to the Systems Integration and Mockup Laboratory, Johnson Space Center, $5,000,000;

(3) Construction of Central Computing Facility, Johnson Space Center, $9,000,000;

(4) Modifications to Test Stand 300 for Space Station Hydrogen/Oxygen Propulsion Systems Development, George C. Marshall Space Flight Center, $2,100,000;

(5) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,000,000;

(6) Construction of Engineering Support Building, Jet Propulsion Laboratory, $9,800,000;

(7) Modification of Uninterruptible Power System in Space Flight Operations Facility, Jet Propulsion Laboratory, $2,600,000;

(8) Construction of Human Performance Research Laboratory, Ames Research Center, $9,400,000;

(9) Construction of Integrated Test Facility, Dryden Flight Research Facility, $17,500,000;

(10) Modifications to 8-Foot High Temperature Tunnel, Langley Research Center, $9,700,000;

(11) Construction of addition for Non-Destructive Evaluation Research Laboratory, Langley Research Center, $2,000,000;

(12) Construction of Power Systems Facility, Lewis Research Center, $5,800,000;

(13) Construction of the Second Tracking and Data Relay Satellite System Ground Terminal Facility, New Mexico, $22,000,000;

(14) Repair of facilities at various locations, not in excess of $750,000 per project, $24,000,000;

(15) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $30,000,000;

(16) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $7,000,000; and

(17) Facility planning and design not otherwise provided for, $14,000,000.

Notwithstanding paragraphs (1) through (17) of this subsection, the total amount authorized by this subsection shall not exceed $161,300,000.

(d) For "Research and program management", $1,425,000,000.

(e) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development," for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 3. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (11) of section 2(c) of this Act—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 4. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 2 (a) or (b) of this Act may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 2(c) of this Act (other than funds appropriated pursuant to paragraph (12) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 2(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so make available may be expended to acquire, construct, con-

vert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 5. Notwithstanding any other provision of this Act, no amount appropriated pursuant to this act may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 2 (a), (b), and (d); and

(3) which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by the President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 6. The President shall, on the date of the submittal to the Congress of a budget for the National Aeronautics and Space Administration for fiscal year 1988, submit to the Congress budget estimates for the recommended level of program activity and subactivity funding for fiscal years 1989 and 1990 of a permanently manned space station.

SEC. 7. No civil space station authorized under section 2(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 8. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 9. (a) Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $1,120,000 for fiscal year 1987.".

(b) Section 5(a)(1) of the Commercial Space Launch Act (49 App. U.S.C. 2604(a)(1)) is amended to read as follows:

"(1) pursuant to authorization and subject to the availability of appropriations, encourage and facilitate commercial space launches by the private sector, in consonance with the space policies of the United States as established in public law; and".

(c) Section 15(b) of the Commercial Space Launch Act (49 App. U.S.C. 2614(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) For purposes of paragraph (1), direct costs shall not include costs associated with meeting the space transportation needs of the United States. Notwithstanding the provisions of this paragraph, charges for the use of government payload processing facilities and associated services for comemrcial payloads shall continue to be based on the current full cost recovery standard.".

SEC. 10. The Administrator of the National Aeronautics and Space Administration shall review the proposed space agenda submitted by the National Commission on Space pursuant to title II of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 427) and recommend to the appropriate committees of the Congress a long-range plan to implement such proposed space agenda, including a specific agenda for the five-year period beginning on the date of enactment of this Act. Such recommendations shall be made not later than February 15, 1987.

SEC. 11. (a) The Administrator of the National Aeronautics and Space Administration shall prepare and submit to the Congress, not later than March 31, 1987, a comprehensive acquisition strategy and plan for the continued procurement of space shuttle solid rocket motors. Such strategy and plan shall specifically address (1) the decisions made by the Administrator regarding the motor design or designs, (2) alternatives for establishing and maintaining competition in the future procurements, and (3) costs and benefits of each such alternative.

(b) Upon completion of the solid rocket motor redesign and the upgraded motor evaluation efforts, and the determination of a safe and reasonable flight rate, but before signing or extending any production contract for follow-on solid rocket motors beyond those currently under contract, the Administrator shall (1) issue a request for proposal for a second source for a redesigned motor, or (2) issue a request for proposal for an upgraded motor.

(c) The Administrator shall determine whether a request to the Congress for second source qualification funding is necessary or desirable in order to permit the second source to compete with the incumbent on a fair and effective basis, consistent with the Competition in Contracting Act of 1984 (Public Law 98-369; 98 Stat. 1175).

(d) The Administrator shall consider the competitive advantages of the nozzle and solid rocket motor separately. No determination of the advantages of the second source of either the solid rocket motor or the nozzle shall preclude a judgment on the advantages of the other. In evaluating proposals received in response to the request for proposal issued pursuant to subsection (b) of this section, the Administrator shall consider costs and cost savings in accordance with applicable law.

(e) The comprehensive acquisition strategy and plan prepared under subsection (a) of this section and proposals for a second source for a redesigned motor under subsection (b) of this section shall apply to all modifications of the solid rocket motor that are intended for production.

(f) In addition to the requirements of subsection (b) of this section, the Administrator, before signing or extending any production contract for follow-up solid rocket motors beyond those currently under contract, shall notify the Congress of the number of additional solid rocket motors required in order to allow the space shuttle transportation system to continue to operate if a new contractor, selected pursuant to subsection (b)(1) or (2) of this section, is not able to provide any of such additional solid rocket motors. The Administrator shall not sign or extend any such contract until a period of 30 calendar days during which either House of Congress is in session has passed after the date of such notification.

(g) Nothing in this section shall be construed to direct the Administrator to select and qualify a second source or upgraded source of production for solid rocket motors if the proposals received pursuant to subsection (b)(1) of this section are inconsistent with the requirements of section 2304(b)(1) of title 10, United States Code, or if the proposals received pursuant to subsection (b)(2) of this section are inconsistent with the requirements of section 2304(a)(1) of title 10, United States Code.

SEC. 12. (a) It is the sense of the Congress that the United States must promptly restore its space transportation capabilities and such restoration must be accomplished without deemphasizing other space programs.

(b) The Administrator of the National Aeronautics and Space Administration is directed to take the necessary steps to return safely the space shuttle fleet to flight status.

(c) There are authorized to be appropriated for fiscal year 1987 $100,600,000 to carry out this section.

SEC. 13. (a)(1) The Administrator of the National Aeronautics and Space Administration shall promptly take such steps as may be necessary to construct a fourth space shuttle orbiter as a replacement for the space shuttle orbiter Challenger.

(2) There are authorized to be appropriated for fiscal year 1987 $272,000,000 to begin the construction required by paragraph (1) of this subsection.

(b) The Administrator shall explore the availability of private funding for construction of the replacement orbiter authorized by subsection (a) of this section. The Administrator shall accept private funding for such construction—

(1) if the Administrator finds that such private funding is available; and

(2) if the Administrator finds that such funding—

(A) is in the best interests of the United States; and

(B) results in no additional net costs to the Federal Government.

Private funding accepted under this subsection shall replace appropriated funding obligated or expended for such a replacement orbiter.

SEC. 14. (a) The Administrator of the National Aeronautics and Space Administration, in cooperation with the Secretary of Defense, and before July 1, 1987, shall submit to the Congress a five-year plan, to be updated annually and presented to Con-

gress along with the President's annual budget request, setting forth—

(1) a schedule for planned reimbursements from the Department of Defense for space shuttle services; and

(2) a schedule for the provision of such services.

(b) There is authorized to be appropriated for fiscal year 1987 $531,000,000 as payment to the National Aeronautics and Space Administration for reimbursable services provided to the Department of Defense.

SEC. 15. (a) The space shuttle shall be the primary United States launch system for manned missions and missions needing its unique capabilities. The space shuttle shall also be available for other missions, including the launch of non-shuttle-unique foreign and commercial payloads, pursuant to the priorities specified in subsection (b)(2) of this section.

(b) The Administrator of the National Aeronautics and Space Administration shall make best efforts to develop a space shuttle launch manifest that—

(1) ensures that existing commitments of the National Aeronautics and Space Administration to its customers, including launch service agreements, are met within the priority constraints contained in paragraph (2) of this subsection; and

(2) reflects the following priorities (in descending order):

(A) Payloads deemed critical to the national security.

(B) Significant civil government missions, including those having limited launch opportunities.

(C) Government payloads other than those referred to in subparagraphs (A) and (B) of this paragraph.

(D) Payloads other than those referred to in subparagraphs (A) through (C) of this paragraph, including foreign and commercial payloads.

(c) The Administrator shall submit the current flight manifest to the Congress reflecting the priorities contained in this section not later than November 1, 1986. The Administrator shall keep the Congress fully and currently informed of the status of the flight manifest.

SEC. 16. (a) It is the sense of the Congress that the shuttle pricing policy established in title II of the National Aeronautics and Space Administration Authorization Act of 1986 (Public Law 99-170; 99 Stat. 1017) remains valid and should be implemented so as to assure reliable access to space for all United States space users.

(b) In the report required by title II of such Act submitted with the budget request for fiscal year 1988, the Administrator of the National Aeronautics and Space Administration shall include a description of how the Administrator's implementation of the pricing policy will accomplish the objectives of this section.

SEC. 17. (a) It is the sense of the Congress that in order to ensure reliable access to space, in order to meet national security, scientific, and commercial objectives of the United States space program, and in order to ensure that the United States does not concede the commercial launch vehicle business to foreign competition, the United States should utilize the capability of expendable launch vehicles as well as the space shuttle for placing govenment payloads into orbits.

(b) In order to meet the requirements of subsection (a) of this section, the Administrator of the National Aeronautics and Space Administration shall develop a plan for the purchase, through competitive procurement, of expendable launch vehicle services for the purpose of launching government payloads, as aggregated by the Administrator. The services purchased under this subsection shall be provided on a reimbursable basis.

(c) The Administrator shall report to the Congress on how the Administrator will carry out this section not later than February 15, 1987. Such report shall include—

(1) an estimate of expendable launch vehicle requirements for the five years following the date of enactment of this Act;

(2) an explanation of how the National Aeronautics and Space Administration intends to utilize expendable launch vehicle launches for future civil launch requirements, including but not limited to the availability of a commercial expendable launch vehicle capability, a National Aeronautics and Space Administration expendable launch vehicle capability, and a Department of Defense expendable launch vehicle capability;

(3) an explanation of how such utilization of expendable launch vehicles can be carried out in a manner which fosters the development of a competitive expendable launch vehicle industry;

(4) a proposed procurement plan for commercial expendable launch vehicle services for the five years following the date of enactment of this Act; and

(5) an estimate of the authorizations of appropriations that are necessary to procure launch services for United States Government satellites by expendable launch vehicles for fiscal year 1988 and the four succeeding fiscal years.

SEC. 18. (a) Congress finds that the National Aeronautics and Space Administration should take every action available to it to restore, to its previous standards of excellence, its commitment to quality assurance, reliability, and safety.

(b) The Administrator of the National Aeronautics and Space Administration shall identify as a separate item in the budget submitted by the President under section 1105 of title 31, United States Code, for any fiscal year, the number of individuals per facility of the National Aeronautics and Space Administration whose functions relate to quality assurance, reliability, and safety.

SEC. 19. (a) There is hereby established, in the Executive Office of the President, the National Aeronautics and Space Council (hereinafter called the "Council") which shall be composed of—

(1) the Vice President, who shall be Chairman of the Council;

(2) the Secretary of State;

(3) the Secretary of Defense;

(4) the Secretary of Transportation;

(5) the Secretary of Commerce;

(6) the Director of Central Intelligence; and

(7) the Administrator of the National Aeronautics and Space Administration, who shall be the Vice Chairman of the Council.

(b) The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(c) Each member of the Council may designate another officer of their department or agency to serve on the Council as their alternative in their unavoidable absence.

(d) Each alternate member designated under subsection (c) of this section shall be designated to serve as such by and with the advice and consent of the Senate unless at the time of such member's designation the member holds an office in the Federal Government to which the member was appointed by and with the advice and consent of the Senate.

(e) It shall be the function of the Council to advise and assist the president, as the President may request, with respect to the performance of functions in the aeronautics and space field, including the following functions:

(1) survey all significant aeronautical and space activities, including the policies, plans, programs, and accomplishments of the United States, including all departments and agencies of the United States engaged in such activities, and other nations;

(2) develop a comprehensive program of aeronautical and space activities to be conducted by departments and agencies of the United States;

(3) designate and fix responsibility for the direction of major aeronautical and space activities;

(4) provide for effective cooperation among all departments and agencies of the United States engaged in aeronautical and space activities, and specify, in any case in which primary responsibility for any category of aeronautical and space activities has been assigned to any department or agency, which of those activities may be carried on concurrently by other departments or agencies; and

(5) resolve differences arising among departments and agencies of the United States with respect to aeronautical and space activities under this Act, including differences as to whether a particular project is an aeronautical and space activity.

(f) The Council may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President by and with the advice and consent of the Senate. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons, as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions. Each appointment under this subsection shall be subject to the same security requirements as those established for personnel of the National Aeronautics and Space Administration appointed under section 203(c)(2) of this Act. Other provisions of law or regulations relating to Government employment shall apply to employees of the Council reporting directly to the Chairman to the extent that such provisions are applicable to employees in the Office of the Vice President.

(g)(1) The Council shall establish a Users' Advisory Group composed of nine non-Federal representatives of industries and other persons involved in space activities.

(2) The Vice President shall name a Chairman of the Users' Advisory Group.

(3) The Council shall from time to time, but not less often that once a year, meet with the Users' Advisory Group.

(4) The functions of the Users' Advisory Group is to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the Council.

(5) The Users' Advisory Group may be assisted by the staff of the Council.

SEC. 20. The Administrator of the National Aeronautics and Space Administration shall submit a report to the Congress by January 30, 1987, detailing the Administra-

tor's actions to comply with Executive Order 12564.

SEC. 21. (a) The Congress finds and declares that—

(1) The implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in such Act have been met;

(2) the Congress remains strongly committed to the guiding principles set forth in such Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under such Act.

(b) It is therefore the purpose of this section to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) to ensure that—

(1) the original intent of such Act is carried out in the most effective manner consistent with the guiding principles expressed in such Act;

(2) specific mechanisms for carrying out the original intent of such Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out such Act are fully developed and mutually understood.

(c) Section 202(a)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semi-colon the following: ", except in the case of research and development activities conducted in accordance with section 504".

(d) Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4221 et seq.) is amended by adding at the end thereof the following:

"DISPOSITION OF GOVERNMENT ASSETS

"SEC. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

(3) Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space programs to related research and development programs funded by the Federal Government (including applications programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose, or

"(2) in substantial competition with data available from a licensee under this Act,

except pursuant to section 503.".

(f) Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4261 et seq.) is amended by adding at the end thereof the following:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV, or any marketing entity under section 503, may provide data for research and development programs if—

"(1) a complete and timely disclosure of the results of such research and development is made in the open technicial literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

(g) Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

SEC. 22. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast service duties under law, $330,598,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and by any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts.

(b) Of the amount authorized to be appropriated by subsection (a) of this section, $45,500,000 is authorized to be appropriated only for activities related to the Next Generation Weather Radar Program. Such activities may include site surveys, preparation for production radars, limited radar production, initial operational test and evaluation of radars, training of personnel, release of long lead items for full production, award of the production contract, and land acquisition for radar sites.

SEC. 23. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric and hydrological research duties under law, $68,044,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric and hydrological research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.,), and by any other law involving such duties. Such duties include research for developing improved prediction capabilities for atmospheric and hydrological processes.

SEC. 24. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite services duties under law, $72,606,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Aeronautics and Space Administration Authorization Act, 1985, approved July 16, 1984 (Public Law 98-361; 98 Stat. 422), and by any other law involving such duties. Such duties include satellite maintenance and operations and satellite data analysis.

SEC. 25. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite systems duties under law, $168,139,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used by the National Oceanic and Atmospheric Administration to purchase, launch and operate the most reliable polar-orbiting meteorological satellite system that is feasible including a full complement of all present instruments in the afternoon orbit and a backup capability for additional reliability in the morning orbit. In addition, such moneys shall be used to fund those duties relating to satellite systems specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Aeronautics and Space Administration Authorization Act, 1985, approved July 16, 1984 (Public Law 98-361; 98 Stat. 422), and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated station system changes involving polar-orbiting and geostationary environmental satellites.

SEC. 26. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $22,734,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1980 (15 U.S.C. 311 et seq.), and by any other law involving such duties. Such duties include environmental data and information products and services in the atmospheric, marine, solid earth, and solar-terrestrial sciences.

SEC. 27. (a) Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall

be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

(b) Section 5315 of title 5, United States Code, is amended by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

(c) Section 5316 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

INDEPENDENT SAFETY BOARD AUTHORIZATION ACT

EXON AMENDMENT NO. 3273

Mr. BYRD (for Mr. EXON) proposed an amendment to the bill (H.R. 4961) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and for other purposes, as follows:

At the end of the bill, add the following:

SEC. 7. AVIATION LIABILITY INSURANCE.

(a) The Secretary of Transportation and the Administrator of the Federal Aviation Administration shall—

(1) not later than March 1, 1987, submit an interim report, and

(2) not later than March 1, 1988, submit a comprehensive final report,

concerning the extent of and causes for the rapidly increasing costs to United States public use airport sponsors for general liability insurance coverage. Such reports shall consider the probable implications of such increasing costs on the future capacity of the airport runway and taxiway system of the United States, particularly at smaller airports, and shall include any recommendations of the Secretary and the Administrator for actions which the Federal Government might undertake to assist in ameliorating the liability insurance difficulties of such public use airport sponsors.

(b)(1) The Administrator shall, within sixty days after the date of enactment of this Act, contract with a nonprofit foundation to establish an information clearinghouse concerning general liability insurance coverage at such public use airports.

(2) The clearinghouse shall gather and distribute without charge to such airports information on premiums, coverage limits and insurance availability. All information generated by such clearinghouse shall be made available promptly to the Secretary and the Administrator for use as appropriate in the reports required under subsection (a) of this section.

(3) There shall be available for the purposes of this subsection $250,000 of funds appropriated for the Federal Aviation Administration for each of the fiscal years 1987 and 1988.

RESTRICTIONS ON USE OF GOVERNMENT VEHICLES

ROTH (AND PROXMIRE) AMENDMENT NO. 3274

Mr. PACKWOOD (for Mr. ROTH, for himself and Mr. PROXMIRE) proposed an amendment to the bill (H.R. 3614) to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 1344 of title 31, United States Code, is amended to read as follows:

"§ 1344. Passenger carrier use

"(a)(1) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose.

"(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

"(A) required for the performance of field work, in accordance with regulations prescribed pursuant to subsection (e) of this section, or

"(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties.

is transportation for an official purpose, when approved in writing by the head of the Federal agency.

"(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

"(1)(A) the President and the Vice President;

"(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

"(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

"(2)(A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

"(B) a single principal deputy to an officer described in subparagraph (A) of this paragraph, when a determination is made by such officer that such transportation is appropriate;

"(3) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

"(4) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

"(5) the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;

"(6) the Chairman of the Board of Governors of the Federal Reserve System;

"(7) the Comptroller General of the United States and the Postmaster General of the United States; and

"(8) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to paragraph (8) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be effective for not more than 15 calendar days.

"(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956 or section 8(a)(1) of the Central Intelligence Agency Act of 1949.

"(d)(1) Any determination made under paragraph (8) of subsection (b) shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

"(2) If a clear and present danger, an emergency, or a compelling operational consideration described in paragraph (8) of subsection (b) extends or may extend for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each period, and, where appropriate, a subsequent determination may be made whether such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

"(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2), (b)(2)(B), and (b)(8) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(8) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer of employee.

"(4) Notification of each designation or determination made under paragraphs (1), (2)(B), and (8) of subsection (b) and under paragraph (2) of this subsection, including the name and title of the officer or employee affected, the reason for any determination under paragraph (8) of subsection (b),

and the expected duration of any authorization under such paragraph, shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of Management and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(8), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section.

"(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term 'field work' for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transportation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

"(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section.

"(g) As used in this section—

"(1) the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

"(2) the term 'Federal agency' means—

"(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

"(B) an Executive department (as such term is defined in section 101 of title 5);

"(C) a military deparment (as such term is defined in section 102 of title 5);

"(D) a Government corporation (as such term is defined in section 103(1) of title 5);

"(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

"(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

"(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

"(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of title 44);

"(I) the Smithsonian Institution; and

"(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia.

"(h) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.".

(b) The table of sections for chapter 13 of such title is amended by striking out the item relating to section 1344 and inserting in lieu thereof the following:

"1344. Passenger carrier use.".

SEC. 2. (a) Title 10, United States Code, is amended—

(1) by striking out section 2637 thereof; and

(2) in the table of contents of chapter 157 thereof, by striking out the item pertaining to section 2637.

(b) Section 636(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(5)) is amended by striking out "(without regard to the limitations contained in section 5 of Public Law 63-127, as amended (31 U.S.C. 638a(c)2)), and section 201 of Public Law 85-468 (31 U.S.C. 638c))".

(c) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "without regard to the limitations contained in section 78(c) of title 5 of the United States Code".

(d) Section 11 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678) is repealed.

(e) Section 660 of title 14, United States Code, is amended by striking out subsection (e).

SEC. 3. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare, in consultation with the Marshal of the Supreme Court of the United States, the Clerk of the United States Court of Military Appeals and the Court Administrator of the United States Tax Court, and transmit to the Congress, appropriate recommendations concerning the transportation needs of the judicial branch and of courts established pursuant to Article I of the Constitution.

OMNIBUS DRUG ENFORCEMENT EDUCATION, AND CONTROL ACT

DOLE AMENDMENT NO. 3275

Mr. DOLE proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes;

(The text of the amendment will be printed in Part II of the RECORD.)

ADDITIONAL STATEMENTS

OFFICER DELBERT LANNIER

● Mr. SIMON. Mr. President, the Nation has lost a valued public servant, and many of us have lost a friend.

Officer Delbert Lannier of the Capitol Hill Police has died after complications from heart surgery.

Officer Lannier met countless people each day in his work at the Cannon House Office Building. He assisted or brightened the day of most of them. He leaves behind hundreds of friends, and I am proud to count myself among them. It can truly be said that the world is a better place because of the good work and good deeds of Delbert Lannier.

Del Lannier went out of his way to be good to me and to many of us in the House and Senate, as well as to any visitor or human being who crossed his path. I talked to him about an hour before he underwent heart surgery, and he sounded optimistic and was in great spirits. That is how I shall always remember him.

We do not recognize as often as we should the great work done by the Capitol Police.

Congressman DOUG BARNARD was another of Del's friends, and he has prepared a eulogy that captures so well these exceptional qualities about our friend Del.

I ask that the eulogy be printed in the RECORD.

The eulogy is as follows:

EULOGY

Friends, Family, Officers, it is a great honor for me to have the opportunity to say a few words about our friend, Delbert Lannier. I say it is an honor because Delbert was a man who had touched many people and affected many lives. There are scores of congressmen, staffers, and fellow policemen who could give their own testimony as to what Delbert meant to them.

More than anyone else I have ever known, Delbert lived out the Will Roger's philosophy, "I never met a man I didn't like." I don't believe Delbert knew what a stranger was—and he must have come in contact with literally hundreds of people a day. With close friends and passersby on the street, he was friendly, outgoing and cheerful.

Now I know there are lot of you out there who knew Delbert more personally, and who worked with him more closely, than I did so I am not going to try to chronicle his life and his good deeds—and they are numerous. In fact, I think it would be a mistake to just list off the statistics of his life here today and leave. As one who has buried both parents and many other loved ones, as I know all of you have, I have come to learn something about death.

And what I have learned is that if you want to keep someone alive, then you have to keep a part of that person in you. You have to internalize some of his virtues and his philosophies so that when a new member joins the police force or a new congressional staffer comes to work on Capitol Hill, they can say "I feel just like I knew Delbert." Our lives can be a living testimony to his life so that his spirit, his energy, his force will always be with us.

And so, I want to tell you a few of the things I learned from Delbert.

I think if you asked anyone for one adjective to describe Delbert, they would say "cheerful." You know it is really hard to be in a good mood all the time. Most of us don't even succeed half the time. And as all of us know, everyone's life has its share of pain and suffering. Delbert had more than some, less than others. But the important lesson is that he didn't let it get him down. He was not defeated by life—rather he defied the sorrow and grief that keep many people down. He suffered but that smile never left his face.

And even more important, he was able to pass on that happiness to other people.

There were many mornings when I passed Delbert on the way to my office at 7:00 or 8:00, and I don't mind telling you that I was not looking forward to the day. Maybe I had a tough schedule ahead of me or I had some personal problems on my mind. But after talking with Delbert a few minutes, I never failed to enter my office with a ligther heart and a better outlook on the day ahead. The gift to make other people smile and to be glad to live is a precious gift that the world needs to keep alive. And I am sure everyone who walked the halls of Cannon, or the Capitol, or the police locker room, or the sidewalk of Washington could tell you of the time that he or she walked past Delbert in a slump, and left him with a grin on his face and spring in his step.

Thirdly, Delbert treated everyone like they were special. In a town like Washington, it is easy to have your head turned. But Delbert, who came in contact with the greatest and the humblest, was never affected by power of titles. If it was a congressman rushing across the street for a vote, or a tired tourist asking for directions, Delbert's smile was the same. He helped everyone equally and never thought about getting anything in return. As a matter of fact, his friendliness and helpfulness got into print at least twice that I know of. Just going about his business, helping anyone who asked for it.

Finally, Delbert always put other people before himself. He was a sympathetic listener and a kind friend. People could sense his warmth and compassion and felt free to take him into their confidence. I do not know personally of any incidences where Delbert risked his life for other people, but I am sure that in his line of duty as a police officer or in the armed services, he had occasion to defend other people and did so without a thought for himself. I DO know that he was loved and respected by all the people he came to know in his thirteen years on Capitol Hill, and that we all considered it a privilege to call him a friend.

To put others before yourself, to treat everyone with equal respect, to make other people happy by your happiness—those are noble, though almost unattainable, traits. But Delbert had them all. Now if we can all try to learn from his example and take on some of these characteristics ourselves, we will have paid the greatest tribute of all to our friend, Delbert.

If Delbert thought that he had made just his little corner of the world a better place, then I know he would be satisfied. So let's all keep Delbert alive and with us by our own actions, our own compassion, and our own smiles. If we can do that then we will change this afternoon from a time for mourning to a celebration of life.●

CONGRATULATIONS TO THE REPUBLIC OF CHINA

● Mr. DENTON. Mr. President, on October 10, 1911, Dr. Sun Yat-sen was successful on his 11th attempt to overthrow the Manchu Dynasty. As a result of Dr. Sun's success, a representative government of the people was established in China. This representative government, based on Dr. Sun's three principles of the people—often described as nationalism, self-determination, and social well being—has served the cause of personal and national freedom.

Today, the Republic of China stands as a symbol of freedom for all the Chinese people. I salute the Republic of China for its commitment to personal and national freedom. I also salute President Chaing Ching-kuo for his recent announcement of his intent to end martial law on the island of Taiwan. Such intent is truly consistent with the Government's desire to further democratize the political process as well as to improve economic conditions on Taiwan.

Mr. President, I ask that two articles from the Washington Post concerning the announcement be printed in the RECORD.

TAIWAN PRESIDENT TO PROPOSE END TO ISLAND'S MARTIAL LAW

(By Daniel Southerland)

TAIPEI, TAIWAN, October 7—Taiwan President Chiang Ching-kuo said today that his government will soon propose lifting emergency decrees, commonly referred to as martial law, imposed by his ruling Nationalist Party on this island nearly four decades ago.

Chiang, 76, the eldest son of the late president Chiang Kai-shek, said that terminating the decrees would mean an end to trials of civilians in military courts, and the removal of unspecified restrictions on personal freedoms.

Chiang also said that penalties for some offenses would be made "comparatively more lenient."

Chiang said that a longstanding desire to "democratize" as well as improve economic conditions on Taiwan had led to the decision to end the decrees.

The president spoke in an hour long interview held in a sparely decorated reception room with Katharine Graham, chairman of the board of The Washington Post Co., and two editors from Newsweek and the Washington Post.

Despite his remarks on democratization, Chiang said that a newly formed opposition political party on Taiwan, the Democatic Progressive Party, had failed to meet requirements set by the ruling Nationalists.

The new party "had no concept of our nation and . . . failed to mention the anti-communist policy in its platform" he said. He referrd to the new party as the "so-called political party."

Until recently, the Nationalists banned organized political opposition. Chiang said the Nationalists now are studying the question of legalizing new political parties "very vigorously" and expect to come to a conclusion "very soon."

Chiang's negative comments seemed to indicate that the newly formed party would not be legalized. But they may also have been aimed at pressing the party to conform to what Chiang and other officials have said is required.

Chiang said that any new party must respect the constitution, uphold a basic policy of anticommunism, and stay clear of the secessionist Taiwan independence movement. "If they successfully meet these requirements, we will allow new political parties to be formed," he said.

Chiang said that newspaper reports had called attention to "separatist elements" in the new party.

Despite his negative tone, some observers predicted that after lengthy bargaining, the Nationalists and their opponents will reach an agreement permitting the new party to operate.

"Each side would like to take the credit for political liberalization," said one foreign observer. "The Nationalists don't want to be seen as being forced into this."

This observer said that Chiang wants in his final years in office to bequeath some kind of stable, lasting system, and has concluded that the only way he can do this is to invite broader participation in the political process.

Pressure comes from a growing middle class, which has attained an educational level giving it the confidence to demand change.

Skeptical members of the political opposition said that they believed the Nationalists' talk of lifting martial law was an exercise to improve their image both at home and abroad.

Some foreign observers said, however, that the impending announcement on martial law could constitute a symbolic and psychological breakthrough. It might lead, they said, to a significant liberalization of what has been essentially one-party rule for the past 37 years.

Chiang made it clear in today's interview, however, that some restrictions will be retained through the imposition of a new national security law. He said the measure was required because of what he described as a continuing communist threat to Taiwan.

In an interview earlier this week, Mah Soo-lay, secretary general of the Nationalist Party's central committee, said the new law would include restrictions on immigration into Taiwan and on movements along the island's coast. The law would be aimed, in part, at countering communist infiltration, Mah said.

Chiang said it was unclear how long it would take for an end to martial law to be formally promulgated because Taiwan's legislature had to consider the issue.

Despite speculation about his health, Chiang appeared relaxed, self-assured and mentally acute. A diabetic, he clearly has difficulty moving about, but is expected to speak in public on Taiwan's national day on Friday.

In addition to answering questions during the hour-long interview, Chiang provided written answers to a series of questions submitted to him in advance of the interveiw.

"Except for my diabetes, I am in good health," said Chiang in answer to one of the written questions.

In both his written and verbal answers, the Taiwanese leader displayed an unyielding attitude toward proposals made my China for reaching an accommodation between the two.

In the written answers, for example, Chiang dismissed talks by Taiwan and China last May involving a hijacked airliner as an isolated case that did nothing to change Taipei's policy of "no contact, no negotiation, and no compromise" with Peking.

Chiang said that China's proposal for "one country, two systems," under which Taiwan would maintain its own economic system and army, was merely a variation on old "united front tactics" aimed at achieving communist domination.

"They have not abandoned their desire to invade or incorporate us," said Chiang.

Asked about changes occurring on the mainland under the leadership of Deng Xiaoping, Chiang said: "There are certain changes taking place. But they are cosmetic. The essence of communism remains the same.

"They may change their outfits from Mao suits to western suits, but the essence remains the same," he said.

"Just think of a tree," he continued. "Deng Xiaoping has been trimming the branches, but the root stays the same.

". . . Unless they forsake communism and return to Chinese traditions, there will be no real change" he said.

Chiang claimed that irreversible trends in world history would lead to the failure of communism and an eventual recovery of the mainland.

"One day we'll rejoin our people," he said.

POLICE STATE SURPRISE

(By Meg Greenfield)

TAIPEI.—After a couple of weeks in China and a few days here, I am prompted to write about a phenomenon I think of as "police state surprise"—the reaction of an American traveler to the reality of life in an undemocratic place, as distinct from the preconception of it. I use the term "police state" loosely and, no doubt, unfairly to cover a broad range of repressive states from eastern Europe to southern Africa to South America to this part of the world. But though they are all different, including in the degree of their repression, they all have this in common: they have been so relentlessly reduced in our national conversation to their essential political features that the initial encounter with their daily life tends to astound. Why, look! There are people buying their noodles and riding their bikes and carting their dressed-up babies around as if it didn't matter—as if they weren't about to be shot to death by the secret police—what can it mean?

I exaggerate, but not by much. The sight of real people going about their workaday business and doing familiar household things, taken together with some hidden official prompting and a pleasant unofficial meeting or two, has caused any number of otherwise sane Americans to infer that some of the worst tyrannies on earth were merely victims of our own misapprehension. The more notable burblings have even been collected in savage satirical books. But you don't have to be one of the burblers to be struck, as I invariably am, by how little the scene in our line of vision conforms to a lifetime's store of images drawn from movies about the Nazis and third-rate imitations of "Darkness at Noon."

One recent day in Peking, I stood in the vast interior courtyard of the Forbidden City, where a spectacular Bertolucci film is being made about China's last emperor. At least a thousand lavishly gowned film extras were compliantly going through takes and retakes of a scene in which they kowtow to the imperial infant, as stylishly casual British and Italian movie types bellowed their orders over megaphones.

Who were these extras? I asked.

"Army," came the reply.

Yes, the dread Chinese People's Liberation Army of my Korean War-ridden youth—there were their inheritors, lolling about between takes in full-length red velvet dresses, courtesy of the communist government. So Element One of the "surprise" is a truth that shouldn't even be surprising: that life, with its ordinary preoccupations and its rare exotic moment, goes on.

The journalist, pressing a little further, discovers more that doesn't comport with expectation. It is that a political life of sorts, ranging from minimal and rudimentary to fairly elaborate, will assert itself and sometimes flourish within the confines of a repressive system—inside the single permitted party, for example, or outside it in various realms of religious or cultural or military life. In some countries, such as Spain and Portugal during the later years of their Fascist dictatorships, these reached so advanced a state as to make the transition to democratic rule fairly easy. In others, such as here in Taiwan, a president like Chiang Ching-kuo must at least yield on some reforms and must "bring along" a number of strong-minded, differing colleagues as well as appease various domestic and foreign constituencies to get his business done.

You don't encounter absolute rule, in other words, and it is the fault of a kind of Achtung delusion that you even expect it. For nobody and no group, not even the driven, arrogant Chinese government, can entirely control a nation's life. Consider this: central government official after official in China makes it plain that the highest priority is the attraction of foreign capital and technology in joint ventures that will work. To this end the Chinese are regularly sternly instructed that they must cooperate in making these ventures profitable to foreign businesses. Yet you can hardly hack your way through the accounts of American businessmen and others about how these instructions are being flagrantly disregarded, just as the newly liberalized rules governing agricultural production and some industries are being misused by some Chinese to make an extra unauthorized buck.

My own favorite illustration comes from a Western hotelier who paid $6 million for a parcel of desirable land and who, before he could get his own construction under way, saw a prefabricated Japanese hotel going up on a part of it, a situation he was unable to reverse, so that his own hotel will now have another hotel on what had been planned as its modest grounds.

You hear stories of draconian punishment for some instances of corruption—embezzlement, in particular—but concerning this other funny business you hear mainly stories of unpunished, rapacious defiance of the government's intentions. To the sight of normal people doing normal things, then, add a perception of some measure of restraint on the party or leader, some residual political expression, perhaps, degrees of resistance and willfulness within the society.

And to these must be added a third revelation: that of the complexity of relationships within the society as a whole where the regime and its assaults on people's personal freedoms and dignity are concerned. As in Argentina after the nightmare of the "disappeareds," so in China after the incomparable horror of the Cultural Revolution, it is very difficult to locate a sharp line between a class of doers and a class of done-tos. Once the readily identifiable culprits have been singled out, the division of responsibility blurs. Yes, it was a violent, mindless Mao-encouraged brutishness that took over in China and which succeeded in obliterating much of value in Chinese culture and drastically altering, even subduing the society that survives. Person after person that you meet—a mayor, a factory manager, a university president, a writer—will tell you with a small, rueful smile, "Oh, yes, I went to the countryside during the Cultural Revolution," meaning that he or she was subjected to extremes of privation and degradation we can hardly imagine.

Over supper a film director told me what it was like to wear his big metal-lined dunce cap around the factory where he then worked and how at first he tended to believed the charges against him. Others talk of lost family life and lost family members. But when you ask who was responsible besides "the Gang of Four," and what has been done to them, you will generally hear only vague remarks about Red Guards and how they were very young at the time and how so many of them have changed.

Some part of this seems to reflect a kind of lingering anxiety: people say it couldn't happen again, but they speak in the unsure tones of a terrorized family that wonders if the burglar may still be somewhere in the house. More importantly, I think, one also learns that the perpetrators were often in the same family as the victims, that the atrocities cannot be laid at the door of some discrete group designated as "they" or "the authorities," but rather that guilt is woven through communities and classes and work places and homes. These people do not necessarily wish to call each other to account. And that is the third element in the breakdown of preconceptions: the difficulty of discerning a simple subjugator-versus-subjugated scheme. There are multiple degrees of acquiescence and participation, and while there are tormentors and victims, it tends not to be always a case of a vicious, unelected minority with the guns controlling the others—despite what you may read in cheap books and political speeches.

To all this add one final pressure, proceeding from personal encounters. The mayor of Shanghai was going on the other day to a group of us about the burdens that growing prosperity had imposed on his capacity to get his job done. It was the most agitated he became during the interview. "Watermelon rinds!" he exclaimed at one point. "Watermelon rinds!" It turned out that practically everyone in Shanghai can now afford much-loved watermelon, and the mayor is at a loss for a way to dispose of the leavings. I thought: the universal mayor—he could be any big-city mayor in America keening about garbage problems. But of course there is a basic difference between the mayor of Shanghai and our mayors. He is not popularly elected, is not in our sense a "mayor" at all.

This is the old counterpart problem. American lawyers recently complained about cultural exchanges with Soviet-variety lawyers, noting that it was false to assume that there was an equivalence here. I feel the same when the "we journalists" formulation is applied to me and some government or party functionary who is putting out the local sheet.

I don't think we should reinforce, through our camaraderie, the notion that the free press is the same as the other kind. But even so, there is a sort of watermelon-rind connection among almost all professions that meet in these odd moments. One can share certain jokes and lore about the superficial aspects of the job. A deadline is a deadline. A printing press is a printing press. And besides, internal inhibitions make one reluctant to made a big deal of the distinctions. This is the pull of the personal encounter. Tempted often to declare the wide gulf between what we do as press and what the people giving us lunch or a tour of their newsroom do, setting out to extract an admission that what they almost invariably describe as journalistic inquiry is, by our lights, something else, one draws back, feeling a bit of bully, a braggart who is different from those Americans who brag about their wealth when abroad only in the choice of subject matter. So one finally demurs, subsides.

Traveling journalists, of course, have a legitimate cop-out: we are the detached observes there to ask, to learn. "All we want are the facts, ma'am," as the TV cop would say. It is part of our sacred doctrine that we don't participate don't issue manifestos or 12-point plans. We are allowed, in theory, anyway to sit down with Attila the Hun for a working breakfast without being considered his collaborators or pals.

To show our stuff we always insist on asking some questions about political prisoners and their whereabouts. But this is quite unsatisfactory. Invariably we are told that these people are few in number and that they are not in prison because of dissent, but because they committed common crimes, and after a spell of this we are expected to return to questions about debt repayment or foreign relations—and we do. A variety of influences are at work to make us back off: the discovery that all is more complicated than we thought, the sense of our role as mere recorders and, I fear, even the basic rules of the drawing room. For with the obligatory cup of coffee comes, inevitably, the amenity, the little joke about the weather, and the need to laugh and be minimally gracious—"Do you take cream and sugar, General Pinochet?"

I hate these moments. They make me wildly uncomfortable and unhappy. I don't believe I should set fire to myself in the midst of a journalistic interview—one is either one thing or the other—but something within me always objects that even these inconsequential little pleasantries are a form of indicating approval of things I would rather protest.

What is our obligation, then, as journalists? As Americans? As travelers whose approval or disapproval can have some impact on the rights of people in another country? How do we accommodate the new dimension of our understanding of these countries to an obligation to get at and report and thus make some kind of issue of their repressiveness? How do we test out what may simply be a second illusion—that of normality and tranquillity and even contentment in what we would find an insupportable dictatorship? The American traveler to Johannesburg is first struck by the evident ease and mixing of the races in the Carlton Center lobby, after all. It is only with time, further travel and some pushiness that he can get at a truth that eludes him at first. And finally to what extent does our amiable chitchat with a variety of greater and lesser tyrants and petty strongmen imply an acquiescence in or even encouragement of their rule, a kind of endorsement that can be exploited by them against protesting citizens in their own country?

These problems aren't unique to us. They beset the American government too. Watch Ronald Reagan trying to find his right pitch in a cacophony of advice about how and even whether to deal with the Russians. Consider how this country went from a 20-year sulk and denial of the reality of the Chinese government to an almost gooey affection for it after Nixon and Kissinger wisely reversed the policy madness of those two decades. Consider that in the rush of emotion that followed—and still now, here and there—it is thought churlish to point out that the Chinese rulers do many brutal things in their country. It is easier to despise totally and to forgive totally than it is to keep pressing for further, deeper, more laminated truths about what is going on in a country, and it is hardest of all to figure out right ways, to act in respect to what you have learned.

I don't feel as if I am doing much better than a torn-apart, warring, Congress-versus-executive, left-versus-right American government has over the years, but I must say, I know how it feels.●

COMMEMORATION OF THE 10TH ANNIVERSARY OF THE NATIONAL REGULATORY RESEARCH INSTITUTE

● Mr. METZENBAUM. Mr. President, November will mark the 10th anniversary of a very unique and successful institution.

In November 1976, at the initiation of the National Association of Regulatory Utility Commissioners [NARUC], the National Regulatory Research Institute [NRRI] was formed to provide research and technical assistance to public utility regulators.

We all know the tremendous importance of utility regulation to the cost and quality of public services. Yet, until the founding of the NRRI, public service commissions lacked a national research center capable of providing data, analyses, and broad policy reviews to help them with State specific issues and overall regulatory policy.

While regulated utilities could rely on large in-house staffs, paid consultants, and research provided by trade associations to supply information and analyses to advance their interests, utility regulators, charged with balancing the interests of the public and the utilities, lacked similar resources.

The NRRI filled this void and has performed this service admirably. It has performed timely, applied research on a variety of issues related to electric, gas, telephone, and water regulation. The institute has also established data bases and devised computer models to assist regulators with specific problems and issues.

By limiting its services to regulators, the NRRI has avoided even the appearance of any possible conflict of interest, and has developed a deserved reputation as an objective and valuable source of information and analysis for broad policy questions and State specific issues related to public utility regulation.

In its 10-year history, the NRRI has produced some 170 reports and analyses on major issues in four utility fields: Electric, natural gas, telecommunications, and water. These studies have addressed many of the leading issues confronting regulators today. These include power pooling and wheeling, cogeneration and avoided costs, cost overruns in plant construction, wellhead price deregulation, gas rate design, divestiture and competition in the telecommunications field, access charges, and water service pricing and rate design.

None of these reports is proprietary. Complimentary copies are sent to all public utility commissioners and their senior staffs, and the reports are available at cost to the rest of the public.

Mr. President, the NRRI is a perfect example of how a limited amount of Federal funds can be used as seed money for a public service idea which will take off and eventually succeed on its own. I worked very hard to secure an initial $2 million in Federal funds for the start up of the institute. Since then, it has flourished on its own, as a result of the quality and timeliness of its work. To date, the NRRI has attracted over $10 million to support its research efforts. The institute has received no Federal Assistance since 1981, although it does occasional contract work for some Federal agencies. Its funds are derived from NARUC member commissions and contract research and assistance money from individual public service commissions for state-specific research. In fact, the Public Utilities Commission of Ohio has been a steadfast supporter of the NRRI. It has annually placed about $200,000 in the institute for research activities. Financial assistance is also provided by the NRRI's host university—Ohio State University [OSU].

As the host of the NRRI, Ohio State University deserves a great deal of credit and praise for the institute's success. Over the last 10 years, OSU has contributed over $1 million in assistance to the research center. In addition, highly qualified graduate students and faculty members from the university provide valuable assistance to the institute's full-time staff. Ten to twenty graduate students and a half dozen faculty members participate in the center's research projects on a part time basis during the academic year, and many work full time over the summer. This cooperative relationship between the university and the NRRI can serve as a model for other university research centers. Ohio State University is to be commended for its support of, and contributions to this institute.

Mr. President, both Ohio State University and the staff of the NRRI are to be congratulated for its success over the past 10 years. The NRRI has established itself as a valuable source of information and analysis for those charged with making important and complicated regulatory decisions. Its work has benefited consumers and regulated utilities alike, by ensuring that public service commissions will have the data and research assistance necessary to make well informed decisions on important regulatory matters.

I am confident that the NRRI will continue to fill this valuable role for many years to come.●

KENNETH A. KLOOS

● Mr. SIMON. Mr. President, I would like to take this opportunity to mark

the passing of one of Alton, IL, finest citizens, Kenneth A. Kloos.

Kenneth Kloos was an active businessman and civic leader in the Alton community for many years.

He was well known for promoting growth, business, and industry in the Alton area. He extended himself to be active in many organizations which promote health, art, and cultural affairs in the community. Mr. Kloos received the Book of Golden Deeds Award from the Exchange Club for his service to the community. He also served as president of Pride, Inc., an organization which promotes the beautification and improvement of the area.

Mr. Kloos was active in the chamber of commerce, was former president of the Beltline Businessmen's Association, a longtime member of the Alton-Godfrey Lions Club and a member of Franklin Masonic Lodge No. 25 A.F. and A.M.

In addition to those activities, Ken's activities included Lions Club, YMCA, Rotary Club, Mental Health Center, and a host of unknowns, including "silent" gifts to needy people.

He was a devoted family man and church man but extended himself in a most unselfish way to help serve his fellow citizens. Kenneth Kloos will be sorely missed by his friends, but his many good deeds will live for many years.

I am pleased to make this trubute to this fine man.●

JOB SKILLS AND TRAINING

● Mr. GORE. Mr. President, October 12 to 18 has been designated National Job Skills Week by the Congress. In keeping with the focus of the week, bringing attention to job training and the job skills needs of our work force, the following article about workplace training and development is submitted for perusal by my colleagues. The article was prepared by Anthony Carnevale, chief economist with the American Society for Training and Development. The piece explores the size, scope and influence of training and development today. It first appeared in the January 1986, issue of Training & Development Journal. I ask that this article be printed in the RECORD.

The article follows:

THE LEARNING ENTERPRISE

(By Anthony Patrick Carnevale)

Workplace training and development is roughly equivalent in size of the entire elementary, secondary, and higher education systems. If that's news to you, don't feel left out. It's news to just about everybody. Workplace learning has taken a back seat to the formal education of baby boomers for the past forty years.

Largely unrecognized, corporate learning has grown to be a $30 billion industry, a silent and efficient postscript to employees' formal education. Ironically, it is training and not format education that mainly determines what a person will earn throughout his working life, and it is training and not formal education that provides all the skills for two out of three jobs.

Employers provide enormous amounts of formal training to be sure, but it is scattered throughout unrelated industries and goes largely unnoticed by the government or any other observer that might lend it importance or visibility. In fact, many of the people who train or develop other employees don't consider themselves to be in the learning delivery business. They think of themselves in terms of their primary work role rather than as training professionals.

The government provides training too, but its interest in formal training has been connected to the needs of people outside the economic mainstream. It funds, counts, and regulates training programs mainly for people who aren't yet working and who are trained in programs outside the workplace.

Workplace learning is large and likely to grow larger still. And there are signs that the workplace learning system will no longer be the silent partner in the nation's learning programs outside the workplace do not have appreciable effects on individual earnings or on institutional performance. Training outside the workplace does not create jobs; Jobs create training.

Economic and technological changes also fuel interest in training and development at work. Such changes have an impact at the point of production and the point of sale and employers are scrambling to find ways to accelerate learning and adaption on the line and where products are sold and customers served. Often such pressures encourage employers to formalize on-the-job training that has been handled informally.

Even as interest in and demand for training is growing within corporations, opinion leaders and government policymakers are showing more interest in encouraging workplace training and development to leverage individual earnings and improve the nation's competitive advantage. The new interest is a mixed blessing. It is sure to encourage an uncomfortable scrutiny of training by the government and to challenge the integrity of the training and development profession, but ultimately it will increase the size, scope, and quality of the already impressive learning enterprise.

WHERE DO PEOPLE LEARN TO DO THEIR JOBS?

Americans learn what they need to know to do their jobs in schools and on the job, formally and informally. School tends to be most important for managers, professionals, technical and sales employees, and people in publicly regulated jobs. Formal employer training tends to be important for all employees except for those in "extractive" industries—farming, forestry, and fishing. Informal job training is important in all job categories but most important in blue-collar jobs. When surveyed about retraining, however, employees tend to emphasize formal and informal training in the workplace rather than formal schooling.

FORMAL JOB-RELATED TRAINING AND DEVELOPMENT

If we exclude informal, on-the-job training in the workplace and those courses in formal schooling that have little job application, the employer training and development system is still surprisingly large. Business organizations alone provide twice as much job-related education as any other single provider. Employers provide at least 17.6 million formal courses each year to almost 15 million trainees. Roughly one in every eight working Americans participates in a formal training course each year.

Training in the workplace is not distributed evenly among industries. Governments, especially the Federal government, are the most intensive trainers because they are the largest employers of highly skilled and specialized personnel, and because promotion and compensation are tied tightly to credentials and skill acquisition. Mining is training intensive because the mining industry is highly regulated for safety. Transportation and public utilities also train heavily partly because of government regulation and safety standards. Highly specialized industries, such as finance, insurance, and real estate, also train more than the average. ASTD's recent survey of bank training showed that banks provide 1.3 formal courses per employee every year—nearly nine times the national average.

Most formal training in the workplace concentrates in the 25 to 44-year-old age group and among white-collar managers, professionals, and clericals. This doesn't mean that blue-collar employees don't get any training, but that it tends to be informal, on-the-job training.

THE BEHAVIORAL COGNITIVE SPLIT

There is a fuzzy but useful distinction between training and development that is intended to achieve behavioral or affective learning and that which is intended to impart cognitive skills. In general, the split between behavioral and cognitive training and development shows that roughly two-thirds of all formal training and development is cognitive and one-third is behavioral. The behavioral/cognitive split in informal learning on the job is unmeasured. In theory, both kinds of informal learning take place. One learns "how to" perform specific tasks on the job informally. At the same time, one learns the affective skills necessary to work with others as a productive member of a team.

WORKPLACE TRAINING INSIDE AND OUT

Most employer-based training in the United States takes place in-house, but more than a third is done outside. The principal outside providers are schools. Among the nonschool providers are consultants, ventors, and professional organizations. At this point it is difficult to predict the future distribution of in-house and outside training. Competitive pressures to link the training and development function to the specific needs and strategic directions of firms are likely to encourage training in the context of a specific culture. Those pressures will increase in-house training. Alternatively, cost pressures are likely to encourage external training paid for by employers.

The role of public and not-for-profit institutions is the wild card in the future of employer-based training. Schools are losing their traditional clientele as the baby boom ages beyond their reach. Schools are already showing an intense interest in employer markets.

The possibility of substantial training tax incentives for employers also clouds the picture. Current legislative proposals vary according to whether they encourage employers to make or buy training and the extent to which they would allow employers to buy from providers other than traditional schools.

COSTS AND BENEFITS

Workplace learning—former and informal—provides substantial benefits to individuals in the form of increased earnings

and to institutions in the form of increased productivity. Analysis of data available as far back as 1929 consistenly shows that human factors are the major source of growth in individual earnings, institutional productivity, and national income. Moreover, the same data demonstrates clearly that "working smarter"—the ability of working teams to learn together—is the most significant among human factors in producing income and productivity growth. Projections of economic growth through the eighties, based on U.S. Department of Commerce data, show similar patterns. Plant level data is sparse but tends to corroborate national analysis. For instance, an analysis of 1983 census data shows that those who received informal training on their job improved their earnings by five percent more than those who didn't receive the training. Those who received informal training improved their earnings by 13 percent more than their peers. The effects of training on workplace productivity also appear powerful. For instance, after adjusting for inflation, the productivity returns to on-the-job training was 12.6 percent for those who were college-educated and 19 percent for those without college. A 1984 study found that 32 percent of employees were more productive in the twelfth than in the third week of employment, suggesting improvements due to learning on the job.

Studies that map the sources of differences in the economic success of individuals are equally flattering to workplace learning.

Earnings are largely a function of formal and informal learning on the job. Individuals tend to leverage their incomes by translating formal and informal learning on the job into higher wages. The best jobs are those that incorporate the most learning. Access to jobs with a high training and development content is the key determinant of lifetime economic success. Econometric studies have consistently shown that only 15 percent of the variation in income among Americans can be accounted for by formal education. The remaining 85 percent is accounted for by learning in the workplace. Earnings are driven by the ability of working teams to learn together in the context of appropriate technology.

If trainers are so darned important, why aren't they rich, famous, and powerful? There are lots of reasons. Primary among them, however, is the simple fact that we don't understand what we know. We know that normal and informal learning in the workplace produces large earnings and productivity gains but we don't understand how. The learning process in the workplace remains a black box. The state of the theoretical and practical art of leveraging earnings and productivity through training and development is relatively primitive. While we have devoted billions to research and dissemination of best practices in formal education, workplace training and development remains the silent partner in the nation's learning enterprise.

GROWTH AND DECLINE

A variety of forces account for growth and decline in the training and development function in companies. The trickle-down effects of economic, technological, and demographic trends are distant but powerful. For instance, at present huge budget deficits translate into high interest rates that squeeze employer spending and discourage all forms of investment. The same deficits encourage an overvalued dollar that makes American products more expensive relative to foreign products and further squeezes profits. At the same time, the competitive squeeze demands greater efficiency and accelerates economic and technological change. Employers are faced with the difficult task of maintaining or increasing their share of a shrinking economic pie by investing more in functions that will boost efficiency and adaption. To the extent the training and development function has established its legitimacy as a cost-effective lever for promoting efficiency and adaption, it will be used as a strategic tool. To the extent that it is regarded as ineffective and costly, it will free the working end of the budget cutter's axe. A third, more common scenario is for employers to demand that training be more cost effective. A surgical approach to cost cutting or a decision to make rather than buy training and development is most common in these cases.

Major economic, technological, and demographic forces can also affect training and development. Recent trends show an eagerness to focus training and development where change hits hardest—at the point of production and the point of sale. The lions' share of training and development increases appear to be among middle managers, first-line supervisors, professional and technical employees, and sales and marketing personnel.●

TRIBUTE TO LAWRENCE L. BROWN III

● Mr. HATFIELD. Mr. President, I would like to take this occasion, before this session comes to a close, to remember Lawrence L. "Lonny" Brown III, a distinguished career member of the Senior Executive Service in the U.S. Department of Education.

"Lonny," as he was known to his friends and colleagues, was Director of the Division of Elementary, Secondary, and Vocational Analysis in the Office of Planning, Budget and Evaluation. He died all too suddenly on September 20, 1986, at the height of his career.

In his capacity as Division Director, Lonny was responsible for directing the review and analysis of budget, legislative, and program policy for all the Department's elementary, secondary, and vocational education programs. These programs number over 40 and have a total budget of almost $7 billion.

Over the years, Lonny worked with the staff of the appropriations and authorizing committees of Congress on numerous important budgetary and legislative matters. He was known for his expert program knowledge and made numerous contributions toward the formulation of public policy. In particular, he excelled in bringing the results of program research and evaluation to bear on improving policy decisions. He was also known for his outstanding management skills and for his ability to work well with people. Lonny had many friends and colleagues in the executive branch and on the Hill.

I would like to take this occasion to offer my personal sympathies to his immediate family, including his wife, Carol, and his daughter, Susan. Lonny will be missed and remembered by all who knew him.●

ABORTION AND INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, I ask all my colleagues to carefully consider this letter from Annette of Michigan, and consider cosponsoring my informed-consent bill, S. 2791.

The letter follows:

[Letter undated (approx. July 1, 1986)]

HONORABLE SENATOR GORDON HUMPHREY:

I am writing to you with a concern I have over the lack of counselling given to women prior to, or at the time of, considering abortion. I sincerely believe there should be a law specifically stating what information must be given to a woman in a crisis pregnancy situation. After the complete counselling session has been executed, there should be at least a 72 hour waiting period before an abortion can be obtained. This is a very emotional situation, no matter what the circumstances, and a hasty decision to abort cannot be reversed once the abortion is complete. I personally have experienced an abortion where there was literally no counselling, no options given and no time to contemplate my dilemma.

I was in the hospital, scheduled for a tubal ligation at 8 AM. At 1 AM I was awakened by a doctor to be informed that I was pregnant. This doctor informed me that he personally did not believe in abortion for any reason, but legally he had to offer the option to me. Well, I had already been sedated for sleep and was not real coherent, and this doctor was talking about abortion. I had never even considered an abortion. I wasn't really sure what it all meant. I'd seen newsreels at 6 o'clock with protestors declaring it was a woman's right, but that's where my knowledge ended. I had a gut feeling that it was wrong, but I didn't know why.

About 5 minutes later, 2 other doctors came into my room to see if I'd decided. They explained it wasn't like we were discussing a baby, this was just a blob of cells, tissue adhering to the uterine wall. Why it wouldn't be a baby for months. They proceeded to tell me how it can all be done at the same time, the abortion and the tubal. After all, I was already prepped for surgery.

If those doctors would have been required by law to give me all the options and a time period to make an intelligent decision, I would never have murdered my baby. I might have miscarried, I had a history of that, but I would not have chosen an abortion. Women have a right to be given ALL options open to them and a length of time to intelligently consider each option and the repercussions involved with each.

Thank you for your time and interest.

Sincerely,

ANNETTE HOUSE,

HOLT, MI.●

TEST BAN RESOLUTION IN KANSAS CITY

● Mr. EAGLETON. Mr. President, yesterday as the President of the United States was landing in Reykjavik, Iceland for his meeting with Soviet leader Gorbachev, the city

council of Kansas City, MO was busy with their own efforts to ensure world peace. At 4:30 p.m. the city council passed a resolution calling on the President to "immediately ban nuclear testing and to seek a mutual and verifiable Comprehensive Test Ban Treaty with the Soviet Union."

That resolution should send a strong message to the President. It says that while the people of America's heartland are "four square" behind their President in his negotiations with the Soviets, they are also greatly concerned about the quickening pace of the nuclear arms race. They know that absent nuclear testing, it is very difficult for either superpower to upgrade their nuclear forces and thereby further destabilize the nuclear balance.

The resolution also asks the President to "immediately undertake a program that would replace the jobs that are lost from the nuclear weapons industry as a consequence of a test ban policy." In so doing, the city council recognized the enormous sum of money that we dedicate to nuclear weapons development. Nuclear testing is, however, a capital intensive activity and I suspect that the few engineers that might be put out of work by a test ban would quickly find lucrative and more productive applications for their talents.

The importance of this resoluton is underscored by the fact that Kansas City is the 176th local governmental body to pass such a resolution. It comes on the heels of a similar resolution that was passed by the St. Louis City Council last August.

Mr. President, I applaud the leaders of Kansas City, MO for speaking out as they have for a more responsible government, a more attentive chief executive, and, most of all, a safer world in which to live.

I ask that the text of the city council's nuclear test ban resolution be printed in the RECORD following this statement.

The resolution follows:

RESOLUTION ON BANNING NUCLEAR TESTING

Whereas, the economic and security interest of the city of Kansas City would be best served by a mutual and verifiable suspension of nuclear testing coupled with a program of converting jobs in the nuclear related industries in Kansas City to other related employment opportunities; and,

Whereas, a ban on nuclear testing can be verified with high confidence by a worldwide network of seismic monitors, satellites and other verification technology, the use of which would be a necessary condition to a test ban policy; and,

Whereas, a ban on nuclear testing would provide our community with greater security by assuring that new, more sophisticated, and dangerous weapons would not be developed in the U.S.-Soviet nuclear arms competition; and,

Whereas, the U.S. and U.S.S.R, each, have the power to trigger nuclear winter, independent of any defensive action of the other, fifty times over;

Whereas, the U.S. currently has the power to destroy the 200 largest cities in the Soviet Union 2,000 times over—roughly the same capacity the U.S.S.R. holds to overkill the cities of the U.S.—including Kansas City.

Whereas, the most effective antimissile defense conceivable to be installed in twenty years could not be more than 95 percent effective in destroying the enemy's total aresnal, the remaining five percent provides two and a half times the necessary trigger of nuclear winter.

Whereas, testing for greater nuclear arsenals cannot possibly add to the security or deterrent force of either adversary—no matter which side produces or controls the newer weapons;

Whereas, the uncertainty of the U.S.S.R. joining the U.S. in a mutual ban on testing has been a major impediment in the past, and now that the U.S.S.R. has pledged and is honoring a unilateral test ban easily monitored and confirmed by the U.S.;

Whereas, the Soviet Union has not tested since August, 1985, and has offered to allow on-site inspection for verification of adherence to a long-term nuclear weapons test ban; and

Whereas, spending for the arms race is contributing to record budget and trade deficits that threaten our nation and our city's economic security, while programs providing essential assistance to communities throughout the country are being cutback with its resultant effects on jobs, peaceful uses of technology, talents, skills and investment; and,

Whereas, Community Development Block Grants, Urban Development Action Grants, low income housing programs, General Revenue Sharing funds and other Federal programs that are vital to the quality of life in Kansas City have been and are being cut or eliminated because new, experimental and exorbitantly expensive nuclear weapons systems are demanding an ever greater amount of the Federal budget.

Whereas, in the event of a nuclear attack the local governments will bear the brunt of the responsibility of providing food, shelter, and medical attention for the men, women, and children of the community.

Whereas, the Kansas City, Missouri City Council is concerned about the loss of the economic base and jobs that are related to the nuclear weapons industry; therefore

Be it resolved by the City, Missouri, that the City Council of Kansas City calls upon the President of the United States to immediately ban further testing of nuclear weapons and seek a mutual and verifiable, comprehensive Test Ban Treaty with the Soviet Union; and that the President immediately undertake a program that would replace the jobs that are lost from the nuclear weapons industry as a consequence of a test ban policy. This body also calls upon our members of congress to support legislation that would enact a moratorium on nuclear testing, to be continued as long as the Soviets do not test. Copies of this resolution shall be forwarded to the President of the United States and to the Senators and Representatives from our congressional delegation.

REAUTHORIZE MARINE FISHERY PROGRAMS ADMINISTERED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

● Mr. GORTON. Mr. President, I strongly support the committee amendment to S. 991, which, among other things reauthorizes important marine fishery programs administered by the National Oceanic and Atmospheric Administration [NOAA]. The amendment includes three separate bills of which I was an original cosponsor—S. 991, which passed the Senate as a general fishery authorization bill last year; S. 2583, to provide for an Under Secretary of Commerce for Oceans and Atmosphere, an Assistant Secretary for Oceans and Atmosphere and a Chief Scientist position at NOAA; and S. 958, reauthorization of the Magnuson Fishery Conservation and Management Act [MFCMA].

The committee bill is divided into four titles: Title I includes amendments to the Magnuson Fishery Conservation Act [MFCMA]. Title II sets up a new seafood promotion program that is intended to increase domestic and foreign trade of fishery and seafood products. Title III revises the Commercial Fisheries Research and Development Act. Title IV contains miscellaneous provisions such as the establishment of a Chief Scientist postion at NOAA.

I would like to focus on two aspects of S. 991. First, I am pleased that we were able to work out amendments to the Magnuson Act. The changes to the act strengthen its management and enforcement provisions of the act. The MFCMA is the single most important law pertaining to the management of the fisheries resources located within our 200-mile fishery conservation zone. This law would be reauthorized through fiscal year 1989.

Second, the bill provides waivers from restrictions on vessel documentation for two vessels located in the Pacific Northwest—the *Kodiak Queen* and the *Northwind*. The *Kodiak Queen* is a vessel that was built in California in 1941 for the Department of the Navy. It was placed under Liberian registry in 1962 when it was purchased by foreign interests. In 1967, the vessel was acquired by a company in Alaska, and placed under U.S. flag and registry. The vessel has since remained in the ownership of U.S. citizens. The *Kodiak Queen* is documented for use in the fisheries. It has been engaged in the crab fishery in Kodiak, AK. Its present owners would like to expand the use of the vessel in coastwise trade for other fishery purposes such as tendering salmon, herring or freight.

The *Northwind* is a motor yacht built in Wisconsin in 1930. In 1938, the vessel was transferred from United

States to British ownership, to be used in the service of the British Government and Royal Navy. The *Northwind* is now located in Seattle, WA. The vessel has undergone substantial renovation. The present owners wish to engage in the coastwise trade as a pleasure charter in and around Puget Sound.

Mr. President, S. 991 as amended by the committee amendment is the result of a lot of hard work. I thank the chairman as well as the Commerce Committee staff for their efforts in getting this bill before the Senate. I urge my colleagues to adopt this legislation expeditiously.●

A FORCE FOR GOOD

● Mr. SARBANES. Mr. President, the recent death of Rabbi Jacob B. Agus, scholar, teacher, leader, theologian, writer and leader in the efforts to expand the Jewish-Christian dialog, is a loss not only to Beth El Congregation and Baltimore, but to all who have been involved in building bridges among the various faiths.

During all his extraordinary career, Rabbi Agus was proud of his role as "a community pastor, to have helped preserve a Jewish mentality, to have helped people with some serenity through these cataclysmic times, to be an interpreter of Jewish values." This is, as Rabbi Agus said, "the greatest challenge one could wish."

Rabbi Agus met that challenge every day of his life. I ask that an article from the Baltimore Evening Sun outlining some of Rabbi Agus' accomplishments be included in the RECORD.

The article follows:

[From the Baltimore Sun., Oct. 7, 1986]

A FORCE FOR GOOD

(By Albert E. Denny)

The death of Jacob B. Agus, rabbi emeritus of Beth El Congregation, removes an intellectual giant from the American rabbinate and represents a stunning loss to Baltimore's Jewish community.

An internationally recognized scholar, teacher, philosopher and theologian, Agus' penetrating insights into religion and his enlightened views of contemporary Jewish life made him a leading force in the Conservative movement. He was the author of nine scholarly books, some of them used as texts in religious courses on the university level, and dozens of articles that appeared in a wide range of Jewish and secular publications.

He lectured at Johns Hopkins University and other colleges in the United States and abroad, and for 12 years was editorial consultant to the Encyclopedia Britannica on articles of Jewish content. He served as Visiting professor of modern Jewish philosophy at Temple University, Dropsie College, the Reconstructionist Rabbinical College and St. Mary's Seminary.

Perhaps the most durable achievement in the life of Jacob Agus was his long-time, assiduous involvement in building bridges of understanding between the various faiths. Beginning in the early 1950s and extending to his death, the rabbi worked unremittingly at promoting interfaith harmony, representing Judaism at various ecumenical conferences in the United States, South America and England.

He was a member of a trialogue composed of Jewish, Christian and Muslim leaders sponsored by the Kennedy Institute on Ethics at Georgetown University in Washington. As professor of classical Hebrew studies at the Ecumenical Institute of Theology of St. Mary's Seminary and University, he taught a course entitled "Matthew—The Jewish Gospel," which analyzed Matthew in the light of Jewish literature that was contemporary with the Gospels.

"When the Gospels are placed within a Jewish context and interpreted accordingly," the rabbi explained, "there will result a much deeper appreciation on the part of Jews with Christianity and Christians with Judaism."

Even this year, despite his failing health, the 75-year-old rabbi took an active role in discussions of the ninth national workshop on Christian-Jewish relations held in Baltimore. The conference presented an award to him "for his pioneering efforts in Jewish-Christian dialogue."

Born in Poland on Nov. 8, 1911, the future rabbi lived for a time in what was then Palestine, and was brought to the United States in 1927. After his ordination as an Orthodox rabbi in 1935, he held a pulpit in Cambridge, Mass., later earned a doctorate from Harvard in the history and philosophy of religion and served Orthodox synagogues in Norfolk and Chicago.

Chafing under the constraints imposed by the rigid Orthodox beliefs that clashed with his emerging liberal views, Agus made the leap to a Conservative pulpit in Dayton, Ohio in 1942. He was invited to Baltimore in 1950 to take the spiritual reins of the newly formed Beth El Congregation.

The innovative ideas that he brought to Baltimore meshed perfectly with the desire of Beth El's founders to introduce a liberal brand of Conservatism to the community. In the ensuing three decades, the congregation built its membership to 1,400 families, and Beth El and its dynamic rabbi were catapulted to national prominence.

Agus might have achieved greatness as a full-time university professor, but he never regretted his decision to enter the rabbinate. He once said, "As a community pastor, to have helped preserve a Jewish mentality, to have helped people with some serenity through these cataclysmic times, to be an interpreter and pastor of Jewish values—that is the greatest challenge one could wish."●

LEV NAVROZOV ON MORE CIA INTELLIGENCE FAILURES

● Mr. HELMS. Mr. President, the CIA has repeatedly failed to predict accurately the Soviet military threat, or to understand in any adequate way Soviet global intentions. It appears that the CIA has a methodology for estimating Soviet military expenditures which produces gross underestimates. By the CIA's own evaluation, its current estimates of Soviet strategic forces 5 years into the future will not come even close to being accurate 5 years hence.

Mr. President, I believe that the American people are not getting their money's worth from the CIA. For the many billions of tax dollars spent by CIA, we seem mostly to be getting only underestimates of the Soviet military threat, bungled covert operations, bungled defections of Soviets, bungled counter-intelligence operations against CIA defecters, and even bungled planning and programming of technical collection resources.

Mr. President, Mr. Lev Navrozov, who emigrated from the Soviet Union in 1972 at the height of "detente", has become one of the most articulate and knowledgeable critics of the CIA. Lev Navrozov has made a very careful study of over 77,000 pages of declassified materials from CIA. He bases his critiques on these declassified CIA estimates as compared to his own profoundly deep knowledge of Russia. I point out that Candidate Ronald Reagan in 1978 and 1979 quoted extensively from Lev Navrozov's critiques of CIA during his campaign, thereby bestowing considerable credibility upon Mr. Navrozov.

Mr. President, I ask that the following articles from the *New York City Tribune* be printed in the RECORD at the conclusion of my remarks:

First. "Soviet Anti-Missile Defense Which Was Not", by Lev Navrozov, January 1, 1986;

Second. "The 'World's Most Important Statistic' and the CIA", by Lev Navrozov, January 22, 1986;

Third. "The Soviets' Greatest Spy—Western Free Enterprise?" by Lev Navrozov, January 29, 1986;

Fourth. "1961—The Year of CIA/MI-6's Bittersweet Triumph", by Lev Navrozov, February 19, 1986;

Fifth. "On 30th Anniversary of 'Khrushchev's Secret Speech' " by Lev Navrozov, February 26, 1986;

Sixth. "The CIA and Soviet Defection-Redefection Mysteries", by Lev Navrozov, March 12, 1986;

Seventh. "Arms Agreements? Compliance Unverifiable by CIA", by Lev Navrozov, March 26, 1986;

Eighth. "Illusions on Which CIA Was Founded 40 Years Ago", by Lev Navrozov, April 2, 1986;

Ninth. "How the CIA Bores the US Congress Stiff", by Lev Navrozov, April 16, 1986;

Tenth. "Kim Philby: Espionage Romance and Drab Reality", by Lev Navrozov, April 30, 1986;

Eleventh. "How the CIA Flunked Abysmally on Chernobyl Affair", by Lev Navrozov, May 7, 1986;

Twelfth. "What the CIA Reveals About Itself in Its Pamphlet", by Lev Navrozov, May 21, 1986;

Thirteenth. "Has US Intelligence Improved With Casey at Bat?", by Lev Navrozov, May 28, 1986;

Fourteenth. "What the Ronald Pelton Spy Case Demonstrates", by Lev Navrozov, June 4,, 1986;

Fifteenth. "How Former CIA Official Responded to Past Error", by Lev Navrozov, July 2, 1986;

Sixteenth. "Ineptness, Not Immorality, Is Main Flaw of CIA", by Lev Navrozov, July 30, 1986;

Seventeenth. "CIA and the 'Mystery' of Where Does Soviet Steel Go", by Lev Navrozov, September 3, 1986;

Eighteenth. "Classic Barter, Soviet-Style: A Spy for a Journalist", by Lev Navrozov, September 10, 1986;

Nineteenth. "What the KGB's Daniloff-Zakharov Move Signifies", by Lev Navrozov, September 17, 1986;

Twentieth. "UN Is Moscow's Best Espionage Base Worldwide", by Lev Navrozov, October 1, 1986;

Twenty-first. "Sen. Helms Ushers In New Intelligence Era for West", by Lev Navrozov, October 8, 1986.

The articles follow:

[From the N.Y. City Tribune, January 1, 1986]

SOVIET ANTI-MISSILE DEFENSE WHICH WAS NOT

(By Lev Navrozov)

Today, I begin my weekly Wednesday column on intelligence work in the sense of espionage, not in the sense of Sovietological meditations about UPI news.

Those who imagine Western intelligence work since 1917 as a series of Western espionage exploits in the Kremlin and want to hear of more such will be bitterly disappointed reading my column. Not only are they unlikely to find any more of such exploits in my column, but they will see that most "true spy stories" they know are myths, spread by Western intelligence agencies about themselves with the help of the media and hosts of intelligence/espionage writers who copy their true spy stories from each other like Victorian authors of "true ghost stories" copied them under the assumption that the more minute the details copied, the truer the ghost story was—or at least seemed.

I proceed from the assumption that the West needs espionage in totalitarian societies, not ghost stories—I beg your pardon, I mean—not spy stories. Hence the West needs a critical analysis of intelligence/espionage as is.

Mine is based on (1) primary sources, such as the CIA's testimony before Congress, (2) common sense, such as the belief that Allen Dulles could not be on May 21-27, 1956, at his post of Director of Central Intelligence in Washington DC, if incontrovertible evidence shows that his corporeal self (and not just his ghost) was in Canada at the time; and (3) the existential experiences of those who spent a lifetime in a totalitarian society, such as yours truly.

Between 1965 and 1971, we lived near the international Vnukovo airport, 16 miles from Moscow, Russia.

Whenever a taxi cab sped us from Vnukovo to Moscow, a strange spectacle on the right side of the highway would open to our view: a futuristic composition out of high-voltage insulators, transformers and other such paraphernalia.

"What's that?" I would ask the taxi driver.

"Anti-missile defense," he would answer conspiratorially on the understanding that the information so confidential could only be shared with especially good customers.

Don't tell me how secretive the Soviet regime is. And here every foreigner going from the Vnukovo airport to Moscow could photograph from his car a Soviet anti-missile defense site even without telescopic lenses, for the site began just 10 yards from the highway.

Work on anti-ballistic missile (ABM) defense system in the United States naturally began in the early 1960s, as soon as intercontinental missiles had come into their own. The Soviet military was in despair. ABM defense required more sophisticated computers than did missiles, and that was just the field in which the Soviet war-oriented economy still lagged far behind, too late had the Soviet planners realized how important computers would be for warfare.

The U.S. ABM defense would reverse the global strategic situation. Without it, Soviet missiles could destroy the United States. Even if the United States could retaliate in kind, the very possibility of mutual destruction enhanced Soviet strategic prestige. Thus the possibility of mutual destruction of a terrorist and his important hostages enhances his prestige by equalizing his and their survival chances. The Soviet rulers could always say: "If the worst comes to the worst, remember that we will all blowup."

The U.S. ABM defense would cancel this mutual destruction possibility and introduce, instead, the development of ABM warfare, in which the Soviet armed forces would be notoriously behind. From the glory of the world's first Soviet space satellites and intercontinental ballistic missiles in the late 1950s, the Soviet regime would go back to the status of a second-rate military power in the early 50s.

How could they make the United States stop further development of its ABM defense system?

I doubt that any Western-born expert on the Soviet Union inside or outside the Western intelligence communities had ever heard, until a few years ago, about the Main Directorate of Strategic Camouflage, which had been founded in the Soviet General Staff in 1964 under the leadership of the then General and later Marshal Nikolai Ogarkov (The same person who coped easily with a battery of Western journalists at a news conference after the Soviets shot down a South Korean airliner with 269 people aboard in 1983).

It is known or understood even less that the Directorate's aim is not only to conceal real Soviet weapons systems, but also to create dummy weapon systems to mislead the Western intelligence communities.

The shrewd Ogarkov's solution was simple:

Let us create our dummy ABM defense for the benefit of the CIA. The all-seeing CIA will detect and report it to the U.S. government, Congress and hence the public. The Americans will think that we are even ahead of them in ABM defense. So they will conclude that the best solution is to sign with us an ABM treaty, to halt all further development of ABM defense in both countries, that is, in the United States.

First there began to appear in Soviet open military publications, which many Western experts in and out of the Western intelligence communities love to study, frequent references to Soviet achievements in anti-missile defense.

Shown on the Red Square parade in 1964 was a missile codenamed "Galosh" by NATO because it was always inside a ribbed container. It was decided that Galosh was an anti-missile missile, though as of today, no-one in the West has ever seen it without its galosh-like container and cannot vouch that it is not just a length of pipe.

I have the impression that Ogarkov put those galoshes on those lengths of pipe to make them easily identifiable on space photographs. In sunny weather, the ribs, each of which is at least a foot long, by my measurements, cast sharp clearcut shadows on the sunny part of a galosh and stood out, brightly illuminated by the sun, on its shady side. The CIA immediately identified 64 Galoshes around Moscow, four sites of 16 Galoshes each.

In Soviet documentaries, a Soviet missile shot down another, except that the narrator did not explain that this was no feat if both Soviet missiles were launched by ordered trajectories to hit each other.

Ogarkov's finishing master stroke, however, was the building of dummy ABM bases, like the one near Vnukovo airport, so that they could be observed by foreigners in the Soviet Union.

The CIA could not miss the Vnukovo base. Going from the airport to the U.S. Embassy in Moscow were those of its staffers who were on the CIA's or the Defense Intelligence Agency's payrolls. What an opportunity for honest-to-goodness espionage Ogarkov had offered them!

The Soviet-American ABM treaty was signed in 1972 and thus the development of ABM defenses in the United States was halted for 13 years, up to 1983, when that wicked President Reagan revived it in his Strategic Defense Initiative, to the disgust of the Concerned Scientists and the Soviet Politburo.

Naturally, the Soviet military based those 13 years to advance Soviet ABM defense as much as possible.

Today, the Main Directorate of Strategic Camouflage seems to be pondering a new tack: to rig up and show dummy missiles that allegedly will reduce U.S. anti-missile defenses to a "pile of junk." At least, the first "Soviet military papers," explaining just that, already have appeared, and one of them has been reported in The New York Times in dead earnest.

THE "WORLD'S MOST IMPORTANT STATISTIC" AND THE CIA

(By Lev Naurozov)

A couple of years ago The Washington Post spoke of the "world's most important statistic." What is it?

According to the Post, it is the percentage of military output in the Soviet Gross National Product. That is to say, "What portion of Russia's goods and services is intended for military purposes?"

For the United States, the answer would be simple. You'd buy the latest World Almanac or some other such book for five bucks, look up the defense budget estimate for, say, 1983—$245 billion—and come up with 7%.

For Russia you buy an official statistical book for 3 rubles and learn that 12.8 billion rubles was spent on defense in 1965, for example.

Yes, but what rubles? The rulers of Russia set all the prices, and those for military goods and services are unknown. Therefore, the rubles with which the Soviet Ministry of Defense procures guns may have little to do with the rubles with which a Soviet inhabitant buys butter.

It is equally futile to convert these rubles into dollars according to the official ex-

change rate, as is usually done by the Western media.

Let us try, therefore, to gleam from indirect clues some notion of the proportion of Soviet goods and services intended for military purposes in the last quarter of a century.

In his tapes Nikita Khrushchev recalls: "[The Soviet physicist Peter Kapitza] invited me to his laboratory." The purpose was, of course, to persuade Khrushchev to allocate money for Kapitza's research project.

The Encyclopaedia Britannica gives Kapitza an impressive four-paragraph entry: in 1929, at the age of 35, while living in Britain, he was "elected to the Royal Society [of London], the first foreigner in 200 years to become a member."

Khrushchev says on tape: "We didn't give him the money at that time either. . ."

But why? Khrushchev had made inquiries about the subject of Kapitza's research, and was told that it was not very military. Khrushchev reminisces on tape:

In a while Kaptiza requested me to receive him again. And I did. Then I asked him bluntly: "Why don't you, Comrade Kapitza, take up a defense subject?"

So, Khrushchev, that founding father of détente, could not bear to see even one outstanding scientist without demanding that he take up a military line of research rather than the line the great scientist was inclined to pursue.

In the post-Khrushchev era, at a closed lecture to editors in Leningrad in 1965, Abel Aganbegyan, a member of the Soviet Academy of Sciences and director of the Novosibirsk Institute of Economic and Industrial Organization, said:

"Of approximately 100 million people in the U.S.S.R. who work, about 30–40 million are employed in the defense industry."

High-level economist though he was, Aganbegyan had no access to the Soviet secret statistics on those "employed in the defense industry." His figure was only an educated guess according to the data at his disposal.

But the West has not known any more reliable figure than his guess of 20 years ago.

How did it reach the West? Someone who was present at Aganbegyan's closed lecture managed to record it and gave the text to a samizdat (underground) typewritten magazine. After it had ceased publication, several back issues reached the West, and Aganbegyan's guess became known here.

What about those who are not "employed in the defense industry?" This is not secret sometimes. In 1983, in an edition of 50,000 copies, the Soviet publishing house "Music" printed a book for kindergartens entitled In the Army We Will Serve: Songs, Plays and Poems for Children of Junior Age (from three to six) With Piano (Accordion) Accompaniment.

Listen:

"We don't yet go to school/
But like soldiers on we march!
Chorus: In the army we will serve. . . .
An officer I want to be/To rush ahead in all attacks!
Chorus: In the army we will serve. . . ."

How do you like this little cute poem for tots:

The sun trumpets its golden horn,
"Glory to the hero-warrior!"
The enemy is routed, smashed and destroyed,
"Glory to the hero-warrior!"

The plays for tots are a subject apart. They reduce to drumming, marching, drumming again and are actually a sort of drill exercises to instill military subordination and leadership from infancy. The goal of the whole project is to make a tot enjoy the prospect of being a cog in the global war-machine.

Yet all such writers, composers, teachers, educators, editors, book designers, printers, pianists or accordion players are not "employed in the defense industry." Nor is their activity secret—possibly because children of three are not thought to be sufficiently responsible to sign "obligation of non-divulgence of closed data."

But obviously, all the adults involved in this "aesthetic education of junior-age children" are also engaged in the maximization of the country's global power.

The question is, who is not. After all, those "employed in the defense industry" or even those 3-year-olds who sing about how "in the army we will serve" have to eat, for example, and those who work to provide them with what may be defined as "poor irregular war food rations in peacetime" are also involved in the same all-out military effort.

Now, how has the CIA evaluated the military share in the Soviet goods and services—the "world's most important statistic"?

The CIA kept repeating its absurd figure every year—up to 1975 inclusive.

Before 1976 the CIA's figure was from 6 to 8 percent, roughly the same as for the United States. But since the total output of Soviet goods and services was far smaller than its U.S. counterpart, the Soviet military output must have been far smaller too, the CIA reasoned.

In 1976 the CIA finally notices that inexplicably, Soviet weapons had first overtaken American weapons and then began to surpass them. Then the CIA declared that it had been mistaken between 1957 and 1976 and doubled its figure for the proportion of Soviet military output in the Soviet Gross National Product, where this figure roughly stays in 1986. Well, before 1976 the CIA's "most important statistic" was laughable, while now it is only 50 percent so.

"Can't we make a mistake?" is the CIA's plea. Yes, but what kind of mistake? To say, about a society where even children of three "march like real soldiers," that it spends less for military purposes than the United States does, means just to know nothing about that society.

The Soviets' Greatest Spy—Western Free Enterprise?

(By Lev Navrozov)

We have heard that we live in one of the open societies, called "the West" for short, in which Soviet espionage can easily operate by definition.

This is an understatement. In the West, information which would be considered top secret military espionage data in the Soviet Union is pushed on everyone for free with aggressive high-pressure, salesmanship, or as the expression goes, with the hard sell. Hereby I announce a contest (no cash prizes) for the best term for such societies. The hard-sell-of-military-data societies?

MILITARY MARKET

Here in front of me is the Jan. 18 issue of the British *Jane's Defense Weekly* which the mailman has just brought and thus inspired me to write this column.

Jane's is one of the numberless Western magazines treating military Research & Development, the production of weapons, etc. as a "military market"—just like any other market.

All this splendid military merchandise beautifully displayed on the pages of *Jane's* has to be sold in a fierce competition, right?

Now, to sell it you must advertise your product as smartly as possible. The customers must know that your scientists and engineers have just conceived of a submarine which will be better than any other submarine on the market. Orders can already be filed. Negotiations are on. Our customers are always right, our salesmen are always bright.

"Yes, sir, only our company in the West will be able to produce that submarine. The Soviet military, sir, will perhaps be able to produce it too—as they have learned about our concept from *Jane's Defense Weekly*, but you won't buy weapons from the Soviet military, will you? Yes, sir, the Soviet military will perhaps be able to sink our submarine—since they have learned about our concept. But you are not going to fight *them*. I hope not, sir. You intend, I take it, to fight Tararabumbia or is it South Trali-Vali, sir? If you place an order ahead of Trali-Vali . . . The right decision, sir. We'll formalize it before lunch, sir. Now I don't envy Trali-Vali, ha-ha-ha! Unless it's Tararabumbia, of course."

MIL BIZ IS LIKE ANY BIZ

My subscription to *Jane's* seems to have expired, but I receive it anyway. Of course. Perhaps I'll place an early order for a dozen of those new submarines, after all, or at least will renew my subscription.

Yeah, mil biz is like any biz. From advertisements in *Jane's*, for example, you can learn what weapons every Western company produces, how they look, why they are better than any other on the market—and what the company's location and telephone numbers are. How else? Suppose you want to place an order for those new submarines. What company can afford losing potential customers by withholding its name, address and phone numbers?

There are grandiose military trade fairs, and since mil biz must know what to research, develop, produce and sell and the customers what to order, buy and deploy, magazines like *Jane's* give a wealth of background military information. Supply and demand. Who researches, develops, produces, sells, plans, intends, orders, buys and deploys what in the military field.

Poor KGB and GRU. They feel like the wives of Soviet Embassy officials at Bloomingdale's. Their eyes run away with them. What to buy? Which Western weapons to copy—and improve? What military information to use? I can imagine a Soviet submarine builder, rushing to his design office with a copy of *Jane's* in his hand: "Brothers! A new concept in submarines!"

A TORRENT VS. RARE TINY DROPS

If military information from the West comes to the Soviet military in a torrent, from the Soviet Union to the Western military, it comes in a trickle, nay, rare tiny drops.

Jane's has a special section called "Soviet Intelligence." Usually it is a photograph of, say, a Soviet fighter-bomber in a test flight, and though the fighter-bomber looks on the photo more like a blurred mangled frog than a fighter-bomber (it is, obviously, a blow-up of a satellite photograph) and is a reprint from *Aviation Week and Space Technology*, I imagine the editor rubbing his hands in glee and composing a text to conjecture the performance characteristics as well as the size and configuration of the

mangled frog—I mean the Soviet fighter-bomber.

But in the current issue there is an even greater piece of "Soviet Intelligence:" two full pages devoted to Vladimir Chernavin, the new commander-in-chief of the Soviet Navy.

Well *Jane's* even carries his photographs, somewhat blurred, too, but possibly because the *Pravda* photocamera was poor (almost everything is poor in the Soviet Union except weapons), not because the picture had to be taken by the CIA from space.

Strangely enough, while, say, the Soviet designers of submarines or missiles are total unknowns (even their names are secret until they die), the names and faces of Soviet top military men are at least allowed to be recognized by the West. But what else?

The first subhead of the *Jane's* article about Chernavin is "Patriotic Loyalty." How did *Jane's* or the CIA discover *that?* From his speeches in the Soviet newspapers.

You see, were not Vladimir a loyal patriot he would say as much in *Pravda.* Imagine a banner headline: "Fleet Admiral Chernavin: Am I a Loyal Patriot? Not By a Long (Naval) Shot!" But he didn't. So he must be a loyal patriot.

Similarly, *Jane's* makes other Soviet intelligence revelations. At the end, the magazine discovers (from an article in *Izvestia,* July 27, 1985) that "Chernavin introduced a new definition" of naval power. It is the "extent to which a particular state is able to make the most effective use of the oceans of the world." Terrific! But I think the "new definition" could be found in *Izvestia* 10 or 15 years ago too—or in 16th century British naval papers.

THE WAY OUT

In short, while the Western military market or mil biz cascades its splendors on all and sundry like Bloomingdale's and Macy's do theirs, the West receives the blurred photograph of a Soviet admiral and Soviet newspaper clichés, referred to as "Soviet intelligence" revelations.

What's the way-out? To try to eliminate or reduce free enterprise in the military field in favor of secretive bureaucracy is insane.

Free enterprise is creative. It does forge ahead in many areas ahead of the Soviet military despite everything. Now, free enterprise cannot function without a free open market and its free open advertisement and exchange of information.

Hence Western military information cascades freely and openly on all and sundry, including the Soviet military, while Soviet military information is contained inside the totalitarian reservoir which Western intelligence/espionage cannot penetrate.

The solution seems to lie in the penetration of the totalitarian reservoir by Western intelligence/espionage rather than the attempt to impose secrecy on the Western free and open military market. But more about it on future Wednesdays.

1961—The Year of CIA/MIA-6's Bittersweet Triumph

(By Lev Navrozov)

A quarter of a century ago a Soviet high-ranking official named Oleg Penkovsky and a British businessman in Moscow named Greville Winne walked through Moscow's whirling snow "on which even the KGB could not hang a microphone."

The joke is not mine, but Winne's, and hence in quotes. But whether or not the KGB can hang microphones on whirling snow, Penkovsky asked Winne to pass to Britain a package in which he suggested that he would be an espionage agent for the British Intelligence Service, MI-6.

And so he was, for about half a year, practically the only espionage agent the West ever had in post-1917 Russia—that is, in almost 70 years.

There have been many defectors from among those Soviet nationals stationed in the West—but stationed in the West, they have had no access to centers of strategic information in Russia.

Penkovsky had that access. The English-language version of his calling card said: Deputy Division Chief, Foreign Relations Department, State Committee for Coordination of Scientific [read: Military] Research.

IN WEST, MORE MAY BE LESS

The more strategically important the information a Soviet official handles, the higher his socio-economic status in the "Soviet State." The West cannot induce him to become an espionage agent with only the prospect of a post and salary in the West. His relative socio-economic status in the West will always be lower than it was in Russia—that is, in the West he will never be so much more important and wealthy than the rest of society as he was in Russia.

In his book *CIA's Secret Operations,* Harry Rositzke, who worked in the CIA for 25 years and with whom I almost came to blows on a TV program about intelligence/espionage, described an alleged successful inducement in the form of rubles. This is ridiculous. Rubles buy little wealth in Russia, since real wealth is actually distributed according to official rank—via "closed stores," for example.

Therefore, one of the strong motives for a Soviet high-ranking official to become an espionage agent for the West has to be ethical or spiritual (as it was in the case of Penkovsky), that is, connected with a strong realization that the West is right and the "Soviet State" is wrong.

But here comes a new difficulty. Those with strong ethical-spiritual motives of this kind do not usually join even the Communist Party, let alone the KGB, just as decent women do not usually go to work at a brothel. Hence, those with strong ethical-spiritual motives have as a rule no access to strategic data of national importance.

Those like Penkovsky are rare, marginal or mixed cases.

Let us suppose that a Soviet national who has access to strategic data and yet is not devoid of strong ethical-spiritual motives has realized that the West is right and the "Soviet State" is wrong.

But it's a long way from having this ethical-spiritual realization to becoming an intelligence agent for the West, something infinitely more dangerous in Russia than any other "crime."

NATHAN HALE NO PARIAH

My apartment house is called "Nathan Hale Gardens." Some day I will take a poll to see how many tenants know that Hale was America's espionage agent.

I wonder, though, if anything in the West has been named after Oleg Penkovsky. To the new American culture, grown by universities in the last 20 years, the military are the country's pariahs, while espionage agents are pariahs of pariahs.

Quite a few CIA officials themselves have been explaining at great length that the CIA is a kind of university, consisting of scholars, thinkers, analysts, philosophers—not some, God forbid, spies—and that the word "intelligence" and the name "CIA" mean just information, or analysis of information. These CIA authors have been avoiding the very word "espionage" as if it referred to something shameful, almost indecent and certainly having nothing to do with the CIA.

If this has been the West's attitude toward espionage on behalf of the free world, why should a Soviet official or officer translate his ethical-spiritual endorsement of the West into infinitely dangerous espionage on behalf of the free world? To be regarded by the West as a pariah of pariahs?

However, a Soviet official who may contemplate conducting intelligence information for the West does not live in the West. He has been living in a Soviet environment where it was drilled into his mind since infancy that no creature on earth is more heinous than a spy for the West—a loathsome traitor and an unspeakable scoundrel.

If he is uncovered, his wife, his children and his friends may think of him in just such terms, while all Soviet media without a single dissenting voice will depict on millions of screens and printed pages how monstrous he is.

Yes, Penkovsky was a miracle. A rare statistic. A godsend for the West. Yes, 1961 was the year of triumph for MI-6 and for the CIA, which had joined MI-6 on the Penkovsky case. A real espionage agent worked for the West in Russia.

Those billions of dollars taxpayers had put into the CIA seemed to be now justified to some degree. It was now only necessary to preserve Penkovsky for at least 10 years and then retrieve him.

All was well for about half a year, as long as Penkovsky met only Winne (a contact authorized by his Soviet chiefs) and went abroad (a privilege of the chosen few that he also enjoyed) to pass on his espionage data on behalf of the free world.

Now in the fall of 1961, MI-6 and the CIA decided to use their expertise. In the spirit of an old sloppy spy thriller, they instructed Penkovsky to approach the wife of a British embassy official (she was an MI-6 agent) seated in a park in Moscow with her children and present one child with a box of candy that actually did not contain candy (Oh, the diabolical joint cunning of MI-6 and the CIA!) but Penkovsky's espionage data.

Since all members of the British Embassy in Moscow and their families have always been watched all round the clock, Penkovsky was destroyed then and there, though the KGB did not "nab" him on the spot, of course, but continued to watch him for about a year, a standard KGB time for "investigation."

I always wondered what MI-6 and the CIA meant to tell the KGB by this grandmotherly spy thriller of theirs—that high-ranking Soviet officials are in the charitable habit of walking about in Moscow's parks and giving boxes of candy to the families of members of the British Embassy?

On 30th Anniversary of "Khrushchev's Secret Speech"

(By Lev Navrozov)

Yesterday it was 30 years since the delegates to the 20th Congress of the Soviet Communist Party listened all night to Nikita Khrushchev's report, according to which Josef Stalin was not by far the greatest man in history, nay, an omniscient, kind and beloved deity, but as a neighbor of ours put it, "our Hitler, only worse."

No Western intelligence agency is impudent enough to claim it knew anything about the report when it was delivered.

Even today, 30 years later, it would have been known to Western intelligence no more than is, say, the secret "Letter Concerning L.P. Beria," the chief of Stalin's secret police, had not Khrushchev decided to pass copies of his report via Tito to the West and to Poland, where they became freely available.

WHAT THE CIA DID NOT KNOW

The CIA did not know that:

Khrushchev's report was motivated by his struggle for power only: in 1955 he still meant to succeed Stalin as Stalin's "closest associate." (Allen Dulles, then CIA director, thought Khrushchev had to deliver his report under the pressure of anti-Stalinist public opinion, led by the intelligentsia!)

Khrushchev managed to deliver the report only due to a trick of his own, taking advantage of the fact that the Presidium of the Central Committee was to be formed after the Congress, not at the congress.

The delegates listened to the report in a dead silence. (Dulles thought they argued with Khrushchev!)

The report was a scholarly bureaucratic treatise, with long quotations (the CIA wondered whether the written text of the "speech" existed).

The report was printed in a closed edition of about a half million copies and read to practically the entire able-bodied adult population of Russia at "closed" (secret) meetings.

NATIONAL CONSPIRACY

This last point is especially staggering. Suppose the entire able-bodied adult population of Russia is gathered for secret meetings to listen to a decision to the effect that a suprise nuclear-missile attack will be launched on the retaliatory potential of the West.

Comrades, we are telling you this so that you could be prepared for nuclear defense since the enemy may try some countermeasures in case his retaliatory potential has not been completely destroyed. But the enemy should not know this."

If Western intelligence agencies don't have a single agent even among the ordinary population, as it had none in 1956, the West would not know the content of such a decision, known to the entire able-bodied population of Russia. Therefore, Western intelligence wouldn't know even the fact that such secret meetings took place all over the country, as it didn't know in 1956.

A countrywide conspiracy against the West is possible, to which practically all the adult population of Russia would be privy, while Western intelligence agencies would read *Pravda* with an air of great importance and brag that "space satellites can see even a hare scampering in a field" (which, incidentally, is not true either).

But what about more narrow higher-level Soviet conspiracies to which only privileged strata of the Soviet population are privy? If the CIA knows nothing even at the Soviet grass-roots level, how can it presume to know anything at the highest level which is infinitely more secret, hidden within thousands of walls, screens and barriers of all kinds and accessible only to the most privileged few?

NO ANSWER FROM CIA

In my last column (Feb. 5, 1986) I wrote about my Appeal to the CIA's Information Review Committee to give the CIA a fair chance to dissociate itself, on the occasion of the 30th anniversary of "Khrushchev's Secret Speech," from the inane canard that the CIA had allegedly almost purloined the text of the speech right after the 20th Congress if not at the 20th Congress or before it.

True, the head of German intelligence, Reinhard Gehlen, also bragged that his agency and no other secured the complete text of the "speech," and certainly had done so before the CIA or anyone else secured any text at all.

Similarly, it has been claimed that the Israeli intelligence agency Mossad, and no other, secured the "speech."

The canard that a Western intelligence agency purloined Khrushchev's "Secret Speech" took wind in 1962 with the help of Dulles himself and has been flying about since then frantically in all directions.

To begin with, members of each of the three agencies—the CIA, Reinhard Gehlen's "ORG" of West Germany and the Mossad of Israel—have been claiming that *their* agency, and no other, acquired the report. The absurd impression they have been creating is that Khrushchev's report existed in one copy, and the only problem is to decide which intelligence purloined that unique copy and thus immortalized itself.

It is forgotten that the Soviet bloc countries have even "closed" newspapers for their ruling elites, not to mention texts like Khrushchev's report.

Current and former members of each agency "leaked" to their favorite journalists imaginary colorful details about how their agency accomplished that "espionage coup of the century."

Intelligence/espionage authors and whoever is not too lazy to write on this subject have been copying these imaginary details from each other, embellishing them, adding what their own imagination suggests and passing off the resulting concoctions as the latest inside info, straight from top secret sources.

Nothing is missing in these yarns: the CIA's spies in the Kremlin and millions of dollars in Swiss banks, Gehlen's writing of Stalin's would-be assassin, Dostoyevskian love-hate friendship between the head of the CIA's counterintelligence, James Angleton, and the head of the Italian Communist Party, Palmiro Togliatti, and whatever a spythriller author can imagine given unlimited leisure.

Those who have been spinning these yarns have never noticed that their yarn not only contradicts all the other yarns, but is also self-contradictory as such unless it is all absurd. Reputable book publishers and publications like the *New York Times* have been publishing these yarns as serious scholarly studies, often complete with source notes.

Since I am an American citizen, I thought it behooved me to request the CIA to dissociate itself from these inane boasts on the occasion of the 30th anniversary of Khrushchev's nocturnal delivery of his report. Let other Western agencies make fools of themselves by bragging of their imaginary feat.

Alas, the CIA's Information Review Committee has answered that it wouldn't be able to consider my appeal in such a short time.

The fact that the CIA was unable to acquire Khrushchev's report until and unless Khrushchev sent copies to the West via Tito and to Poland does not discredit the CIA—such an operation exceeds by many orders of magnitude the ability of Western intelligence agencies as they are today.

Something else is deplorable: the event demosntrated that Western intelligence knew nothing about what was going on in Russia behind the exterior visible to tourists or depicted in the Soviet "open" media, that is, the media available to all, in contrast to the Soviet multitiered "closed press" available to Soviet officials according to their rank.

THE CIA AND SOVIET DEFECTION-REDEFECTION MYSTERIES

(By Lev Navrozov)

When Oleg Penkovsky proposed in 1960 to become a Western intelligence agent without any remuneration, but just out of sympathy for the West, the CIA rejected him as an obvious Soviet plant—he was "too good to be true," in the CIA's opinion.

If British MI-6 had shared this bias—and fortunately, it did not—the West would have lost practically the only intelligence agent it ever had inside the strategic centers of Russia.

This shows that the bias of viewing any present or former inhabitant of Russia willing to help the West as "too good to be true" may lead to disastrous losses of vital information.

On the other hand, here was Oleg Tumanov, a defector working for Radio Liberty for about 20 years. Recently he disappeared—presumably redefected. Was he, the man in charge of broadcasting for Russia, a Soviet agent all along?

And what was Vitaly Yurchenko, who went back to Russia last November? A KGB agent who tricked the CIA all along for some obscured reason? Or a naive minor KGB office who first defected, then changed his mind, and redefected to be shot as a traitor?

To the CIA and the media he was a riddle wrapped in a mystery inside an enigma, to repeat once again a phrase from Churchill's broadcast on Oct. 1, 1939.

Still earlier another Oleg, Oleg Bitov, a jounalist and a brother of Andrei Bitov—a gifted "semidissident" writer whom I knew, respected and translated into English—defected, and then redefected so strangely that he was said to have been kidnapped by the KGB.

How to distinguish between an authentic defector and a KGB phony?

In Stalin's era, as I recall it, the failure to spot in one's circle of friends a secret police informer almost inevitably led to being denounced by him and perishing in Stalin's camps. Yet my friends and I survived. I had my trusted friends. They are all alive and well. None of them turned out to be a secret police informer. We were able to spot secret police phonys and avoid them.

How did we do it?

In a circle of intimate friends—devoted to things intellectual or spiritual, for example—there is always some "key" as in music. Whatever is off key is out of tune, and hence a false note.

An intruder trying to be "in" imitates their "music." but he immediately alerts them as soon as he opens his mouth, for his very first "note" is false, and what follows is cacophonic to the intimate circle's ear. They freeze and wait for him to slink away.

Now let us assume that I was to determine in Russia whether a certain American was an authentic communist sympathizer or a CIA agent pretending to be such.

I would not have been able to determine that for two reasons. First since I have never been a communist, it would have been difficult for me to sense what was authentic.

Everything "communist" would have seemed to me phony.

Second, though my knowledge of English was admittedly second to none among the Russian-born, all Americans seemed to me more alike than they really were and the English they spoke seemed to me more uniform than it really was.

All that I could tell about an American correspondent I knew was that he was an American and spoke that kind of English which they speak in the United States.

Recently, 14 years after my sojourn in the United States, he called me. I nearly fainted. He sounded so entirely different. Now I heard not just impersonal "American English," but the language of a particular individual, shaped by his birthplace, childhood, family life, career, psyche, larynx, mouth and vocabulary.

Also, I heard not only the meaning of his words, but also what was behind or under them: his hesitations, motives emotions, intentions and limitations. I heard how and why he chose his words, but them together and articulated them.

That is the CIA's problem. No matter how good its American-born experts of Russia and Russian are, all Russians inevitably seem to them more alike than they really are, and their Russian more uniform than it really is. Neither the CIA nor the media "understood" Oleg Penkovsky, Oleg Bitov, Vitaly Yurchenko or Oleg Tumanov: they perceived them each time just as a "Russian" speaking "that kind of language which they speak in Russia."

The difference between a defector, defecting out of sympathy for the West., and a KGB phony crudely imitating that sympathy, was a nuance for beyond their perception. They heard an alleged defector's words, not what was behind or below them.

After it was all over with Penkovsky, the CIA published *The Penkovsky Papers,* consisting of authentic documents (except one suspicious photograph) and a fake one purporting to be Penkovsky's notes.

To a native Russian, the phoniness of the fake Penkovsky notes is comical; to him everything in the document is plainly ridiculous: it is out of character, out of style, off key all the time. A native Russian can only laugh reading the "notes." But to the CIA, the fake document seemed no doubt very clever.

The question is: how can the CIA distinguish a phony KGB defector from a real one if the CIA considers a laughable fake so cleverly made that it needs to publish it?

Naturally, few Western-born experts even noticed that the "diary" was a fake, and hardly anyone saw its comical crudeness.

Besides, for many in the CIA and the media it is as difficult to sense a true defector's sympathy for the West "as for the sated to understand the hungry."

In the West, freedom is as abundantly obtainable as food. That someone somewhere may lack basic freedom and crave for it is as irreal in the West as that someone somewhere may lack and crave for the food that American supermarkets throw out because it is stale or damaged when shipped.

Therefore, to many in the CIA and media, a defector's sympathy for the West as such seems somehow phony: "Why should a prosperous, high-status Russian give up everything out of sympathy for some Fourth of July abstractions that few recall here even on the Fourth of July?"

When an alleged KGB defector conveys these abstractions in his own language, American-born experts can only grasp the meaning of his words, but not their infinite psychological overtones; and if he conveys them in his rudimentary English, it depersonalizes him completely.

Hence, a true defector becomes indistinguishable from a KGB phony, and his behavior a conundrum that is useless even to begin to solve.

[From the New York City Tribune, Mar. 26, 1986]

ARMS AGREEMENTS? COMPLIANCE UNVERIFIABLE BY CIA

(By Lev Navrozov)

There is a never-answered question that has been asked at least since 1968 when the Strategic Arms Limitation Talks (SALT) went ahead, resulting in the SALT-I agreement in 1972:

"Can the compliance of the closed Soviet regime with such agreements be verified by the CIA-led intelligence community?"

The CIA has been vacillating between its desire to impress the public with its imaginary ability of verification and its fear of being found out the hard way (perhaps even in the extreme form of a surprise Soviet attack on the strategic retaliatory potential of the West).

May of those inside and outside the U.S. government in favor of arms negotiations and agreements have been saying that, *yes,* the CIA has been able to verify SALT I and SALT II, and only secrecy has been preventing them or the CIA from ever saying anything on the subject beyond this bold profession of their faith.

X+Y=?

But does their faith prove anything? In his memoirs published in 1985, Adm. Stansfield Turner, director of Central Intelligence from 1977 to 1980—that is, when SALT II was to be ratified—writes:

"The only means I had for calculating whether the Soviets could cheat was to figure out the different ways they might attempt it. I had a team of experts pretend they were malicious, scheming Soviets and think up techniques for cheating. One idea they came up with to hide the construction of new ICBM silos was to build them inside large buildings and plan to fire the missiles through the roofs."

To suppose that a missile like an ICBM can be hidden inside a large building does not require "team of experts" pretending they are "malicious, scheming Soviets"; a child of six could come up with such an idea. Turner continues:

"I was prepared to say [to the Congress] that I had X percent confidence that they could not secretly build more than 100 missile silos inside buildings without our detecting what was going on, and that our confidence would be X + Y percent by the time they got to 200."

So, even in 1985 Turner does not say what "percent confidence" he had in 1978 or what it was in 1968, when SALT-I began. In 1985 the public was to believe this was still a secret that could only be denoted by X and X + Y.

It is statistically true that anyone who hides a thing runs a certain risk of that thing being discovered. That risk for 100 hidden items may be designated by X, and that for 200 by X + Y. So, put in such neat symbols of school algebra, Turner's verification percentages look impeccable.

But if the Soviet military can hide an ICBM inside a large building, then, even though the probability of discovery for 100, 200, 2,000 (and so on) ICBMs does increase theoretically, neither the CIA nor anyone else can calculate this X, X + Y, X + Y + Z (and so on). They can exist only as algebraic symbols, not as calculated specific figures. Turner takes advantage of secrecy to conceal the fact that no one can calculate them.

The U.S. government machinery of strategic arms negotiations and agreements has been rumbling on in the 1980s on the basis of nothing except a vague national myth about the CIA's ability at verification, which the American media have created for the CIA.

SALT-II was never ratified, since the CIA has refused to say unequivocally that yes, SALT-II is verifiable, but has confined itself to safe assurances that the CIA's probability of discovery of 100 Soviet hidden ICBMs is X and keeps increasing with the number of hidden Soviet ICBMs.

MOBILE UNKNOWNS

In 1985 Turner spoke only about stationary ICBMs, hidden inside buildings, with an empty algebraic promise that if very many ICBMS are hidden in this way, there is an X chance that the CIA will detect "what was going on."

But there has been something still worse in store for the West: mobile missile.

The CIA might have detected this danger in 1969 if it had listened to ex-Soviet leader Mikita Khrushchev's tapes, as I did. The following is Khrushchev on tape:

"I think Stalin was still alive then [that is, it was in 1953, take or leave a year or two]. When we had created mobile missile systems, we discussed this question, and gave up the building of stationary [missiles] and went over to mobile ones, which were a better solution. . . . They could be dispersed and it was more difficult for intelligence to establish where these missiles were."

Do you see the meaning of it all? Somewhere between 1952 and no later than 1964, when Khrushcehv was thrown out of power, the Soviet military gave up the building of stationary missiles and went over to mobile ones for obvious reasons.

But Adm. Turner narrates in 1985 that he explained to the Congress in 1977 to 1980 how the CIA could detect Soviet stationary (pre-1964?) missiles with a probability equal to X, etc. What about mobile missiles? The CIA didn't know that the Soviet military had switched to them at least 13, if not 28 years earlier?

On Dec. 31, 1985, SALT-II formally expired. But the Reagan administration has declared its intention to abide by it at least up to the spring of 1986, and it is widely believed that secret commitments were made by President Reagan at the summit late in 1985 to that effect. The liberal media have been egging on the administration: negotiate, negotiate, negotiate.

But if stationary missiles are unknowns—they could be hidden in large buildings—mobile missiles are mobile unknowns, which the CIA does not even presume to detect with a probability equal to X.

Only espionage agents inside the Kremlin could have yielded such information, but the CIA has, practically, never had any, and has been relying on space surveillance in the hope of photo-graphing Soviet stationary missiles hidden behind walls—which has been futile anyway since at least 1964, when the Soviet building of mobile missiles began.

[From the New York City Tribune, Apr. 2, 1986]

ILLUSIONS ON WHICH CIA WAS FOUNDED 40 YEARS AGO

(By Lev Navrozov)

The birth of the CIA 40 years ago was based on several American illusions.

Since it is no problem to buy any commodity on sale in the United States if you have enough money, there originated a delusion that intelligence/espionage will also be available if Congress pays enough money for it.

Since American corporations like General Motors are fairly efficient, there originated a delusion that a government non-profit bureaucracy will be also fairly efficient if organized along the lines of General Motors to produce intelligence/espionage data.

Since many gifted Americans are paid salaries, there originated a delusion that every American was gifted in intelligence/espionage if he was paid a salary.

Since Soviet spies penetrated during World War II and thereafter even the U.S. top secret atomic laboratory, which was completely isolated in a remote practically desert area, there originated a delusion that an American who is paid a salary for intelligence/espionage would similarly be able to penetrate the innermost recesses of Stalin's Russia.

FROM OMAHA TO THE KREMLIN

We know how the CIA was born due to someone who joined it at its birth worked in it for 25 years, and then wrote memoirs. His name is Harry Rositzke.

I would read his and other such books as comical writing except that their meaning is tragic. Anyway, Rositzke wrote his memoirs in dead earnest. He takes himself for the CIA's master spy who has given the taxpayers more than the value of his salary they paid him for 25 years. So let us begin with Rositzke himself.

Who the hell would imagine that a Rositzke, who was born in Brooklyn, studied German at Harvard and taught English in Omaha, could penetrate, say, a Soviet military laboratory in Kungur?

Did Rositzke know a word of Russian or any other of the more than 130 languages of Russia? Or was it assumed that English or German was spoken in Kungur, and so Rositzke would speak with the local populace in his Brooklyn-Omaha English or his Harvard German? Was Kungur thought to be like Brooklyn, Omaha or Harvard?

What does the teaching of English in Omaha have to do with espionage in Russia? What did Rositzke know about the subject? Why on earth was he thought to be more gifted in the field than in heart surgery, weight lifting or the composition of a concerto for violin and orchestra?

FUTURE SPIES IN THE KREMLIN

Rositzke did us a great service by listing also the occupations of those of his new colleagues whom he came to know best. These were:

Two journalists. Excellent! They would send their messages from a secret laboratory in Kungur as newspaper reports, with byline and all.

A state trooper from the Midwest. Fantastic! He would be a sports coach at a local school.

Several sons of missionaries. Splendid! They would convert some atheists at the Kungur laboratory in the process of espionage.

A lawyer. Magnificent! He would talk in Kungur. Lawyers know how to do it.

A postal clerk. My God! He could get a job at the local post office and read all letters.

Several high-school and college teachers (like Rositzke). They would find no more difficulty than Rositzke himself in passing themselves off in Kungur for itinerant circus acrobats, for example. Surely the nascent CIA could teach them somersaults or whatever.

True, there was one defect in them all. None of these future spies in Kungur of the Kremlin knew a word of any of Russia's 130 languages. A way-out seemed to be for all of them to pretend that they were deafmutes.

REHASHED WISDOM

Once on his job, Rositzke decided to learn something about Russia—to train himself on the job, as they say. How? By reading Soviet books and magazines.

In 1973, that is, about 25 years later, Rositzke published a book of his own, entitled *The USSR Today.* Needless to say, I've tracked it down to see what he produced after 25 years of his salaried sojourn in the CIA. I hardly need to say that the CIA's espionage did not move an inch during those 25 years. But here was at least Rositzke's book.

Thousands of Americans write books about Russia by rehashing other books about Russia, written by rehashing still other books about Russia. So after 25 years of his salaried sojourn in Washington Rositzke churned out in the same way his book about Russia: it is thin, and hence subsequent experts on Russia will have little to rehash.

Otherwise here are three of Rositzke's rehashed "truths about Russia":

The "average Soviet factory worker is better off than the 20 million Americans at the bottom of the income ladder";

"Marxism-Leninism appeals to countless men"; and

The "Soviet record in public health is outstanding."

It is not clear why Rositzke should have struck it out for 25 years in the CIA to pen this rehash one could learn straight from any Soviet propaganda pamphlet in English on sale in Washington for 50 cents a copy. Had Rositzke seen a single Soviet factory worker in the flesh in a town like Kungur? How did Rositzke know that Marxism-Leninism appealed even to Brezhnev? What did Rositzke know about Soviet public health except what was written about it in Soviet propaganda?

TOP SECRET

But it took Rositzke 25 years in the CIA to obtain these gems of rehashed wisdom, while at the birth of the intelligence agency, Rositzke was yet to *begin* reading in absolute top secrecy what—*Pravda?* No, of course, not. In those days *Pravda* was not published in English. But fortunately, several Soviet glossy propaganda magazines were. These Rositzke would read in absolute top secrecy until he knew Russia enough to penetrate the Kremlin or at least Kungur.

In absolute top secrecy did Rositzke arrange for subscriptions to several such periodicals. His job was so secret that even his wife was not supposed to know that her husband was the Chief of Special Projects Division/Soviet, Strategic Services Unit. Indeed, Harry Rositzke didn't exist any more. He used cover names from now on, say, Dick Appel and when Dick Appel was asked where he worked, he had to say: "At the State Department" or name some other innocuous place. Of course, the Soviet magazines were to arrive at some innocent Post Office Box.

Finally, the first of them did, postmarked Moscow. Inside his absolutely top Secret Division within an absolutely top secret Unit, Dick Appel picked up the package from his in-basket and read the Moscow label on the brown wrapper.

Harry Rositzke
Chief, Special Projects
Division/Soviet
Strategic Services Unit
2430 E Street
Washington, DC.

[From the New York City Tribune, Apr. 16, 1986]

HOW THE CIA BORES THE U.S. CONGRESS STIFF

(By Lev Navrozov)

The CIA has been testifying before various congressional committees, and whatever sanitized version is released for the press, I collect it, so that now I have a huge stack of the CIA's testimonies dating back as early as 1959.

As a random sample, I pull out from the stack a typewritten release for the press: the CIA's testimony before the Joint Economic Committee on Sept. 14, 1983, entitled *USSR: Economic Trends and Policy Development.*

In the 1980s a member of the U.S. Congress would not mind hearing from the CIA how the Politburo harnesses all available economic sources to maximize its global might, and when the later will be sufficient in the Politburo's estimation to put an end to the United States by striking at its retaliatory nuclear missile potential.

But there is something more important for the CIA to testify about. Hark ye, U.S. senators and representatives: "Production [in 1982] of fruits and vegetables reached record levels . . ."

This is what the CIA learned from Soviet "open" (that is, freely available) reference books, though as usual the CIA give no source note. The Congress is to suppose that the CIA has received this strategic information via intelligence/espionage, and so no sources could be given.

Imagine a dark, rainy night, when all KGB counterintelligence agents stay at home (at least in American spy thrillers), and the CIA's ace agent passes his case officer on Gorky Street (favored in such spy thrillers, too) and whispers as he passes:

"Production of fruits and vegetables reached record levels . . ."

So why should the U.S. Congress hear from the CIA that in Russia in 1982 there was a good harvest of "fruits and vegetables?" Why should a secret intelligence/espionage agency, leading the secret "intelligence community" of 200,000 secret employees, report this to the U.S. Congress? Can a professor of Soviet economics not register this news from the Soviet open press in his article if it is of interest to anyone?

The testimony takes several hours to read. It is a frightfully boring and irrelevant rehash of the Soviet open press.

Less than 6 percent of the testimony is occupied by two sections called "Defense." It is interesting that even in terms of time and space in the CIA's testimony, the CIA gives Soviet "defense" a modest fraction of its testimony—6 percent—and this fraction figures under the conventional reassuring Soviet propaganda name: "defense." Every country must defend itself, must it not? So the "U.S.S.R." (the CIA uses all the propaganda names) has its "defense," too.

The CIA informs the Congress: "Andropov's position on the share of resources that should go to military is unclear."

Unclear? But what about intelligence/espionage that has penetrated the Kremlin, as we have been told so many times? The CIA explains: "In his November 1982 speech, he [Andropov] stated only that defense requirements as usual have been sufficiently taken into account.'"

You see? Andropov was vague. If he had expressed himself clearly in *Pravda*, the CIA would have copied the article from *Pravda* and read it to the Congress. That's what intelligence/espionage is all for! But Andropov was vague. So what on earth could Congress expect from the CIA? No wonder the CIA was vague too:

New information indicates that the Soviets did not field weapons as rapidly after 1976 as before. Practically all major categories of Soviet weapons were affected—missiles, aircraft, and ships.

What does the first sentence of this verbiage mean? That in 1982 U.S. space satellites saw a smaller number of missiles fielded than in 1975? But what if the missiles of 1982 had far more warheads, and these were far more accurate? What about camouflaged stationary and mobile land missiles that U.S. space satellites did not see?

READING THE TEA LEAVES

Congress then hears:

The growth in total [Soviet military] expenditures still appears to be considerably below the long-term average, and [military] procurement spending remains roughly unchanged, although at a high level, when measured in constant 1970 prices.

What follows is the CIA's favorite pastime: guesswork that the CIA calls "analysis." Having invented a "trend"—in this particular case, the slowdown in the growth in total Soviet military expenditures and military procurement—the CIA proceeds to invent the imaginary causes of its invention:

The slowdown in the growth of military procurement cannot be explained by any single factor. Initially, at least, the absence of growth in military procurement might have been attributed to natural lulls in production as older weapon programs were phased out before new ones bogan. The extended nature of the slowdown, however, goes far beyond normal dips in procurement cycles.

The continued slow growth since the late 1970s seems related to a combination of complex factors including technological problems, industrial bottlenecks, and policy decisions. Some funds budgeted for procurement may have been directed instead to research, development, testing, and evaluation (RDT&E) during this period because of the increasing complexity of weapon systems being researched.

The process of the CIA's production of this verbiage for the benefit of the U.S. Congress, government and all concerned can be outlined as follows: Having invented the "slowdown in the growth of [Soviet] military procurement," the "CIA analysts" begin to "analyze," or as the old English expression goes, to read the tea leaves.

Procurement cycles? No good! According to the CIA's imagination, the slowdown is *extended.* Then the "analysts" begin to enumerate everything that comes to their heads as capable of slowing down the growth of Soviet military procurement, but pass off a string of their ad hoc inventions as facts, established presumably via intelligence/espionage.

Indeed, what possibly *can* slow down the growth of Soviet military procurement? Technological problems. An excellent safe common place!

What else? Industrial bottlenecks. A marvelous fib—and very much in the spirit of the Soviet scene! Policy decisions. A splendid fantasy—and totally noncommittal: surely those Soviets always make *some* policy decisions! Funds *may* have been diverted to RDT&F. A brilliant figment of imagination—surely Soviet RDT&E can do with more funds!

The invention of imaginary causes of an imaginary event may be an interesting game. But it is not clear why everything that was noted above cannot be "testified" to before the Congress by any American able to speak grammatical English, and it is even less clear why Congress should hear this "testimony."

At best, it is a waste of time, filling the legislator's heads with nonsensical trivia at a time the West is gravely threatened.

[From the New York City Tribune, Apr. 30, 1986]

KIM PHILBY: ESPIONAGE ROMANCE AND DRAB REALITY

(By Lev Navrozov)

The trouble with many Western intelligence/espionage writers is that they "tone up" everything and everyone in their book to make them "exciting."

I first noticed this when I read the books and articles about Harold "Kim" Philby, an Englishman who was a Soviet agent for 30 years (1933-63). At the peak of his career Philby functioned in Britain and the United States as director of the counter-Soviet section of the British Secret Intelligence Service, MI 6, and liaison officer between MI 6 and the CIA.

In one book about Philby, three journalists of the London *Sunday Times,* who were aided by a 13-person research team, refer to the "great sexuality" of Litzi Friedman, his first wife, who "had never wanted for admirers" before Philby met her. She was in short a ravishing Austrian girl, beset by admirers, a middle-European sex goddess from a $40-million movie, fit to be the consort of the British superspy.

Then I saw her photograph: a chunky, short-legged peasant girl (you can find such in a Soviet Ukrainian village) with retreating forehead, idiotic hairdo, heavy jaw, big mouth and hooked but by no means well-chiseled nose.

She might have been a good, nice, intelligent girl or a village slut, for village sluts are not always for choosy customers. But what do the *Sunday Times* authors' great sexual fantasies have in common with her?

SOPHISTICATED SOPHISTICATION

That's the working principle of many intelligence/espionage authors. Litzi Friedman did exist and Philby did marry her, but the rest is the *Sunday Times* journalists' imagination—and just as their imagination transforms Litizi, it transforms whatever they describe.

If everything written about Philby, including by Philby himself, is collected, it can be summarized in these four paragraphs:

Functioning in Britain has been the famous MI 6, the British Secret Intelligence Service. Words fail to describe its sophistication, which has been maturing for 3 or 4 centuries.

Working as director of the counter-Soviet section of MI 6 was Harold Philby. While MI 5, the British counterintelligence service, just tracks Soviet spies on English territory, the counter-Soviet section conducts espionage inside the KGB in order to learn who the Soviet spies are, in particular MI 6. Not bad, eh?

But that's not all. Philby, head of the very section of MI 6 aimed at penetrating the KGB to learn who the KGB agents are in MI 6, was . . . a KGB agent. What a wilderness of mirrors! What sophisticated espionage! So that Philby was a man of double genius in espionage: his genius of British espionage combined with that of Soviet espionage.

Finally, imagine the sophistication of the KGB, which planted its agent at the top of the sophisticated MI 6, nay; its even more sophisticated counter-Soviet section! Exposed by defectors, the double genius of espionage Philby disappeared from Beirut and surfaced in Moscow in 1963.

PROSAIC REALITY

Since Philby's father was a British official, he gave his son education "in the humanities." Millions of young people in the West who have no ability for anything receive education in the humanities because their parents can afford it.

Philby could write and speak the English of the upper middle class. That's all he learned to do in his lifetime. Before his escape to the Soviet Union in 1963 he knew nothing about the Soviet Union except what any newspaper-reading Englishman knows. He was never interested in anything except booze (or however you say booze in his upper-middle-class English) and he never said or wrote anything but a platitude.

But how could such a nonentity become the head of the counter-Soviet section of MI 6?

Because MI 6 has been merely pretending since 1918 that it conducts espionage in the Soviet Union. All those books and TV programs about how the ace spy Sidney Reilly nearly toppled Lenin's regime are perhaps exciting, yet they are untrue (see my column of Jan. 15, "How Superspy Reilly Tried to Topple the Soviets").

Characteristically, even the myth is almost 70 years old, and MI 6 has never dared to circulate any fresher myth. Philby had no more ability to conduct espionage in the Soviet Union than to design a nuclear bomb or build a space rocket. But to pretend? Why not?

He describes his greatest espionage operation, Operation Spyglass, as follows:

The main item was, of course, the camera. Having no technical knowledge of photography [and technical knowledge of what did he have?], I could not specify the make; I simply described what I wanted it to do and left the rest to headquarters.

Having the camera designed and built, Philby went to north Turkey, from where Soviet territory is visible, and his aide "swung the camera."

With an ordinary camera one could take only separate snapshots, but as his aide swung this camera, specially designed and built for Operation Spyglass, he took several photographs one after another automatically.

That is how Philby penetrated the Soviet Union, if not the KGB.

Of course, aerial photo-reconnaissance had existed in World War I, not to mention World War II. An ordinary World War II reconnaissance plane could have flown along the border and done within an hour far more than could Operation Spyglass do in a

month, since the plane can carry heavier and more sophisticated cameras, fly far higher than Philby's aide could swing the camera, and hence take a view far deeper into Soviet territory.

But why should Philby have known anything about aerial photo-reconnaissance? Why should he have thought about it? They were supposed to spend taxpayers' money. They did. On Operation Spyglass, for example.

No more difficult was Philby's work as a Soviet agent; contacts are never a problem in a society where anyone can travel all over the world. But what esponage data did Philby pass if MI 6 was all pretense?

Well, the KGB wanted to make sure that it remained all pretense—to keep an eye on MI 6 lest it was up to some mischief.

Thus, in August 1945, Konstantin Volkov, vice-consul at the Soviet Consulate-General in Istanbul, Turkey, wanted to defect with fantastically important intelligence data. The British consulate-general began pondering, and Philby came to the scene as an expert.

But first he informed the NKVD, as the KGB was called then, which dispatched Volkov to Moscow by air either as a corpse already or still alive for further investigation at the Moscow KGB headquarters.

All the KGB did in the Philby case was to receive this kind of information from Philby. The KGB was not interested in his motives. In addition to his MI 6 salary, he received a KGB officer's pay. He enabled the KGB to destroy Volkov—he earned well his KGB salary. That's all.

His escape was no less prosaic. MI 6 did not hold him, but on the contrary wanted him to disappear into the silence of the Soviet Union, to bury the scandal.

MI 6 made a mistake: the KGB began to glorify its former spies instead of denying their existence as before, so the scandal was all the worse.

[From the New York City Tribune, May 7, 1986]

HOW THE CIA FLUNKED ABYSMALLY ON CHERNOBYL AFFAIR

(By Lev Navrozov)

Whatever happened at Chernobyl on Friday, April 25 (Thursday the 24th, Saturday the 26th?), the West, and in particular the American 200,000-member intelligence community led by the CIA, had known nothing about it except what had been publicly known without them—from, say, a French communications space satellite.

In other words, Chernobyl has demonstrated once again that Western intelligence/espionage inside totalitarian societies does not exist, for space satellite observation is not a form of intelligence-gathering or espionage.

Intelligence/espionage is the clandestine acquisition of information denied to our side by a target country. There is nothing clandestine about space satellites, unless the Western intelligence/espionage agencies want to pretend their satellites are clandestine by calling them spies-in-the-sky and other such spy-thriller names.

Nor has any space observation ever been prevented by the Soviet side: on the contrary, for more than 20 years any space satellites have been mutually permitted to fly over any territory and make any photographs or register any waves and particles.

NOT A SINGLE AGENT

If just one Western intelligence/espionage agency had had one agent in Kiev—no, not within any infrastructure, but just as a "man in the street," an ordinary Kievan—he could have informed his agency when Kiev's hospitals began to fill up with radiation victims from Chernobyl. It's only some 50 miles away from Kiev, and he could have ascertained whether these victims were being shipped out of the area to be hospitalized (or buried) in areas where foreigners are not allowed.

Kiev, the third largest city in the Soviet empire, is full of physics laboratories. The level of radiation was known to many scientists and could be readily learned privately from them by any Kievan.

It could thus be calculated how many people were not hospitalized, yet had received a lethal or dangerous dose of radiation, for example in Pripyat, a town with a population of 25,000 about 10 miles from Chernobyl.

Any Kievan could also obtain privately from these scientists information on the size of the area of nuclear contamination.

How much, for example, is Kiev's water contaminated? How much is the entire chain of reservoirs down to the Black Sea contaminated? To know this it would have been sufficient to have an agent in Dnepropetrovsk Zaporzhye or even Odessa or Nikolyev.

But to maintain one agent inside a totalitarian society even as an ordinary, lowest-level member of this society—who has ever heard of that?

Ten years ago, when Mao died, hundreds of millions of people in China were on the verge of starvation, dozens of millions were starving, and millions dying of hunger. Here is an exchange in Congress on the subject in 1976.

PERCY QUESTIONS BUSH

Sen. Charles Percy asks George Bush, now U.S. vice president and then CIA director, whether it is true that there is a "great deal of malnutrition" in China.

Mr. Bush replies: What you have said, sir, comes as a surprise to me. Maybe some of our experts can confirm it. Is anyone prepared to do that?

[No response.]

Mr. Bush. I didn't travel to some of the autonomous regions, but I did travel a lot in China. We were free to move around, although you never get far off the beaten track. But certainly their own theses [are] that there is a basic level of nutrition for the entire population.

Can anyone here help the Senator with that, as to whether there is malnutrition in places in China?

Mr. Field [CIA expert]: No; I have no information on it.

Of course not. How can you see hunger via a space satellite? But you won't imagine, will you, that there was as of 1976 one CIA agent among 900 million Chinese who would report to Bush that they were starving. The conclusion of this particular piece of testimony, boldly entitled "Absence of Hunger in China," is worth reading:

Senator Percy: In other words, so far as we know, the claim that they have made that they are meeting the food problems of the country, and our own observations along that line, were accurate?

Mr. Bush: Yes.

Senator Percy: and I think they have been absolutely remarkable.

If half of Russia's population had received a lethal dose of Chernobyl's radiation or eaten lethally contaminated food, the director of Central Intelligence and his experts would say that they have no information on the subject.

Thus, on May 1, The New York Times related that in the CIA's reports "there was no solid information to prove or disprove the Soviet assertion that two people had been killed and . . . 197 had been hospitalized."

CHERNOBYL AFIRE

The Chernobyl plant began to emit light (that a space satellite could photograph) as well as nuclear radiation and nuclear particles (that a space satellite or an outsider interceptor could register) on April 24, 25 or 26.

On Monday, April 28, a nuclear cloud from Chernobyl reached Sweden, 800 miles away, and the Swedish government spent a full day demanding an explanation. So foreign correspondents in Moscow received from Tass a piece of paper on which were four sentences typed in English to the effect that "an accident" did occur at Chernobyl, "measures to eliminate" its "consequences" were being taken, aid was being given to "those affected," and a "government commission" had been set up.

The Western intelligence/espionage community learned of the "accident" only from these four sentences as they were reported in the West by correspondents in Moscow, and until the next Tass handout knew nothing except these four sentences.

So, the by-no-means clandestine space satellite observation did not work.

The U.S. intelligence community has one (yes, one) space satellite up over Russia. Now, to obtain maximum space satellite resolution—that is, to distinguish, say, a window in a house as at least a dot—it had to span in one photograph no more than a fraction of one-millionth of Soviet territory.

Well, Chernobyl was not inside that fraction. As for the National Security Agency's interceptors along the border of Russia, the interceptions were filed to be studied "later."

Hence, the U.S. intelligence community knew absolutely nothing until Tass told the world Monday, April 28, whatever it deemed necessary to tell.

To cap the irony of it all, the United States' only space satellite over Russia is to be replaced within a year. Yet it may go out of commission any day, and there is no stand-by space satellite to replace it.

[From the New York City Tribune, May 21, 1986]

WHAT THE CIA REVEALS ABOUT ITSELF IN ITS PAMPHLET

(By Lev Navrozov)

The CIA has sent me (free) its glossy 28-page pamphlet about itself. The booklet is entitled Intelligence: The Acme of Skill—a title taken from Sun Tsu, a philosopher of China Circa 400 B.C., who said, "To find security without fighting is the acme of skill."

In general, the philosophical side of espionage has been increasingly dazzling in the CIA. More and more Ph.D.'s work on the CIA—often because the alternative is to work as typists or advertising agents. Naturally, doctors of philosophy philosophize—in this particular case about espionage.

Obviously, they philosophize secretly. Thus, under three pieces of their philosophy cited at the beginning of the pamphlet, their names are withdrawn and only their posts are given. So top secret.

True, above their pieces are their photographs. I thought one's photograph was a

better means of identification for the KGB and GRU than one's name—which may be assumed—but this is what the CIA's secrecy often is.

One of the three secret philosophers says they strive for "that high-quality knowledge that decision makers need to arrive at safe, effective decisions."

Yes, but surely the same can be said by practically any institution from General Motors to the Society for Encouragement of Sunday Family Outings.

The second secret philosopher is no less philosophical: the goal, you see, is "the gathering of as much information as is available on events abroad and the intellectual job of integrating that information."

But surely this is precisely what the State Dept., the relevant university departments and the foreign desks and bureaus of the media do.

ENRICHMENT OF UNDERSTANDING

The third and the last secret philosopher says that "intelligence . . . must be an enrichment of the understanding of the problems that face a decision maker."

One will think this comes from a university department of cognitive psychology, and by intelligence is meant here the mental faculty of reasoning and understanding. Here must be a philosophical society concerned with cognitive intelligence—the Cognitive Intelligence Association, or CIA for short.

While philosophy is obviously advanced at the CIA, painting and sculpture are not lagging behind either. One photograph shows the interior of CIA headquarters: this is the first floor, looking like a modern-art museum. Says the pamphlet: "Works of art grace the building's entire first floor."

As befits doctors of cognitive intelligence, all works of art visible in the photograph are abstract, with a kind of huge broken matchbox in the forefront.

If the second floor of the building is given over as wholly to modernistic music, the third to avant-garde poetry, and the fourth to the theater of the absurd, all worry about the CIA's cultural advancement disappears.

INVENTION OF PHOTOGRAPHY

In the middle of the pamphlet, our eyes are greeted by a magnificent centerfold photograph of the kind that can be seen in Look magazine: an aerial photograph in which one can distinguish the hubs of a truck's wheels.

Several months ago I was studying aerial and space photographs in the Map Division of the New York Public Library. Finally they brought me a state-of-the-art miracle, a desk-size album—the best album I could find in the Map Division. Not without distaste, however, I found the album was Soviet.

Surprising? Not at all. Apart from East Germany working for the Soviet empire (and German photography has always been second to none), the Soviet military can always buy the best photographic equipment for their aerial and space photography in Europe, Japan and the United States.

So what does the CIA want to say by that centerfold photograph? That the CIA has invented photography?

One may here observe:

Aerial photography is the job of the Air Force, not the CIA.

It was practiced by air forces of all countries as early as World War I.

It cannot possibly be practiced over Soviet territory, since reconnaissance aircraft will be shot at immediately.

The CIA has not invented photography and to buy and use photographic equipment takes no "acme of skill," but only commercial and technological routines.

ONLY TWO PARAGRAPHS

So, is there anything in the pamphlet about intelligence/espionage? I found two paragraphs, one of which says: "Where once the human agent was the basic collector of data, a technological revolution in the past 2 decades has generated technical systems capable of producing prodigious quantities of information."

So, 2 decades ago—that is, from 1947 and throughout the 1950s—it was the human agent that was the basic collector of intelligence data. Oh, yes?

If the CIA ever had had a single agent inside a Soviet institution of strategic importance inside Russia and retrieved him successfully, surely he would have written his memoirs in a sensational best-seller under a title like "A Spy in the Kremlin." What an hour of glory that would have been for the CIA.

But next year it will be 40 years since the CIA's establishment. Where are that human agent and his bestseller?

Opposite the text is a page-size photograph from a pre-1953 Soviet illustrated magazine: a festival march carrying a huge portrait of Stalin. The inscription: "In its early years [not now?], the Central Intelligence Agency's primary concern was with Soviet military activities and political intentions."

The photograph is appropriate. It is from Soviet propaganda magazines that the CIA has been deriving its espionage data.

HUMAN AGENT ACKNOWLEDGED

The second paragraph relating to intelligence/espionage says: "And yet the human agent remains vital. If the photographs and signals that technical means gather speak of what people have built or what they are saying, only the human agent can deliver what they are thinking."

But if there was not a single CIA agent inside the strategic infrastructure of Russia in those days when he was supposed to be the "basic collector of data," why should he appear now? Or is he expected to emerge from the CIA's exercises in philosophy, painting and sculpture, as well as music and theater?

[From the New York City Tribune, May 28, 1986]

HAS U.S. INTELLIGENCE IMPROVED WITH CASEY AT BAT?

(By Lev Navrozov)

Among some conservatives there abides a soothing illusion that there has been a dramatic improvement in U.S. intelligence/espionage under Ronald Reagan, since he appointed William J. Casey director of the CIA.

Let me repeat that I regard as espionage/intelligence our clandestine penetration of areas, spaces and institutions "denied" by a prospective totalitarian enemy.

One of the proofs of successful espionage/intelligence in that sense is successfully retrieved agents—such as Arkady Shevchenko—who stay in the West, write public memoirs about their experiences and thus establish their bona fides beyond doubt before the public.

During Reagan's term we have heard of only one such case, that of Shevchenko. But even this sole case belongs to the pre-Reagan era: Shevchenko terminated his espionage for the United States in 1978. But let's imagine that the case continued into the 1980s.

Shevchenko is a hero, and as a true hero he wrote an authentic, excellent and moving book—published in 1985—about how he had been afraid (it's cowards who write books about how fearless they are). I am prepared to write pages in praise of Shevchenko and his book.

LESS THAN MEETS THE EYE

But let us evaluate the case from the point of view of intelligence/espionage:

Shevchenko lived in New York and could move freely about it; so, the CIA's part in this espionage exploit was reduced to renting an apartment in New York to meet with him (and even this job the CIA could not do too well, according to Shevchenko).

The former United Nations official was stationed in the West and hence would not have access to the innermost strategic recesses inside Russia, for those who have such access are not allowed to go abroad in the first place.

Shevchenko was a "Soviet diplomat," and diplomacy in a totalitarian society is a form of propaganda; diplomats in such a society are often the last to learn about what the military are doing.

Since Shevchenko lived in New York, his "successful retrieval" could have been grandly executed without the CIA by taking a cab and asking the driver to go to 26 Federal Plaza—FBI headquarters in New York.

Shevchenko was asked on television last year what secrets he could disclose, and he said that in the late 1970s he knew from rumors at the diplomatic top and could tell the CIA that former Soviet leader Leonid Brezhnev was having the flu—since otherwise the West would not know even that. He is right, and least of all I want to deny the importance to the West of having known Soviet top diplomatic rumors about Brezhnev's flu.

But what a distance between Brezhnev's flu and the vast Soviet unknown where military preparations are afoot. What a pathetic case from every point of view in terms of intelligence/espionage.

What was simpler for Shevchenko's "successful retrieval" than getting into a cab? But no! "I took an overnight bag from the living-room closet and jammed a few shirts and some socks and underwear into it," he recalls in his book.

So, in the United States in general and in the CIA in particular there was a shortage of shirts, socks and underwear. He had to take them along. What else? An electric iron, two pillows, a leg of lamb; I hope the socks had no holes.

Then he discovered that the service elevators he wanted to use did not run after midnight. "I had not worked this part with Bob and Carl [of the CIA]," he explains. With the overnight bag (who could leave behind those socks and everything else?) he began climbing down the fire stairs (20 flights), stumbling, his calf muscles "trembling from the unusual strain," and stopping to shift the bag from hand to hand after each five or six flights.

Then, lugging the bag along, he ran down 64th Street and across Third Avenue to the CIA's car.

The building was tenanted by Soviet officials, including KGB agents. What if he had been watched or seen accidentally by a KGB agent? Out of breath, the undersecretary general of the U.N. was running with an overnight bag in the middle of the night toward a strange car.

Now, this is the CIA's most brilliant successful espionage operation in how many—20? 30? 40 years?

Let us recall that actually, Shevchenko's espionage had ended before the Reagan term. So, in the Reagan era, there has not even been such a case of successful espionage and retrieval. If there had been, the public would have learned about it, as it has about Shevchenko.

CRITICS AND REAGAN

Before Reagan took office he was interested in conservative critics of the CIA, including myself. After he took office, those critics were forgotten by the administration. Instead, we learned that the director of Central Intelligence was now William Casey, Reagan's old friend.

Tremble, Soviet war-empire: Ronald Reagan's old friend would now conduct intelligence-espionage within your innermost strategic depths, and not just on Third Avenue, New York.

When the newly elected president's old friend gets an appointment, there must be some peg to hang it on. For example, if it's ambassadorship to Moscow, the peg may be the appointee's wife's ability to cook Russian Pirozbky (pies), which makes the family well-equipped to get on with the Politburo.

In the case of Casey, the peg was his intelligence work against Nazi Germany during World War II. It was like expecting that Reagan's old friend who worked in a hospital 40-odd years ago would be able to pioneer new fields of heart surgery because he is, after all, an old friend of Ronald Reagan.

But it is not all gloom. Reagan brushed aside all critics and criticisms of the CIA for his old friend was now at its helm. Yet they have not disappeared. They have been thriving and developing outside the official intelligence community.

I will mention just three of such critics: David Sullivan, who left the CIA and is now assistant to several senators; Angelo Codevilla, now a fellow at Stanford's Hoover Institution, and Mark Schneider, now with the Department of Defense.

Conservative criticism of the CIA is often linked with that of Reagan's defense policies as a whole. For example, this months issue of *Commentary* carries Codevilla's article, "How SDI Is Being Undone From Within." This is a devastating piece of criticism, showing how much needed strategic defense is, yet how little is being done in practice—indeed, the Strategic Defense Initiative is being undone.

Perhaps criticism of Reagan's defense policy in general and the CIA during his term of office in particular, will reach its full vigor by the time a new presidential candidate comes to the scene—for, frankly speaking, the U.S. needs now not just Reagan, but a super-Reagan.

[From the New York City Tribune, June 4, 1986]

WHAT THE RONALD PELTON SPY CASE DEMONSTRATES

(By Lev Navrozov)

There is nothing new or peculiar about either Ronald W. Pelton himself or his case, which is to go to jury deliberations this week.

Indeed, about a month before the case opened on May 27 I described a typical espionage case (April 23, "When an American Spies . . .") that subsumed the case of Pelton.

Pelton made $24,500 in 1979, his last year of employment at the National Security Agency. Nothing unusual. Most of the 3.5 million Americans who have access to classified data draw comparable salaries.

In the Soviet empire, Pelton's equivalent would be automatically far better off than, say, an ordinary physician or a plumber. In the United States a physician or even a plumber makes several times as much money as did Pelton.

If we assume that all the 4.3 million Americans who had access to secret data in 1979 (today the figure has been reduced to 3.5 million) made on the average $24,500, the total sum of their pay amounted to more than $105 billion.

But even if the salaries of those with access to classified data were tripled, money for many Americans is a kind of lifeblood, of which they must have always more than they do or they will die of anemia.

Pelton "needed money desperately." What is more common in the United States in almost all brackets?

On the evening of Jan. 14, 1980, Pelton called the Soviet Embassy. That was his gross blunder. He could have walked into the embassy without a telephone call. But he had that American habit of making an appointment over the phone.

Of course, the FBI taped the telephone call. This is routine, since all telephones of the embassy can be switched permanently to recording equipment.

I read about that in a back issue of a Russian magazine published before World War I, when a telephone conversation could be recorded only on a gramaphone disk or a phonograph roll. According to the magazine, the British Intelligence Service recorded all telephone conversation from and to the German Embassy.

Small wonder that in our age of $20 tape recorders at every store, the FBI does along these lines what could be done before World War I.

But Pelton's blunder did not lead to his arrest. The FBI was unable to find the caller by his voice among the 4.3 million Americans who had access to classified data.

The Soviet Embassy official who named himself Vladimir Sorokin at first suggested a morning for Pelton's visit, which shows again how inept the KGB/GRU is (and yet it is doing so well in the West). But at least Pelton had enough gray matter in his head to choose an evening—"tomorrow evening"—so his face wouldn't be seen well: "It will be dark when I come in."

Yes, but today there is excellent night vision photography.

The tape left no doubt as to the purpose of the caller's visit: "I come from . . . I . . . I . . . I'm in . . . with the United States Government," the caller said. "Uh, I have something to discuss with you, I think, that would be very interesting to you." He said everything short of: "I want to be a spy. Can I come to discuss it?"

Having made his appointment for the next evening, Pelton decided to confirm it—"to firm it up"—next day at 2:32 p.m., and appeared at the Soviet Embassy several minutes later—in broad daylight! Apparently, he did not have the patience to wait for darkness as he had intended.

This gave the FBI almost 22 hours—from 4:53 p.m. Jan. 14 to 2:32 p.m. Jan. 15—to organize constant tight surveillance of the Soviet embassy. But the FBI didn't listen to the tape until days later. It was shelved by the FBI for several days!

What about, then, the FBI's routine surveillance of the Soviet Embassy? Well, that didn't help either: while in the embassy Pelton had his beard shaved off and was directed to go out through a service exit, not the exit for official visitors.

These two Soviet espionage tricks at the Stone Age level confused the FBI! Neither was Pelton photographed as he entered nor as he left the embassy. He was not arrested at the time nor at any time after that.

Only when alleged KGB defector Vitaly Yurchenko gave him away late in 1985—almost 6 years later—was Pelton finally arrested.

Yurchenko's information concerning Pelton was cited as proof that he was a bona fide defector who just changed his mind and redefected. But it is no proof.

The KGB/GRU may have decided they did not need Pelton anymore: he no longer worked at the National Security Agency, he had told them all he could recall, and he failed to answer their telephone call in the summer of 1985.

He failed to do so because he was drunk at the time and his car, which his girlfriend drove for him, didn't have enough gas. But the KGB/GRU may have thought he was not interested any more.

What is relevant here is that the exposure of Pelton was purely accidental and had nothing to do with the FBI, CIA, or NSA.

Let us now draw some dire conclusions:

While the West does not even know where the Soviets' "NSA"—the main code-making, code-breaking and radio-intercepting institution—is located, the Soviet KGB/GRU has had a string of spies in NSA, even if only *known* spies are taken into consideration—such as Sgt. Jack E. Dunlap, who became conspicuously rich from selling NSA secrets to Soviet agents in the early 1960s without anyone paying the slightest attention.

No other case has better demonstrated that the FBI's ability to apprehend spying Americans equals zero even when these Americans make gross blunders, like "making an appointment" by telephone with the Soviet Embassy, and when their method is no more sophisticated than walking into the embassy in broad daylight and without disguise to sell classified data.

Under such condition, the ineptness of the KGB/GRU does not prevent Soviet espionage from flourishing—for it is sufficient for the KGB/GRU just to wait for Peltons to come to any Soviet institution abroad, such as the embassy in Washington, and then evaluate their classified data and pay them accordingly.

If the Soviet military knows everything about NSA owing to such "Americans in desperate need of cash," while the West doesn't know even where the Soviet NSA is located, then U.S. codes, for example, will be worse than useless: they will be traps, since the Soviet military will read them, owing to the Dunlaps and Peltons, and will know from them American crucial strategic secerts.

On the other hand, since the Soviet highest-level codes are one-time systems, they are unbreakable without espionage able to secure the code keys, and hence the West will be as much in the dark about the Soviet highest-level codes as it has always been.

[From the New York City Tribune, July 2, 1986]

HOW FORMER CIA OFFICIAL RESPONDED TO PAST ERROR

(By Lev Navrozov)

When David Sullivan, an aide to three pro-defense Senators and Washington's most powerful critic of the CIA, presented his critique of the agency at a seminar in 1980, his opponent was Ray Cline, CIA deputy director for Intelligence from 1962 to 1966.

One of Sullivan's case histories was the CIA's assurance on Sept. 19, 1962, that Soviet ballistic missiles targeted on the United States would not be installed in Cuba, while actually, oh yes, they were being installed there, as ordinary aerophotography (the business of the Air Force) revealed later very clearly.

The story is simple, obvious, and has been told and retold many times, since the CIA's so-called Special National Intelligence Estimate of Sept. 19, 1962 has been declassified, and so everyone can see retroactively the CIA's gross error.

The error occurred because intelligence/espionage data usually have played no essential role in the CIA's estimates since 1947. To conduct espionage in Cuba in 1962 was still incomparably easier than in Russia after 1921. Cuba was still porous, and exuded a constant flow of practically uncontrolled emigration.

But even in such a case, when intelligence/espionage data could readily be obtained, CIA analysts like Ray Cline derived their conclusions out from intelligence/espionage data, but from "logic," as the CIA once put it.

"Logically," Khrushchev should not install those missiles in Cuba (the CIA analysts philosophized), and so they would not be installed there, for how could Khrushchev go against the CIA's "logic"?

The CIA's former deputy director's rebuttal of Sullivan's description of the CIA's gross error is one of the most instructive documents for all those to whom the destiny of the free West is not a matter of utter indifference.

First of all, Cline explains very movingly that ever since 1942 he has been "worried about how to accumulate the information that our country needs, that or national leaders need."

Also, he has been "very anixous to see groups like this resume the discussion of serious issues concerning the functions and organization of the intelligence community."

Finally, Cline says: "I want to make some comments on the substance of Mr. Sullivan's paper. They are not intended to destroy the validity of his remarks."

They are not? So Cline agrees with Sullivan's remark that the CIA's estimate of Sept. 19, 1962 was a gross error. Now, you expect Cline's explanation of how and why such a gross error was made.

Little do you know the CIA. Cline declares that "intelligence is always [!] wrong." Good Heavens! "Certainly my experience in intelligence estimates is that intelligence estimators are always [!] wrong, and there are always [!] plenty [!] of people around to tell them so."

It's like such a person accused of a bank robbery saying that everyone is always engaged in bank robbery, for any human activity is a kind of bank robbery. The estimate of Sept. 19, 1962 is a gross error because intelligence is always a gross error—it consists of nothing but gross errors!

But listen again to Cline: "I think Mr. Sullivan does a disservice to most of our intelligence analysts by simplifying the conclusions which they reached, and pretty much dismissing them as gross error."

You see, "intelligence estimators are always wrong." But "Mr. Sullivan does a disservice to most of our intelligence analysts" when he states that they were wrong on Sept. 19, 1962. This is Cline's logic.

Whereupon Cline explains philosophically how objective and accurate knowledge is obtained and how they at the CIA were obtaining it on Sept. 19, 1962:

"We were trying to perform what I call an analytical task, that is, an evidence-based description of the real world around us, with as much objectivity and accuracy as possible."

On one hand, Cline says that "intelligence is always wrong," and on the other he defines intelligence/espionage as though it were a rigorous exact science: "an evidence-based description of the real world around us."

Unfortunately, the Soviet empire and its satellite Cuba were not around Cline's desk in Washington, D.C.

Cline's rebuttal lasted for no less than half an hour. I am sorry I cannot quote it in full, but have to choose just a few tidbits. Try this delicious morsel, for example:

"And in the last analysis, a formal estimate is just a racetrack bettor's book on what he thinks is going to happen: "It's six-to-five this way." If it is six-to-five this way—and that is pretty much what the estimates said—remember it is five-to-six the other way. So it is not always an egregious error not to be able to predict which side of a close bet is going to pay off."

So, when the CIA "estimated" that the Soviet missiles would not be installed in Cuba, "remember it is five-to-six the other way"—that is, "the other way" the Soviet missiles were being installed in Cuba.

Intelligence work is racetrack betting, in which the CIA is just one of the bettors; the president and Congress can always bet "the other way." The CIA bets that the Soviet missiles will not be installed in Cuba. Let the president and Congress bet that they are already there. So what's the problem?

"I have great sympathy with Sherman Kent [in charge of the estimation of Sept. 19, 1962]," Cline declares. Why? You see, Sherman Kent "often said" that . . .

". . . his estimate of what was reasonable for the Soviet Union to do was a lot better than Khrushchev's and therefore he was correct in analyzing the situation as it should have been seen by the Soviet Union. What he did not have was any concrete evidence that Khrushchev was seeing it another way."

Well put! With his super-Hegelian mind Kent assumed that he knew what was good for Khrushchev better than Khrushchev did. As Hegel said when he was told that what he said contradicted facts, "So much the worse for facts."

And so it goes on and on. And what's the moral?

Even 14 years later, retired from the CIA, its deputy director from 1962 to 1966 would not honestly admit that smug, high-handed and idiotic mistake that the CIA perpetrated in 1962 and which is now known to the public because the relevant estimates have been declassified.

Instead of admitting that plain and gross, error, Cline goes into comical, impudent and primitive quibbling for more than half an hour.

[From the New York City Tribune, July 30, 1986]

INEPTNESS, NOT IMMORALITY, IS MAIN FLAW OF CIA

(By Lev Navrozov)

In the 1970s the major (liberal-Democrat) media charged the CIA with criminality and immorality. The campaign was so deafening that few noticed the rise of an entirely different kind of criticism of the CIA, that of the CIA's ineptness.

The liberal-Democrat critics of the CIA were not worried about the danger to the West of the absence of intelligence/espionage data on totalitarian military power. But that is precisely what worried the critics of ineptness of the CIA—all of them staunchly pro-defense.

In a sense, it can be said that criticism of the CIA's ineptness was pioneered by Albert Wohlstetter, a mathematical logician, when he published in 1974 two articles entitled Legends of the Strategic Arms Race.

The criticism reached its high plateau in 1978 to 1980 when the critics were befriended by Ronald Reagan, who at the time deplored the miserably inept performance of the CIA under President Jimmy Carter.

As Reagan became president, he appointed the so-called CIA Transition Team, the deliberations and report of which are still secret.

Some critics, including myself, were not on the team because we had no security clearances. But when I submitted a memo at the request of Reagan's former National Security Adviser, Richard Allen, he told me that my proposal coincided with that of Bill Middendorf, head of the Transition Team:

Let the CIA be replaced by several competing intelligence units that would sell secret data to the government as competing corporations sell weapons.

One of those CIA bureaucrats, who want to believe that the CIA has always been the best intelligence agency of which human imagination can conceive, called three team members—Angelo Codevilla, Mark Schneider and Kenneth de Graffenreid—"the three hooligans form the Hill."

No wonder. When another hide-bound functionary from the CIA was asked what Codevilla's proposals amounted to, the upset bureaucrat answered that they amounted to firing every official of the CIA above GS-14 (which included him).

In that sense, our criticism threatens the CIA's inept bureaucrats more than liberal-Democrat criticism ever did. When the New York Times or Washington Post attacked the criminality and immorality of the CIA, they never called for the firing of every CIA official above GS-14—but if the CIA is inept, that is what it amounts to.

If a certain official of the CIA is not gifted (and in particular, not intelligent) enough to conduct intelligence/espionage in the sense of the clandestine acquisition of strategically vital data denied by totalitarian societies, no laws enacted by Congress and no rules established by the CIA will make him more gifted or intelligent than he is. He has to be fired and seek employment fitting his ability and intellect.

Thus, our criticism threatens not just a few culprits; but all inept personnel of it as a whole, except the GSI levels of typists or security guards.

Still unkown to the public, as far as I know, the following list of the CIA's failures was presented by the Transition Team:

Chronic failure to predict the actual size of the Soviet military effort and of the military portion of the Soviet GNP.

Constant gross misstatement of Soviet global objectives.

Failure to predict the fall of the Shah in Iran.

Massive failure to interpret and predict the nature of "wars of national liberation" in Africa and Central and South America.

Constant miscalculation of the effect of massive technology transfer from the West to the Soviet bloc.

Utter failure to predict the massive Soviet buildup of ICBMs and SLBMs.

Massive failure to understand the characteristics of Soviet missiles under development prior to SALT I.

Failure to predict (combined with predictions to the contrary) the major improvements in accuracy of Soviet ICBMs in the late 1970s.

General failure to explain the characteristics of Soviet conventional weapon systems and vessels—for example, the Soviet T-64 and T-72 tanks and new guided missile cruisers.

Massive failure to understand or counteract Soviet disinformation and propaganda.

Failure to detect the Soviet brigade in Cuba.

The list did not make clear where the CIA had not failed.

However, William Casey all of a sudden terminated the Transition Team (before there was any resolution), put its "hooliganism" into secret mothballs, and has ignored it ever since.

The public knew nothing about the storm that had been raging in the Transition Team. The list of the CIA's failures stayed secret. Within the administration, the criticism of the CIA's ineptness froze for 6 years and will probably remain frozen until the end of Reagan's second term.

The CIA's public image of its ability has been as glorious since 1980 as ever before.

Though Casey is supposed to be a conservative Republican, the CIA is as one with the liberal-Democrat media, which support the CIA in their joint fight against the Department of Defense, its Defense Intelligence Agency (DIA) and the Reagan administration itself.

The "three hooligans from the Hill" have not slid into obscurity, however. On the contrary, one of them—de Graffenreid—is in the White House, another—Schneider—in the Department of Defense, and the third—Codevilla—is more visible than in 1980.

The fourth "hooligan," David Sullivan, is quite high on the Hill, and those of us who are not from the Hill do not desist either.

"Are the Soviet silos which the CIA sees via space satellites empty, while the Soviet mobile missiles are hidden?" asked Sam Cohen, the inventor of the neutron bomb, and Joe Douglass, a Washington defense analyst, in their Wall Street Journal article of July 18.

"To enhance the success of such deception, the Soviets would want to conduct missile flight tests and reloading exercises from their silo fields, which the U.S. monitors with great precision. This they have done, enhancing their confidence in their missile-launching capabilities and enhancing the U.S.'s ill-advised confidence in outside monitoring."

Such questions will multiply as the Soviet "great unknown" becomes more and more dangerous and more and more unknown.

Casey terminated the Transition Team's criticism of the CIA 6 years ago.

But he cannot terminate the growth of the Soviet "great unknown"—nor the growing doubts of the American public that the CIA is as successful in penetrating this "great unknown" as its officials have always been saying it is, before and after 1980.

[From the New York City Tribune, Sept. 3, 1986]

CIA AND THE 'MYSTERY' OF WHERE DOES SOVIET STEEL GO

(By Lev Navrozov)

While the Soviet regime successfully conceals from the CIA many of its weapons, it has not been concealing the output of something of which they are made—steel. The output of steel was hailed by Stalin well back in the early 1930s as a symbol of "peaceful industrialization" of the once industrially backward Russia, and this image has stuck in the West.

It was believed in the West that Stalin wanted his populace to have as many cars and other "iron and steel products" as the Americans has already in the 1930s, and hence the Soviet output of steel had to match its American counterpart.

In 1975, the Soviet output of steel reached 141 million tons—that is, it surpassed the U.S. steel output by 32 million tons. So Sen. William Proximire, D-Wisc., brought up the matter with a couple of CIA experts when they testified before his Joint Economic Committee on the Soviet economy in 1975:

"One of the first questions I asked, I wondered what in the dickens that they are doing with all that steel. A lot of it is there, but even there it seems to me they do not have automobiles like we do. They do not have the highway system we have. They do not have the housing construction or anything of that kind.

"If they are producing more steel, how can they use it?"

Proxmire's insight was brilliant. Before citing the CIA experts' answer, let's see how the mystery of Soviet steel has grown ever since.

In 1983, the Soviets' raw steel output surpassed 168 millions tons while they imported a net of 5 million tons, i.e., they used a total of 173 million tons. Meanwhile, America's "total shipments" of steel amounted to 68 million tons.

We know how the U.S. steel is distributed. In 1983, about 17 million tons or 25 percent went to the "distributors," that is, was stocked into warehouses from which the distributors could meet demand whenever it originated, for each steel consumer wants his steel immediately or he will apply to another distributor.

The biggest consumer of steel is the automotive industry: 12 million tons or 18 percent of output. Then follows construction: 10 million tons or 15 percent. Then (don't laugh!) production of cans and other containers: 5 million tons or 7 percent. Finally, production of kitchen appliances, etc.: 3 million tons or 5 percent.

Add the above to the distributors' allotment and we find that 70 percent of U.S. steel is spent on basically civilian uses—which make up only a fraction of the Soviets' use of steel.

In the communist Soviet Union, there is no need to send one-quarter of steel to distributors the way it is done in the United States. There is a hierarchy of military projects, under which lie civilian projects. The military will get all the steel they need according to the hierarchy (the top will get it first). If no steel is left for civilian projects, those will have to wait.

A total of 1,487,000 cars were produced in the Soviet Union in 1983, according to Soviet statistics, as against 6,781,184 in the United States. And Soviet cars are small (except for those few intended for the ruling few), their average weight about 1 ton. Hence the total Soviet steel output for cars does not have to exceed 1,487,000 tons, or less than 1 percent of the steel used by the Soviets.

Construction? American builders begin the construction of even ordinary five-story apartment houses and highways with steelwork. Soviet builders use it only in industrial structures that will carry heavy loads; otherwise they build out of anything but steel.

An American highway is in fact a horizontally level steel-and-concrete bridge over terrain. A Soviet "road with a hard surface" (as Soviet statistics call it) is a layer of asphalt laid over a layer of gravel and sand, which undulates with terrain—it's a "washboard road," as an American reporter put it a week ago.

Cans and other containers? Contrary to Soviet statistics, recent emigrés from the Soviet Union report there was no canned orange juice even in major cities when they left the country. The problem of containers is solved at the customers' expense: they have to bring their own, into which vegetable oil or whatever is poured.

Kitchen gadgets? In 1983, 4,201,000 microwave ovens—of which few in the Soviet Union have even heard—were produced in the United States. Soviet statistics contend that 401,000 "[one-fifth cubic meter] two- and three-chamber refrigerators and freezers" were produced in 1983. The size of such a refrigerator is one-fourth that of our standard General Electric fridge.

Since 5,255,000 refrigerators were produced in the United States in 1983, the Soviet-U.S. ratio of steel in refrigerators—with allowance for size—is 1 to 52.

In short, it is not clear what in the dickens the Soviet economy can do even with 68 million tons of steel. But the Soviet use is 173 million! Let's now see what the CIA experts answered Sen. Proxmire in 1975:

Mr. Burton. They are also inefficient users of steel. Their machines are very, very heavy compared to ours.

Sen. Proxmire. The military weapons systems are usually heavy, too.

Mr. Burton. Yes.

Mr. Proctor. One remembers Khrushcev's cursing of the manufacturers as metal-eaters. He had a campaign to reduce the waste of steel, especially in the manufacture of both military and civilian hardware.

Soviet steel can be wasted in two ways. Between an ingot of steel and a finished product some steel has to be lost as shavings, scrap, etc., owing to machining, etc. As of 1967, the Soviet loss of this kind constituted 18 percent for the Soviet economy as a whole.

Even if it is assumed that not an ounce of steel is lost this way in the United States, 18 percent doesn't solve the mystery of Soviet steel.

The other loss is a "constructive" one. Here we had in 1976 the Soviet T-72 tank. Its U.S. equivalent in performance, the XM-1 tank, appeared in 1979. But suppose the T-72 was poorly constructed and hence weighed more for the same performance. This could be called a "constructive loss" of steel.

The only trouble is that the T-72 weighed less than its U.S. equivalent: 36 tons vs. 53 tons for the MX-1.

So the explanation of the mystery of Soviet steel is that a hidden Soviet military-industrial expansion has been going on—on a scale the CIA did not want even to conjecture upon in 1975, when the mystery so puzzled Proxmire, and the CIA refuses to face up to the reality 11 years later.

[From the New York City Tribune, Sept. 10, 1986]

CLASSIC BARTER, SOVIET-STYLE: A SPY FOR A JOURNALIST

(By Lev Navrozov)

When I heard about the Aug. 24 arrest of Soviet U.N. official Gennadi Zakharov on charges of espionage, I told my wife that an irrelevant American would now be framed as a spy and arrested in Moscow so that later he could be swapped for Zakharov.

A week later, on Aug. 31, my wife, who scans newspapers for me, said as she folded a clipping and pressed it secretively to her chest: "Guess what happened yesterday?"

I said: "Easy. An American was framed-up in Moscow as a spy to exchange him for Zakharov." "Right!" she said. "Nicholas Daniloff, the Moscow correspondent of the U.S. News & World Report."

How could it be otherwise? In Moscow in the early 1970s we met foreign correspondents and passed to them all kinds of "emigration materials," such as letters written by those who couldn't get exit visas, and appealed to all kinds of individuals and institutions or to the world at large.

Now suppose a KGB agent-provocateur posed as one of us hundreds of thousands of aspiring emigrés.

It would be enough for him to pass to a correspondent an envelope looking like one of our letters, but actually containing classified military data. Whereupon the KGB would burst in, search him, find the envelope in his pocket, open it—and here you are, a spy caught in the act! The whole scene could be videotaped as future legal evidence.

IMPECCABLE TRIAL STAGED

An impeccable trial could be staged if necessary. Indeed, the American defendant could even be allowed to have an American lawyer to come to Moscow to defend him.

The KGB agent-provocateur would testify that the American recruited him and requested he bring him those classified data in an envelope. How would the American lawyer be able to prove that this miserable-looking Soviet codefendant whom the American had allegedly recruited was a KGB agent-provocateur and that the American had no idea of the classified military content of the envelope?

And so, faced with the prospect of death for "espionage," the American will most likely "confess" to his imaginary "espionage," (and later be swapped for a real spy caught in the United States) and his lawyer will have to tearfully say in court that his defendant's guilt is fully proved but he is asking the judges for leniency.

As a result, the KGB and GRU have hundreds and thousands of legitimate Soviet spies in the United States to carry out espionage operations openly, legitimately and with total impunity.

To begin with, many of them have diplomatic immunity. So the worst that the U.S. government can do to them is to send them back home to the Soviet Union, from where they will go to spy to another country.

Since there are more than 100 countries, each Soviet spy has to be declared persona non grata at least 100 times before the KGB gives him a job inside the Soviet Union, and such jobs are never lacking, for the entire population has to be watched by that same KGB!

But even if the FBI dares to catch a Soviet spy without diplomatic immunity—like Zakharov—the KGB will frame as a spy any American in the Soviet Union: all Americans there are thus hostages, each of whom can be arrested and exchanged for Soviet spies in the United States who have no diplomatic immunity.

This situation originated no later than 1933, when Franklin D. Roosevelt "recognized" Stalin's totalitarian regime—53 years was not enough for the State Department, the FBI and other U.S. government institutions to understand the nature of the totalitarian regime and consequences of this "recognition."

When Zakharov was arrested, it was reported that more arrests of such Soviet nationals were expected; that the Soviet U.N. mission totals 275 officials—the world's largest by far—about half of whom are KGB and GRU spies, and that all other Soviet institutions in the United States have always been spy nests.

Now, when an American correspondent was arrested in Moscow on Saturday, Aug. 30, the State Department 4 days later still "rejected any attempt by Moscow to link the release" of the framed-up Daniloff to the release of Soviet spy Zakharov.

A deal? A linkage? Never ever! "U.S. Aides Reject Deal For Newsman" and "U.S. Aides Reject Linkage Between Spy Cases" were the heroic headlines of the New York Times' front page Sept. 3.

But in the article under those heroic headlines we could already read: "A senior Administration official with President Reagan in Santa Barbara, Calif., said Monday that no course of action to win Mr. Daniloff's release, including a possible prisoner exchange, had been ruled out."

What about the State Department? Its officials said it was "possible that the Federal Court in New York might allow Mr. Zakharov to be released to the custody of the Soviet Ambassador, Yuri V. Dubinin. If that happens, the Soviet side might allow Mr. Daniloff out of prison, but that would not be an arranged deal."

Certainly not an arranged deal! A linkage? Never ever! A pure coincidence. Zakharov will be released, and then—who would think of it?—Daniloff will be released, too. The FBI catches a Soviet spy, after which the KGB catches any American in the Soviet Union. Then the Soviet spy is released, after which the American is released too. What deal? What linkage? Never ever!

What FDR "recognized" Stalin's totalitarian regime, he thereby legitimized Soviet espionage in the United States—while American espionage in the Soviet Union has essentially consisted in the presence of American military attachés at Soviet parades where the Soviet military either show them dummies of non-existent weapons, or show them real Soviet weapons, or do not show them either dummies or real Soviet weapons, depending on the current scheme of deception.

On one occasion the same new Soviet Bison jet bombers circled out of sight and flew over again. Khrushchev had switched the Soviet aircraft-building plants into missile-production sites, and he wanted to mislead the United States government into the belief that he had more new jet bombers than the United States did.

He succeeded only too well: there was a panic in the U.S. intelligence community, including the CIA.

In other words, while FDR's recognition of the totalitarian regime gave the latter immence opportunities for legitimate—that is, unpunishable—espionage with and without diplomatic immunity, FDR's recognition gave the United States nothing but immense opportunities for self-deception via the American military attachés presence at Soviet deceptive military parades.

[From the New York City Tribune, Sept. 17, 1986]

WHAT THE KGB'S DANILOFF-ZAKHAROV MOVE SIGNIFIES

(By Lev Navrozov)

Soviet espionage in the classical sense—through Soviet or East-bloc nationals disguised as Westerns—has failed everywhere except in West Germany. Only there can numerous Soviet-bloc nationals—East Germans—engage in espionage in the guise of the local inhabitants—West Germans.

The reason is simple. East Germany's espionage agencies have a reservoir of millions of German-speaking natives who can be sent to pose as West Germans.

There is no such reservoir available for use in the United States. Stalin wanted to rectify that situation by organizing educational institutions to create "artificial Anglo-Saxons," so to speak, from among whom the KGB and GRU could select suitable candidates for further training as spies.

This hasn't worked so far, and prior to the General Zahkarov case the system of Soviet espionage was organized as follows:

Soviet nationals without diplomatic immunity acted to "spot" Americans who could be recruited for espionage. This carries no liability under American laws. Even if a "spotter" and an American have reached an understanding about espionage, their understanding does not yet constitute a crime, so the Soviet agent is safe.

At this point a Soviet national who does have diplomatic immunity takes over—receives classified information—does what qualifies as espionage under American laws.

But since he has diplomatic immunity he can only be expelled, after which he can go to another country and do the same thing.

THERE MUST BE A BETTER WAY

The system had an essential defect: the number of Soviet nationals in the United States who have diplomatic immunity is only a fraction of the total number in the United States.

Even in New York with its United Nations, probably no more than 200 Soviets have diplomatic immunity, while the total number of Soviet nationals in New York—including Secretariat employees, such as Zakharov—may exceed 1,000. This number can easily swell if one counts Soviet tourists, traders, scientists who are part of exchange programs, etc.

If *all* Soviet nationals could be made immune to U.S. charges of espionage, Soviet espionage would expand enormously.

The recipe for their immunity is simple. Let the United States know that every arrest of a Soviet spy in the United States will be subject to reciprocity by the KGB's frameup of an American national in Russia so the latter can be exchanged for the Soviet spy.

Thus, no American arrest of a Soviet spy will lead to anything except much ado for the United States and the spy's eventual release.

Of course, the Politburo calculated the winning chances before making its move

and decided that the United States, its government and Ronald Reagan were weak enough to surrender the game and make all Soviet nationals henceforth immune to U.S. charges of espionage.

Since the missile crisis of 1963 the United States has been sinking to the position of a second-rate military power able only to "negotiate" with the Soviet rulers, never stand up to them. Moscow apparently believes the time has come to assert its right to perform acts of espionage in the United States.

On Sept. 8, the official Soviet daily *Izestia* presented the "case" against Daniloff. Reading it, I felt I was facing that boundless Soviet insolence every reader of the Soviet press knows. Now this insolence is directed toward the United States and Ronald Reagan personally.

Says *Izvestia:* "On familiarizing himself with the indictment, Nicholas Daniloff reluctantly put his signature, and his status changed from that of suspect to that of defendant."

Everyone indicted in Russia has to sign that he has read the indictment. The line says: "I have read the indictment. Signed." The indictment may charge that Daniloff is an elephant, but he is not to sign that he is an elephant. He is to sign that he has read that he has been charged with being an elephant.

Thus, *Izvestia* turns a purely formal Soviet procedure into almost a piece of "smoking-gun" evidence, demonstrating that Daniloff is a spy. Why, he *signed*—if only reluctantly—the indictment saying that he is a spy!

The *Izvestia* article was translated by Tass, handed out to Western correspondents, and in its usual humorless way the *New York Times* published it (on Sept. 19) under the headline, "The KGB's Evidence in Developing a Case of Espionage Against Daniloff."

What other evidence did the KGB develop?

Izvestia tell us how Daniloff (himself!) related that the "photographs, diagrams and maps" in the envelopes that "Misha" has thrust on him "were an unexpected and unpleasant revelation to me."

A TWISTING OF EVIDENCE

Well, this is evidence—for Daniloff and against the KGB. But, insolently, *Izvestia* continues:

Was it so "unexpected," Mr. Daniloff?

The name of Nicholas Daniloff has long been known among members of the foreign journalists' corps accredited in Moscow.

At the mention of Daniloff's name, many of his colleagues in Moscow frowned in displeasure, saying: "Ah, that one?" and often made it clear that they had nothing in common with him.

Even more inane is the "evidence" that came from the KGB's agent-provacateur Misha.

One could think that Misha would be passed off as a Soviet whom Daniloff has recruited. Not so! He is being presented as an honest Soviet who set about in 1982 to enlighten Daniloff, whom he thought was an honest American journalist, but discovered that Daniloff "was not the person he was professing to be."

Says Misha: "I gathered the impression that Daniloff was interested in nothing but restricted [that is, classified] information." So it's an honest innocent Soviet Misha whom the American spy tried to deceive, but Misha saw through him.

The KGB-Tass-*Izvestia* concoction ends thus: "Is more proof needed? It exists."

The above, you see, was proof so abundant that really no more proof is needed. Yet more proof of the same kind exists.

Thus, the KGB has not even tried to concoct something plausible. Meanwhile, Daniloff and Zakharov have been released to the custody of U.S and Soviet ambassadors, part one of the exchange the KGB envisions.

For all its inane crudeness, will the KGB's ruse succeed? If it does, the road for unpunishable Soviet espionage in the United States will be open.

[From the New York City Tribune, Oct. 1, 1986]

U.N. IS MOSCOW'S BEST ESPIONAGE BASE WORLDWIDE

(By Lev Navrozov)

What did Franklin D. Roosevelt mean to achieve by his recognition of Stalin's regime in 1933? FDR's view of the post-1917 regime of Russia was so naive, parochial, fragmentary and self-serving that trying to analyze his motives would be a waste of time. On the other hand, what Stalin meant to achieve was simple: to establish an espionage base in the United States under the facade of an embassy.

However, that base had at least three drawbacks:

(1) The number of Soviet Embassy staffers was limited, and the number of those who had diplomatic immunity even more so;

(2) In retaliation for Soviet travel restrictions imposed on U.S. Embassy personnel in Moscow, the U.S. government imposed similar restrictions on Soviet Embassy personnel in Washington; and

(3) Soviet Embassy officials had to introduce themselves as *Soviet* embassy officials.

However, following World War II, FDR presented Stalin with a new espionage base, compared with which FDR's previous gift was a trifle: the United Nations! Can one even compare this Soviet espionage base with the Soviet Embassy? No! As a Soviet espionage base, the U.N. is free from the draw-backs of the Soviet Embassy:

More than 200 Soviet members of the U.N. Secretariat have diplomatic immunity, while the total number of Soviet-bloc nationals in the United Nations exceeds 1,000; and

They can travel without restrictions, for there is no equivalent United Nations in Moscow to impose restrictions on the corresponding 1,000 American nationals in Moscow;

They can appear everywhere as U.N. personnel because U.N. identification doesn't disclose its bearer's nationality.

PROFITMAKING ESPIONAGE

While free from the drawbacks of the Soviet Embassy, the United Nations has many merits of its own as a peerless espionage base.

KBG fronts like the World Peace Council freely participate in U.N. activities, since such fronts have been declared by the rulers of Russia to be nongovernment organizations or NGOs;

Soviet nationals at the United Nations can use the U.N. computerized Data Bank Service to tap into American data banks and the U.N. Dag Hammerskjold Library to acquire scientific technical information on behalf of the United Nations and intended for the Soviet military buildup;

90 percent of the salaries for Soviet personnel in the U.N. Secretariat is paid by other countries, and, besides, the Soviet regime nets every year no less than $20 million by taking a hefty percentage of all Soviet U.N. salaries, so that for the first time in history, espionage doesn't cost anything, but on the contrary generates currency.

NOT SO INTRIGUING

The question as to how many Soviet nationals in the United Nations are KBG or GRU agents intrigues the West. The Western estimates vary from one quarter to three-quarters. However, is the percentage so important?

In the United States, there is a fundamental difference between a CIA officer currently in service and an ordinary U.S. citizen. The latter can tell the CIA to go to hell if the CIA approaches him or criticize the CIA publicly for any real or imaginary fault.

A Soviet citizen has a slave status. This has been unfashionable to mention in the last 20 or so years, yet this is true. The "defection" of a Soviet citizen is always like a slave's escape from his master, trying to retrieve his human property.

Suppose a Soviet national who is not a KGB or GRU officer is requested, before his trip to the United States, to do something for the KGB or GRU. He can refuse under some specious pretext. If the KBG or GRU assignment requires a certain kind of good memory, he can say he has always suffered from the absence of that kind of memory (he cannot remember faces, or location, or telephone numbers, or whatever).

Then he may learn that his trip to the United States has been canceled. Who was behind the decision? Why? He'll never know. He can only guess. Nor will he know why he has been demoted or dismissed.

This is, incidentally, why I never held any post or even any salaried join in Russia and never went aboard even for a day. One's temptation to make a brilliant Soviet career and travel abroad opens one to easy KGB pressure.

Besides, many Soviet members of the U.N. are members of the State Committee for Science and technology or SCST, which is not a department of the KGB or GRU, but which acquires by all means possible Western scientific and technological data of strategic importance to the Soviet war-empire. In other words, the SCST is a kind of scientific & technological intelligence agency in its own right, and members abroad are its agents.

Finally, as far as I know, every Soviet member of the U.N. Secretariat (if not of all agencies) is a member of the Communist Party of the Soviet Union. In case an espionage mission is sufficiently important, the KGB o GRU can apply to the party, and if its member disobeys its order, he "will part with his membership card", as the expression is, that is, will reduce his entire career to zero.

Therefore, the Western interest as to the percentage of KGB or GRU agents in the Soviet U.N. personnel stems rather from Western projections on a society where everyone allowed to travel abroad can be forced into espionage—or lose his privilege of traveling abroad.

It takes the KGB much time, energy and ingenuity to place over 1,000 Soviet-bloc nationals into the United Nations. Some U.N. agencies are quite obscure. Who has heard of WIPO, for example? Yet WIPO is the World Intellectual Property Organization in Geneva, and the KGB has placed there six Soviet nationals to take care of world intellectual property.

The news yesterday that Gennadi Zakharov, the Soviet U.N. official who has been in-

dicted on charges of espionage, was swapped for the innocent U.S. journalist Nicholas Daniloff, indicated that the KGB and GRU have succeeded in their two-fold task:

(1) To preserve their priceless espionage base called the United Nations; and

(2) To enable the 1,000 Zakharovs from this base to spy with impunity. From now on, whenever a Zakharov is apprehended by the FBI, there will be an American arrested and framed up in Russia, so that both can be duly exchanged. Certainly, there are enough Daniloffs in Russia to be used as hostages, ensuring the impunity of Soviet espionage even by those Soviet nationals who have no diplomatic immunity.

[From the New York City Tribune, Oct. 8, 1986]

SENATOR HELMS USHERS IN NEW INTELLIGENCE ERA FOR WEST

(By Lev Navrozov)

What occurred on Sept. 25 on the floor of the U.S. Congress may well turn out to be the most important event in the post-1917 history of Western intelligence services and hence in the post-1917 history of the West.

To say that the major media ignored the event would be wrong. The New York Times from-paged it under a rather enigmatic headline: "Vote in Senate Supports Helms on C.I.A. Curb."

Curb? Apparently the Times missed the point. In reality, Sen. Jesse Helms, R-NC., is out to remove the curb which those in charge of the CIA imposed on the creative minds within the CIA. As has been usual in post-1917 history, the Times couldn't or wouldn't expound the historic purport of the event reported.

I have written this column to put the Helms legislation in its historical perspective on the basis of all-declassified information I gathered on the subject.

The word "declassified" turns off The Washington Post or New York Times. They are not interested unless they get some classified information illegally leaked and publicized. In this way they feel they are privy to top government secrets (which is exciting), do something safe yet forbidden or even criminal (which is even more exiciting) and spite the conservatives, cold-warriors and warmongers (and what is more exciting than that?).

I've been trying to interest my readers not in illegal leaks, but in the story in the making as of this hour.

Owing to the U.S. system covering CIA congressional testimony, the declassifying of once-top secret documents, the Freedom of Information Act and other democratic aspects of American society, I have gathered since 1974 well over 300,000 pages of primary data on the subject of intelligence-espionage. They don't contain an atom of classified information, but this doesn't make them any less interesting or important.

The same applies to my data on Helms and his innovative legislation.

HISTORY IN THE MAKING

It is a truism that the survival of the West depends on vital intelligence data on the closed totalitarian society of post-1917 Russia and its vassals and allies, both actual and potential.

That the CIA (just as other Western intelligence agencies) is tragicomically inadequate in this respect was a paradox in the 1950s, a growing opinion in the '60s, a respectable consensus in the '70s and a plain truth, obvious to anyone willing to look at it on his own, in the '80s.

At the same time, the Soviet-American strategic power ratio has been defined by a Congressional aide at a hearing as follows: "U.S. monopoly in the 1940's, heavy U.S. superiority in the 1950s, light U.S.-Soviet parity in the 1970s, and Soviet superiority in the 1980s."

However, the liberal-Democrat media have refused to face the lethal "intelligence gap" since this would end all those arms-limitation or -reduction agreements, which are based on the CIA's imaginary ability to verify them.

As we know, the liberal-Democrat establishment has been trying since 1963 to replace Western defenses with such self-deceptive agreements, and while the liberal-Democrat media have never stinted on space for what they regard as the CIA's immorality and criminality, the CIA intelligence gap has been one of their most sacred taboos.

What about conservative-Republican president?

RICHARD NIXON'S COMPLAINT

When no longer president, Richard Nixon complained in a TV interview in Paris that the CIA had been grossly misleading the country for 11 years by ignoring the Soviets' stupendous military growth between 1964 and 1975. But where had he been during those 11 years, and why hadn't he done anything to enable outsiders to evaluate the CIA?

Ronald Reagan did accept the plain truth that the CIA is tragicomically inadequate. He did it between 1978 (when his newsletter praised my article on the subject in Commentary magazine) and 1980 (when he abruptly terminated his own Transition Team's study that confirmed the CIA's utter inability to cope with the task it was created for).

But after 1980 he put the plain truth in mothballs. No one has seen the Transition Team's study (except those in charge of the CIA and perhaps John Ranelagh, who claims that he received a copy of it from the CIA for his 847-page eulogy of the CIA entitled The Agency and published this year).

With all major media being liberal-Democrat, President Reagan could ill afford luxuries like evaluating, criticizing and reforming the CIA. His stay in office itself has been possible as long as he can compromise with the liberal-Democrat establishment.

To reform the CIA? What an outcry in the media would have ensued! No, Reagan didn't dare. That's why William Casey, his newly appointed director of central intelligence, appeared at a Transition Team session and just cut it off in the middle of a sentence, with all its materials shoved into the CIA's safest vault, to rest there—forever if possible.

Until Sept. 26 the deadlock seemed unbreakable. To be sure, the plain truth about the CIA was there—but how to bring it to the public? Anxious to suppress it are, above all, those who rule the roost in the CIA and value its corporate and their own personal prestige and prosperity above the survival of the West.

Anxious to suppress, too, is the liberal-Democrat establishment, including the major media and the bulk of the academy. And anxious to suppress it, if only reluctantly, is Ronald Reagan and those Republicans who believe they should not above all "rock the boat," "make waves," anger the liberal-Democrat media.

A WEST-SAVING BOLT FROM BLUE

The two protagonists of the extraordinary effort to stop the suicidal concealment of the plain truth from the public are Sen. Jesse Helms and his legislative assistant for defense and intelligence, David Sullivan.

To say that Sullivan left the CIA about 8 years ago because he dissented from its estimates will probably be proven inaccurate a decade from now. It will then, perhaps, be more apt to say that the CIA left Sullivan. The heart and soul of U.S. intelligence work has shifted from a huge corporation, having thousands of employees and officially designated as the "CIA," to a "one-man CIA," as I called David Sullivan in my review last year of the book he coauthored with Quentin Crommelin: Soviet Military Supremacy.

But Sullivan's superhuman effort, as well as the work of all us critics of the CIA, could smoulder on quietly for a long time in specialized or conservative publications, reaching no decision-making elites, were not Sullivan linked with prominent pro-defense legislators—and above all Jesse Helms, that astute and courageous ranking majority member of the Senate Foreign Relations Committee. The West-saving bolt came from the blue for Congress.

What did Helms do? With his characteristic legislative skill, he added historic amendments to an annual bill authorizing the activities of the U.S. intelligence agencies.

First of all, he introduced a "requirement for intensified competitive analysis" in intelligence work, and invoked in this connection an example that the hidebound segment of the CIA dreads—"A-team-B-team exercise"—in which a dozen outsiders (Team B) are given the same intelligence data as CIA insiders (Team A) and prove that the CIA's Team A has drawn false conclusions from its own intelligence data.

Helms also evoked an even more dreadful ghost as he referred on the floor of the Congress to the "availability[!] of the report of the president's 1980 Transition Team study of intelligence"—yes, that same milestone study that the administration has been hiding for 6 years even from all members of Congress.

The struggle for intensified competitive analysis will no doubt be uphill. Outsiders were allowed by the CIA to participate in the "A-team-B-team exercise in 1976"—but will those in charge of the CIA ever repeat this self-exposure of its incompetence? They have never done it so far. The critics of the CIA in the Transition Team's study were outsiders—but Ronald Reagan, not the CIA, appointed them.

The day after Helms introduced his amendments, The New York Times noted they provide for a "team of 15 experts from outside the government to spend a year reviewing some of the basic intelligence findings of the CIA. Their report would be delivered to the President and Congress."

COMPETITION BETWEEN WHOM?

But a week later—on Oct. 2, 1986—the Times reported:

"Mr. Helms said in his speech that he intended for the agency to bring in a team of outside experts who would re-examine the agency's conclusions on key issues. Senate aides disagreed, arguing that the intelligence agency could satisfy the requirement for competitive analysis by using its own employees or by using analysis from other government agencies.

Competition between government agencies is better than no competition at all. In particular, Helms emphasizes in his amendments the importance of competition between the CIA and the DIA: the latter must

compete with the former, not subordinate its findings to the CIA.

But to say that the CIA can effectively compete "by using its own employees" is the same as to say General Motors can effectively compete with General Motors, and so no outside competitors are needed.

Even if the CIA is compelled by Congress to admit outsiders for evaluation, review and other competitive events, yet allowed to choose it competitors, analysis of the CIA's behavior indicates that it will choose the weakest, the least effective, the most innocuous and hence the best for CIA's corporate interests as those now in charge understand them.

Yet while the path toward truly competitive analysis goes uphill, the trail has been blazed. We'll see why presently.

SELECTED INTELLIGENCE PROBLEMS

However the notion of competition may be understood by the CIA or the liberal-Democrat media, Helms read on the floor of the Congress a list of 32 "intelligence problems" to be "studied under appropriate competitive analysis procedures." Here's my selection of 20, most of which I abbreviate:

Soviet geopolitical and strategic intentions.

Soviet investigation of the feasibility of detecting submerged submarines through the analysis of data on the surface of the ocean.

The role of surprise and deception as principles of Soviet military doctrine.

The accuracy of Soviet missiles.

The existence of hidden Soviet missiles for reload, refire and covert soft launch in strategic reserves.

The reasons for the CIA's continuing underestimation of Soviet strategic forces.

Better methodologies for estimating Soviet defense spending.

The effects of Soviet negotiating and operational deception in arms control.

Means of overcoming a deterring and hardening against Soviet data denial through Soviet radio-electronic warfare.

The extent of the Soviet lead over the United States in deploying a nationwide, land-based ABM defense and in developing a space-based ABM defense, including identification of U.S. intelligence gaps on the Soviet SDI program.

Soviet knowledge of U.S. National Technical Means of intelligence collection and deceptive actions that Moscow may have taken on the basis of that knowledge.

The Soviet Biological and Chemical Warfare threat and potential U.S. counter-measures.

Implications for U.S. national security of Soviet military supremacy.

Better methodologies for estimating yields of Soviet underground nuclear weapons tests by utilizing all the evidence available.

Possible limitations in U.S. area search and spot search reconnaissance capability.

The ability of U.S. National Technical Means of intelligence collection to monitor Soviet compliance with the 1967 Outer Space Treaty prohibiting nuclear weapons in space, and with an Anti-Satellite Treaty.

The history of Soviet violations of the Biological and Chemical Weapons Conventions and whether the CIA blocked the creation of an Interagency Group to study these violations when they were first detected in 1976 and 1977.

The military implications of Soviet SALT and other arms-control violations and the reasons why the CIA resisted evidence and analysis showing Soviet SALT violations for 12 years.

The reasons for reported CIA long-term underestimation of Soviet submarine capabilities.

REQUESTS HAVE FORCE OF LAW

Under congressional rules and owing to Helms' impeccable legislative strategy, these questions "stand as Senate requests" to the intelligence agencies—and such requests have the force of law!

Read the list carefully. Every item confronts the CIA squarely. The CIA has been avoiding the issues by, say, picking from Soviet propaganda myriads of trifles like an "increase of sale of fruit in the U.S.S.R." and discoursing upon them ad infinitum.

Now the CIA has to face the issues by law! The extent of its ignorance, evasion and obfuscation will be revealed, and that will lead to true competition—the CIA against the best, the strongest competitors—no matter how fiercely William Casey resists it now, or did in 1980.

There has never been any other way to achieve excellence in any field except through competition. Even in the Soviet system the best weapons are produced only when all the best designers freely compete (despite the fact that there is no competition in the fields about which the Soviet rulers don't care).

Secrecy is a must in intelligence work and should be observed. All competitors must be checked—and not just by formal signs, such as the assumption that all fourth-generation Americans with impeccably Anglo-Saxon names are loyal to the West while all emigrés are security risks.

Let's recall that in the list of Soviet spies in the United States as exposed in the last decade, there are many Anglo-Saxon-sounding names—Walker, Howard, Whitworth, etc. On the other hand, thousands of emigrés from Russia have secret clearances and hundreds of them top-secret clearances—but not one of them so far has been convicted of spying.

NO HIDING BEHIND SECRECY

Yes, secrecy is a must. But it should not be a tool for an entrenched bureaucracy to avoid all true competition, ignore all effective criticism, conceal its ineptness and ignorance and praise itself to the skies. Certainly not if that bureaucracy is an institution on which the survival of the West so critically depends.

No wonder many anti-defense liberal-Democrat members of the Congress and their aides are full of forebodings. Listen to the New York Times of Oct. 2:

"They said that once the reports were delivered to Congress, Sen. Helms would return next year with broader efforts to rewrite the intelligence legislation on the floor."

Yes, aided by David Sullivan, Helms is doing "on the floor" what Ronald Reagan meant but failed to do. They are doing what the Republican Party ought to have done once the Democratic Party abdicated its defense mission in 1963. To put it bluntly, they are saving the West—and none too soon!

CIA PROBE OF SOVIET SPACE SHUTTLE SABOTAGE

Mr. President, I ask unanimous consent that an article entitled "CIA May Sniff for Space Spies," of October 4, 1986; an article entitled "Senate OK's 'Challenger' Spy Probe" of October 7, 1986; and an article entitled "Sabotage? CIA May Probe Shuttle Disaster"; all by Todd Halvorson published in Florida Today, be printed in the RECORD. I finally ask unanimous consent that an article in the News and Observer of Raleigh, NC, October 8, 1986, entitled "Helms Seeks Investigation of Possibility of Soviet Role in 'Challenger' Explosion," be printed in the RECORD.

The articles follow:

[From Florida Today, Oct. 4, 1986]

CIA MAY SNIFF FOR SPACE SPIES

(By Todd Halvorson)

An unprecedented string of disasters dating back to August 1985 is fueling calls for a CIA investigation into the possibility that the Soviet Union has been sabotaging western space launches.

Legislation that would direct the CIA and other U.S. intelligence agencies to investigate "the possibility of Soviet bloc sabotage" in the Jan. 28 *Challenger* explosion will be brought before the Senate Monday.

If passed, the secret appropriations bill also would direct the U.S. intelligence community to examine the possibility of Soviet sabotage in a string of other recent American and European launch failures.

The legislation passed the House by voice vote on Thursday and must be approved by the Senate before it becomes law.

The presidential commission that investigated the *Challenger* disaster found no evidence of sabotage in its four-month probe of the catastrophe.

The chairman of the *Challenger* commission—former Secretary of State William Rogers—declined comment on the pending legislation.

A congressional source who asked not to be identified said the investigation will focus on "circumstantial evidence" brought to light by Retired Army Lt. Gen. Daniel Graham, former director of the Defense Intelligence Agency and past deputy director of the CIA.

Graham now heads High Frontier, a privately funded organization whose purpose is to propose policies relating to space utilization. He also is the man credited with selling President Reagan on the idea of the Strategic Defense Initiative, more commonly known as the "Star Wars" program.

In a telephone interview from his Washington, D.C., office, Graham said the string of launch failures warrants close scrutiny by the intelligence community.

Two unmanned Titan rockets, a Space Shuttle, an expendable Delta rocket, and a European Space Agency Ariane rocket are among the western space launch vehicles lost to failures since August 1985.

"The odds are astronomical against that all being coincidental," Graham said. "The thing that raises the greatest suspicion is all these things happenings in a series.

"If you don't buy coincidence, if you don't buy a sudden rash of incompetence among everybody in the Western world involved in launching space boosters, you say 'Well, there's foul play involved here somewhere,'" he said.

"It doesn't make the case that foul play was involved," he said. "But it does make the case that you certainly ought to investigate it."

Among items that would be investigated, Graham said, are:

The possibility that U.S. Air Force Capt. William Hughes, who trained range safety officers to destroy malfunctioning rockets, defected to the Soviet Union or was abducted by the KGB, the Russian equivalent of the CIA.

Hughes, 34, "simply disappeared" in July 1983 while he was traveling to the Netherlands, Graham said. Hughes was declared a deserter by the Air Force in December 1983 and has not been seen since his disappearance. He had been stationed at Kirtland Air Force Base in New Mexico.

"Nobody has seen hide nor hair from him since," Graham said.

The possibility that Soviet intelligence trawlers off the coast of Cape Canaveral on Jan. 28 were notified that a disaster was impending.

"About four hours before the *Challenger* launched, (the Soviet trawlers) were noted at flank speed leaving the area," Graham said.

The trawlers, Graham said, usually stay about 12 miles off shore to monitor launches.

"The implications is that the Soviets decided they didn't want any of their ships at the scene of the crime—that they knew it was going to happen and they wanted to be gone, out of the area," Graham said.

The possibility that the Soviet Union placed a spy within NASA.

The Soviets, Graham contended, have a strong motive for wanting the American space fleet grounded.

"The motive is clear—SDI (the Strategic Defense Initiative)," Graham said. "The Soviets are really pulling out every stop to prevent (deployment) of SDI."

Officials at the Soviet Embassy in Washington, D.C., could not be reached for comment.

A spokeswoman for the CIA would neither confirm nor deny that an investigation might take place. She did say, though, that the agency "responds to all congressional queries."

[From Florida Today, Oct. 7, 1986]

SENATE OKs CHALLENGER SPY PROBE

(By Todd Halvorson)

The Senate on Monday sent President Reagan a bill that directs the CIA and other U.S. intelligence agencies to investigate "the possibility of Soviet-bloc sabotage" in the Space Shuttle *Challenger* disaster.

But a former CIA deputy director says the agency may be one step ahead. Retired Army Lt. Gen. Daniel Graham believes the CIA already may have launched an investigation.

The annual appropriations bill for the CIA and other U.S. intelligence agencies, passed by the Senate on a voice vote Monday, directs the U.S. intelligence community to examine the possibility of Soviet sabotage in the Jan. 28 catastrophe as well as an unprecedented string of other Western launch failures.

The House approved the bill Thursday.

An amendment to the bill, proposed by U.S. Sen. Jesse Helms, R-N.C., requires the CIA to send Congress a series of reports on various subjects.

One of those topics, according to a Helms aide who asked not be named, concerns "the possibility of Soviet-bloc sabotage" of *Challenger* and other launches.

The request for the probe, the aide said, was prompted by "circumstantial evidence" brought to light by Graham, also former director of the Defense Intelligence Agency.

Graham now heads High Frontier, a Washington, D.C.-based organization whose purpose is to propose policies relating to the use of space.

"I don't know if the amendment by Mr. Helms is necessary," Graham said recently. "I'm beginning to get some indications around town . . . that, in fact, something has been put together (by the CIA) to investigate."

Graham said the recent rash of launch failures warrants close examination.

Two unmanned Titan rockets carrying sophisticated spy satellites, a Space Shuttle, an expendable Delta rocket and a European Space Agency Ariane rocket are among the Western vehicles lost to failures since the fall of 1985.

"The odds are astronomical against that all being coincidential," Graham said. High frontier statisticians calculated the chances of the string occurring as 1 in 250 million, he added.

Graham asked the House and Senate select committees on intelligence to investigate:

The possibility that U.S. Air Force Capt. William Hughes, who trained range safety officers to destroy malfunctioning rockets, defected to the Soviet Union or was abducted by the KGB, the Russian equivalent of the CIA.

Hughes "simply disappeared" in July 1983 while he was traveling to the Netherlands, Graham said. Then 34, Hughes was declared a deserter by the Air Force in December 1983.

The possibility that the KGB "electronically interferred" with U.S. space launches.

The possibility that Soviet intelligence trawlers off Cape Canaveral on Jan. 28 were notified that a disaster was pending.

"About four hours before the *Challenger* launched, (the Soviet trawlers) were noted at flank speed leaving the area," Graham said, The trawlers, he said, usually stay about 12 miles off shore.

The possibility that the Soviets placed a spy in NASA.

[From Florida Today, Sept. 28, 1986]

SABOTAGE?—CIA MAY PROBE SHUTTLE DISASTER

(By Todd Halvorson)

The CIA is one legislative step away from launching an investigation into "the possibility of Soviet bloc sabotage" in the Jan. 28 Space Shuttle *Challenger* explosion, a Senate aide said.

The investigation also would probe the possibility of Soviet sabotage in a string of other recent U.S. launch failures, he said.

The presidential commission that investigated the *Challenger* disaster found no evidence of sabotage in its four-month probe of the catastrophe, which claimed the lives of seven crew members.

However, an amendment to a Senate bill passed Wednesday directs the CIA and other intelligence agencies to explore "the possibility of Soviet bloc sabotage being among the human errors causing the Space Shuttle *Challenger* and other recent U.S. strategic space mission explosions."

The amendment was tagged onto an annual spending appropriations bill for the CIA and other intelligence agencies. The bill was passed on the Senate floor on a voice vote and then sent to a conference committee with the House.

The House would have to agree with the Senate text before the amendment could become law.

The amendment was proposed by Sen. Jesse Helms, the conservative North Carolina Republican. A Helms aide said the measure is expected to be approved by the conference committee and an investigation would ensue.

"It's safe to say (the CIA) will be investigating," said the aide, who asked not to be identified. "And it won't be just the CIA, it will be a team of outside experts and a counterintelligence team of the whole intelligence community."

CIA spokeswoman Sharon Foster would neither confirm nor deny that an investigation might take place.

"We don't discuss what we do for Congress," Foster said. "We respond to congressional queries but we don't discuss them at all," she said.

Specifically, the Helms amendment directs the intelligence community to use competing teams to evaluate a list of 32 topics, most of which deal with the Soviet Union.

Other than the sabotage inquiry, the list calls for intelligence agencies to examine Soviet strategic intentions, the accuracy of Soviet missiles, the existence of hidden Soviet missiles and reasons for the alleged underestimation by the CIA of Soviet strategic forces and submarine capacity.

[From the News and Observer, Raleigh, NC, Oct. 8, 1986]

HELMS SEEKS INVESTIGATION OF POSSIBILITY OF SOVIET ROLE IN CHALLENGER EXPLOSION

WASHINGTON.—Sen. Jesse A. Helms, R-N.C., wants the U.S. intelligence community to investigate whether Soviet sabotage played a role in the explosion of the space shuttle *Challenger* in January.

Helms included the request in an amendment he attached two weeks ago to a bill to finance the nation's intelligence operations.

He declined to elaborate on his request. "I cannot discuss it, because I would be getting into classified information," he said. But a Helms aide, James Lucier, suggested that the U.S. intelligence community already had begun its own investigation of possible Soviet complicity in the *Challenger* explosion.

The Helms amendment called for a probe into the "possibility of Soviet Bloc sabotage being among the human errors causing the space shuttle *Challenger* and other recent U.S. strategic space mission explosions," according to the Congressional Record of Sept. 25.

That was five days before the White House announced that President Reagan and Soviet leader Mikhail S. Gorbachev would meet Oct. 11-12 in Iceland.

The *Challenger* probe was one of 32 problems that Helms' amendment said should be examined by "competitive analysis." That is a method using separate or competing studies of a topic to arrive at intelligence estimates.

Lucier said Helms included the request after discussion with several people, including retired Army Lt. Gen. Daniel Graham, former chief of the Defense Intelligence Agency and now director of High Frontier, Inc., which is promoting the Strategic Defense Initiative, a space-based missile defense system popularly known as "Star Wars."

"He has compiled a list of 22 incidents or facts relating to the lift-off," Lucier said, "which he considers suspicious in the context of the whole thing that happened, plus the whole string of missile failures . . . that, in terms of mathematical probability, was not consistent with past experience in the missile programs . . ."

"We're not asserting this as fact, but as an hypothesis which is worthy of investigation. It's not just some strange idea . . . There's probable cause to investigate."

However, one informed Senate source said he never had heard "any serious suggestion" in the intelligence community of sabotage of the *Challenger*.

BERNIE FOWLER

● Mr. SARBANES. Mr. President, the Senate should soon be considering the Clean Water Act conference report, a very important legislative item not only to my own State of Maryland, but to the entire Nation as well. I have been a strong supporter of this legislation, which plays an important part in the cleanup of the Chesapeake Bay and its tributaries.

For more than 15 years in public office, Bernard Fowler, now Maryland State senator from southern Maryland, has helped lead the fight for cleaning up the Patuxent River, a major tributary of the bay, which provides drainage for many of Washington, DC's suburbs. Bernie Fowler saw the threat to the Patuxent, and the bay, and fought effectively and successfully for stricter controls on upstream pollution. Bernie has made a major contribution to the health of our waterways.

In an article in last Sunday's Baltimore Sun, Tom Horton, himself a widely respected environmental expert, chronicled some of Bernie Fowler's contribution to clean water for southern Maryland. I ask that his article be reprinted in the RECORD.

The article follows:

ENOUGH OF CHESAPEAKE BAY FACTS—LET'S GET TO THE MORE SIGNIFICANT STUFF: MYTHS

DAMERON, MD.—For 10 years I've been attacking the problems of the environment with artfully crafted facts—facts perfectly balanced, honed to a fine point and driven home with all the force of truth. Might as well have been plinking spitballs at a brick wall, I sometimes think.

Now, I've seen the light, after a visit here in St. Mary's County with my good friend Tom Wisner, the Chesapeake Bay folksinger, poet and storyteller. Wisner told me there's bigger and better ammunition than fact. It's called myth.

Myth is a concept we reporters, steeped in questing for the factual, the verifiable, tend to equate with lies. You will find no such pejorative definition in the dictionary or the thesaurus; rather myths, or folk tales, legends—call them what you will—are the way we embody and transmit down the generations our most deeply held values and beliefs.

Facts, and their sibling, logic, are useful. Without them we would not get to places like the moon. But myths are powerful. Without our myths, we would not long to go to the moon in the first place.

Tom told me last week that it is a misconception that myths are all from the hoary past, the province only of ancient Greeks or Norsemen. He has found a fledgling myth almost at his doorstep in Southern Maryland, he said, and he thinks it is worth nurturing as a step toward helping out the bay.

For a long time, he said, he has been dissatisfied with what he considers the dominant mythology underlying our ethic toward the Chesapeake region's environment.

"When Captain John Smith drafted his piece about 'heaven and earth never having conspired more agreeably to frame a habitat for man,' he composed the principal catch phrase for an ongoing 350-year realtors' campaign to develop and settle the coastline of the region," Tom wrote recently in a curriculum he is developing for a class he teaches at the University of Maryland.

He continues: "The phrase . . . still used by developers and Chamber of Commerce copywriters . . . is an example of the subtle kind of myth-building created by and for individuals who perceive nature as the 'use' and people as the 'user.'"

I had to admit the notion of the bay solely for man's use (13 million users settled in the watershed at last count) has been fairly resistant to refutation by fact. You fight fire with fire, not popguns, Tom explained.

He got the idea of a better legend for the bay when he was invited to receive an award from Gov. Harry Hughes last month for his contributions to the bay. The ceremony took place at a political gathering sponsored by state Sen. Bernard Fowler, D-Southern Maryland.

Now Bernie Fowler, who is destined to play the major role in Tom's attempt at new mythology for the bay, might not strike anyone right off as a hero of mythic proportions.

He's a lean, angular man who look 3 inches taller than his 6 feet. His easy, courtly manner and mellifluous Southern Maryland accent betray no hint of his sprinter's muscles. I would bet he has never told even some friends that he is among the fastest age 60-and-over runners in the country at distances from 100 yards through the 880, and recipient of dozens of gold medals in AAU seniors competition.

He talks very little about himself, even on the campaign trail. Mostly he talks about things like preserving Southern Maryland's rural way of life, and always, about cleaning up his beloved Patuxent River.

He has seen the river and the bay at their very best, and he talks poetically about the waterman's culture and the natural rhythms and the cycles of the years he spent growing up at Broomes Island on the Patuxent.

But perhaps his most vivid memory—a memory that would come to be a touchstone for a whole region in its fight to save the river—is of summer days and soft crabbing after he finished serving in World War II and returned to start a little snack bar-bait shop on Broomes Island with his GI Bill loan.

While his wife crabbed from their boat Bernie, wading, would pursue soft crabs out across the flats with a dip net. Sometimes he would wade all the way out up to his shoulders, crab still in sight, scuttling along the bottom.

"I could see my feet in shoulder-deep water," he recalled recently, adding that it has been many, many years since the river was clean enough to see that far down in the summertime.

In 1970 Bernie ran for Calvert County commissioner. He was elected principally, he recalls, for promising to improve schools and to fight for preserving the rural heritage of the lower Patuxent.

Upstream, those were the years when counties such as Prince George's, Howard, Anne Arundel and Montgomery were booming with new growth, sending all their treated sewage down the Patuxent toward Southern Maryland. In 1970 the grasses that had provided shelter for soft crabs began to disappear on a massive scale from the lower river, whose waters by then were sometimes too cloudy to see a crab on the bottom anyhow.

Bernie says he could fill a book with all the twists and turns the fight for the river took after 1970, pitting upstream growth against the downstream counties' fight to keep their rich seafood harvests. For years, the Southern Marylanders proceeded on the assumption that, ultimately, state and federal water quality authorities would not permit pollution that would ruin their river.

It was in 1978 that, led by Bernie Fowler, Calvert County, joined by Charles and St. Mary's, filed suit against the new comprehensive water quality plan for the river endorsed by Maryland and the U.S. Environmental Protection Agency. It would permit sewage flows from upstream nearly to double and probably would kill the river, scientists at the state laboratory at Solomons told Bernie.

Bernie has a tape of a talk he gave in 1978 to a gathering of local officials as they pondered the big step the lawsuit represented. He did not pretend to understand all the complexities that were sure to be argued about the impacts of this or that sewage treatment technology on water quality, he said, adding:

"Indeed, I don't expect judges and juries will care too much about that either; but I bet you one thing they do understand. They can understand there's slimy river bottoms where there used to be clear water."

In 1979 a federal judge ruled that the state and the EPA were in error on 11 of their 15 major assumptions about the water quality future of the Patuxent. In that same year, after months of urging by Bernie Fowler, Governor Hughes finally took a trip on a University of Maryland research vessel to see the river for himself.

He came away committed to its cleanup, a commitment that would carry over, three years later, to his administration's pushing through a landmark package of legislation to address similar pollution problems throughout the Maryland part of the Chesapeake.

In 1981, a conference of top-level state, local and regional officials was held to end the impasse between upstream and downstream and formalize the campaign to get on with a Patuxent River cleanup. The conference ended on a successful note, but there was concern: How to explain the lengthy, complex and expensive cleanup to the public in terms that would garner the long-term support it would need?

Then, someone hit on the perfect idea. The goal of the cleanup would be reached, they decided, when Bernie Fowler once again could wade out into the river up to his shoulders and see his toes through the clean water.

Five years later, Tom says that is a story he is hearing told and retold, becoming part of the region's oral tradition, with potential to influence events far beyond the Patuxent. "It is the kind of stuff of which folk legends are made," he says.

Tom, who performs all across the bay region, says, "I want to make this story a real part of my life, and to continue to share it with others.

"I intend to pick a day next spring or summer to wade out in the river and look at my feet. . . . I'm going to invite Bernie to join me—in fact, I'd like him to go out in front of me [since] there might be mud or glass out there," he jokes.

Tom wants it to become an annual "Bernie Fowler Day." People concerned about the river will be encouraged to wade in, wherever they are along its shores, (it runs for 110 miles, the longest river wholly contained within Maryland.)

Bernie Fowler Day, he says, will be an alternative to the more commercial celerations of river life that have sprung up on the Patuxent and other parts of the bay in recent years.

"It won't cost anything. It will not invite hordes of tourists in to elevate the local economy, and it will not be encumbered with the usual raft of craft counters, balloon rides, acrobatics and helicopter tournaments that I find so distracting," Tom says.

To kick it off, he has drafted a simple poem, on which he welcomes comments, revisions and suggestions, c/o Tom Wisner, Box 17A, Dameron. MD 20628. It is entitled "Bernie Fowler Day—A guide to wading in the Southern Maryland waters":

All the politicians gathered.
They'd come from miles around
To talk about the river
That flows by Solomons town.
Seems they had a problem.
Things were looking bad.
They'd looked at all resources
And used everything they had.
The scientists had told them
Everything they knew,
Still—the folks were puzzled
And they didn't know what to do.
It came round to Bernie Fowler
And he stood among the best.
He said, "Folks, if you'll bear with me,
I think I have a measure
That can't be beat.
You just wade out in the river
And look down to see your feet."
"If you can't see your cloppers
There'll be trouble in this town
We oughta sue those upper counties.
For the junk they're sending down."
It's Bernie's measure!
It's simple—yet profound.
We got a treasure!.
You can't buy it by the pound.
It's Bernie's measure,
And it ain't hard to do.
It's a pleasure!
And it will soothe you too.
You just wade out in the river,
Give it all you got. . .
Right up to your chest,
And then you pick your spot.
Next you take your peepers
And cast them slowly down
On the day we see our feet again
There'll be celebration in this town.
Well—we should do this yearly
On Bernie Fowler Day.
Dress up fit to kill
And wade out all the way.
And somewhere in the future,
That day is coming sure,
We'll look and see our feet again;
Could we ask for more?
Cause I ask you what's the profit
If we gain these worldly things
And foul the air and water
And all the life that brings?

Remember, you saw it here first.●

TRIBUTE TO CHARLES E. CORD

● Mr. LAXALT. Mr. President, it is with both pride and sadness that I request this tribute to one of Nevada's finest citizens be placed in the CONGRESSIONAL RECORD.

Charles E. Cord, son of classic carbuilder E.L. Cord, was president of the Pan-Pacific Auditorium in Los Angeles, and owned the Los Angeles Monarchs of the old Pacific Coast Hockey League. Moving to Nevada in the 1950's, the Cord family has been involved in broadcasting in Nevada for 36 years. Until his death last April 29 at age 70, Charles Cord still operated the KCRL studios in Reno.

In addition, Charles Cord was president of the Cord Foundation, which regularly made generous donations to the University of Nevada, Reno, and to local hospitals and charities. Nevadans will surely miss the many contributions made to our State by its adopted son.

At a recent meeting of the Los Angeles City Council, the members honored Charles Cord, and I would like their tribute to be placed in the CONGRESSIONAL RECORD. Thank you.

The tribute follows:

CITY OF LOS ANGELES

IN TRIBUTE

The Los Angeles City Council extends its deepest sympathy to you in the passing of your loved one, Charles E. Cord, Sr., in whose memory all members stood in tribute and reverence as the council adjourned its meeting of May 9, 1986.

Sincerely,

ELIAS MARTINEZ,
Clerk.

Presented by:

JOHN FERRARO,
Councilman.

Seconded by:

ZEV YAROSLAVSKY,
Councilman.

KOREAN WAR MEMORIAL

● Mr. GLENN. Mr. President, I am extremely pleased, and I must say a little relieved, that the Senate at long last approved the authorization of a memorial to veterans of the Korean war. As an active cosponsor of this legislation and a strong supporter of this memorial, I appreciate my colleague's recognition of the need for this well-deserved and long overdue tribute.

I supported this bill out of my very profound respect for the sacrifices which were made by those who served in the Korean war. It was not a long war; it lasted only a little over 3 years—but it was a tough little war. The United States suffered 162,708 casualties, including 54,246 killed in action. Over a million U.N. personnel served in combat in Korea, 480,000 of them Americans.

Mr. President, I am a Korean war veteran, but I did not seek this memorial for myself. I have my own personal memorial in memories. I remember a squadron commander getting shot down when I was flying next to him. I thought he was gone, but he came out in Big Switch at Panmunjon at Freedom Village after the war. I remember the ones who did not show up at the rendezvous point after a mission, and that was tough to accept. I remember the letters to the next of kin—that's some of the most difficult writing I have ever done. I remember seeing planes on fire; many of my colleagues here have never seen a plane crash and known that someone was in it you knew as a friend. I remember the gratitude of the men on the frontlines for the close air support we were giving. We used to trade places once in a while. We would go up on the lines for a couple of days, and I remember the profound feelings of respect I felt for them and the job they were doing.

In my own mental memorial, I remember aerial combat. I went up after my Marine missions were done and flew with the Air Force against the MIG's along the Yalu. That was probably the last real jet dog fighting that will ever occur. It was tough one-on-one fighting, and we did it well—we only lost 1 plane for every 12 that they lost. And I remember the exultation of survival.

I remember Chosin Reservoir—Frozen Chosin. It's one of the most amazing military accomplishments in history that our men ever got out of there. I remember a friend of mine who was a forward air controller up there, when they were trying to come out and get to Hungam. He stood up on a ridge trying to direct air support to a target. While he was standing on that ridge he was shot through the neck, but he struggled up again, still giving directions until he died.

In Korea, as much as any place we ever had Americans serve, uncommon valor was a common virtue.

So I have my own personal memorial in these memories. And when I meet others who were out there and shared these experiences, we share a handshake, a look in the eye—that is our memorial. For me the memorial of remembering is enough; but I believe that for others it is not. I cannot pass along these memories, vivid as they may be. We need this memorial to help pass along to our children and to our grandchildren an appreciation of this heritage, a heritage of freedom that is not free; a heritage of individual bravery and personal sacrifice as notable as that of any war in which Americans have served. To me, Korean war veterans are personal heroes, and their heroics were magnificent. These individuals deserve thanks, but we rarely take time to do that. We have an opportunity now—albeit a long overdue one—in a small but significant way, to signal our respect and gratitude to all those who served in defense of freedom in Korea.

I take this opportunity to thank my colleague, Senator ARMSTRONG, for the leadership role he assumed on this issue; I am proud to have been a part of this effort.●

MINORITY ENTERPRISE DEVELOPMENT [MED] WEEK

● Mr. WEICKER. Mr. President, I would like to bring to my colleagues' attention that this week, October 5–9, 1986, has been designated by President Reagan as "Minority Enterprise Development [MED] Week." This is the fourth annual observance of MED Week since the President proclaimed in 1982 that the first full week in October would be so designated. The Small Business Administration [SBA] and the Minority Business Development Agency [MBDA] are holding events honoring distinguished minority entrepreneurs from around the Nation, during this week.

Minority businesses make a significant contribution to our Nation's economy and our local communities. I take this occassion to express my own admiration and gratitude to the minority business community for the strides made and the essential role its many entrepreneurs have played in our daily lives. I offer my congratulations and sincere best wishes to all of the local and national awards winners who will be recognized throughout this week.

Historically in this Nation, ownership of a business has been a vital part of the American dream. It is the essence of our independent spirit, the attainment of a goal that brings with it self-sufficiency, determination, and the personal joy and satisfaction of making it on your own.

Unfortunately, for many years minorities did not share in that dream. Our free enterprise system has, in the past, shut most doors to all but a special few of the minority community who tried to share this Nation's generous economic pie. But I am proud to say that we are making strides in reversing that harsh trend. Today, the achievements of minority-owned firms are some of the finest success stories this Nation has to offer. In all phases of business, increasing numbers of entrepreneurs are getting a bigger slice of the pie through hard work, perseverance, and determination to overcome racial barriers and to succeed. This is the real American dream, Mr. President—the dream that any man or woman, no matter how humble their beginnings, can, through their own diligence and effort, become a success in this country.

The MED Week theme for this year is "Together We're Building America's Future." I urge all of my colleagues to pay special attention to these words. We all have a role to play in assuring that minority owned businesses continue to thrive in this Nation and that opportunities to enter the economic mainstream are just as available to minority as to majority entrepreneurs. While I believe it is appropriate that we set aside a week to pay tribute to these business men and women for their outstanding accomplishments, I urge that we also take this time to reaffirm our commitment and rededicate ourselves to the goal of increasing minority business participation in Federal procurement activities when this week is over. Strides have been made, but there is still much to be done.

According to the 1986 edition of "The State of Small Business: A Report of the President," minority self-employment increased by 64 percent from 1975 to 1985, from 337,000 to 552,000 minority-owned businesses. From 1977–82, the total number of black-owned businesses grew by more than 100,000 from 231,203 in 1977 to 339,239 firms in 1982—a 47-percent increase. During the same time period gross receipts for black firms rose from $8.6 billion to $12.4 billion. In fiscal year 1984 alone, Federal procurement awards to all minority-owned businesses totaled $6 billion. However, there is another side to the story. The fact still remains that of the roughly 14.5 million small- and medium-sized businesses in this country, only about 600,000 are owned by minorities. This simply means that while recognized minority groups—blacks, Hispanics, Asian-Pacificans, Eskimos, Aleuts, and American Indians—make up about 25 percent of our population, they own less than 5 percent of the businesses.

Of those 600,000 minority-owned businesses, over 90 percent are small, sole proprietorships. Two out of every three of them are in the retail trade and service industries, and the vast majority of these businesses have no paid employees. With minority unemployment continuing at unbearable rates, clearly promoting the growth and expansion of minority businesses is one of the key resolutions to this problem.

Mr. President, the statistics cited above are true testimony that minority-owned businesses are a major factor in increasing employment, providing new technological innovations to the marketplace, and ensuring a broader and healthier economy for all our citizens. But again, I urge us all in the spirit of the theme of this year's MED Week Conference, "Together We are Building America's Future," to not lose sight of the tremendous amount of work that still must be done in attaining our goals of helping minority businesses help themselves by ensuring their participation in our Nation's rich economic opportunities.●

RAISING THE PLIGHT OF SOVIET JEWRY IN THE PRE-SUMMIT TALKS IN ICELAND

● Mr. MOYNIHAN. Mr. President, Americans of all faiths have demonstrated continued concern for the plight of Soviet Jewry. It is imperative that their predicament be placed on the agenda at this week's presummit talks in Iceland.

Yuli Edelshtein, Vladimir Slepak, Iosif Begun, Dr. Aleksandr Lerner, Ida Nudel, Vladimir Lifshitz, and Roald Zelichonok are but a few of the 20,000 Soviet Jews who have been formally denied exit visas to Israel. The reasons the Soviets give for refusal range from "access to state secrets" to "no relations in Israel" to "insufficient requirements for an exit visa." Many refuseniks have been waiting nearly 15 ardous years for their one wish—freedom.

And once a Soviet Jew's visa application is rejected, further harassment is the rule rather than the exception. Refuseniks often lose their jobs; are threatened with arrest for "parasitism"; are expelled from university; and suffer vilification and social ostracism. Because the teaching of Hebrew is forbidden in the Soviet Union, those caught teaching it are arrested on trumped-up charges and sentenced to prison and labor camps.

Every recent American President has supported the right of Soviet Jews to religious freedom and emigration. We must urge President Reagan to remember those people during his meeting with General Secretary Gorbachev. If the Soviet Government cannot grant their citizens freedom of religion, then, as Senator Hubert H. Humphrey said with his characteristic elegance and eloquence,

> Let them live as Jews or let them leave as Jews—it is as simple as that.

The Congress has consistently stood in solidarity with the Jews of the Soviet Union. In keeping with this tradition, we must continue our efforts in pursuit of universal human liberty. Over 70 years ago a rally was held on behalf of the then-beleaguered Jews of Czarist Russia. The last speaker was the Governor of New Jersey, Woodrow Wilson, who spoke for all of us here today when he said,

> This is not Jewry's cause alone, it is America's. It is the cause of all who love justice.

I am accordingly pleased to present to the Senate a copy of a petition signed by 500 students at Yeshiva College and Stern College in New York City. These students are asking Mr. Reagan to raise the plight of three brave Soviet Jews: Dr. Joseph Begun, Nadezhda Fradkova, and Elena Keiss-Kuna during this week's talks with General Secretary Gorbachev. I ask that their statement be entered into the RECORD.

The statement follows:

PETITION PRESENTED TO SENATOR MOYNIHAN BY STUDENTS AT YESHIVA UNIVERSITY AND STERN COLLEGE

The Iceland Reagan-Gorbachev summit is rapidly approaching. It is a critical moment to raise the issue of human rights in the USSR.

Please tell Mr. Reagan: Be firm and strong on human rights in your discussions with Mr. Gorbachev. Urge the release of Prisoners of Conscience and refuseniks to show the Kremlin's willingness to abide by minimal international standards of behavior. Among these people are:

Dr. Joseph Begun of Moscow is an engineer and courageous unofficial Jewish educator. After two exiles to Siberia for teaching Hebrew, he was sentenced in 1983 to 12 years in the Gulag. His health is deteriorating in the notorious Chistopol Prison.

Nadezhda Fradkova of Leningrad is a linguist and mathematician who passionately desires to go to Israel. Each time she hunger strikes to draw attention to her plight, the KGB throws her into a mental hospital. In 1984, she was taken from the mental hospital and sentenced to two years in a Labor camp. In August of 1986, when her term was completed, she was barred from returning to her Leningrad home.

Elena Keiss-Kuna is a Leningrad refusenik, barred since 1974 from exiting to reunite with her sister Anna Rosnovsky, a member of the Israel Philharmonic Orchestra. Several years ago, as retaliation for her sending Anna's violin to Israel, their mother was thrown into a Siberian mental hospital for four years. Elena's son Andrei will be 18 next year and subject to a punitive Red Army draft which could delay the family's emigration for many years to come.●

A DIARY OF 21 DAYS WITH REFUGEES FROM NICARAGUA

● Mr. BOSCHWITZ. Mr. President, Nana Gill, a fellow Minnesotan and her family traveled to Central America, at their own expense, to see first hand the current situation in that troubled region of the world. On their trip, they spent 21 days with refugees from Nicaragua now living inside and outside UN camps in Honduras. Their story is both gripping and insightful. For this reason, Mr. President, I ask that the Gills' Letter to the Editor in the Minneapolis Star and Tribune, and the diary of their trip to Central America be printed in the CONGRESSIONAL RECORD.

The material follows:

AUGUST 1, 1986.

MINNEAPOLIS STAR AND TRIBUNE,
324 Portland Avenue
Minneapolis, MN.

To the EDITOR:

It is incredible to read the remarks of a Roman Catholic cleric whose Pope was publically insulted during his 1983 visit in Nicaragua and whose fellow priests are being evicted or forced to flee from that land. The letter from Maryknoll missionary (Tribune—7/23) Fr. D. Newpower, in my opinion, is both inaccurate and intemperate. He poses, most glaringly, an unfair and exceedingly vicious rhetorical attack with his statement ". . . I can't believe people in the (Twin Cities) area endorse atrocities." I both resent and reject this statement for what it is—a cheap shot!

As to the alleged atrocities committed by the UNO (Nicaraguan Opposition Unity party—formerly called "Contra") which is made up of several political factions which originally helped to overthrow Somoza and is now involved in the ongoing Nicaraguan Civil War, even if Fr. Newpower would care to document examples, these could never outnumber what the Sandinistas are recording in the minds and hearts of countless citizens of Nicaraguans who are fleeing their beloved country.

I am aware of about 3,000 first hand accounts of crimes committed by the Sandinistas. Many of these letters have already been sent to the Organization of American States in Washington, D.C. with further tragic results—foolishly, copies of these letters were sent on to the Sandinistas with names and addresses causing the possibilities of additional disastrous results. According to the Nicaraguan Commission of Jurists, 8,000 Sandinista political executions had taken place in Nicaragua within the six year period before October of 1985. There are possibly 300,000 Nicaraguan refugees in Honduras (one of the poorest countries in the Western Hemisphere). According to reliable sources (a United Nations official and the U.S. Embassy in Tegucigalpa, Honduras), for every refugee found in the poorly run, disease ridden United Nations refugee camps (I, myself, have visited two of these), there may be ten more foraging in the countryside. There are approximately 200,000 refugees in Costa Rica. Others are found in Guatemala, Mexico, Belize, and the United States.

It appears as if the Sandinista Communist masters have reached a point of no return in the savagery which they have perpetrated. The Roman Catholic priest, Father Alexander Ratiu who was jailed in Romania for 16 years, said "Communist governments cannot last without making use of constant surveillance, terror, and violence. Fear and repression are the rule in all Communist states."

In addition, the Sandinistas refuse to negotiate with its political opposition. The UNO has in the past expressed willingness to start talks to achieve a freely elected government founded on democratic principles. Instead of responding to this offer to seek reconciliation. and peace, the present Nicaraguan leadership has chosen to precipitate a civil war forcing the UNO to fight for the freedom of their land against an army massively supplied with advisors and war materials by the Soviet Union and its Cuban surrogate.

Fr. Newpower also claims that the United States is deliberately sabotaging the Contadora plan for Central America. On May 9, 1986, Vice President George Bush, representing our government at the inauguration of President Arias in Costa Rica, stated that he (Bush) was hopeful that the Contadora process would put Central America on the road to peace. Our Vice President also complimented President Arias for his initiative in seeking adoption of the Contadora plan.

Later in that some month of May at a meeting held in Esquipalus, Guatemala, attended by democratically elected Presidents of Central American states (Arias, Costa Rica; Duarte, El Salvador; Cerezo, Guatemala; and Azcona, Honduras) and President Ortega of Marxist-Leninist Nicaragua, the Contadora proposal was throughly discussed. The proceedings, well reported in all major newspapers of the world, stated that the Contadora plan which was to have been signed on June 6, 1986 was defeated by one dissenter—Ortega of Nicaragua.

Sincerely,

NANA A.J. GILL,
A Nurse and Housewife.

A DIARY OF 21 DAYS WITH REFUGEES FROM NICARAGUA

(By John and Nana Gill)

CRIES IN THE NIGHT

Hear their cries!
Oh, can't you hear their cries?
I heard a cry . . . despair of souls
in the still night air echoed through the hills
from the mountains to the sea
begging to be answered by you by me—
a cry of sorrowing and suffering.
The earth seemed to shudder as if . . .
as if in answering . . . .
The cry of souls—seeking . . . searching for meaning to life reason for living.
"Did anyone see our tears . . . hear our cries
The world have deaf ears . . . why we've been passed by?"
Their cries!

PROLOGUE

We, John and Nana Gill, because of sensitivities developed by our experiences and envolvement in aiding refugees from Southeast Asia, were suspicious of news bureau reporting within the United States.

Accordingly, for two years we worked at planning a trip into Central America to observe for ourselves what was actually happening.

On January 4, 1986 we completed preparations for this trip, loaded our van with necessary supplies, and with our whole family—Ronnie (13), Tommy (6), Laura (4), and John (3)—began a two month journey into Mexico, Guatemala, and Honduras.

Our main objective was to reach the Honduran-Nicaraguan border in order to visit with refugees we had heard about. Our desire was to help them if we could. (We knew that our resources were very limited as per the average American family—we had to make a bank loan of two thousand dollars—but we felt someone should do some investigation. We also knew and felt that God was with us in this matter.)

From the refugees we would also be able to assess important insights as to the real intentions of the political leaders of Nicaragua who in our news media were often portrayed as necessary for the region.

WHAT CAN YOU DO TO HELP THESE REFUGEES?

(1) Pray about it!

(2) Copy the pertinent information from this pamphlet and give it to ten other people.

(3) Sponsor a family inside a United Nations refugee camp.

(4) Write your state's congessional Senators and Representatives concerning the plight of these refugees.

(5) Write letters to the editors of local newspapers with information about these refugees. Even allow them to copy stories the refugees themselves have written.

(6) Locate companies who are able to to donate food, clothing, and medicine for these helpless human beings.

(7) Pray about it!

(8) Seek persons who would actually travel to Honduras to assist in the distribution of food, clothing, and medicine when they reach their destination.

(9) Send what you feel led by the Spirit of God to do!

(10) Contact local radio and T.V. stations and ask them to broadcast the real story concerning the refugee situation.

(11) Continue to pray for these people and their needs.

Sunday, January 26, 1986

Entering Honduras about 8:30 A.M., we stopped briefly at the ruins of Copan where we met a well traveled person from Australia. As he was going to Nicaragua, we offered him a ride to Tegucigalpa, the capitol of Honduras. At a gas station restroom stop along the road, we acquired an additional passenger, a young woman with a child, who needed a ride to a certain destination. As she left us she expressed her appreciation with "May God bless you and your family in all that you do."

Weary sojourners that we were upon our arrival in Tegucigalpa, we found that all hotels were fully booked as the new president of Honduras was to be inaugurated on the following day. We parked near the pumps of a closed gas station and all, including John Parkinson, slept in the van.

Monday—January 27

After a hearty breakfast of pancakes and ham and the ritual of rolling up the mattress and sleeping bags, we wished John Parkinson "God Speed" and continued south to Danli (pronounced "Don-lee") near the Honduran-Nicaraguan border.

On the way, it was now our turn to witness "slum conditions"—poorer here than anywhere else in Central America. From our point of view, these conditions were as a result of either the poor degree of effort spent on their behalf or the effects of a truly severe environment. We could name many reasons for the very unpleasant sight—no productive enterprise, no developed resources, high interest rates, very expensive electrical power (government owned), hot climate, and a seemingly short rain supply. All contributed to the poor standard of living.

Shortly before reaching Danli, we noticed a shack village in a valley—most likely, a United Nations refugee camp.

The hotel room in Danli, comfortable with pleasant appointments and costing $10 per day in U.S. currency, had only one drawback—no hot water. The showers were invigorating.

Tuesday—January 28

Driving back to the U.N. camp which was seen along the roadway, yesterday, we talked to an English speaking Spanish medical doctor, Fernando Seville. Representing a French organization, Doctors without Borders, he had been serving this and one more camp in the area. Concerning the question of refugee medical problems, he stated that the "abuse" of medicine by the refugees was one of the biggest problems—"They want attention all the time and come for medicine for belly aches or sore throats". He added, "When I get a sore throat, I don't take medicine unless it is really bad." We wondered how he could determine when things were bad, if he denied a patient's complaint of a sore throat. He went on to say that the main health problem was diarrhea caused by a polluted water supply in crowded, unsanitary living conditions.

In the midst of this worthwhile visit, a man stepped forward and, after he told us that we needed permission from the Red Cross to visit a U.N. camp, gently ordered us to leave.

In Danli the Red Cross office which was used for clerical and not medical purposes and employing in such a way that it probably possessed the best jobs within the community, refused us the needed permission and advised us to go to the U.N. in Tegucigalpa.

We discovered that there was a clinic that would have been useful for refugees in Danli. It was financed by a philanthropic American organization called Friends of the America's. As it was a free clinic, a few refugees did come to it, but it served mainly poor Hondurans. However, as Doctor Seville was the legally designated doctor for the refugees, he was in the responsible position of directing them, apparently, to a location he so desired. The Friends of the America's happened to be low on medical supplies, but the Red Cross would not share any of theirs. Doctor Seville even made light of the fact that he had medicine that might never be used.

The next logical step was for us to visit the Friends of the America's Clinic in Danli. We appraised it as being very respectable and were given the Tegucigalpa telephone number of Carmen Winkler, the manager for Friends of the America's in Honduras.

Wednesday—January 29

The objectives for us to accomplish in the Honduran capitol of Tegucigalpa, today, were fourfold:

(1) Contacting our United States diplomatic representatives concerning its advice as to how we could begin the process for getting permits to visit the refugee camps.

(2) Finding the U.N. building and talking with someone who was in charge of the U.N. camps.

(3) Talking to Carmen Winkler about an air flight to the Mosquitia.

(4) Going to the Hotel Maya and exchange our U.S. currency into Lempiras, the official currency of Honduras.

At the U.S. Consulate the treatment afforded us by its personnel was predictably not pleasant. Told that we could not get permission to enter the U.N. camps, we responded that after having traveled over 5000 miles in eighteen days and our U.S. Senator Boschwitz expecting from us a report on the pronounced needs of the refugees, we refused to take "no" for an answer.

After our embassy called and explained our situation to the U.N., it instructed us to go and discuss our request at their Tegucigalpa U.N. office.

At the U.N. building we were met at the top of a flight of stairs by a locked gate and two guards. When we presented our passports and referred to the recent telephone call to the U.N. High Commissioner's office, we were informed that his assistant was out but that her secretary would help us. Nevertheless, after first waiting on a hall couch for two hours, we were allowed by a receptionist to enter the office where the secretary was working. She, however, proceeded to make and receive phone calls and fill out forms for some time period before addressing us as to why we were there and how she could help us. Even while questioning us, she continued doing other things in such a manner that we were made to feel we were a bother. She did give us a form to fill out.

With an additional waiting time of one hour, the Director returned and quickly approved our entry permit.

Although, Carmen Winkler was not in her office, an appointment was made for us to see her on Friday in regard to our desire to visit Miskito Indian refugees in the most eastern region of Honduras called The Mosquitia. This arrangement was fine for us as our two refugee camp visits (Jacaleapa and Teupasenti) were set for Thursday and Saturday.

Reaching Danli late, hungry, and tired, the family warmed up some beef noodles on the sterno burner and ended a very productive day with study of scripture and family prayers.

Thursday—January 30

This was a very special day, involving the purpose of our travel to Honduras, the day of our first official camp visit. However, a threatening thing did weigh upon our minds as we ate our breakfast and, later, our lunch in the room. Most of us were very cognizant of diarrhea and cramp symptoms. When the doctor from Friends of the America's gave us some medication, the cramps stopped immediately but not the diarrhea.

At 3:30 P.M. two of the doctors from Friends of the America's came to our hotel. From there, all went out to the United Nations Nicaraguan Refugee Camp at Jacaleapa, Honduras.

Reaching the camp at 4:30 P.M., we were coldly received by the Honduran camp officials. With the help of the two doctors who came with us, the following information was accumulated:

(1) 2800 people in 257 cabins

(2) Water is shallow and well contaminated

(3) 10-14 persons to each cabin approximately 14x16 feet—not necessarily for only one family

(4) Wood needed for cooking not supplied—refugees get special permit to leave the camp to gather wood

(5) All mail to the camp—searched and scrutinized

(6) No schooling for children within last six months and the U.N. has allocated no funds to offer schooling in 1986

(7) No electricity or means for light once it is dark (The young doctor interpreting for us said something in Spanish and all laughed. We insisted that this be interpreted. He had said, "With no lighting they go to bed early so there are many babies." John said, "That may seem funny but with the U.N. concern over population control, this may be the one single most important fact of the report to our Senator in coercing better circumstances." A young man retorted that sometimes some people bring out films on birthcontrol.)

(8) Most needed items are: Shoes, toothbrushes, toothpaste, soap (personal and laundry), clothing (only one set a year from Catholic Charities), and books and materials so that, even though they are forbidden to be employed in Honduras, the refugees could keep their minds busy. (The refugees, themselves, advised us not to send donations through the U.N., Red Cross, or Catholic Charities, as they would not receive what would have been sent. Furthermore, it was the U.N.'s policy to keep these people at the mere survival level with no relying upon outside help for their needs.)

(9) Although, the U.N. has strict codes for policing up the appearance and the outward cleanlines of the camp, sanitary facilities were totally non-existent. Refugees kept the place clean by picking up fecal material by hand and sweeping the entire area daily with grass brooms which they had made. This is strictly enforced. The U.N. policy is "Don't work, don't eat."

(10) Initially, there were provided for the camp two toilets with seven holes each with no walls, only small roofs on posts, and were located in the middle of the camp's play area. When the toilet holes because full, they were cemented shut and no new ones were built. The refugees were obliged to use two new toilets, seven feet deep, three feet wide, and from ten to twelve feet long—open trenches with no cover anywhere.

Sorrowfully, we saw cataracts untreated in young men, a great deal of skin disease and infections, signs of parasites, malnutrition in children, blank staring fatigue in women, and an aching for something to do in the men. Such human waste we have never seen!

While we were there, the refugees organized a committee, and a representative came forward to talk to us. He stated:

(1) When one brings assistance to the camp, bring it directly and hand it out.

(2) Do not leave your address with them (the camp officials), as they will not give it to the refugees.

(3) We have an organization and will distribute equitably. They will not. (Example: Once a group brought a truckload of 3000 pairs of shoes. The official employees of the camp threw them into the air causing the refugees to run and grab. Then the employees exclaimed, "See, they act like animals.")

At this juncture during our meeting, one man said that we could trust William Stewart in Danli with the "Living Christ Ministries". Others really got sober when out of love, they informed us of a camp that was worse off than theirs. They begged us to go there and help them if we could.

We were touched by this charity (pure love of Christ) in the hearts of these who had, literally, nothing. Ignorant people and all that may go with it, they were not. We could see that many were well educated as they crowded about us urgently attempting to read our notes, and to say this and that to us. They wanted to write us, asked that a school be set up for their children, requested a church for all denominations be made available for all to use, urged that we speak about them to our President, and more.

As we walked with heavy hearts to the car, we prayed, "Lord, what can we do for them?" Suddenly, somewhat inspired, we thought to print our address on paper for each family and along with writing material bring it to the camp.

We then left and returned to Danli. What a day!

Friday—January 31

The drive to Tegucigalpa takes two and one half hours. Today, we went there to talk with Carmen Winkler about a plane trip to The Mosquitia. Carmen told about the possibility of a flight the following week, but we would have to return on Monday to find out.

Nick, a young man from Honduras and one of the doctors working at Danli for Friends of the America's who had come along with us, was told by Carmen that he was fired. The reason given was that he had refused to work in the clinic at the Honduran border town of Los Trojes where some of the heaviest fighting between the Sandanistas and the Contras occurs and can be very dangerous. Only this morning, we heard Honduran government newscasts reporting that the Nicaraguan government had planned a strike against the Contras. Authorities were advising all villages along the border area to be evacuated.

At the Tegucigalpa Friends of the America's office, we met a couple from California who were planning to do missionary work in The Mosquitia.

With a rather early return to Danli and John deciding to lay down because of not feeling well, Nana decided that she and the children would go out for a tour of the town. They came upon some "gringo" (North American white) children who belonged to the Bill Stewarts, Directors of The Living Christ Ministries. What a break! Maybe they could help us find an interpreter for our visit to the other U.N. refugee camp. Tomorrow, we would be visiting Mr. and Mrs. Stewart.

Saturday—February 1

From their mission house for the Living Christ Ministries, Bill and Sherry Stewart had been working for the last two years helping not only poor Hondurans but also Nicaraguan refugees in Danli and in the mountains. What a blessing that God led us to them!

Nondenominational and not in Honduras to proselytize but to coordinate efforts of various Christian projects involving humanitarian aid and medical assistance, Bill and Sherry became convinced, as we, that the oppressed Nicaraguan refugees outside of the U.N. refugee camps could not count on the U.N. nor the Red Cross—physically nor ideologically—to help them. These organizations could not nor would not help these people in the face of expected Sandinista advances into Honduras—already under way at this time.

Our most immediate concerns were:

(1) We had the permit to visit the second refugee camp in the area, but we were told that our vehicle could not negotiate the road to that out-of-the-way place.

(2) The young men who had interpreted for us, previously, were not now available.

These worries dissolved with the appearance of the Stewarts. They took care of our children, fed and prayed with us, and tended to other helpful and positive steps in aiding us. What hospitality!

Today, Bill who had good contacts among the small villages and military outposts along with his Honduran interpreter, Andrew, transported us out to the camp we wanted to go to but over the almost impassable mountain roads. The trip seemed hours and hours long.

As we stood in the middle of a mud-forsaken two acre place enclosing over 2500 individuals, holding hands with the refugees, and praying, our spirits were moved with compassion and grief. How can we now express the feelings that overcame us. One man said, "We prayed and prayed and wondered if our Brothers and Sisters in Christ in the States even knew or cared about us. Now, you and your family came."

This U.N. camp was so isolated that only a few of the sacrificing and serious minded Christian workers in this area of Honduras had been to it.

In their prayers many thanked God and asked Him to continue to take care of them. Another thanked God for inspiring us to come into their midst. Then he added, "God, you know we are here with our mouths open for anything you drop in. We can do nothing for ourselves except trust in you."

A few facts concerning this Teupasenti Camp:

(1) Most of the interned looked very lean and many were sick.

(2) They lived in 14 x 16 feet board huts each holding 12 to 18 people.

(3) No water supply except the river. (There was a row of open-pit outhouses 50 feet above it.)

(4) Dr. Seville visited three days within alternative weeks, but the refugees said he neither brings nor gives out medicine. (Yet, this doctor is responsible for 6,000 refugees under terrible conditions in two camps, we visited thus far and has to travel two to three hours to go from one camp to the other. That he attempts such feats is either extra heroic or very tragic.)

(5) Needs in the order of their importance:

a. Medical attention.

b. Cooking utensils—"We left with nothing or traded what we did bring in order to survive."

c. Clothing, soap, shoes, educational material for the children, and good water.

The sick children, the skin diseases and rashes, and sad eyed women were transcended by the greater wonder and love that they showed to us. Their testimonies, literally, crushed our hearts with sorrow and then comforted with healing joy. The load of feelings we carried, tempered with the thoughts of a seeming impossible task of trying to aid them, made us feel very sober. Nevertheless, we left our name and addresses with one of the pastors who served them from the nearby town and asked the refugees to write letters to us. We also left money with the same pastor to purchase and deliver stationery and pens to the refugees.

With a great sense of the reality and presence of God, we began the rough ride back to Danli in the Stewarts "beat up" Blazer that sounded as if its muffler system was angry over being given such a terrible job of transversing the so-called road. A flat tire was sustained on one of its all terrain tires. We changed it and made it home after dark in almost one piece. Another opportunity to say, "What a day!"

Sunday—February 22

The Sunday worship conjoining our family with that of the Stewarts together with their interpreter, Andrew Swan, and his girlfriend, Miriam, was held in the Stewart home. During the study time a portion in the New Testament book of Thessalonians was studied including discussion of recently finished topics such as works and grace from James' statements and how all of this is effective only in and through the blood of Christ. An emphasis was made that we who believe are responsible for how we serve.

The Stewarts served lunch. Afterwards, Bill had to leave as he had some small villages to visit along the Nicaraguan border. A team of doctors from the United States were coming who had ability to operate on children with cleft palates, Bill, personally, knew of three and he, now, wanted to do some preliminary visiting. He asked us to ride along with him and Andrew. We decided to go. The children, for sure, would not be able to go along because of possible danger associated with this trip. We would be actually driving to the Honduras-Nicaraguan border where there would be investigations as to possible clinic site locations.

A real danger showed itself in that the Sandanistas had been shelling Honduran terrority in order to force poor Honduran local people from harvesting their coffee crop. Several families in the vicinity of where we were going had been shot at by the Sandinistas in an attempt to force their children into Nicaraguan military service.

The Honduran people, here, in the simplest, smallest local villages have personal ownership of land and homes. They run their own schools which are supported by the government. What a privilege to observe how these independent people live, what their homes are like, the individuality in the local color of how they conduct themselves in their town squares, and see their medical buildings or assistance stations.

Honduran soldiers allowed us to go through several road blocks and back road security checks because they knew Bill and

his humanitarian aid. At one point Bill gave a soldier a number of New Testament scriptures and tracts for them to distribute. Johnny attempted to speak but simply broke down and prayed, "God bless you, God bless you." He knew that these poor souls in this poor country were not prepared to meet the might of the entire communist world and commended them to God who only could deliver from the danger that was so close at this time.

As it was later and because we were very tired when we returned to Danli, Mrs. Stewart suggested that we remain at their home for the night. We declined preferring to remain one more night at the hotel. We knew that the morning drive to Tegucigalpa was imperative and we did not want anything else to come into our way. We had to go to the U.S. Embassy and speak with Mr. Joe McLean, the officer in charge of refugee problems. It was also necessary for us to visit with Luis Druke, the U.N. Assistant Director of Refugees for Honduras, to secure permits for returning to the two camps already visited.

Monday—February 3

This day did not turn out to be as productive as we had wished, but we did have a good interview with Mr. McClean. In brief, this was what was said:

Yes—He knew the water system no longer worked at Camp Teupasenti. It had been inoperative for a long while.

Yes—He knew their water was polluted. It was the reason for poor health problems in both camps.

No—They were not without medical attention but want medicine for every little sickness.

Yes—Their situation was sad.

No—"We do not mind if Christian groups help out. . . . But permission has to be gotten from the U.N. . . . The previous director (Linda Lamb—her name will be mentioned later) would have minded, but I don't know about this new one."

Yes—Any future for them in Nicaragua at the present is impossible. Their return would not be in keeping with respect for human life. When we asked, "Would they be killed?", he answered, "Most likely."

Yes—There are many more refugees outside of camps in the mountains with no help. There are many more outside than inside. He said that a low estimate would be ". . . for every one in a camp, there would be ten outside". His conservative estimate along with anyone else we talked with set the total refugee numbers in Honduras at in excess of 150,000. All of these fleeing refugees would have had to run the risk of capture and execution or land mines on the border before getting out. (One man had said that when the numbers of the thousands of Contra throughout Nicaragua were added up plus the refugees in Costa Rica and Honduras, there would be very few of the poorer folk left. He added, "The wealthy got out to Miami and Europe long before." A refugee who had recently escaped said, "It's all Cubans, Bulgarians, or Russians. Everywhere you go, there are foreigners. They are the new Nicaraguans!") When we asked, unofficially, what Mr. McLean thought would be the best fate for the refugees, he qualified his statement and then spoke frankly in favor of Nicaraguan refugees immigrating to the United States.

At the U.N. building an appointment was set for the following day before returning to Danli.

Tuesday—2/4

Leaving reasonably early for Tegucigalpa, we were pleased to drop off stationery and pens at the Jacaleapa Camp.

At the Friends of the America's office, Carmen was not in so we could not get any information on the possible flight to The Mosquitia.

At the U.N. building there was hope on our part to establish some committment that religious groups would be able to enter United Nations camps in order to aid the refugees. Ms. Luis Druke while quite friendly but not giving the committment we wanted, off the cuff said that she wished we ". . . could just take them all to the states".

Wednesday—2/5

An early telephone call to the Friends of the America's and a talk with Carmen still got us no information concerning the flight to The Mosquitia.

Johnny and Andrew went to the Welding Shop to install carrier brackets for the top of our van. We were preparing it for the rough-ride, return visit to the Teupasenti Refugee Camp—this time with out children.

The person who did the welding was thirteen years old and just a little larger in size than our six year old son, Tommy. How efficient he was. He welded the heavy iron straps to the light tin of the carrier, perfectly using an old arc welder—even without a good ground clamp.

While the welding was being done, a young refugee boy selling bananas came by. Of those within his family, he and his father were the only ones who made it out of Nicaragua. This wiry, thin, and barefoot boy, everyday traveled miles with a wheelbarrow he had made out of scraps of wood. He would go into the mountains and pick little bananas and other wild fruit to sell in town. He did this to feed himself and his father—supplementing what his father made.

Another refugee told of escaping Nicaragua by running for fear of his life with a group of one thousand or more people for his town. Johnny invited him to come to the mission and do a taped interview of his experiences. He came to the Stewarts mission house for the taping at 5:00 P.M.

Thursday—2/6

We were determined, this time, to take our children along to be with us at the Teupasenti Refugee Camp. So, waking early, we drove to the Friends of the America's free clinic in Danli in order to pick up Dolly, a person who was writing a story on behalf of its philanthropic "Shoe Box for Liberty" program.

At the clinic we met Mike Bagby, one of the Directors of the American Christian "Salt and Light" group working with the Miskito Indian refugees in The Mosquitia. Medicine and medical supplies along with food and clothing were distributed by them to the Indians.

In the town of Teupasenti and next to the U.N. camp with the same name, we were informed that Mario, the pastor of the local Nicaraguan Evangelical Church in Exile, had been thrown into the town's jail for helping to collect letters for us. Previous to this he had had a meeting with the Red Cross, Caritas (Roman Catholic Charities), Acnur (N.N. Refugee Organization), and the Honduran Immigration Service concerning his refusal to hand over to either caritas or the Red Cross all the medicine and food he had stored in his church. These supplies had been contributed by Christians for aid to Nicaraguan refugees in and around Teupasenti (not in the U.N. camp). We also found out that the Red Cross had censored a teacher who had helped refugees within the camp to write letters to us. Because of a fear of reprisals that might be taken against them, many refugees burned their letters.

When we asked if we could visit Mario in jail, the local Fusep (National Police) officials would not committ themselves but said we would have to wait until the local "Jefe" (Police Chief) returned from his afternoon swim.

During a three hour wait, Johnny played tops in the street with little boys of the town while Nana showed the local Fusep officials a family photo album.

When the "Jefe" returned and when we entered his office, he continued reading a newspaper. When we were announced by his deputy, he looked up and acknowledged us. Firstly, we presented our permission to visit the U.N. camp along with our taking of photographs and gathering information about camp conditions. Secondly, we asked him about Mario. What had he done that caused authorities to throw him in jail? The "Jefe" would not stipulate what the charge was but that he was just being investigated. When we requested that we be allowed to see and visit with Mario, the Police Chief had his deputy bring him out.

Our time with Mario was concluded with a prayer as we joined hands. We prayed for Mario's well being and for the safety of his wife and three small children. (By denying his wife's assistance for her husband, this local Police Chief had forced Mario to sleep inside the walled backyard of the Police Station on the ground without food, warm clothing, pillow and blanket, nor, even, his bible.)

Then we went to visit the refugee camp.

As this was our second visit, the refugees recognized and greeted us eagerly. But as in the United States, also in Honduras, the citizenry had their local "Boss Hog" who happened to "appreciate" his authority in being the gate keeper. He would not allow us into the camp. Fortunately, the refugees could not be restrained and they flooded through the fences and gate in order to come out to be with us.

In the situation we happened to be in, our children were superb. Can one imagine how repelled a child might normally react with over 2000 scared and sickly people pressing around him and our van in a small roadway. Well, our children mixed well and began to play chase games with the little refugee children.

Lifting children over the fence, touching one another with love, and praying for the sick among them, our hearts were drawn out with compassion and love. Some slipped letters into Andrew's pocket and hand underlying the authenticity of what was taking place.

In the dark on our way back to Danli, our spirits were heavy as we sensed the awesome needs of these poor people. We were also filled at the same time with joy because of the bond of the love of Christ that firmly existed between us. What a shared and experienced reality in the Brotherhood of the divine Jesus Christ.

Friday—2/7

To eat our big breakfast this morning took awhile, not only because of the amount of food but more so because of our sharing and reliving the previous day's experiences.

In a visit to a nearby village of El Paraiso, we met a Nicaraguan refugee and his family who operated a "safe house" for escaping

refugees. The wife and children of one of his sons had been separated from him in Nicaragua during their escape into Honduras and were apprehended by Honduran immigration authorities and placed into a refugee camp. Because his son was forced to sneak into the refugee camp to be with his family, he eventually found out that a U.N. official (Linda Lamb) had been paying refugees to go back into Nicaragua. This U.N. "gringo" woman was receiving 200 to 500 Lempiras for each refugee she could get to go back. After being loaded on a truck and driven to the border at midnight, the 100 Lempiras that had been given to the refugees were taken away from them by the Sandanistas. These unfortunates were either thrown into prison or were never heard from again. There was direct dealing between the U.N. and the Sandanistas on this matter.

Returning to Danli, Johnny went to pick up the family van at a garage. The cost of a complete brake job—done on all four wheels—was 75 Lempiras ($30).

We left the children behind in Danli with the Stewarts and took Dolly to Tegucigalpa so she would be able to catch a plane ride the following morning to The Mosquitia. As it was too late to return to Danli, we decided to spend the night sleeping on the Friends of the America' a office couch and hoped that there might be space for us on the morning's flight to The Mosquitia—the same flight Polly was getting on.

Saturday—2/8

Woke up stiff, sore, and very hungry. We washed ourselves still not knowing if we were going to be able to fly today. Carmen came by about 6:50 A.M. and said, "Let's go!"

At the airport we were shown the aircraft, a DC 3 cargo plane—1938 vintage. The pilots came but no one was there to load the dried food which had been contributed by the Shaklee Company of California. Carmen said she would have to go and wake up the men she had hired to do the transferring of the cargo.

After an hour's time she returned with the men. With our help in the loading, the plane was able to leave in two hours with us onboard.

By this time and because of all of the work involved, we found ourselves to be hungry and thirsty—we had left our canteens behind in Carmen's car. We also learned that all water in The Mosquitia was polluted.

The flying time was one hour and thirty-eight minutes.

Two chairs were set near the back door for our comfort. As we sat, however, other thoughts went through our minds. Filled to the ceiling with cargo, the plane's door leaking water as we flew through clouds, and Johnny's noticing that some engine gasket or other was leaking oil, we climbed up, over, and through some of the tallest mountains in Central America to a coastal plain stripped of jungle foliage but covered with pines and tall grass. This latter flora was the creation of the wealthy hunters who had burned the jungle in order to facilitate the hunting of deer in this formerly unpopulated area.

The landing was completed on a hidden airstrip among the tall pines and grass.

After the men unloaded the cargo into a waiting gravel truck, all of us got to what turned out to be our "battle stations". Dolly and Nana rode inside the cab while the men with Johnny "clung" to the top of the dried food boxes as the truck driver executed what could be called "battle field maneuvers" keeping the speed of the truck at about 45 miles per hour over a terribly bumpy and muddy trail called a road. The Miskito workers did not seem to mind the ride. They sang, joked, and talked in three languages (Spanish, English, and Miskito) while challenging their physical skill in remaining in an upright position.

When we arrived at a large flowing river called the Rus Rus, we could see whole crews grading the road with picks and shovels, pile driving for bridge construction, loading of gravel, bathing, swimming, and ferrying vehicles across. In the distance singing could even be heard as the men worked.

Rus Rus was a spread out community in a jungle environment—not like the camps near Danli. But still these people in this area were also refugees from the Lenin-Marxist Sandinista domination of Nicaragua. Their needs were great, but these refugees seemed much better off as far a mental well being was concerned. Though they had suffered tremendously at the hands of the Sandanista government and lost all they owned, there was not the haunted blank stares in the eyes of the women that one experienced in the U.N. camps.

The houses here were thatched, built on stilts with split bamboo paneling for side walls with three rooms made by screens that rested upon broad board flooring. A mud-plastered stove and a table were the major appointments.

Near their houses could be found bananas, coconuts, papaya, plantan, yucca, and even deer.

The Friends of the America's clinic served the Miskito Indians with two doctors and two to three full time nurses.

We spent much of our time visiting with the refugees and with one of the doctors and one of the nurses. We also ate at a native restaurant (in a refugee's home).

The Miskito Indians live on a broad area on the Caribbean side of Nicaragua and Honduras. They are Christian with 35% to 40% belonging to the Moravian Church, 30% to the Roman Catholic Church, and the remainder to various Protestant groups.

The DC 3 returned on schedule. While it was on the ground, Johnny decided to examine why the large disk brakes were smoking so much upon landing. He noticed that the inside of the engine cowling was covered with oil that had been draining from the engine . . . hmm.

As we took off Johnny experienced a headache but decided to make the best of the experience he was going through by moving to the other side of the aircraft to get a better view of the moving scenery outside. As he moved to a better position, one of the helpers in the DC 3 asked him if he would like to see out of the front windshield.

When Johnny moved up, the pilots even allowed him to fly the plan. What a great thrill it was for all of us. (It so happened that on the very next return flight from The Mosquitia, these pilots had trouble getting back due to engine problems caused by the leaking oil.)

Because of the late return to Tegucigalpa, we spent the night at the Friends of the America's headquarters.

Sunday—2/9

Driving back to Danli, we stopped at the Zamarrono Valley where the Honduran government runs an agriculture school. We were more than pleased to be able to purchase fresh vegetables, meat, and cheese for the Stewarts as they had been sharing their food. This school had originally been financed by Rockefeller funding for developing nations.

Later we visited a hospital in which malnourished children are brought and sometimes abandoned. The hospital simply consisted of just one little room with small beds and cribs and one nurse to watch and care for about twenty little sick children.

The Stewarts and Nana fell in love with a little girl (Maria) about sixteen months old whose mother lives in Danli but never comes to take the child home.

Johnny's attention was drawn to a six year old girl, severely malnourished and in deep depression, whose mother lived in the mountains.

Truly, we were touched by these little ones so much in need of the love of man and the knowledge of God's love.

After an evening discussing the experiences we had had in Rus Rus and reading Scriptures with our children, we "bedded down" in our van for the night.

"If you feed not the body that stands in need, what benefit is there in saying 'Be ye filled'."

"Faith without works is dead."

Monday—2/10

The Stewarts operated a clinic at their house for people who could not afford medicine. Some mornings there might be 30 people waiting outside when their door was opened.

We visited with many refugee households that had been graciously accepted by the Hondurans. However, because of the great flux of refugees, the burden precipitated a need that was partially filled by the construction of U.N. refugee camps.

With Dolly we visited some homes that Bill realized would have children whose clothing sizes would fit the items in certain "Shoe Boxes" she had brought. At these homes the heart breaking stories they told were touching. The "peace of Communism" is indeed a lie!

Again, we get permission to visit Jacaleapa. Andrew helped us with this. Besides having a Christian friend in the Red Cross office making it easy in the getting of a permit for us, Andrew knew all the ropes, had friends, and a fantastic translator. Surely, God had prepared him for this work.

As it turned out, time did not permit us to drive to the Jacaleapa Camp. However, we did get many good testimonies through Polly's work.

We spent almost all night talking with Marisio, an intellectual refugee from Nicaragua who is married to a Honduran. What mind! What a grasp of the realities of the Nicaraguan dilemma—past, present, and future.

We could have discussed the situation with him all night, but his wife came for him. She was worried and it should be noted here that the Nicaraguan refugees say that the Sandinistas have direct ties with the Russian KGB. Refugees know of whole families that have been killed because of things said to the wrong person.

How citizens within the United States are fooled and kept from the real world close to its doorstep!

Besides renewing our visas, there had to be the renewing of the various types of permits needed to reenter the refugee camps, the picking up of the letters written by the refugees, and checking on Mario's jail sentence besides acquiring his personal testimo-

ny of deliverance from a sentence of death imposed by the misguided leaders in Nicaragua.

Because of family needs, necessity for writing some letters and notes, and government bureaucratic red tape, we did not reach Jacaleapa until after lunch.

Some refugees were very busy constructing a church building while others walked and talked with us. Johnny went down to see the camp's activity at the river. Nana took more pictures. A representative of the refugees handed us a bag full of letters.

Johnny noticed that the river, shallow and very polluted, was full of soap suds from the washing of clothes for a camp of 2,800 people. Few had pails or pans. Many possessed only the clothes on their backs and had to stand naked until these clothes dried. While a mother washed their clothes, the children would be naked until she finished, or, especially, the older children would wear the washed clothes as these dried.

Johnny met a 13 year old boy who spoke English. He actually wrote his story in Johnny's notebook. Because his dad was in prison, his mother and six other children escaped 20 months ago with no hope that his dad would be released. His dad's crime? It was observed that he was not content with the Sandanista government.

As we walked back to our van, we could not help but notice a man with his pants down. He wore a short shirt, no underwear, his genitals totally exposed, and has head bent sideways and slightly down. As we walked towards this man, the 13 year old boy volunteered, "He's crazy. They beat him so much in a Nicaraguan prison that he don't talk or nothing. He's crazy." Then the boy added, "My dad's in prison there, too."

The scene shocked Johnny more than the boy knew. The man, poor soul, for sure, not sexually maladjusted, had just been beaten so badly by the Sandinista Communists that he could not now neurologically control his body and would exhibit long periods of blankness. These symptoms would be with him, possibly, for the rest of his life.

It was impressed upon our hearts that America must be allowed to find out what was going on-this danger so close to our borders. How could our country continue as a nation with the Christian influence so great and not know these things exist. And knowing, how can we remain silent and allow such an utterly inhumane government to exist on the face of the earth?

Being late in the day for a trip to Teupasenti, we decided to go anyway! We traveled with our children, Andrew, and two of the Stewart children. What a road!

We arrived in one piece and presented our permit to visit the camp. Both the Fusep and Acnur officials had no recourse but to sign. But since we were not Hondurans, they requested that we go to the local immigration office. It was closed and had been all day.

We were pleased to find out that Mario was out of jail. Still under house arrest, he invited us into his home and we were privileged to receive our first opportunity to interview this kind, gentle man.

Later at the refugee camp, the people came out to visit us and exchanged hugs and kisses. More letters were slipped to us.

When time came for our departure, pitch darkness prevailed, and we had two and one half hours of driving ahead of us including the treacherous mountain road, a broken bridge, and tired children.

About one third of the way, we stopped and ate food from our van under the stars.

During our absence from Danli, some refugees had been inquiring for us and wanted to give us testimonies of cruelty and torture committed by the leaders in Nicaragua. We prayed that these people would return.

They did come back later and gave us the name of Dr. Carlos Icasa, their contact man in Tegucigalpa. We decided to locate him. We had one forboding question on our minds and this was on the minds of the refugees—"What was happening to the letters after they were sent to the Organization of American States in Washington, D.C.?"

Wednesday—2/12

Arduous as the day had been yesterday, we rested late into the morning. Johnny spent time writing in his diary.

We drove to Tegucigalpa to find and meet with Dr. Icasa. The meeting took place in a supermarket parking lot where there were many armed guards. Dr. Icasa and a young man whose name was Patrick were both armed, also.

We got into Dr. Icasa's vehicle and went to an open cafe not far from the supermarket. Our meeting lasted for a couple of hours. As Dr. Icasa said he would give us copies of Human Rights Abuses committed by the Sandinista government, we made arrangements to pick them up the following day before we left for the United States.

Thursday—2/13

Leaving Danli Bill and Sherry led the way as far as Yuscaran, a small town nestled among mountains. We could not but help to make a comparison with the land cultivated here among the tightly fitted mountains and that which we had seen in the northern mountains of Guatemala.

Yuscaran, a beautiful little colonial town seemingly untouched for decades with cobble stone streets and balconies hanging over garden courtyards—all hanging to the mountainside with steep little streets—is halfway up to the clouds.

The lunch was eaten with the compliments and company of Bill and Sherry.

Then, we continued on to Tegucigalpa and a motel room for the night.

Friday—2/14

With a late breakfast under our belts, we were met in the motel parking lot by Patrick who gave us three large envelopes filled with copies of Human Rights Abuses. He bid us farewell with "God bless you. We pray you will have a safe journey with these documents."

At 1:15 A.M. when we reached the familiar Copan ruins, it was a signal for us to stop and sleep.

Saturday—2/15

Despite the fact that, yes, there were some sick children, and, yes, our sleep had been "on and off again", we began driving toward the town of Copan at 7:15 A.M.

After being briefly lost in the town, we headed for the border on a "beautifully impossible" back country road through many mountain valleys and even some rivers.

Finally, the time came for us to cross into Guatemala, and eventually we reached home in Rosemount, Minnesota safe and sound.

What can one say? How can one express the love, the joy, the heartache, the sorrow, the wonderful blessings of God, and the tremendous burden of trust placed upon us by the Brothers and Sisters in Christ that we saw on our trip? So destitute and torn were they by the circumstances of an oppression that one day may even be ours. Nevertheless, our duty (and there should be no alternative) is this (and we can bear their load): ". . . visiting the prisoner and those who are bound down" or by ". . . helping the captive to go free" as Isaiah commands.

We wish God's love will make more tender the hearts of all who read this dairy. It is only through His power that the needs of these people can be met.

In Gospel Bonds and God's Blessings Upon All of You—John & Nana Gill.

CRIES IN THE NIGHT

(From my Diary in Honduras)

DANLI, HONDURAS, *March 16, 1986.*

The testimonies you are about to read are true.

These declarations were given by refugees from Nicaragua that tell of torture, suffering, and abuse at the hands of their own countrymen. Many were perplexed as to why this happened and were dismayed as to what their future might be. Although they lost family members, their homes, all they owned, and their country, they despaired not of the hope, the tender love, and mercy of their heavenly Father.

I am an American citizen who went to Central America to see, touch, understand, and care for the refugees from Nicaragua. Within a 21 day sojourn into the territory of their present exile, I met thousands of agonizing souls struggling to stay alive and understand what Communism did to them and their land.

Today, a few weeks after the last trip, I am again in Honduras and have just met a group of 500 Nicaraguan refugees who have been starving at a place of refuge in the mountains. After hearing hours of their testimonies and with a heart torn and bleeding in love, I have yielded to fatigue of body.

Lying here in the dark of the night at a Christian mission house, as a few of their leaders rest also, I can hear belabored breathing interrupted by tormented cries. I rehearse in my mind the stories of these persecuted ones. For sure, cries of personal pain, affliction of loved ones, and distress of their people, I know, are heard by others—the angels of heaven. I pray they assist and minister with a soothing salve upon these hearts, souls, and minds in defense from an infection of inhumane treatment suffered at the hands of their fellowmen.

Even as they cry out, I witnessed that their hearts forgive. They knew what their Christ said, "Forgive them Father for they know not what they do."

In Gospel Bonds,

NANA A.J. GILL.

The following are some example testimonies smuggled out of one of the U.N. camps. The refugees begged us to bring their stories back to the people in the United States—Nana A.J. Gill.

Letter No. 1

TO THE PRESIDENT: I want you and all the people of the United States to know the sufferings that we lived in in Nicaragua.

There is no freedom of expression there, they do not respect your rights, they are actually taking people's lives away unjustly: they treat us like dogs. The communist beasts don't have any feelings toward the people. We emigrated from Nicaragua because there were signs of death over there and every place you could go and at each moment.

Here in Honduras as refugees we have a lot of needs (for things such as] medicines, food, and clothing. We are all 100 percent sick because we do not have good medical

attention. Ninety percent are undernourished because there is not enough food because the different organizations like the Catholic Relief Organization and the Red Cross do not provide all the necessary food for us. We don't have good nutrition. Almost 80 percent of us have only half a suit of clothing and they do not allow us to work here to earn money or have a way to earn clothing. What I just listed is just a bare introduction to what our needs really are as refugees over here.

Please be careful with these Communist people. It is a Nicaraguan refugess that signs this. I am in exile in Honduras. I will not put my name on this paper for reasons of security, because here among the refugees there are many infiltrated communists and if they find out that we write these messages, they might make arrangements to take our lives away. We are very seriously threatened inside the refugee center. We beg you to please do something for us, as we cannot do anything to help ourselves. Thanks, brothers.

Letter No. 2

TEUPACENTI, EL PARAISO,
HONDURAS,
February 7, 1986.

DEAR BROTHERS: In these moments of testing, that we pass through in exile, for the honor and glory of God, receive our most fruitful blessings in our Lord Jesus Christ. Brethren, I give infinite thanks to the Holy Spirit of God, that in this moment impels me to give testimony of our heavenly Father.

As it is known to all of you that in our suffering country of Nicaragua, now one cannot live with Christian dignity, owing to the great persecutions without truces, imprisonments, unjust tortures, mass killings, indiscriminate rationings of food, astronomical economic inflation and some of the greatest repressions—freedom of worship, freedom of press, complete violations of human rights, and the forced obligation of being organized in state entities—that in history like those which are employed by the Communist system which actually now governs Nicaragua. Principally to the Christians, Sons of God (Evangelicals) who with great sacrifices and hard tests we brought to a head the doctrine of our Lord Jesus Christ, and the preaching of the Word of God, for which we, obeying the Word of God, in the command of God which says. Go ye therefore throughout the world and preach the gospel to all living people. (Mark 16:15). We see ourselves obliged, and with the direction of the Holy Spirit we looked for a way to leave our mutilated country, as across mountains and fields of battle where recording themselves the most hard battles of the country, and only by the immense mercy of God could He get us out of "Oven of Iron", Nicaragua. Today we find ourselves in the character of refugees in sister republic of Honduras, and under tests and struggle the Church continues walking forward preaching the Word of God.

Brethern, I do not complain of suffering all this because such it is written that we should all suffer for the cause of Christ. When this type of government is exercising its power over the earth, I lament that being affected principally the children.

Administering the little bit of weekly food, and making great sacrifices, hurriedly the week adjusts itself, and the worst of it is that we do not have permission to venture out around the town to try and get some food stuffs to try to complement the daily diet that can be little worth civilized people; on the other hand it has to be kept in mind that the food stuffs are donated, great quantities of products. Basically, in the refugee camps such donations are unknown.

We give infinite thanks to our Lord Jesus Christ for having sent you to us to put in the light all of the cruelties and violations as of our rights as humans and Christians as we are.

We have faith in our Lord Jesus Christ that you are servants of God sent by His immense mercy, and that you will do everything possible so that the Nicaraguan community in exile changes circumstances and so that we are considered as human beings.

Without further ado and trusting in our heavenly Father that He will concede the petitions of our hearts, may you receive abundant blessings from the Lord Jesus.

Letter No. 3

February 1986.

To the reader of this letter: I hope you find yourself finding out what the campesinos of Nicaragua are suffering. In 1982, thousands and thousands came here. I am a farmer and I left my country because of the violent attacks of the Sandinistas. I left on the seventh of September, 1983. We suffered a lot of hunger and when we entered Honduras the same thing happened. We know the situation of our country. We were tortured by the regime in Nicaragua. I'm from Managua. I'm a farmer and I grew up in Neva Segovia Mura.

The regime fools a lot of people because all the reporters are Marxists. The Sandinistas come and invite them to come in, men who have good aims and who would like to see the needs of the people, but the Sandinistas do not take them to where the needy people are. They take them to the luxurious mansions that are left inside Nicaragua.

I have seven children and I'm suffering a lot. Now that I am a refugee, I need a lot. Before, I had enough to keep my children, but not inside the refugee camp, I cannot do anything for myself, much less for my family. They give me five pounds of corn for eight days, seven ounces of sugar for eight days. My children are undernourished. We get beans, two ounces of coffee, we have no clothing. We are naked. We have no shoes. Thank you very much.

We are not like the birds who are free and can fly in the air and live off other things. We are men who live off the land.

Letter No. 4

TEUPACENTI, EL PARAISO,
HONDURAS.

TO WHOM IT MAY CONCERN: I am a Nicaraguan. I came the 6th of November of '82. I came from Murra N—S—. We came by way of the mountains until we arrived here in Honduras. I came on foot with my family, nothing more, my wife and my children, leaving the rest of the family behind. The motive for my leaving was that they wanted to take my sons away from me for the military service, and they accumulated (evidence) against me as a counter-revolutionary (translator's note: the sense here is of false evidence, false accusations). I left behind my property and my houses—I had two-houses—and my animals—I had 70 animals, between beasts and cows; I don't know what kind of an end my animals came to. Now we are here in the midst of a great calamity, because they give us food, but it is very limited. They give us 1 lb. of beans per person for 8 days, 1 lb. of rice per person for 8 days. Corn they give us 5 lbs. per person. When they give us meat it's half a pound—and cheese, half a pound per person for 8 days, and sugar, they give us 8 oz. per person; flour (or meal) ½ lb., also milk, ½ lb. Soap they give us half a bar per person—but how good it would be if it were a big bar of soap; but it is very cheap soap and the bar is very small; if you do a load of laundry there isn't enough soap left with which to take a bath. Salt, they give us 12 oz. for 6 people. How do we do that? We can't get used to it; the salt is what bothers us the most. We sell the rice to buy salt and sugar. But we hope that you will do all that is possible to help us to be able to return to our republic, but that it not be with the current regime, because we have seen the gross things that the Sandinistas have done in our home town. There near our home town, they killed 17 Evangelists. They killed them because they were in parochial school. They (the Sandinistas) took them (the Evangelists) out of the house that they were in and they brought them out above the town and they killed them close to the town. Various people saw them, because they weren't buried well. The Sandinistas made the Evangelists make their own hole, then they killed them, leaving them almost outside. And the animals, they killed the husband and 3 sons of a woman from Doradito murra, and the woman was going around like a crazy person, because they (the Sandinistas) said to her that they (her family) were in Quilal, it's another town of Segovia, and when she went to look for them she looked down the road where they had gone from her house, she saw that by the side of the road there was something like a sepulcher, and she came closer, and she says that there was a man's leg outside of it, and by the clothing on it, it was her son. And of these things we have seen several. We won't recount more because the piece of paper is getting to be small. I sign together with all of my family.

Letter No. 5

THE FOLLOWING ARE MY CHILDREN

For the American Brothers: I send a very, very warm greeting in the name of our Lord Jesus Christ and I pray to the Lord to bless you all very abundantly. Now I continue the following

Brothers, the reason I write you these very humble words is to communicate with you all and tell you what my own needs are and what I am suffering. I need shoes for my husband and my little girls. We need clothing, we need blankets and if you really help us in this way, God is going to multiply in a great manner for you all. I live in house number—. If you could only come and see that the food they give us is not enough, that it doesn't last long enough!

We are not here because we want to be here. We came to avoid being put to death. We left our parents as if we had thrown them away because the Sandinistas persecuted us and tried to kill us Christians like animals because the communist beasts don't believe in God. Their god is arms. When they are able to get their hands on a Christian, they skin him alive, they take his eyes out, they pluck his fingernails out, break out his teeth, and they torture and then kill him. The young men are armed and sent to the battle front from the age of 10 up. They take them away from their mothers to put them as bait, to send them to the front line to battle.

This is all I have to say for now.

EPILOGUE

Nana and John each flew back to Honduras on special humanitarian missions.

In March Nana traveled to Honduran-Nicaraguan mountain areas and experienced heart rending interviews with Nicaraguan exiles who had recently risked the land mines and perils of escape from their homeland.

Johnny returned in July to acquire additional need-letters from new families and from others that were missing due to the extraordinary circumstances they were under. It was important to secure these letters as the United Nations officials in charge of the refugee camps insist that every family in a camp receive a parcel in order for an outside contributor to be able to work for its improvement. Among other details, he also wanted to organize logistics involved in the delivery of parcels that were being prepared and boxed within the United States and Canada.

There was special interest for Johnny in making sure that the Teupasenti Refugee Camp got their need-letters completed. At this camp he also wanted to get a better photographic representation.●

THE NATIONAL COUNCIL ON ALCOHOLISM

● Mr. DODD. Mr. President, we have spent a great deal of time over the past several weeks focusing on the crisis presented by childhood alcohol and drug abuse. Both the Democratic Task Force on Drug Abuse on which I serve and the bipartisan working group have highlighted the importance of education in preventing youthful substance abuse.

I am happy to report that citizens in my State of Connecticut have taken the lead in efforts to educate our youth about the Nation's No. 1 drug problem, alcohol abuse. One specific effort I would like to draw the Senate's attention to has been undertaken by the National Council on Alcoholism. This council and its local affiliates are working nationwide on a voluntary basis to prevent and reduce alcoholism and alcohol related problems.

In April 1986, the National Council on Alcoholism [NCA] launched an educational campaign to prevent children from drinking. The theme of the campaign is, "Say No, and Say Yes to Your Life." The message is that alcohol is a potentially addictive drug, drinking is "uncool" and there are ways to say "no" or "not now" to alcohol.

The NCA developed the campaign following a 1983 survey by Weekly Reader, which found that about 30 percent of fourth graders—9 year olds—said kids their age pressure each other to drink. Several other studies point to the fact that children are abusing alcohol at an earlier age and the number of adolescents with serious drinking problems is increasing.

The Say No, and Say Yes to Your Life Program is reaching children and their parents in classrooms and communities from Connecticut to California. Moreover, younger and other Americans are now hearing public service warnings about the risks of alcohol abuse on radio, seeing them on TV, and reading them in newspapers and magazines. This public awareness campaign has been developed for the NCA by the N.W. Ayer Agency.

Thus, NCA has started the first nationwide effort to combat drinking among children between the ages of 8 and 14 by conveying a simple, unambiguous message about the dangers of alcohol. The NCA campaign is dramatic and sending a very clear message about the dangers of drinking.

The Nation's oldest newspaper in the schools, Weekly Reader, has developed with NCA a series of educational materials for students in grades 3 through 6, their parents, and teachers, which support the "Say No, and Say Yes to Your Life" message. Last May, such Weekly Reader/NCA supplements reached 100,000 classrooms and nearly 4 million children. This fall, the NCA/Weekly Reader focus will shift to parents and teachers through special supplements prepared in conjunction with Prevention Institute of Lexington, KY.

The "Say No, and Say Yes to Your Life" campaign is being carried out at the grassroots level by NCA's 184 State and local affiliates. These affiliates have been promoting frequent use of media spots on local television and radio stations and in consumer publications. Community health, education, and social service groups across the country have been encouraged to order the NCA/Weekly Reader supplements and posters through local NCA affiliates.

The NCA prevention program will also study the effectiveness of a variety of warning messages in teaching students and parents guidelines for reducing the risks of alcohol abuse. The NCA messages and curricula seek to delay the onset of drinking, to increase abstinence, and to decrease high-risk drinking.

In closing, Mr. President, the NCA youth prevention campaign focuses attention on alcohol, the most widely used and abused drug in this country. I am pleased to report on this important campaign designed to reach children at a time when the Senate is considering a variety of strategies to combat alcohol and drug abuse amount younger and older Americans.●

TRANSFER TO AIRPORT PROPERTY IN ALGONA, IA

● Mr. GRASSLEY. Mr. President, I urge the passage of the bill (H.R. 4492) to permit the transfer of certain airport property in Algona, IA, as amended.

The city of Algona received its airport land from the Federal Government in 1947. When the city received the land, the deed stipulated that all of the land must be used for airport purposes. In 1976, the Congress enacted a law that permitted a release of the airport land from the usage requirements if two conditions are met; namely that fair market price must be obtained from the sale of transfer of the land and that the proceeds of the sale must be used for airport purposes. The legislation before us would enable the city of Algona to transfer 10 acres of land without complying with the two conditions.

We have been told that the airport will not interfere with operation or future development of the airport. The transfer will meet local community economic needs and allow the land to be economically and efficiently used to benefit Algona's citizens. I truly believe that these local interests exceed what very little come before the interest the Federal Government would have in limiting the use of all the airport land solely to airport purposes.

There are many reasons why this exchange has merit. The existing National Guard Armory is located in a congested area. There is inadequate training area, and parking space and the need for more land to expand is great. If the armory were located at the airport, not only would the parking and training problem be solved, but the expansion would warrant a significant increase in personnel. This would benefit the entire community. It is equally important to see that such a transfer is indeed in our national interest. Clearly, the National Guard Reserve units contribute significantly to our defense capability while reducing defense costs to the taxpayer. The expansion of this particular unit would serve a much wider population than Algona; it would indeed serve the Nation's interest.

In the bill now before us, the unconditional release is limited to the land being transferred for the armory. This will preserve the release conditions for the rest of the airport.

I urge my colleagues to pass this legislation.●

COOPERSTOWN CONFERENCE AWARD TO SENATOR PRESSLER

● Mr. PELL. Mr. President, several months ago the Eastern Railroads General Managers' Association, an organization comprised of railroads which operate throughout the country, held its ninth annual conference in Newport, RI. The Cooperstown Conference, as this meeting is called, provides Government and industry officials with an opportunity to meet and exchange ideas regarding the critical issues facing the railroad industry.

Each year the association presents the Railroader of the Year Award to a Government official recognized as making significant contributions to the continued vitality of the railroad industry. Mr. President, I am pleased to report that one of our colleagues, the distinguished senior Senator from South Dakota, Senator PRESSLER, is this year's recipient of the Railroader of the Year Award. Senator PRESSLER is the first U.S. Senator ever to receive this award. He was honored in particular for his leadership in developing and pursuing a policy to encourage the development of regional and shortline railroads to preserve service on light density rail lines as an alternative to abandonment. He has become the premier spokesman in this body for developing this as a national policy, and has done an impressive job thus far. Knowing Senator PRESSLER, I am certain we can expect to see much more from him on this issue in the years ahead.

I might add that we in Rhode Island are fortunate to have Senator PRESSLER back in our State later this month. As Chairman of the Senate Subcommittee on Business, Trade and Tourism, he will be speaking at the Rhode Island tourism conference which I will be hosting on October 20.

Mr. President, I ask that a statement by John Snow, president and CEO of CSX Rail Transport be inserted in the RECORD immediately following my remarks. Mr. Snow presented the Railroader of the Year Award to Senator PRESSLER. I feel his words best describe the valuable contribution our distinguished colleague has made in this important area.

The statement follows:

REMARKS OF JOHN SNOW, PRESIDENT AND CEO OF CSX RAIL TRANSPORT

It is a pleasure for me to have been asked to present the Cooperstown Conference Railroader of the Year Award to United States Senator Larry Pressler.

Senator Pressler received his undergraduate training at the University of South Dakota. There he earned a Rhodes Scholarship at Oxford University. He then did a tour of duty in Vietnam; came back to the United States to get both a Masters and Law degree at Harvard; and then worked in the Kissinger State Department until he was elected to Congress in 1974. After two terms, he was elected to the Senate in 1978 and was just reelected for his second term as South Dakota's senior Senator.

The Cooperstown Conference is unique in our industry. It is a place where policy makers from government and railroad executives and operating people meet once a year to look at the future of transportation. Each year we honor one individual from the government side who has made a significant contribution to the development of sound policy that promotes an efficient private sector national rail transportation system. Tonight that award goes to the outstanding legislator of the year, Senator Larry Pressler.

I have had the privilege of getting to know Larry much better over the last year. I suppose you could say Elizabeth Dole brought us together, and I thank her for that. One of the things I have come to admire most about Larry Pressler is his independent spirit and his ability to identify and ask the questions that need to be answered. He came into the Conrail process for example, with an open mind, and he did ask the tough questions—of both sides. He gradually developed issues that neither side was talking about in the beginning of the process. And it was those very issues, and his arguments, which ultimately carried the day when they were subsequently echoed in the House of Representatives.

Larry Pressler is the first United States Senator to receive the Cooperstown Conference Award. He is being honored for his work on a number of rail issues, and in particular for his foresight in the development of a policy to allow regional railroads to preserve service on light density lines, and to encourage their development as creative alternatives to abandonment in this era of deregulation.

Larry has not always been on the same side as some of the railroads in this room. But with us or against us, he has always been an effective Senator. in 1980, Larry Pressler was an opponent of the Staggers Act which deregulated our industry. He was representing constituents in South Dakota who were greatly concerned that deregulation would lead to abandonment of service in rural areas. Indeed, following enactment of the Staggers Act, a major railroad in his state filed to abandon several hundred miles of its South Dakota line. Senator Pressler fought us and won. He successfully led the opposition to that abandonment, and it was denied by the Interstate Commerce Commission.

Many elected officials would have been pleased with that success and dropped the issue. Not Senator Pressler. He knew that the ICC decision had only bought them time. Thus, Senator Pressler worked with that railroad and the shippers in the state to find a different kind of solution. He rode the line, and conducted many meetings with shippers and railroad people. He became convinced that the only long-term alternative to abandonment would be the development of a regional railroad with operating efficiencies and employees and management close to the community. He got the job done. The Class I—the Chicago & North Western—is now on the verge of a transaction which will result in the creation of a new 1,000 mile system known as the Dakota, Minnesota and Eastern.

In the creation of the Dakota railroad, he has seen an opportunity to develop a new policy initiative that can preserve rail service in light density areas throughout the United States.

Senator Pressler will conduct hearings later this month before the Senate Subcommittee on Surface Transportation on the creation of regional railroads. He has announced that he intends to explore all of the important issues. He is going to look at ratemaking and contractural relationships between Class I's and the smaller carriers. He is giong to explore the costs of insurance and the appropriateness to small railroads of the Federal Employers Liability Act (FELA). He intends to open up politically sensitive issues that others refuse to touch. Senator Pressler has announced his intention to craft a policy that will allow shortline and smaller regional railroads to compete effectively in a deregulated environment.

In my opinion, the leadership being asserted by Senator Pressler in this area is far-sighted, and the initiative he has begun may well be the most important development in the railroad industry for the next five years. It is also of enormous importance to the major carriers such as CSX who must streamline their systems to survive this new age that we have so boldly entered in the last five years.

We look forward to working with Senator Pressler and his colleagues over the next two years in developing this important policy initiative.

Finally, I return to an issue that has occupied all of our attention the last year—the sale of Conrail. The Administration proposal to sell Conrail to the Norfolk Southern divided the Congress and the railroad industry. Senator Pressler's work on this issue is a good example of this effectiveness as a legislator. Since I was in 100 percent personal agreement with the Senator, I will assert my prerogative to talk about it a bit more.

Senator Pressler was the first legislator of either body to recognize that the sale of Conrail is not a Northeast regional issue, but a national issue with important ramifications for the Midwest sector of this country. Following hearings of the Senate Commerce Committee and numerous private meetings in his office, Senator Pressler concluded that a sale to Norfolk Southern was anti-competitive and bad for the Midwest. He successfully urged Commerce Committee Chairman Danforth to hold hearings on the impact the proposed merger would have on the Midwest. The Senator was relentless in his pursuit of information about this transaction and its impacts. He spearheaded a drive that independently produced thousands of computer statistics on the impact of the sale on shippers and communities. He insisted that exactly the same high standards be used in the methodology that produced these statistics as were being simultaneously used by the Justice Department in analyzing the Santa Fe/Southern Pacific merger proposal. Few who are involved in the Conrail sale—including, I dare say, the Secretary of Transportation and the Attorney General of the United States—will soon forget Senator Pressler and the "Pittman methodology" as applied to the Conrail sale.

In my view it was Senator Pressler's arguments and concern that made the Conrail sale a national issue. I believe he was personally responsible for seeing that the Senate gave the sale proposal the serious deliberation it deserved.

Senator Pressler prevented a rush to judgment that would have been unfair and wrong from my perspective. The vote in the Senate was surprisingly close. But even through our view did not prevail there, it was the very issues which Senator Pressler defined and the very arguments he developed which were used to kill the Norfolk Southern merger proposal in the House.

In the House of Representatives, on April 29, Chairman John Dingell of the House Commerce Committee announced that the sale of Norfolk Southern was "mired in a hopeless swamp of confusion and controversy" and called for a public sale. There is little question in my mind that it was the long hard march of Senator Pressler on this issue that has led to the growing opposition this transaction has encountered in the House of Representatives. Although this war is not over, I confidently predict that Senator Pressler's position in favor of a public sale of Conrail will yet win this Congress. That is, I predict he will win the war.

Senator, it has been my special privilege to get to know you over the past year. We thank you for your outstanding leadership and your contributions as a most effective legislator. The people of South Dakota are fortunate to have you in their corner. I am happy to now present you with the Cooperstown Conference Railroader of the Year Award for 1986.●

EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

● Mr. SIMON. Mr. President, the Employment Opportunities for Disabled Americans Act will remove a major disincentive to employment for individuals with disabilities who face the loss of health care coverage they are receiving under the Supplemental Security Income Program. This bill will make permanent section 1619 of the Social Security Act, which was enacted in 1980 as a temporary demonstration program to allow working SSI recipients to continue receiving SSI cash payments and Medicaid coverage. It will also ensure that potentially eligible recipients will be made aware of these provisions and that Social Security Administration staff will be trained in their implementation.

The effect of these amendments will be to increase the number of SSI recipients who are aware of the possibility of their keeping necessary SSI and Medicaid benefits while they are working. Since they will also have the assurance that these benefits will not be lost through an expiration of this authority, they will have greater incentive to participate.

As pollster Lou Harris told us early this year, two-thirds of all disabled Americans, between age 16 and 64, are not working. Two-thirds of those not working say that they want to work. Close to 20 percent of those who want to work say that fear of a loss of benefits is an important reason why they are not working full time. The amendments we are adopting today will not solve all of the employment problems for persons with disabilities, but they should make a major improvement, and it is a step that we should be taking.

I commend Senator DOLE for his leadership on this matter in the Senate, and my former colleague on the House Subcommittee on Select Education, Representative STEVE BARTLETT, for his persistence and determination in seeing that this measure is finally enacted. I am pleased to be an original cosponsor of the Senate bill, and urge my colleagues to support it.●

NAUM AND INNA MEIMAN: THE EDGE OF DARKNESS

● Mr. SIMON. Mr. President, I welcome the news of the release of several prominent Soviet human rights activists in the last few months. Despite this good news, we must not forget that there are thousands of refuseniks and dissidents still held within the Soviet Union. According to the international law adopted in the Helsinki agreements, all people wishing to emigrate from one country to another should be permitted to do so. I look forward to the day when the Soviets change their policies and adhere to agreements to which they have agreed.

My friends Naum and Inna Meiman are still being held in the Soviet Union. Inna is a 54-year-old woman who is dying of cancer. After the removal of four malignant tumors from her neck, the Soviet doctors find that they can do no more for her fifth and most recent tumor. Fortunately, there is experimental treatment available to Inna in the West.

For every day that goes by without the required exit permission, Inna comes closer to dying an unnecessary death. This situation has gone on too long.

The meeting tomorrow between President Reagan and Secretary General Gorbachev presents the perfect opportunity for the Soviets to resolve this case. In the name of human decency and common understanding, I ask the Soviet Union to allow the Meimans to emigrate to Israel while Inna still has a chance to live.●

BIRTHDAY CELEBRATED BY DAME ELSA DE BRUN

● Mr. PELL. Mr. President, this Saturday, October 11, 1986, marks an important milestone in the life of Dame Elsa de Brun, one of our finest artists and also a dear friend. Dame Elsa, who is known professionally as "Nuala," will celebrate her 90th birthday and I want to take this opportunity to wish her well.

Dame Elsa came to the United States from Sweden over 70 years ago and did not begin a serious career as an artist until she was 50 years old. But her beautiful pastel and oil works quickly became noticed by galleries, museums, and collectors in both Europe and the United States.

Her works have now been viewed in over 30 solo exhibitions and have appeared in 26 museums including the Hirshhorn Museum and Sculpture Garden here in Washington.

In June 1985, Dame Elsa married Patrick Farrell in New York City after an extraordinary 50-year courtship. They are a truly remarkable couple. My warmest congratulations go to Dame Elsa—also known as "Nuala"—on her upcoming 90th birthday.●

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. PACKWOOD). The majority leader.

Mr. DOLE. Mr. President, I will take just a moment.

First of all let me indicate that we will have the Senate amendment on the prepared drug bill. I believe in nearly every instance it is totally a bipartisan effort with maybe one or two exceptions which the staff is still working on. One involves a provision of Senator WILSON, that Senator BIDEN has an interest in. Another is the level of funding for State and local enforcement.

The amendment that we will offer does not contain the death penalty but the death penalty is in an amendment coming from the House so it will be part of it.

Again, I am not certain how we can dispose of that. Cloture will be filed. We will not have a pro forma session tomorrow. So the cloture vote will occur on Wednesday, which will give us Tuesday, hopefully to dispose of reconciliation, which I know the presently Presiding Officer will be happy to dispose of. It is down to one or two items. It involves the distinguished Presiding Officer, Senator PACKWOOD, chairman of the Finance Committee, and Senator LONG. It is a bipartisan opposition to a certain provision that the House still insists on dealing with unemployed parents in an AFDC provision. That is the one provision that is holding up the entire reconciliation package.

The President has indicated in a letter transmitted to me by some electronic device, I guess, from Reykjavik, Iceland, last night that he would veto reconciliation if that provision were in it. So I hope we can resolve that.

I believe we have made progress on the continuing resolution.

I have indicated to a White House representative that I did not see much purpose in some of us staying here to midnight to watch to see if they made enough progress before we acted on the continuing resolution. I think, if I am correct on the time, it would be about 4 a.m. in the morning in Iceland. I am not certain they would want us to call them at 4 a.m. in the morning. So they are calling them now to see if we might be able to resolve that difference.

As I understood the President when he left, he did not talk to me directly, but as I understood the President's concern before he left for Iceland, his primary concern was in the defense area. As the minority leader has observed earlier on the floor that matter has been resolved.

There has been a compromise, some give and take on each side, with the outstanding work by Senators WARNER and NUNN on behalf of the Senate working with Republicans and Democrats in the other body and with administration officials.

It is a compromise. I guess you could say the House won on ASAT; the administration prevailed primarily on SALT. Nuclear testing will depend on whether or not they can agree on verification procedures. But the President did indicate he will submit the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty at the start of the 100th Congress.

□ 1750

If we cannot get an agreement on verification, then there will be appropriate reservations on verification and the agreement will not go into effect until those procedures are agreed to. So I would guess in that area it was again a compromise.

SALT II incorporates the Senate Department of Defense authorization bill language. It is a sense of the Senate that the United States should observe sublimits but that we should not be bound to abide by a treaty that the Soviets are violating. And that, I think, is a major step in the right direction as far as the President was concerned.

Chemical weapons. Binary weapons production goes forward, but Bigeye, the one we had a vote on here, is put off.

SDI funding and MX procurement again were more or less compromised, splitting the difference.

I read that Mr. Speakes, speaking on behalf of the President, indicated the President is grateful for this show of unity. I understand the Speaker of the House and the majority leader have talked to the President about an hour ago, hour and a half ago, by telephone.

So it would seem to me the big stumbling block in getting the continuing resolution put together is behind us. I am advised by a number of members on the Appropriations Committee that they believe they can finish their work tonight on the big CR. Something could happen. I understand there are a couple of absentees that might cause problems. But even if they did finish tonight, it would take 2 to 3 days to enroll the measure.

So I will advise the distinguished minority leader as soon as I have word. It would seem to me we ought to lay down the Senate amendment on drugs, we ought to pass the CR, and go home. That would be the logical, sensible, reasonable thing to do, which probably means we will do something else. [Laughter.]

In any event, that is the course we are pursuing. I thank the distinguished minority leader for yielding. I will advise him as soon as I have word from representatives of the President.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

IMMIGRATION REFORM

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1200.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 1200) entitled "An Act to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees:

From the Committee on the Judiciary, for consideration of the entire Senate bill and House amendment: Mr. RODINO, Mr. KASTENMEIER, Mr. SEIBERLING, Mr. MAZZOLI, Mr. SYNAR, Mr. FRANK, Mr. SCHUMER, Mr. SMITH of Florida, Mr. BERMAN, Mr. BOUCHER, Mr. BRYANT, Mr. FISH, Mr. MOORHEAD, Mr. LUNGREN, Mr. MCCOLLUM, Mr. SHAW, and Mr. DEWINE.

From the Committee on Agriculture, solely for consideration of sections 121-125, 202(h), 203, and 304 of the Senate bill and sections 116, 121, 204, 301-305, and 701 of the House amendments: Mr. PANETTA, Mr. HUCKABY, and Mr. MORRISON of Washington.

From the Committee on Education and Labor, solely for consideration of sections 101(d), 121-125, 202(h), 203, 304, 402, and 604 of the Senate bill, and sections 101, 121, 201(h), 204, 301-305, 316(d), 402, 403, and 701 of the House amendments: Mr. HAWKINS, Mr. FORD of Michigan, and Mr. JEFFORDS.

From the Committee on Energy and Commerce, solely for consideration of sections 125(b), 202(h), 203, 304, and 404 of the Senate bill, and sections 121, 201(d), 201(h), 204, 404, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Mr. DINGELL, Mr. WAXMAN, and Mr. DANNEMEYER.

From the Committee on Ways and Means, solely for the consideration of sections 121(a), 121(g), 121(h), 124(c), 125(b), 202(h), 203, 304, 404, and 602 of the Senate bill and sections 121, 201(h), 204, 302(b), 402, 404, 407, 601, 701, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act: Mr. FORD of Tennessee, Mr. PEASE, and Mr. DAUB.

From the Committee on Rules, solely for the consideration of section 604(b) of the Senate bill and section 811 of the House amendments, and modifications committed to conference: Mr. BEILENSON and Mr. TAYLOR.

As an additional conferee, solely for consideration of title VIII of the House amendment, and modifications committed to conference: Mr. MOAKLEY.

Mr. DOLE. Mr. President, I move that the Senate disagree to the House amendment and agree to the conference requested by the House and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. HECHT] appointed Mr. THURMOND, Mr. SIMPSON, Mr. DENTON, Mr. MATHIAS, Mr. KENNEDY, Mr. SIMON, and Mr. METZENBAUM conferees on the part of the Senate.

OMNIBUS DRUG ENFORCEMENT EDUCATION, AND CONTROL ACT

Mr. DOLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5484.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

(The amendment of the House is printed in the RECORD of October 8, 1986, beginning at page 29608.)

Mr. DOLE. Mr. President, I move to concur in the amendment of the House with a further amendment which I send to the desk.

AMENDMENT NO. 3275

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

In lieu of the language of the House amendment insert the following:

"That this Act may be cited as the Anti-Drug Abuse Act of 1986."

MODIFICATION OF AMENDMENT NO. 3275

Mr. DOLE. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

(The modification of amendment No. 3275 will be printed later in the RECORD.)

□ 1840

Mr. DOLE. Mr. President, let me indicate that this, probably, with one large exception, is a bipartisan piece of legislation.

Mr. CHILES. I agree that the Senate amendment, with the one exception cited by the distinguished majority leader, is a bipartisan package.

Mr. DOLE. That is right. Mr. President, I thank all Senators on both sides of the aisle. I am not suggesting that there are not some differences that may have to be resolved by amendments. The Senator from Louisiana has indicated to me and the minority leader, that he has a problem with one of the very good provisions. He does not feel quite as I do about it.

There are differences among Senators on both sides. It is bipartisan—it

was, when it left here. The House has made some changes and we have made some changes and modifications, and I hope we can move quickly on this.

There is one major difference among Senators—not Republicans or Democrats, necessarily; but there are Members on each side of the aisle who feel strongly both ways about imposition of the death penalty. There is an indication that that may be debated at length.

CLOTURE MOTION

Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion will be stated.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment with a further amendment to H.R. 5484, the omnibus anti-drug bill.

Bob Dole, Strom Thurmond, Paul Trible, W.D. Armstrong, Mitch McConnell, Malcolm Wallop, Paula Hawkins, Chic Hecht, Don Nickles, Paul Laxalt, Al Simpson, Pete Wilson, Orrin G. Hatch, J. Warner, Chuck Grassley, James T. Broyhill, and Lawton Chiles.

Mr. CHILES. Mr. President, I concur with the minority leader and hope we will be able to get passage of this. I think it would be tragic if we do not, having gone this far on a very far-reaching piece of legislation. It deals with eradication; interdiction; increases for law enforcement, both at the State and local levels; penalty provisions, with mandatory penalties especially dealing with crack cocaine; an increased effort for education and treatment; as well as providing additional prison space. We covered the gamut.

I know that this will be of tremendous assistance to my State and every other State in the Nation that is facing the incursion of drugs we are facing.

It would be tragic if we lost this bill and lost a year in being able to work on this problem. The continuing resolution conference is proceeding, to come up with a funding mechanism for this bill, and I hope that next week we will be able to complete passage of it.

Mr. DOLE. I thank the Senator from Florida and I thank the distinguished minority leader and members of his staff and other staff members on both sides, who have been working on this matter for the past 24 hours.

I think it is fair to say that we do not intend to leave here until we have completed action on the Anti-Drug Abuse Act.

Mr. CHILES. I am glad to hear that.

Mr. DOLE. I know there is a major difference. There must be some way to resolve that to the satisfaction of Members on both sides of that issue. Notwithstanding that, we should not let one provision derail the entire drug package.

Mr. CHILES. I agree with that very much.

I know that the minority leader can support the death penalty; I certainly can; I know the majority leader can. I think the three of us would agree that that is not to say we have to have that at the expense of losing this bill. On the other hand, it is a feature that I think would be an addition and help, and I wish we had it. There is so much good in this bill and so much that would be of help to my State and to every other State that I hope we are going to get it passed one way or the other.

Mr. DOLE. I indicate to those who have a different view than that of the three of us with reference to the death penalty that they should not misunderstand our willingness to try to work out some compromise. It will have to be a compromise. We are not talking about surrender, because I would guess—guess only—that probably two-thirds or more of the Senators support the death penalty provision that is in the last House-passed amendment.

We have been in preliminary discussions with Members on the other side of this issue. There may be a way to have a separate vote on that issue. If we can work something out along those lines, I think it might satisfy those who hold the view that the Senator from Florida, the Senator from Kansas, and the Senator from West Virginia hold.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1850

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAINLAND TOUR BOAT FACILITY AT FORT SUMTER NATIONAL MONUMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 967 (S. 2534), dealing with Fort Sumter National Monument.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, Mr. THURMOND has been to see me at least, I believe, five times today about this measure, and I have long since forgotten how many times yesterday, or the day before, so I surrender.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2534) to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic):

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for needed facilities for vistors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this Act referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility," which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument and subject to the provisions of this Act.

SEC. 2. (a) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to the first section of this Act, the Secretary is authorized—

(1) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (b), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(2) to grant covenants or easements for ingress, [egress, and vehicular parking] *and egress* to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(3) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(b) Any coveyance made pursuant to subsection (a)(1) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of

the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (a)(1) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (a)(1) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

SEC. 3. Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

SEC. 4. (a) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this Act, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in the first section of this Act and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in the first section of this Act, sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in the first section of this Act.

(b) In addition to the sums made available under subsection (a), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 5. The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessasry for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

Mr. BYRD. Mr. President, when these two South Carolina Senators gang up on you, you feel like you have been hit with a 10-ton truck. I have had not only the battering from the left, but the battering from the right, and that means the Hollings-Thurmond duo have just about, together with the aid of a cold, put me in the bed for the evening.

Mr. THURMOND. Mr. President, I rise today along with my colleague from South Carolina, Senator HOLLINGS, in support of S. 2534, legislation authorizing the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument in Charleston, SC.

Fort Sumter is one of the most historic landmarks in our Nation, and each year almost 180,000 tourists from throughout South Carolina and the Nation visit this unique fortress which stands on a small island at the mouth of Charleston Harbor. It was at this fort that the first shots of the Civil War were fired, when Union troops, under the leadership of Maj. Robert Anderson, refused to surrender Fort Sumter to Confederate Gen. Pierre Beauregard.

In 1948, Fort Sumter was designated a Civil War Memorial and also became part of the National Park Service system. Since 1948, tens of thousands have been ferried in boats from the Peninsula of Charleston to the fortress island and the number continues to grow each year.

Despite the busy traffic between the city and the fort, the National Park Service has never had a permanent dock from which boats can launch to take visitors to and from the island. Instead, the Park Service has utilized space in the city marina for this purpose. Unfortunately, this option will not be available within the next 2 years as construction of an expressway is planned for the site from where the boats currently launch.

Recognizing the eventual need for a new location for the boat dock on the Charleston Peninsula, Congress in 1978 appropriated $5,581,000 to construct an appropriate welcome center and boat dock at what is known as the Broad Street site. This site was deemed inappropriate, however, when city officials persuaded the National Park Service that locating the dock at Broad Street would greatly inhibit and inconvenience the future growth of the tourist industry within the city.

To remedy this situation, Congress in 1980 enacted legislation authorizing the National Park Service to purchase the Fleet Landing Site, and in 1982 Congress appropriated an additional $368,000 to pay for this property. However, subsequent consideration of the Fleet Landing Site revealed that each year a significant amount of money would be needed to dredge and maintain the boat dock area, making the site a poor investment for the Federal Government. Furthermore, locating the boat dock on this property would cause congestion in one of the most historic districts of Charleston. Since 1982, the National Park Service has considered four other sites, but each one was determined to be unacceptable.

I am pleased to report, however, that the Park Service, with the cooperation of the city of Charleston and especially George Campsen, the current Fort Sumter Tours Concessionaire, has finally identified a potential site known as the Dockside II property. This parcel of land passes the tests that the others failed—its location does not create a traffic congestion problem and the natural features of the property preclude a significant amount of dredging. In addition, the local community highly endorses the Dockside II site as the best possible site for the tour boat facility.

Mr. President, I am confident that pursuing the Dockside II site alternative is in the best interest of the Federal Government. I believe the American taxpayers would prefer to have a site with ample parking and little dredging costs. To affect this change in the Fort Sumter tour boat project, Senator HOLLINGS and I have introduced S. 2434.

This legislation would allow a major portion of the money which was originally designated for the construction of the facility to be used instead for the acquisition of property. The change is necessitated largely because initial plans called for the acquisition of a much smaller parcel of land upon which a parking garage would be constructed. In the revised plan, a larger parcel of land would be acquired. In fact, the new tract will be large enough to accommodate a flat level parking area, and as a result, an expensive parking garage will not be required.

In addition, this legislation would expand the 1978 law by allowing the city of Charleston to lease or purchase from the National Park Service a portion of the site upon which an aquatic museum could be built. I believe this museum would add greatly to the Fort Sumter facility, as visitors, especially school groups, would be able to combine the experience of an historic monument and an aquarium.

Furthermore, this legislation would give the Park Service authority to grant and accept easements and covenants over the property. This provision would allow the Park Service to enter into agreements to share portions of the parking area with the city and other local parties. In return, the city would perform routine services such as lawn maintenance and refuse removal. Of course, any convenant or easement which the Park Service grants would require the recipients to strictly comply with National Park Service standards.

Mr. President, in conclusion, I would like to emphasize two important facts. First, this legislation does not appropriate any new funds but merely reprograms money already provided for in previous legislation, and allows the Park Service to purchase the Dockside II site rather than the Fleet Landing Site. Second, both the National Park Service and the city of Charleston strongly support Dockside II as the best possible location for the Fort Sumter facility. Although it has taken six different sites and nearly 10 years, I am pleased that these two parties

have mutually agreed that the provisions of S. 2534 meet and exceed their individual expectations and requirements.

Mr. President, in short, S. 2534 authorized the National Park Service to purchase and develop the only remaining piece of property in Charleston which can adequately house the type of welcome center and tour boat facility which the Fort Sumter National Monument deserves. This legislation will ensure convenient access for visitors to Fort Sumter for many years to come, and; therefore, I urge my colleagues in the Senate to approve S. 2534.

Mr. HOLLINGS. Mr. President, it is a great pleasue to join my senior colleague in urging enactment of S. 2534. I join him in appreciation of the chairman of the Committee on Energy and Natural Resouces [Mr. MCCLURE], the distinguished chairman of the subcommittee [Mr. WALLOP], and the help of the distinguished ranking minority member, Senator JOHNSTON. They readily realized the need for this legislation and expeditiously processed it through the committee. I also want to thank the committee staff for their sympathetic help to a very urgent requirement.

This bill will grant the necessary legislative authority to the agreement worked out by the National Park Service, the city of Charleston, and the operator of the Fort Sumter tour boat with regard to location of the dock for the tour boat. This has, admittedly, been a long struggle, but now that we have finally secured agreement among the three parties, I urge the Senate to move quickly on this bill. The situation in Charleston has become critical since the present tour boat dock lies close by the impending construction of the new James Island Bridge.

As the Senate may recall, in 1976 it was determined that the tour boat should be moved from the city marina to a better location. In 1978, I secured the appropriation of $5,581,000 for a new dock. Later we enacted a rider to delay that appropriation due to a dispute with the National Park Service who had proposed a Broad Street location of the facility. The city of Charleston preferred a location at the Fleet Landing site in connection with the development of new tourist facilities. In 1980, the city and the Park Service came to agreement on utilizing the former Fleet Landing site and Congress enacted my amendment as part of Public Law 96-199 authorizing the purchase of the Fleet Landing site. In late 1982 we provided $368,000 to acquire the Fleet Landing site.

However, the operator of the tour boats was not part of that agreement and in the ensuing years, we have seen several additional sites proposed and rejected by the various parties. Finally they have now all come to agreement on a site adjacent to the Dockside II condominiums development.

Not only do we have the three interests in agreement, but as sometimes happens when things are delayed, we have a better location for the tour boat facility. Furthermore, we will have a superior project in that it will be contigious to a proposed city marine science museum, or aquarium and a restaurant that will provide a more enjoyable visit to the thousands of persons who visit Fort Sumter each year. The new site is much more accessible to the highways serving Charleston and will provide sufficient parking for cars and buses. In addition, the city will provide shuttle service to historic Charleston and the Cooper River location will enable the tour boats to stop at Patriots Point. The concept and location for the new facility has been widely discussed and endorsed by the local media, citizens, committees, and preservation groups.

Mr. President, Charleston is a unique city and in the long struggle to locate the tour boat facility, we have always kept uppermost in our minds our great tradition of historic preservation. Mayor Joseph Riley has maintained that tradition, while providing outstanding economic progress in Charleston. He recently received the City Livability Award, which is just another tribute to Charleston's fidelity to our heritage. Similarly, the city has worked to accommodate the ever-increasing number of visitors with as little disruption as possible. The Dockside II location conforms to that policy and I commend Mayor Riley, the National Park Service, George Campson, and the tour boat operators for working out this proposal.

Mr. President, the committee has added two amendments that improve the bill. The first one deletes "vehicular" parking from section 2(a)(2). This is at the suggestion of the Park Service that the more appropriate way to share the use of parking facilities is under a cooperative agreement pursuant to section 2(a)(3) of the bill. The second amendment authorizes the transfer of two Charleston properties between the Park Service and Coast Guard. This merely conforms the jurisdiction over these properties to the agencies that are actually using the parcels.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been reading the third time, the question is, Shall it pass?

So the bill (S. 2534) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1900

ORDERS FOR TUESDAY, OCTOBER 14, 1986

ADJOURNMENT UNTIL 10 A.M.

Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Tuesday, October 14, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The Senate will not be in session on Monday.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, at the conclusion of morning business, the Senate will resume consideration of the House message to accompany H.R. 5484, the drug bill. The Senate may also turn to the continuing resolution or the conference report to accompany the budget reconciliation, as well as any other legislative or executive items cleared for action. I would guess votes can be expected anytime after 2 or 3 o'clock on Tuesday.

Mr. President, I ask unanimous consent that once the Senate reconvenes on Tuesday, October 14, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each; provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate

turn to the consideration of House Joint Resolution 751, the short-term continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 751) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

H.J. RES. 751

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of October 9, 1986 (Public Law 99-464) is hereby amended by striking out "October 10, 1986" and inserting in lieu thereof "October 15, 1986".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me just indicate briefly that this will now go to the President. It will be his option whether or not he wishes to sign it. But it seems to me that there has been significant progress made in the major block to adjournment sine die, and that is the continuing resolution.

They are meeting at this very hour and they will be meeting for the next several hours. They may or may not reach total agreement tonight, but they have come a long way.

So it will be the President's decision now whether or not he should sign this major. I assume he will be keeping in touch with Senator HATFIELD and others on the appropriations conference to determine whether or not he will sign or not sign the short-term continuing resolution.

ADJOURNMENT TO TUESDAY, OCTOBER 14, 1986

Mr. DOLE. Mr. President, I move that the Senate stand in adjournment until 10 a.m. on Tuesday, October 14, 1986.

The motion was agreed to; and, at 7:07 p.m., the Senate adjourned until Tuesday, October 14, 1986, at 10 a.m.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT

(The text of amendment No. 3275, as modified, to the motion by Mr. DOLE to concur in the amendment of the House of Representatives to the amendment of the Senate to the bill H.R. 5484, is as follows:)

AMENDMENT NO. 3275—AS MODIFIED

I move to concur in the amendment of the House to the amendment of the Senate with a further amendment as follows:

In lieu of the language of the House amendment insert the following:

"That this Act may be cited as the Anti-Drug Abuse Act of 1986."

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5484) entitled "An Act to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Compliance with Budget Act.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

Sec. 1001. Short title.
Sec. 1002. Controlled Substances Act penalties.
Sec. 1003. Other amendments to the Controlled Substances Act.
Sec. 1004. Elimination of special parole terms.
Sec. 1005. Amendment to the Comprehensive Crime Control Act of 1984.
Sec. 1006. Miscellaneous technical amendments.

Subtitle B—Drug Possession Penalty Act of 1986

Sec. 1051. Short title.
Sec. 1052. Penalty for simple possession.

Subtitle C—Juvenile Drug Trafficking Act of 1986

Sec. 1101. Short title.
Sec. 1102. Offense.
Sec. 1103. Technical amendments.
Sec. 1104. Manufacturing a controlled substance within 1,000 feet of a college.
Sec. 1105. Imprisonment.

Subtitle D—Assets Forfeiture Amendments Act of 1986

Sec. 1151. Short title.
Sec. 1152. Department of Justice Asset forfeiture fund.
Sec. 1153. Substitute assets.

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

Sec. 1201. Short title.
Sec. 1202. Treatment of Controlled Substance Analogues.
Sec. 1203. Definition.
Sec. 1204. Clerical Amendment.

Subtitle F—Continuing Drug Enterprise Act of 1986

Sec. 1251. Short title.
Sec. 1252. Increased penalties.
Sec. 1253. Continuing criminal enterprise enhanced penalties.

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

Sec. 1301. Short title.
Sec. 1302. Enhanced penalties.

Subtitle H—Money Laundering Control Act of 1986

Sec. 1351. Short title.
Sec. 1352. New offense for laundering of monetary instruments.
Sec. 1353. Amendments to the Right to Financial Privacy Act.
Sec. 1354. Structuring transactions to evade reporting requirements prohibited.
Sec. 1355. Seizure and civil forfeiture of monetary instruments and related provisions.
Sec. 1356. Compliance authority for Secretary of the Treasury and related matters.
Sec. 1357. Penalty provisions.
Sec. 1358. Monetary transaction recordkeeping and reporting amendments.
Sec. 1359. Banking regulatory agency supervision of recordkeeping systems.
Sec. 1360. Change in Bank Control Act amendments.
Sec. 1361. Change in Savings and Loan Control Act amendments.
Sec. 1362. Amendments to definitions.
Sec. 1363. International information exchange system; study of foreign branches of domestic institutions.
Sec. 1364. Effective dates.
Sec. 1365. Predicate Offenses.
Sec. 1366. Forfeiture.
Sec. 1367. Severability clause.

Subtitle I—Armed Career Criminals

Sec. 1401. Short title.
Sec. 1402. Expansion of predicate offenses for armed career criminal penalties.

Subtitle J—Authorization of Appropriations for Drug Law Enforcement

Sec. 1451. Authorization of appropriations.

Subtitle K—State and Local Narcotics Control Assistance

Sec. 1551. Short title.
Sec. 1552. Bureau of Justice Assistance drug grant programs.

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

Sec. 1601. Study required.

Subtitle M—Narcotics Traffickers Deportation Act

Sec. 1751. Amendment to the Immigration and Nationality Act.

Subtitle N—Freedom of Information Act

Sec. 1801. Short title.
Sec. 1802. Law enforcement.
Sec. 1803. Fees and Fee waivers.
Sec. 1804. Effective dates.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

Sec. 1821. Short title.
Sec. 1822. Offense.
Sec. 1823. Effective date.

Subtitle P—Manufacturing Operations
Sec. 1841. Manufacturing operation.
Subtitle Q—Controlled Substances Technical Amendments
Sec. 1861. Duties of Director of Administrative Office and authorizations.
Sec. 1862. Amendment to section 608 of the Tariff Act.
Sec. 1863. Amendments to section 616 of the Tariff Act.
Sec. 1864. Cross reference corrections.
Sec. 1865. Warrants relating to seizure.
Sec. 1866. Minor technical amendments.
Sec. 1867. Modification of cocaine definition for purposes of Schedule II.
Sec. 1868. Authority of Attorney General to enter into contracts with State and local law enforcement agencies.
Sec. 1869. Authority of Attorney General to deputize State and local law enforcement officers for controlled substances enforcement.
Sec. 1870. Clarification of isomer definition.
Subtitle R—Precursor and essential chemical review
Sec. 1901. Precursor and essential chemical review.
Subtitle S—Improved Drug Crime Reporting
Sec. 1921. Improved drug crime reporting.
Subtitle T—White House Conference on Drug Abuse and Control
Sec. 1931. Short title.
Sec. 1932. Establishment of the Conference.
Sec. 1933. Purpose.
Sec. 1934. Responsibilities of the Conference.
Sec. 1935. Conference participants.
Sec. 1936. Administrative provisions.
Sec. 1937. Final report and follow-up actions.
Subtitle U—Death Penalty for Certain Offenses
Sec. 1951. Death penalty for certain continuing criminal enterprise offenses.
TITLE II—INTERNATIONAL NARCOTICS CONTROL
Sec. 2001. Short title.
Sec. 2002. Additional funding for international narcotics control assistance and regional cooperation.
Sec. 2003. Aircraft provided to foreign countries for narcotics control purposes: Retention of title and records of use.
Sec. 2004. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 2005. Restrictions on the provision of United States assistance.
Sec. 2006. Development of herbicides for aerial coca eradication.
Sec. 2007. Review of effectiveness of international narcotics control assistance program.
Sec. 2008. Extradition to the United States for narcotics-related offenses.
Sec. 2009. Foreign policy arrest actions.
Sec. 2010. Issuance of diplomatic passports for Drug Enforcement Administration Agents abroad.
Sec. 2011. Information-sharing so that visas are denied to drug traffickers.
Sec. 2012. Conditions on assistance for Bolivia.
Sec. 2013. Narcotics control efforts in Mexico.
Sec. 2014. Reports and restrictions concerning certain countries.
Sec. 2015. Combating narcoterrorism.
Sec. 2016. Interdiction procedures for vessels of foreign registry.
Sec. 2017. Information relating to illicit narcotics activities abroad.
Sec. 2018. Assessment of narcotics trafficking for Africa.
Sec. 2019. Policy toward multilateral development banks.
Sec. 2020. Multilateral development bank assistance for drug eradication and crop substitution programs.
Sec. 2021. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotics crops in Mexico.
Sec. 2022. Drugs as a national security problem.
Sec. 2023. Findings concerning greater international effort to address drug threat.
Sec. 2024. International Conference on Drug Abuse and Illicit Trafficking.
Sec. 2025. Effectiveness of international drug prevention and control system.
Sec. 2026. Narcotics control conventions.
Sec. 2027. Mexico-United States Intergovernmental Commission.
Sec. 2028. Opium production in Pakistan.
Sec. 2029. Opium production in Iran, Afghanistan, and Laos.
Sec. 2030. Increased funding for USIA Drug Education programs.
Sec. 2031. Increased funding for AID drug education programs.
Sec. 2032. Reports to Congress on drug education programs abroad.
TITLE III—INTERDICTION
Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Subtitle A—Department of Defense Drug Interdiction Assistance
Sec. 3051. Short title.
Sec. 3052. Authorization.
Sec. 3053. Coast Guard activities.
Sec. 3054. Reports on Department of Defense drug control activities.
Sec. 3055. Driving while impaired.
Sec. 3056. Assistance to civilian law enforcement and emergency assistance by Department of Defense personnel.
Sec. 3057. Additional Department of Defense drug law enforcement assistance.
Sec. 3058. Grade of Director of Department of Defense Task Force on Drug Enforcement.
Sec. 3059. Civil Air Patrol.
Subtitle B—Customs Enforcement
Sec. 3101. Short title.
PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930
Sec. 3111. Definitions.
Sec. 3112. Report of arrival of vessels, vehicles, and aircraft.
Sec. 3113. Penalties for arrival, reporting, entry, and departure violations.
Sec. 3114. Penalties for unauthorized unloading of passengers.
Sec. 3115. Reporting requirements for individuals.
Sec. 3116. Penalties for failure to declare.
Sec. 3117. Examination of books and witnesses.
Sec. 3118. False manifests; lack of manifest.
Sec. 3119. Unlawful unloading of merchandise.
Sec. 3120. Aviation smuggling.
Sec. 3121. Seizures.
Sec. 3122. Searches and seizures.
Sec. 3123. Forfeitures.
Sec. 3124. Proceeds of forfeited property.
Sec. 3125. Compensation to informers.
Sec. 3126. Foreign landing certificates.
Sec. 3127. Exchange of information with foreign agencies.
Sec. 3128. Inspections and preclearance in foreign countries.
PART 2—UNDERCOVER CUSTOMS OPERATIONS
Sec. 3131. Undercover investigative operations of the Customs Service.
PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND
Sec. 3141. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.
Sec. 3142. Customs forfeiture fund.
PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS
Sec. 3151. Recreational vessels.
Sec. 3152. Assistance for customs officers.
Sec. 3153. Reports on exports and imports of monetary instruments.
PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT
Sec. 3161. Possession, manufacture, or distribution for purposes of unlawful importation.
Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986
Sec. 3201. Short title.
Sec. 3202. Improvement of Public Law 96-350.
Subtitle D—Coast Guard
Sec. 3251. Coast Guard drug interdiction enhancement.
Subtitle E—United States Bahamas Drug Interdiction Task Force
Sec. 3301. Establishment of United States Bahamas Drug Interdiction Task Force.
Subtitle F—Command, Control, Communications, and Intelligence Centers
Sec. 3351. Establishment of Command, Control, Communications, and Intelligence Centers.
Subtitle G—Transportation Safety
Sec. 3401. Air safety.
Sec. 3402. Drugs and highway safety.
Sec. 3403. Savings provision.
Subtitle H—Department of Justice funds for drug interdiction operation in Hawaii
Sec. 3451. Additional funds for the Department of Justice.
TITLE IV—DEMAND REDUCTION
Subtitle A—Prevention Initiatives and Treatment Services
Sec. 4001. Short title.
PART I—FINANCIAL ASSISTANCE TO STATES AND COMMUNITIES
Sec. 4002. Allotments to States.
PART II—AGENCY FOR SUBSTANCE ABUSE PREVENTION
Sec. 4003. Agency for Substance Abuse Prevention.
PART III—ADAMHA AND RELATED PROVISIONS
Sec. 4011. Short title, reference.
Sec. 4012. Technical revision of ADAMHA.
Sec. 4013. National Institute of Mental Health.

Sec. 4014. Advisory councils.
Sec. 4015. Public health emergencies.
Sec. 4016. Peer Review.
Sec. 4017. National Alcohol Research Center.
Sec. 4018. Research authorization.
Sec. 4019. Suicide.
Sec. 4020. Animals in research.
Sec. 4021. Block grants.
Sec. 4022. Technical amendments.
Sec. 4023. Alcoholism and alcohol abuse treatment study.

PART IV—INFANT FORMULAS

Sec. 4031. Infant formulas.

PART V—MISCELLANEOUS

Sec. 4041. Efforts of the entertainment industry and written media industry.
Sec. 4042. Sense of the Senate urging categorization of films which promote alcohol abuse and drug use.
Sec. 4043. Sense of the Senate with respect to possession or distribution of drugs under State law.
Sec. 4045. Expansion of drug abuse research.
Sec. 4046. Alkyl nitrites.
Sec. 4047. Administrator of Veterans' Affairs.

Subtitle B—Drug-Free Schools and Communities Act of 1986

Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Purpose.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

Sec. 4111. Authorization of appropriations.
Sec. 4112. Reservations and state allotments.

PART 2—STATE AND LOCAL PROGRAMS

Sec. 4121. Use of allotments by States.
Sec. 4122. State programs.
Sec. 4123. Responsibilities of state educational agencies.
Sec. 4124. Local drug abuse education and prevention programs.
Sec. 4125. Local applications.

PART 3—NATIONAL PROGRAMS

Sec. 4131. Grants to institutions of higher education.
Sec. 4132. Federal activities.
Sec. 4133. Programs for Indian youth.
Sec. 4134. Programs for Hawaiian natives.

PART 4—GENERAL PROVISIONS

Sec. 4141. Definitions.
Sec. 4142. Functions of the Secretary of Education.
Sec. 4143. Participation of children and teachers from private nonprofit schools.

Subtitle C—Indians and Alaska Natives

Sec. 4201. Short title.

PART I—GENERAL PROVISIONS

Sec. 4202. Findings.
Sec. 4203. Purpose.
Sec. 4204. Definitions.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

Sec. 4205. Inter-departmental Memorandum of Agreement.
Sec. 4206. Tribal action plans.
Sec. 4207. Departmental responsibility.
Sec. 4208. Congressional intent.
Sec. 4209. Federal facilities, property, and equipment.
Sec. 4210. Newsletter.

PART III—INDIAN YOUTH PROGRAMS

Sec. 4211. Review of programs.
Sec. 4212. Indian education programs.
Sec. 4213. Emergency shelters.
Sec. 4214. Social services reports.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

Sec. 4215. Review of programs.
Sec. 4216. Illegal narcotics traffic on the Papago Reservation: source eradication.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

Sec. 4217. Tribal courts, sentencing and fines.
Sec. 4218. Law enforcement services.
Sec. 4219. Bureau of Indian Affairs law enforcement and judicial training.
Sec. 4220. Medical assessment and treatment of juvenile offenders.
Sec. 4221. Juvenile detention centers.
Sec. 4222. Model Indian Juvenile Code.
Sec. 4223. Law enforcement and judicial report.

PART IV—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

Sec. 4224. Review of programs.
Sec. 4225. Indian Health Service responsibilities.
Sec. 4226. Indian Health Service program.
Sec. 4227. Indian Health Service youth program.
Sec. 4228. Community education and training.
Sec. 4229. Navajo alcohol rehabilitation demonstration program.
Sec. 4230. Indian Health Service reports.

Subtitle D—Miscellaneous Provisions

Sec. 4301. Action grants.
Sec. 4302. Establishment of national trust for drug-free youth.
Sec. 4303. Information on drug abuse at the workplace.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas.

Sec. 5001. Short title.
Sec. 5002. Purposes.
Sec. 5003. Annual reports to Congress.
Sec. 5004. Enforcement and administration in insular areas.

Subtitle B—National Park Service Program.

Sec. 5051. Short title.
Sec. 5052. National Park Police authorization.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

Sec. 6001. Short title.
Sec. 6002. Programs to provide prevention, treatment, and rehabilitation services to Federal employees with respect to drug and alcohol abuse.
Sec. 6003. Educational program for Federal employees relating to drug and alcohol abuse.
Sec. 6004. Employee assistance programs relating to drug abuse and alcohol abuse.
Sec. 6005. Substance abuse coverage study.
Sec. 6006. Health insurance coverage for drug and alcohol treatment.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

Sec. 7001. Short title.
Sec. 7002. Findings.
Sec. 7003. Submission of legislation.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

Sec. 8001. Short title.
Sec. 8002. Establishment.
Sec. 8003. Duties of Commission.
Sec. 8004. Membership.
Sec. 8005. Meetings.
Sec. 8006. Director and staff; experts and consultants.
Sec. 8007. Powers of Commission.
Sec. 8008. Report.
Sec. 8009. Termination.

TITLE IX—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE DRUG SOURCE NATIONS

Sec. 9001. Short title.
Sec. 9002. Determinations regarding uncooperative drug source nations.
Sec. 9003. Tariff treatment of products of uncooperative drug source nations.
Sec. 9004. Progress reports.
Sec. 9005. Cancellation of determinations.
Sec. 9006. Definition.
Sec. 9007. Conforming amendments.

TITLE X—BALLISTIC KNIFE PROHIBITION

Sec. 10001. Short title.
Sec. 10002. Prohibition on possession, manufacture, sale, and importation of ballistic knives.
Sec. 10003. Nonmailability of ballistic knives.

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT

Sec. 11001. Short title.

Subtitle A—Emergency Food for the Homeless

Sec. 11002. Meals served to homeless individuals.

Subtitle B—Job Training for the Homeless

Sec. 11004. Job training for the homeless.

Subtitle C—Entitlements Eligibility

Sec. 11005. Application for SSI and food stamp benefits by SSI pre-release individuals.
Sec. 11006. Delivery of veterans' benefits payments.

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

Sec. 12001. Short title.
Sec. 12002. Limitation on number of driver's licenses.
Sec. 12003. Notification requirements.
Sec. 12004. Employer responsibilities.
Sec. 12005. Testing of operators.
Sec. 12006. Classified driver's license.
Sec. 12007. Classified driver's license information system.
Sec. 12008. Federal disqualifications.
Sec. 12009. Requirements for State participation.
Sec. 12010. Grant program.
Sec. 12011. Withholding of highway funds for State noncompliance.
Sec. 12012. Penalties.
Sec. 12013. Waiver authority.
Sec. 12014. Review of commercial motor vehicle alcohol regulations.
Sec. 12015. Truck brake regulations.
Sec. 12016. Radar demonstration project.
Sec. 12017. Limitation on statutory construction.
Sec. 12018. Regulations.
Sec. 12019. Definitions.

TITLE XIII—ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

Sec. 13001. Short title.

Subtitle A—Interception of communications and related matters

Sec. 13011. Federal penalties for the interception of communications.

Sec. 13012. Requirements for certain disclosures.
Sec. 13013. Recovery of civil damages.
Sec. 13014. Certain approvals by Justice Department officials.
Sec. 13015. Addition of offenses to crimes for which interception is authorized.
Sec. 13016. Applications, orders, and implementation of orders.
Sec. 13017. Intelligence activities.
Sec. 13018. Mobile tracking devices.
Sec. 13019. Warning subject of surveillance.
Sec. 13020. Injunctive remedy.
Sec. 13021. Effective date.
Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access
Sec. 13031. Title 18 amendment.
Sec. 13032. Effective date.
Subtitle C—Pen Registers and Trap and Trace Devices.
Sec. 13041. Title 18 amendment.
Sec. 13042. Effective date.
Sec. 13043. Interference with the operation of a satellite.
Subtitle D—Special Rule Relating to Effect of Title
Sec. 13061. Special Rule.
TITLE XIV—CYANIDE WRONGFUL USE
Sec. 14001. Study and Report.
TITLE XV—SENATE POLICY CONCERNING FUNDING
Sec. 15001. Statement of policy.

SEC. 3. COMPLIANCE WITH BUDGET ACT.

Notwithstanding any other provision of this Act, any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 and the term "credit authority" has the meaning provided in section 3(10) of the Congressional Budget Act of 1974.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a viola-

tion after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(1) In subsection (b), paragraph (1)(D), as redesignated, is amended by—

(A) striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual";

(B) striking out "a fine of not more than $100,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual"; and

(C) inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana," the first place it appears.

(2) In subsection (b), paragraph (2) is amended by striking out "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual".

(3) In subsection (b), paragraph (3) is amended by striking out "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out "a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual".

(4) In subsection (b), paragraph (4) is amended by striking out "1(C)" and inserting "1(D)" in lieu thereof.

(5) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

"(A) the amount authorized in accordance with this section;

"(B) the amount authorized in accordance with the provisions of title 18, United States Code;

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual;

or both.".

(6) Subsection (d) is amended by striking out "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by inserting the following new paragraph after paragraph (24):

"(25) The term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) protracted and obvious disfigurement; or

"(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."; and

(2) by renumbering the following paragraphs accordingly.

SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" wherever it appears and inserting "term of supervised release" in lieu thereof.

(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"SEC. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c).".

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting ", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided, the".

(3) Subsection (c) of section 3583 of title 18, United States Code, is amended—

(A) so that the catchline reads as follows: "Modification of conditions or revocation.";

(B) in paragraph (2) by striking out "or" after the semicolon;

(C) in paragraph (3) by striking out "title," and inserting "title; or" in lieu thereof; and

(D) by inserting the following new paragraph after paragraph (3):

"(4) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of rule 32.1 of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission.".

(4) The amendments made by this subsection shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".

(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended—

(1) in subsection (f) by inserting "or II" after "I" each place it appears;

(2) by redesignating subsection (f) as subsection (f)(1); and

(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:

"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary.".

On page 28, insert the following after line 15:

SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE.

(a) Section 3553 of title 18, United States Code, is amended by adding the following at the end thereof:

"(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM.—Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.".

(b) The amendment made by this section shall take effect on the date of the taking

effect of section 3553 of title 18, United States Code.

SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

Section 994 of title 28 of the United States Code is amended by—

(1) inserting the following after subsection (m):

"(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."; and

(2) redesignating subsections (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking out "to the extent" and all that follows through the end and inserting in lieu thereof the following: "in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code. The court's authority to lower a sentence under this subdivision includes the authority to lower such sentence to a level below that established by statute as a minimum sentence.

(b) The amendment made by this section shall take effect on the date of the taking effect of rule 35(b) of the Federal Rules of Criminal Procedure, as amended by section 215(b) of the Comprehensive Crime Control Act of 1984.

Subtitle B—Drug Possession Penalty Act of 1986

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Drug Possession Penalty Act of 1986".

SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

"PENALTY FOR SIMPLE POSSESSION

"SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this title or title III, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this title or title III, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

"(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

"(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

"(c) As used in this section, the term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this title.".

Subtitle C—Juvenile Drug Trafficking Act of 1986

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Juvenile Drug Trafficking Act of 1986".

SEC. 1102. OFFENSE.

Part D of the Controlled Substances Act is amended by adding after section 405A a new section as follows:

"EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS

"SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

"(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or

"(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title or title III by any Federal, State, or local law enforcement official.

"(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(d) Any person who violates section 405B(a) (1) or (2)

"(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

"(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

"(e) In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18, United States Code, until the individual has served the mandatory term of imprisonment required by section 401(b) as enhanced by this section.

"(f) Except as authorized by this title, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).".

SEC. 1103. TECHNICAL AMENDMENTS.

(a) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking out "or 405A" and inserting in lieu thereof ", 405A, or 405B".

(b) Section 401(c) of the Controlled Substances Act (21 U.S.C. 841(c)) is amended by striking out "405A" each place it appears and inserting in lieu thereof ", 405A, or 405B".

"405B. Employment of minors in controlled substance trafficking.".

SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF A COLLEGE.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by inserting "or manufacturing" after "distributing" wherever it appears and by striking out "a public or private elementary or secondary school" wherever it appears and inserting in lieu thereof "a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university".

(b) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by striking out "involving the same controlled substance and schedule".

(c) Section 405A(b) of the Controlled Substance Act (21 U.S.C. 845a(b)) is amended by striking out "(1) by" and all that follows through the end and inserting the following in lieu thereof:

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both, and (2) at least three times any special parole term authorized by section 401(b) of this title for a first offense.".

SEC. 1105. IMPRISONMENTS.

(a) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.".

(b) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

(c) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

Subtitle D—Assets Forfeiture Amendments Act of 1986

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

On page 37, strike out all beginning with line 14 through line 2 on page 39 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "in such amounts as may be specified in appropriations acts";

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "Such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed, during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) in subsection (a) before paragraph (1) by striking out "in such amounts as may be specified in appropriations Acts";

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

(c) FUNDS NOT COUNTED FOR PURPOSES OF ALLOCATION LIMITS IN SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974.—Notwithstanding any other provision of law or any rule of the House of Representatives or the Senate, amounts available in the Customs Forfeiture Fund or the Department of Justice Assets Forfeiture Fund shall not be counted in determining the allocation of totals under subsections (a) and (b) of section 302 of the Budget Act of 1974.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Controlled Substance Analogue Enforcement Act of 1986".

SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue all or part of which is intended for human consumption shall be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

SEC. 1203. DEFINITION.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; or

"(ii) which was specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in schedule I or II.".

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

"For purposes of this paragraph, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle F—Continuing Drug Enterprise Act of 1986

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the Continuing Drug Enterprises Act of 1986".

SEC. 1252. INCREASED PENALTIES.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(2) by striking out "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,".

SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting the following new subsection after subsection (a);

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2)(A) the violation referred to in subsection (d)(1) involved at least 300 times the quantity of a substance described in subsection 401(b)(1)(B) of this Act, or

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelvemonth period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(B) of this Act."

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Import and Export Penalties Enhancement Act of 1986.".

SEC. 1302. ENHANCED PENALTIES.

(a) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting the following in lieu thereof:

"(1) In the case of a violation of subsection (a) of this section involving—

"(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, imposed a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(2) In the case of a violation of subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(B) 500 grams or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated, is amended—

(1) by striking out ", except as provided in paragraph (4)";

(2) by striking out "fined not more than $50,000" and inserting in lieu thereof "fined not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual"; and

(3) by inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana,".

Subtitle H—Money Laundering Control Act of 1986

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both

"(3) Whoever conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate or facilitate a violation of section 7201 or 7206 of the Internal Revenue Code of 1954 shall be sentenced to a fine of not more than $250,000 or twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is specified in paragraph (7);

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States

or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act;

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3).

"(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.".

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments".

SEC. 1353. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS AND RELATED PROVISIONS.

(a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT BORDER.—Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.".

(b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) SUMMONS POWER.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

(2) The heading of section 5318 of title 31, United States Code, is amended to read as follows:

"§ 5318. Compliance, exemptions, and summons authority".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking out the item relating to section 5318 and inserting in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority.".

SEC. 1357. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315".

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (d) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

(f) CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY AND CRIMINAL PENALTY.—Section 5321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.".

(g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN OFFENSES.—Section 5322(b) of title 31, United States Code, is amended—

(1) by striking out "illegal activity involving transactions of" and inserting in lieu thereof "any illegal activity involving";

(2) by striking out "5 years" and inserting in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 1358. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) AMENDMENTS RELATING TO REPORTS ON EXPORTS OR IMPORTS OF MONEY:

(1) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(2) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(A) by striking out "or attempts to transport or have transported,", and

(B) by inserting ", is about to transport," after "transports".

(3) TECHNICAL AND CONFORMING AMENDMENT.—Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the re-

quirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forefit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on September 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such in-

vestigation. The agency shall retain such written report as a record of the agency.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency, unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1361. CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation, unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1362. AMENDMENTS TO DEFINITIONS.

(a) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

(b) UNITED STATES INCLUDES CERTAIN TERRITORIES AND POSSESSIONS.—Section 5312(a)(5) of title 31, United States Code, is amended by inserting "the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands," after "Puerto Rico".

SEC. 1363. INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS.

(a) DISCUSSIONS ON INTERNATIONAL INFORMATION EXCHANGE SYSTEM.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT ON DISCUSSIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of discussions initiated pursuant to subsection (a).

(c) STUDY OF MONEY LAUNDERING THROUGH FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Attorney General and the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the extent to which foreign branches of domestic institutions are used—

(A) to facilitate illicit transfers of coins, currency, and other monetary instruments (as such term is defined in section 5312(a)(3)) of title 31, United States Code) into and out of the United States; and

(B) to evade reporting requirements with respect to any transfer of coins, currency, and other monetary instruments (as so defined) into and out of the United States;

(2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and

(3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States.

(d) REPORT ON STUDY OF FOREIGN BRANCHES REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the results of the study conducted pursuant to subsection (c).

SEC. 1364. EFFECTIVE DATES.

(a) The amendments made by sections 1354, 1358(b), and 1358(c) shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 1355(b), 1355(c), and 1357(a) shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The amendments made by section 1357 (other than subsection (a) of such section) shall apply with respect to violations committed after the date of the enactment of this Act.

(d) Any regulation prescribed under the amendments made by section 1358(a) shall apply with respect to transactions completed after the effective date of such regulation.

(e) The regulations required to be prescribed under the amendments made by section 1359 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(f) The amendments made by sections 1360 and 1361 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

SEC. 1365. PREDICATE OFFENSES.

(a) Subsection (b) of section 1952 of title 18, United States Code, is amended by striking out "or" before "(2)", and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title.".

(b) Subsection (1) of section 1961 of title 18, United States Code, is amended by inserting "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (relating to the prohibition of illegal gambling businesses),".

(c) Subsection (1) of section 2516 of title 18, United States Code, is amended in paragraph (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (prohibition of relating to business enterprises of gambling),".

SEC. 1366. FORFEITURE.

(a) Title 18 of the United States Code is amended by adding after chapter 45 a new chapter 46 as follows:

"CHAPTER 46—FORFEITURE

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

"§ 981. Civil forfeiture

"(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

"(A) Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.

"(B) Any property within the jurisdiction of the United States, which represents the proceeds of an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense or activity would be punishable by death or imprisonment for a term exceeding one year and which would be punishable by imprisonment for a term exceeding one year if such act or activity had occurred within the jurisdiction of the United States.

"(C) Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer or employee thereof."

"(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or emission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

"(b) Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by the Secretary of the Treasury, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General or the Secretary of the Treasury, as the case

may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(i) In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:

"(1) Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subchapter, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General may, in his discretion, set. Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.

"(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

"(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

"(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

"(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

"(j) For purposes of this section—

"(1) the term 'Attorney General' means the Attorney General or his delegate; and

"(2) the term 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"§ 982. Criminal forfeiture

"(a) The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.

"(b) The provisions of subsections 413 (c) and (e) through (o) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (c) and (e)—(o)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) The chapter analysis of part I of title 18, United States Code, is amended by inserting after the item for chapter 45 the following:

"46. Forfeiture ..... 981".

SEC. 1367. SEVERABILITY CLAUSE.

If any provision of this subtitle or any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.

Subtitle I—Armed Career Criminals

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.".

Subtitle J—Authorization of Appropriation for Drug Law Enforcement

SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Drug Enforcement Administration, $60,000,000; except, that notwithstanding section 1345 of title 31, United States Code, funds made available to the Department of Justice for the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

(b) The Drug Enforcement Administration of the Department of Justice is hereby authorized to plan, construct, renovate, maintain, remodel and repair buildings and purchase equipment incident thereto for an All Source Intelligence Center: "Provided, That the existing El Paso Intelligence Center shall remain in Texas.".

(c) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Federal Prison System, $124,500,000, of which $96,500,000 shall be for the construction of Federal penal and correctional institutions and $28,000,000 shall be for salaries and expenses.

(d) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Defender Services, $18,000,000.

(e) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Fees and Expenses of Jurors and Commissioners, $7,500,000.

(f) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Office of Justice Assistance, $5,000,000 to carry out a pilot prison capacity program.

(g) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for support of United States prisoners in non-Federal Institutions, $5,000,000.

(h) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Offices of the United States Attorneys, $31,000,000.

(i) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the United States Marshals Service, $17,000,000.

"(j) Authorizations of appropriations for fiscal year 1987 contained in this section are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738."

(k) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1987, the following sums are authorized to be appropriated to procure secure voice radios:

Federal Bureau of Investigation	*$2,000,000*
Secret Service	*$5,000,000.*

(l) This section may be cited as the "Drug Enforcement Enhancement Act of 1986".

Subtitle K—State and Local Narcotics Control Assistance

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1986".

SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

(a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF THE DIRECTOR

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

"SEC. 1302. The Director is authorized to make grants to States, for the use of States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.), and to—

"(1) provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons;

"(2) provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution;

"(3) provide additional personnel (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases;

"(4) provide additional public correctional resources for the detention of persons convicted of violating State and local laws relating to the production, possession, or transfer of controlled substances, and to establish and improve treatment and rehabilitative counseling provided to drug dependent persons convicted of violating State and local laws;

"(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

"(6) provide programs which identify and meet the needs of drug-dependent offenders; and

"(7) conduct demonstration programs, in conjunction with local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking to expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1303. To request a grant under section 1302, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a statewide strategy for the enforcement of State and local laws relating to the production, possession, and transfer of controlled substances;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(5) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

Such strategy shall be prepared after consultation with State and local officials whose duty it is to enforce such laws. Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director or to the State, as the case may be, a performance report concerning the activities carried out pursuant to section 1302 of this title.

"REVIEW OF APPLICATIONS

"SEC. 1304. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1303 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1303 shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1305. (a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for section 1302 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of re-

maining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under section 1309 of this title.

"REPORTS

"SEC. 1306. (a) Each State which receives a grant under section 1302 of this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 1303 of this title;

"(2) a summary of the activities carried out in such year with any grant received under section 1309 of this title by such State; and

"(3) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than ninety days after the end of each fiscal year for which grants are made under section 1302 of this title, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under sections 1302 and 1309 of this title to such State for such fiscal year;

"(2) the amount of such grants expended for each of the purposes specified in section 1302; and

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1307. (a) A grant made under section 1302 of this title may not be expended for more than 75 per centum of the cost of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in section 1302, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 per centum of a grant made under section 1302 of this title may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under section 1302 of this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under section 1302, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISCRETIONARY GRANTS

"SEC. 1309. The Director is authorized to make grants to public agencies and private nonprofit organizations for any purpose specified in section 1302 of this title. The Director shall have final authority over all grants awarded under this section.

"APPLICATION REQUIREMENTS

"SEC. 1310. (a) No grant may be made under section 1309 of this title unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

"SEC. 1311. Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for section 1309 of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in section 1302 of this title. Grants under section 1309 may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.".

(b)(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Director.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Review of applications.
"Sec. 1305. Allocation and distribution of funds under formula grants.
"Sec. 1306. Reports.
"Sec. 1307. Expenditure of grants; records.
"Sec. 1308. State office.
"Sec. 1309. Discretionary grants.
"Sec. 1310. Application requirements.
"Sec. 1311. Allocation of funds for discretionary grants.
"Sec. 1312. Limitation on use of discretionary grant funds.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $350,000,000 for fiscal year 1987, $350,000,000 for fiscal year 1988, and

$230,000,000 for fiscal year 1989, to carry out the programs under part M of this title.", and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

SEC. 1601. STUDY REQUIRED.

(a) Within 90 days of the date of enactment of this Act, the Secretary of Defense shall provide to the Attorney General—

(1) a list of all sites under the jurisdiction of the Department of Defense including facilities beyond the excess and surplus property inventories whose facilities or a portion thereof could be used, or are being used, as detention facilities for felons, especially those who are a Federal responsibility such as illegal alien felons and major narcotics traffickers;

(2) a statement of fact on how such facilities could be used as detention facilities with detailed descriptions on their actual daily percentage of use; their capacities or rated capacities; the time periods they could be utilized as detention facilities; the cost of converting such facilities to detention facilities; and, the cost of maintaining them as such; and

(3) in consultation with the Attorney General, a statement showing how the Department of Defense and the Department of Justice would administer and provide staffing responsibilities to convert and maintain such detention facilities.

(b) Copies of the report and analysis required by subsection (a) shall be provided to the Congress.

Subtitle M—Narcotics Traffickers Deportation Act

SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))"; and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(c) The amendments made by subsections (a) and (b) of this section shall apply to convictions occurring before, on, or after the date of the enactment of this section, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this section.

(d) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

(e)(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Subtitle N—Freedom of Information Act

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the "Freedom of Information Reform Act of 1986".

SEC. 1802. LAW ENFORCEMENT.

(a) EXEMPTION.—Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;".

(b) EXCLUSIONS.—Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.".

SEC. 1803. FEES AND FEE WAIVERS.

Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public

interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.".

SEC. 1804. EFFECTIVE DATES.

(a) The amendments made by section 1802 shall be effective on the date of enactment of this Act, and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b)(1) The amendments made by section 1803 shall be effective 180 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 180th day.

(2) The amendments made by section 1803 shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia Control Act".

SEC. 1822. OFFENSE.

(a) It is unlawful for any person—

(1) to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale and transportation in interstate or foreign commerce drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) This subtitle shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1823. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle P—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATION.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF MANUFACTURING OPERATIONS

"SEC. 416. (a) Except as authorized by this title, it shall be unlawful to—

"(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

"(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

"(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.".

(b) Section 405A of the Controlled Substances Act is amended—

(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 416"; and

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle Q—Controlled Substances Technical Amendments

SEC. 1861. DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE AND AUTHORIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

(b) PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—(1) The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

(2) The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

(c) INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

(d) REAUTHORIZATION OF CONTRACT SERVICES.—Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof ": $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

SEC. 1862. AMENDMENT TO SECTION 608 OF THE TARIFF ACT.

(a) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$2,500" and inserting in lieu thereof "$5,000".

(b) Section 608 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1863. AMENDMENTS TO SECTION 616 OF THE TARIFF ACT.

(a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1864. CROSS REFERENCE CORRECTIONS.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 1865. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 1866. MINOR TECHNICAL AMENDMENTS.

(a) Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

(b) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "special term" and inserting "term of supervised release" in lieu thereof.

(c) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

(d) Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

(e) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

(f) The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following:

"Sec. 405A. Manufacture or distribution in or near schools.

"405B. Employment of minors in controlled substance trafficking.";

and

(2) by inserting after the item relating to section 414 the following:

"Sec. 415. Alternative fine.".

SEC. 1867. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.".

SEC. 1868. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

SEC. 1869. AUTHORITY OF ATTORNEY GENERAL TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 1870. CLARIFICATION OF ISOMER DEFINITION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

Subtitle R—Precursor and Essential Chemical Review

SEC. 1901. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this subtitle.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

Subtitle T—White House Conference for a Drug Free America

SEC. 1931. SHORT TITLE.

This subtitle may be cited as the "White House Conference for a Drug Free America".

SEC. 1932. ESTABLISHMENT OF THE CONFERENCE.

There is established a conference to be known as "The White House Conference for a Drug Free America". The members of the Conference shall be appointed by the President.

SEC. 1933. PURPOSE.

The purposes of the Conference are—

(1) to share information and experiences in order to vigorously and directly attack drug abuse at all levels, local, State, Federal, and international;

(2) to bring public attention to those approaches to drug abuse education and prevention which have been successful in curbing drug abuse and those methods of treatment which have enabled drug abusers to become drug free;

(3) to highlight the dimensions of the drug abuse crisis, to examine the progress made in dealing with such crisis, and to assist in formulating a national strategy to thwart sale and solicitation of illicit drugs and to prevent and treat drug abuse; and

(4) to examine the essential role of parents and family members in preventing the basic causes of drug abuse and in successful treatment efforts.

SEC. 1934. RESPONSIBILITIES OF THE CONFERENCE.

The Conference shall specifically review—

(1) the effectiveness of law enforcement at the local, State, and Federal levels to prevent the sale and solicitation of illicit drugs and the need to provide greater coordination among such programs;

(2) the impact of drug abuse upon American education, examining in particular—

(A) the effectiveness of drug education programs in our schools with particular attention to those schools, both public and private, which have maintained a drug free learning environment;

(B) the role of colleges and universities in discouraging the illegal use of drugs by student-athletes; and

(C) the relationship between drug abuse by student-athletes and college athletic policies, including eligibility and academic requirements, recruiting policies, athletic department financing policies, the establishment of separate campus facilities for athletes, and the demands of practice and lengthy playing seasons;

(3) the extent to which Federal, State, and local programs of drug abuse education, prevention, and treatment require reorganization or reform in order to better use available resources and to ensure greater coordination among such programs;

(4) the impact of current laws on efforts to control international and domestic trafficking of illicit drugs; and

(5) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 1935. CONFERENCE PARTICIPANTS.

In order to carry out the purposes and responsibilities specified in sections 1933 and 1934, the Conference shall bring together individuals concerned with issues relating to drug abuse education, prevention, and treatment, and the production, trafficking, and distribution of illicit drugs. The President shall—

(1) ensure the active participation in the Conference of the heads of appropriate executive and military departments, and agencies, including the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, Secretary of Transportation, and the Director of ACTION;

(2) provide for the involvement in the Conference of other appropriate public officials, including Members of Congress, Governors of States, and Mayors of Cities;

(3) provide for the involvement in the Conference of private entities, especially parents' organizations, which have been active in the fight against drug abuse; and

(4) provide for the involvement in the Conference of individuals distinguished in medicine, law, drug abuse treatment and prevention, primary, secondary, and post-secondary education, and law enforcement.

SEC. 1936. ADMINISTRATIVE PROVISIONS.

(a) All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as the President may consider advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates.

(c) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

(d) Each participant in the Conference shall be responsible for the expenses of such participant in attending the Conference, and shall not be reimbursed for such expenses from amounts appropriated to carry out this subtitle.

SEC. 1937. FINAL REPORT AND FOLLOW-UP ACTIONS.

No later than six months after the effective date of this Act, the Conference shall prepare and transmit a final report to the President and to Congress, pursuant to sections 1933 and 1934. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1938. AUTHORIZATION.

There are hereby authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of this subtitle.

Subtitle U—Death Penalty for Certain Offenses

SEC. 1951. DEATH PENALTY FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO THE DEATH PENALTY

"(f) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES

"(g)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (f) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(i) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information

may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"RETURN OF FINDINGS

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (m), found to exist. If one of the aggravating factors set forth in subsection (m)(1) and another of the aggravating factors set forth in subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (m)(1) is not found to exist or an aggravating factor set forth in subsection (m)(1) is found to exist but no other aggravating factor set forth in subsection (m) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subparagraph (m)(1) and one or more of the other aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"IMPOSITION OF SENTENCE

"(k) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"MITIGATING FACTORS

"(l) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"AGGRAVATING FACTORS

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(8) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(10) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"INSTRUCTION TO JURY ON RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(o) If a person is convicted for an offense under subsection (a)(2) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.".

"APPEAL IN CAPITAL CASES

"(p)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Subtitle .—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. . OFFENSE.

(a) Part I of title 18, United States Code, is amended by inserting after chapter 17, the following:

"CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

"§ 341. Definitions

"As used in this chapter, the term 'common carrier' means a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while under the influence of alcohol or drugs, shall be imprisoned not more than five years or fined not more than $10,000, or both.

"§ 343. Presumptions

"For purposes of this chapter—

"(1) an individual with a blood alcohol content of .10 or more shall be conclusively

presumed to be under the influence of alcohol; and

"(2) an individual shall be conclusively presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.".

(b) The table of chapters for part I of title 18, United States Code, is amended by adding after the item for chapter 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs

Subtitle .—Federal Drug Law Enforcement Agent Protection Act of 1986

SEC. . SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and

(3) striking out the matter of following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

"(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

"(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).".

Strike out title II of the House amendment and insert in lieu thereof the following:

TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 2002. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$75,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less than $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of this Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts and shall be available primarily for use in Latin America.".

SEC. 2003. AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES: RETENTION OF TITLE AND RECORDS OF USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new sections:

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.".

SEC. 2004. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 2005. RESTRICTIONS OF THE PROVISION OF UNITED STATES ASSISTANCE.

(a) Section 481(h) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(h)(1) Subject to paragraph (2), for every major illicit drug producing country or major drug-transit country—

"(A) 50 percent of United States assistance allocated for such country notified to Congress in the report required under section 653(a) of this Act shall be withheld from obligation and expenditure;

"(B) on or after March 1, 1987, and on March 1 of each succeeding year, the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for such country; and

"(C) on or after March 1, 1987, and March 1 of each succeeding year, the President shall deny to all products of such country tariff treatment under title V of the Trade Act of 1974 (the Generalized System of Preferences), the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment.

"(2)(A) The assistance withheld by paragraph (1)(A) may be obligated and expended and the provisions of clauses (A) and (B) of paragraph (1) shall not apply if the President determines, and so certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; or

"(ii) for a country that would not otherwise qualify for certification under subclause (i), the vital national interests of the United States require the provision of such assistance, financing, or preferential treatment to such country.

"(B) If the President makes a certification pursuant to clause (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk should assistance, financing, or preferential tariff treatment not be provided such country; and

"(ii) a statement weighing the risk described in subclause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combatting narcotics or to take adequate steps to combat narcotics on its own.

"(3) In making the certification required by paragraph (2) of this subsection, the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4). The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of il-

licit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct, and

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

"(4)(A) The provisions of paragraph (1) shall apply without regard to paragraph (2) if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (2), joint resolution disapproving the determination of the President contained in such certification.

"(B)(i) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section, the financing described in (1)(B) of this subsection or and the preferential tariff treatment described in (1)(C) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification.".

(b) Section 481(e) of such Act is amended by striking out "February" and inserting in lieu thereof "March".

(c) Section 481(i) of such Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

(d) The amendments made by this section shall take effect October 1, 1986.

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

SEC. 2008. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.".

SEC. 2009. FOREIGN POLICE ARREST ACTIONS.

Section 481(c) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1), by striking out in the first sentence "engage or participate in any direct police arrest action in any foreign country" and inserting in lieu thereof "directly make an arrest in any foreign country as part of any foreign police action";

(2) by amending paragraph (2) to read as follows:

"(2) Nothing in paragraph (1) prevents such employee or officer—

"(A) from being present at the scene of an arrest or otherwise assisting foreign officers in making an arrest; or

"(B) from taking direct action to protect life or safety if exigent circumstances arise in the course of an arrest which are unanticipated and which pose an immediate threat to United States or foreign officers or to members of the public."; and

(3) by adding at the end thereof the following new paragraph:

"(3) The provisions of this subsection shall apply to all countries, unless the President certifies to the Congress a specific country or countries for which it would be against the national interests of the United States to do so.

"(4) With the agreement of a foreign country, paragraph (1) shall not apply to maritime law enforcement operations in the territorial sea of such country.".

SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

(A) the Government of Bolivia's recent drug interdiction operations in cooperation with the United States (Operation Blast Furnace) evinced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted;

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) CONDITIONS ON ASSISTANCE.—Paragraph (2) of section 611 of the International Security and Development Cooperation Act of 1985 is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

"(B) the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year

1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

"In the certification required by suparagraph (B), the President shall explain why the terms of the 1983 agreement proved unattainable and the reasons why a new agreement was necessary.".

(c) RELATION TO OTHER PROVISIONS.—Nothing in the amendment made by subsection (b) shall be construed as superseding any provision of section 481 of the Foreign Assistance Act of 1961.

SEC. 2013. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

(a) REPORTS.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—

(1) listing each major illicit drug producing country and each major drug-transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

(b) RESTRICTIONS.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country had made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

(d) DEFINITIONS.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the act of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708)b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SEC. 2015. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDING.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase effects to negotiate with relevant countries procedure which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 2016. INTELLIGENCE SUPPORT TO COMBATING THE DRUG PROBLEM.

(a) It is the sense of the Congress that the Intelligence Community can play a key role in United States efforts to prevent the importation of illegal drugs into the United States. It is also the sense of the Congress that the drug problem is sufficiently important that monitoring the production of illegal drugs and providing support to efforts to halt the trafficking in illegal drugs should be a high priority for the United States intelligence program.

(b) In order to improve the strategic international narcotics control program of the United States and to assist the reporting requirements of section 481(e) of the Foreign Assistance Act of 1961, the Congress directs the Director of Central Intelligence to improve the collection and analysis of foreign drug production sufficiently to produce highly reliable data on drug cultivation, harvest, and yields for each major illicit drug producing country (as defined by section 481(i) of the Foreign Assistance Act of 1961).

(c) The Congress also directs the Director of Central Intelligence (hereafter in this paragraph referred to as the "DCI") to make support to anti-drug efforts a Level One Priority in his National Foreign Intelligence Strategy and to reflect this priority in the National Foreign Intelligence Program. The Congress understands that—

(1) a copy of the DCI's National Foreign Intelligence Strategy will be provided to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, with the DCI's budget request for fiscal year 1988; and

(2) the DCI will address Intelligence Community support to anti-drug efforts and the coordination of these efforts within the Intelligence Community in his presentation of the National Foreign Intelligence Strategy to the Committees.

SEC. 2017. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 201. POLICY TOWARD MULTILATERAL DEVELOPMENT BANKS.

Section 481(a) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.".

SEC. 2019. MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation of production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2020. DRUGS AS A NATIONAL SECURITY PROBLEM.

The Congress hereby declares that drugs are a national security problem and urges the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2021. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations asupices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2022. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, incuding the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 2023. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study.

SEC. 2024. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2025. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentay Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2026. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 67 days after the date of enactment of this Act with Respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2027. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2028. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2029. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be pursuant to section 126(b)(2) of that Act for additional

activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 2030. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2031. SUGAR QUOTA.

(a) Notwithstanding any other provision of the law: The President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the U.S. in narcotics enforcement activities as defined in section 2002 as determined by the President.

SEC. 2032. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the importance and the desire to respect the sovereignty of each nation;

(2) further, the United States government has actively worked to support the Mexican government in easing its international debt burden;

(3) Both presidents pledged their cooperation in drug eradication, enforcement and education;

(4) This pledge of cooperation has not been realized fully because of the inadequate response of the Mexican government in:

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfedo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the U.S.-Mexican border.

(b) Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subparagraph (A)(4), the President should consider taking one or more of the following measures:

(1) imposition of a mandatory travel advisory for all of Mexico;

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank);

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

TITLE III—INTERDICTION

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Improvement act of 1986".

SEC. 3002. FINDINGS.

The Congress hereby finds that—

(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

(A) increased investigations of large networks of drug smuggler organizations;

(B) source country drug eradication;

(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

(D) increased emphasis on drug education programs in the schools and workplaces;

(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive antidrug effort are emphasized;

(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal drug interdiction program;

(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

SEC. 3003. PURPOSES.

It is the purpose of this title—

(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act, for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States and

(3) to improve other drug interdiction programs of the Federal Government.

Subtitle A—Department of Defense Drug Interdiction Assistance

SEC. 3051. SHORT TITLE.

This subtitle may be cited as the "Defense Drug Interdiction Assistance Act".

SEC. 3052. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy, $138,000,000, to be available for (A) the refurbishment and upgrading, for drug interdiction purposes, of four existing E-2C Hawkeye surveillance aircraft or any other aircraft of the Navy which the Secretary considers better suited than E-2C Hawkeye surveillance aircraft to perform the drug interdiction mission, and (B) the procurement of four replacement aircraft (of the same type of aircraft refurbished and upgraded under the authorization in this paragraph) and related spares for the Navy.

(2) For procurement of seven radar aerostats, $99,500,000.

(3) For procurement of eight Blackhawk helicopters, $40,000,000.

(b) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—(1)(A) The Secretary of Defense shall make two of the existing aircraft refurbished and upgraded under section (a)(1) available to the Customs Service and the other two of such existing aircraft available to the Coast Guard.

(B) The Customs Service and the Coast Guard shall each have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service and the Coast Guard, respectively, under subparagrah (A).

(2) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(2) and the helicopters acquired under subsection (a)(3) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984.

(3) Aircraft and radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

(c) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligatied for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 3053. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who

are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on the date of the enactment of this Act, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

(c) USE OF DEPARTMENT OF DEFENSE FUNDS FOR THE COAST GUARD.—In addition to any other amounts authorized to be appropriated to the Department of Defense in fiscal year 1987, $45,000,000 shall be authorized to be appropriated for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

(d) INSTALLATION OF 360-DEGREE RADAR ON COAST GUARD SURVEILLANCE AIRCRAFT.—The Secretary of Defense is authorized to use $45,000,000 for the installation of 360-degree radar systems on Coast Guard long-range surveilliance aircraft. Funds to carry out this subsection shall be derived as described in section 3052(b). Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

SEC. 3054. REPORT ON DEFENSE DRUG EDUCATION ACTIVITIES.

Not later than December 1, 1986, the Secretary of Defense, in consultation with the National Drug Enforcement Policy Board and the Department of Education, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of—

(1) the extent to which youth enrolled in schools operated by the Department of Defense for dependent members of the Armed Forces are receiving education on drug and substance abuse,

(2) the types of drug education programs that are currently being provided in such schools,

(3) whether additional drug education programs are needed in such schools, and

(4) the extent to which drug education for youth in grades kindergarten through 12 include or should include preventive peer counseling classes.

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

SEC. 3056. ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AND EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL

(a) ASSISTANCE TO CIVILIAN LAW ENFORCEMENT.—Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws".

(b) EMERGENCY ASSISTANCE.—Section 374(c) of such title is amended to read as follows:

"(c)(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used as a base of operations outside the land area of the United States (or any territory, commonwealth, or possession of the United States) by Federal law enforcement officials—

"(A) to facilitate the enforcement of a law listed in subsection (a); and

"(B) to transport such law enforcement officials in connection with such operations.

"(2)(A) Subject to subparagraph (B), equipment operated by or with the assistance of personnel assigned under subsection (a) may not be used to interdict or interrupt the passage of vessels and aircraft.

"(B) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to intercept vessels and aircraft outside the land area of the United States (or any territory, commonwealth, or possession of the United States) for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists and that enforcement of a law listed in subsection (a) would be seriously impaired if such use of equipment were not permitted. Such use of equipment may continue into the land area of the United States (or any territory or possession of the United States) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(3) For purposes of this subsection, an emergency circumstance exists when—

"(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interest of the United States; and

"(B) the assistance described in this subsection would significantly enhance the enforcement of a law listed in subsection (a).".

SEC. 3057. ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) GENERAL REQUIREMENT.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress the following:

(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

(B) Communications equipment, including secure communications.

(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

(b) COMMITTEE APPROVAL AND FINAL IMPLEMENTATION.—Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

(c) EQUIPMENT SUBJECT TO SECTION 3052(d).—Equipment identified in this section is subject to the provisions of section 3052(d).

(d) APPLICABILITY.—Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

(e) REVIEW BY GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsec-

tions (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).

SEC. 3058. GRADE OF DIRECTOR OF DEPARTMENT OF DEFENSE TASK FORCE ON DRUG ENFORCEMENT.

During fiscal year 1987, the number of officers of the Marine Corps authorized under section 525(b) of title 10, United States Codes, to be on active duty in grades above major general is increased by one during any period that an officer of the Marine Corps is serving as the Director of the Department of Defense Task Force on Drug Enforcement. An additional officer in a grade above major general by reason of this section may not be in the grade of general.

SEC. 3059. CIVIL AIR PATROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Civil Air Patrol, the all-volunteer civilian auxiliary of the Air force, can increase its participation in and make significant contributions to the drug interdiction efforts of the Federal Government, and

(2) the Secretary of the Air Force should fully support that participation.

(b) AUTHORIZATION.—In addition to any other amounts appropriated for the Civil Air Patrol for fiscal year 1987, there are authorized to be appropriated for the Civil Air Patrol, out of any unobligated and uncommitted balances of appropriations for the Department of Defense for fiscal year 1986 which are carried forward into fiscal year 1987, $7,000,000 for the acquisition of the major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions.

(c) REPORTS.—(1) The Secretary of the Air Force shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives quarterly reports which contain the following information:

(A) A description of the manner in which any funds are used under subsection (b).

(B) A detailed description of the activities of the Civil Air Patrol in support of the Federal Government's drug interdiction program.

(2) The first report under paragraph (1) shall be submitted on the last day of the first quarter ending not less than 90 days after the date of the enactment of this Act.

Subtitle B—Customs Enforcement

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Customs Enforcement Act of 1986".

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 3111. DEFINITIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c);

(2) by striking out "The term" in subsection (k) and inserting in lieu thereof "(1) The term";

(3) by adding at the end of subsection (k) the following new paragraph:

"(2) For the purposes of sections 432, 433, 434, 448, 585, and 586, any vessel which—

"(A) has visited any hovering vessel;

"(B) has received merchandise while in the customs waters beyond the territorial sea; or

"(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place."; and

(4) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.".

SEC. 3112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

only in accordance with regulations prescribed by the Secretary.".

SEC. 3113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433;

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 of the Tariff Act of 1930 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 3114. PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 3115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 of the Tariff Act of 1930 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $5,000, or imprisonment for not more than 1 year, or both.".

(b) REPEAL.—Section 460 is repealed.

SEC. 3116. PENALTIES FOR FAILURE TO DECLARE.

Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497) is amended to read as follows:

"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.

"(a) IN GENERAL.—(1) Any article which—

"(A) is not included in the declaration and entry as made; and

"(B) is not mentioned before examination of the baggage begins—

"(i) in writing by such person, if written declaration and entry was required, or

"(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

"(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

"(A) if the article is a controlled substance, 200 percent of the value of the article; and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 3117. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 3118. FALSE MANIFESTS; LACK OF MANIFEST.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000";

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000";

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500"; and

(4) by striking out "$10" in subsection (a)(2) and inserting in lieu thereof "$200".

SEC. 3119. UNLAWFUL UNLOADING OF MERCHANDISE.

Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 3120. AVIATION SMUGGLING.

Part V of title IV of the Tariff Act of 1930 is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) SEA TRANSFERS.—It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

"(1) either—

"(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

"(B) the vessel is a vessel of the United States (within the meaning of section 3(b) of the Anti-Smuggling Act (19 U.S.C. 1703(b)), or

"(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

"(c) CIVIL PENALTIES.—Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 497(b).

"(d) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (c), any person who intentionally commits a violation of any provision of this section is, upon conviction—

"(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

"(e) SEIZURE AND FORFEITURE.—

"(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier."

"(f) DEFINITION OF MERCHANDISE.—As used in this section, the term 'merchandise' means only merchandise the importation of which into the United States is prohibited or restricted.

"(g) INTENT OF TRANSFER OF MERCHANDISE.—For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) or section 596, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

"(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

"(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

"(3) The failure to identify correctly—

"(A) the vessel by name or country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

"(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

"(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 3121. SEIZURES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining, and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 3122. SEARCHES AND SEIZURES.

Section 595(a) of the Tariff Act of 1930 (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

"(C) any document, container, wrapping, or other article which is evidence of a violation of section 592 involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

"(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.".

SEC. 3123. FORFEITURES.

Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

SEC. 3124. PROCEEDS OF FORFEITED PROPERTY.

Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 3125. COMPENSATION TO INFORMERS.

Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1) any person who is not an employee or officer of the United States—

"(A) detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws and reports such detection and seizure to a customs officer, or

"(B) furnishes to a United States attorney, the Secretary of the Treasury, or any customs officer original information concerning—

"(i) any fraud upon the customs revenue, or

"(ii) any violation of the customs laws or the navigation laws which is being, or has been, perpetrated or contemplated by any other person; and

"(2) such detection and seizure or such information leads to a recovery of—

"(A) any duties withheld, or

"(B) any fine, penalty, or forfeiture of property incurred;

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount so recovered.

"(b) FORFEITED PROPERTY NOT SOLD.—If—

"(1) any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States and is thereafter, in lieu of sale—

"(A) destroyed under the customs or navigation laws, or

"(B) delivered to any governmental agency for official use, and

"(2) any person would be eligible to receive an award under subsection (a) but for the lack of sale of such forfeited property,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the appraised value of such forfeited property.

"(c) DOLLAR LIMITATION.—The amount awarded and paid to any person under this

section may not exceed $250,000 for any case.

"(d) SOURCE OF PAYMENT.—Unless otherwise provided by law, any amount paid under this section shall be paid out of appropriations available for the collection of the customs revenue.

"(e) RECOVERY OF BAIL BOND.—For purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.".

SEC. 3126. FOREIGN LANDING CERTIFICATES.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 3127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 628. EXCHANGE OF INFORMATION.

"(a) IN GENERAL.—The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(4) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

"(b) NONDISCLOSURE AND USES OF INFORMATION PROVIDED.—

"(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

"(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).".

SEC. 3128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV of the Tariff Act of 1930 is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections; and

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.".

PART 2—UNDERCOVER CUSTOMS OPERATIONS

SEC. 3131. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

(b) SPECIAL EFFECTIVE DATE RULE.—If the bill H.R. 5300 (providing for reconciliation of the budget for fiscal year 1987) is enacted and includes an amendment to section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 which is identical to the amendment made by subsection (a) of this section, then the amendment made by subsection (a) shall have no effect.

SEC. 3142. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 3151. RECREATIONAL VESSELS.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 3152. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer shall—

"(1) upon being questioned at the time of executing any of the powers conferred upon him, make known his character as an officer of the Federal Government; and

"(2) have the authority to demand the assistance of any person in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary.

If a person, without reasonable excuse, neglects or refuses to assist a customs officer upon proper demand under paragraph (2), such person is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person other than an officer or employee of the United States who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 3153. REPORTS ON EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 3161. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

(a) AMENDMENT TO ACT.—Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "POSSESSION," in the heading;

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall";

(3) by striking out "This section" and inserting in lieu thereof "(c) This section";

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a); and

(5) by inserting after subsection (a) the following new subsection:

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

"(1) manufacture or distribute a controlled substance; or

"(2) possess a controlled substance with intent to distribute.".

(b) CONFORMING AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Manufacture" in the item relating to section 1009 and inserting in lieu thereof "Possession, manufacture".

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Maritime Drug Law Enforcement Prosecution Improvements Act of 1986".

SEC. 3202. IMPROVEMENT OF PUBLIC LAW 96-350.

The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign state, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 3. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

Subtitle D—Coast Guard

SEC. 3251. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

(a) ADDITIONAL AUTHORIZATIONS FOR THE COAST GUARD.—

(1) There are authorized to be appropriated for Acquisition, Construction, and Improvements of the Coast Guard, $89,000,000.

(2) There are hereby authorized to be appropriated for Operating Expenses of the Coast Guard, $39,000,000. This amount shall be used to increase the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1987 to 39,220, and to increase the utilization rate of Coast Guard equipment.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this section are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle E—United States-Bahamas Drug Interdiction Task Force

SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act, immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141, and (ii) any training and personnel enhancements authorized in this section and section 3141.

(C) The Attorney General shall report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title, $10,000,000 for the following:

(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Baha-

mas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle F—Command, Control, Communications, and Intelligence Centers

SEC. 3351. ESTABLISHMENT OF COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE CENTERS (C-3I).

There are authorized to be appropriated $25,000,000 for the establishment of command, control, communications, and intelligence (C-3I) centers, including sector operations centers and a national command, control, communications, and intelligence (C-3I) center, in locations within the United States. The coordination of the establishment and location of such C-3I centers shall be conducted by the Commissioner of Customs; the Commandant of the Coast Guard; the Attorney General of the United States; and the National Narcotics Border Interdiction System (NNBIS).

Subtitle G—Transportation Safety

SEC. 3401. AIR SAFETY.

(a)(1) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App 1472(b)) is amended by adding at the end the following:

"(3)(A) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who in connection with an act described in subparagraph (B) and with knowledge of such act—

"(i) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

"(iii) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

"(ii) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

"(iv) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.

"(B) The act referred to in subparagraph (A) is the transportation by aircraft of any controlled substance, or the aiding or facilitation of a controlled substance offense, where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).".

(2) Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.".

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

(b)(1) Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked, or if such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration is suspended or revoked, or that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator of the Federal Aviation Administration with respect to the display of navigation or anticollision lights; and

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given to such term by section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting the following:

"(q) Violations in connection with transportation of controlled substances.".

(c) Section 904(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1474(a)) is amended—

"(1) by striking "$500" each place it appears and inserting in lieu thereof "$5,000";

(2) by inserting after the second sentence the following: "In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109(b) and (c) of this Act, the owner or person in charge of such aircraff shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidence, that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board."; and

(3) by amending the third sentence to read as follows: "In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft.".

(d)(1) Section 1109 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1509) is amended by adding at the end thereof the following:

"REPORTING TRANSFER OF OWNERSHIP

"(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale,

transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act.".

(2) Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection, the Secretary of the Treasury shall promulgate regulations establishing guidelines by which persons or classes of persons may apply for exemptions from the filing requirements of subsection (f) of section 1109. The Secretary of the Treasury may exempt such persons or classes of persons pursuant to such regulations.

(3) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under this side heading

"Sec. 1109. Application of existing laws relating to foreign commerce."

is amended by adding at the end thereof the following:

"(f) Reporting transfer of ownership.".

SEC. 3402. DRUG AND HIGHWAY SAFETY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resultng in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3403. SAVINGS PROVISION.

In any proceeding under section 11344 of title 49, United States Code, involving an application by a rail carrier (or a person controlled by or affiliated with a rail carrier) to acquire a motor carrier, the Interstate Commerce Commission, and any Federal court reviewing action of the Commission, shall follow the standards set forth in the Commission decision in Ex Parte No. 438 if the applicant rail carrier, between July 20, 1984, and September 30, 1986 (1) filed an application with the Commission to acquire a motor carrier, (2) entered into a contract or signed a letter of intent to acquire a motor carrier, or (3) made a public tender offer to acquire a motor carrier.

Subtitle H—Department of Justice Funds for Drug Interdiction Operations in Hawaii

SEC. 3451. COMMUNICATIONS.

The Federal Communications Commission shall revoke any license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission shall, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

Subtitle A—Treatment and Rehabilitation

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. EXTENSION OF ALCOHOL, DRUG, ABUSE, AND MENTAL HEALTH BLOCK GRANT.

(a) Section 1911 is amended—

(1) by striking out "the purpose of grants and allotments under section 1913" and inserting in lieu thereof "purposes of carrying out this part";

(2) by striking out "$576,000,000" and inserting in lieu thereof "$736,000,000"; and

(3) by adding at the end thereof the following new sentence: "If the total amount appropriated under the preceding sentence for fiscal year 1987 exceeds $500,000,000, 27 percent of the amount of such excess shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 67 percent of the amount of such excess shall be available for allotments to States under section 1921 for such fiscal year, and 6 percent of the amount of such excess shall be available for transfer to the Administrator of Veterans' Affairs under section 1923.".

(b)(1) Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Twenty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Seventy-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs, who are seeking treatment, and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (c);

"(C) the commitment of the State to the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse (as determined by the Secretary after an evaluation of the expenditures of the State for such services during the calendar year described in subparagraph (B) and of the ability of the State to meet the need for such services); and

"(D) the availability in the State of Federal, State, and local public resources to satisfy the needs in such State for services described in subparagraph (C).

"(b)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under subsection (a) from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(c) In order to receive an allotment for a fiscal year under subsection (a), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (F) of subsection (a)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (b) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any application under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (b) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (b) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(d)(1) Except as provided in subsections (e), (f), and (i), amounts paid to a State under subsection (b) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation serv-

ices for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(e) A state shall use 5 percent of the total amount paid to a State under subsection (b) for a fiscal year to carry out the programs described in section 1922.

"(f) Of the total amount paid to any State under subsection (b) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (d)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"STATE PROGRAMS FOR HIGH RISK YOUTH

"SEC. 1922. A State shall use the amounts required by sections 1916(c)(8) and 1921(e) to be used under this section for model, innovative, community based programs to provide multiple coordinated services for alcohol abuse and drug abuse prevention, treatment, and rehabilitation directed toward high risk youth. For purposes of this paragraph, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is identified as a child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

"TRANSFER TO THE ADMINISTRATOR OF VETERAN'S AFFAIRS

"SEC. 1923. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1911, is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

SEC. 1924. One percent of the total amount appropriated under section 1911 for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. REVISION OF ALLOTMENT PROCEDURES APPLICABLE TO INDIAN TRIBES.

(a) Section 1902(d)(1) is amended to read as follows:

"(d)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

(b) Section 1913(b)(1) is amended to read as follows:

"(d)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

SEC. 4004. REVISION OF CERTAIN BLOCK GRANT EARMARKS.

(a) Section 1916(c) is amended—

(1) by striking out "35" each place it appears in subparagraphs (A) and (B) of paragraph (7) and inserting in lieu thereof "25";

(2) by striking out paragraph (8) and inserting in lieu thereof the following:

"(8) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 80 percent of such amount for treatment and rehabilitation programs for individuals who abuse alcohol or drugs."; and

(3) by adding at the end thereof the following new paragraph:

"(16) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 5 percent of such amount for programs described in section 1922.".

SEC. 4005. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4006. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the national research institute for which it was appointed on—

"(A) matters relating to the activities carried out by and through the institute and the policies respecting such activities; and

"(B) matters relating to activities carried out by the Secretary and the National Institutes respecting the disease, disorder, or other aspect of human health with which the advisory council is concerned.

"(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established;

"(B) the acquisition of grounds for the institute; or

"(C) the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the national research institute was established and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the national research institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific

disciplines (including public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4007. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by section 4006 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 508. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of a national research institute constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year.".

SEC. 4008. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4009. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should conduct studies on the most effective means of providing such education, including health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any studies described in paragraph (2) which have been conducted, and should include in such report any findings concerning the labels described in such paragraph and recommendations for specific language for such labels.

SEC. 4010. SUICIDE.

(a) Section 501 is amended by adding at the end thereof the following new subsection:

"(i) The Secretary shall—

"(1) develop and publish information respecting the causes of suicide among individuals under the age of 21 and the means of preventing suicide among such individuals, and

"(2) make such information generally available to the public and health professionals.".

(b) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 501(i) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. PREPARATION OF PUBLIC SERVICE ANNOUNCEMENTS.

(a) The Secretary of Health and Human Services shall increase and expand activities conducted under paragraphs (1) and (4) of section 503(d) of the Public Health Service Act.

(b) Section 503(d)(4) is amended—

(1) by inserting "and documentary films" after "television"; and

(2) by inserting "and films" before the period.

SEC. 4012. NATIONAL PLAN TO COMBAT DRUG ABUSE.

By October 1, 1988, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report which sets forth a comprehensive national plan to combat drug abuse. The report shall include—

(1) a description of a model program for activities to be conducted by the States to combat drug abuse;

(2) an analysis of the social and economic costs of drug abuse to the Nation, including amounts expended by public agencies and private organizations—

(A) for the treatment of individuals for drug abuse, including a division of such amounts among the types of settings in which such treatment is provided;

(B) for treatment of individuals for health problems resulting from drug abuse; and

(C) to meet other costs resulting from drug abuse, such as costs resulting from lost employee productivity;

(3) an assessment of current treatment and rehabilitation needs and the current integration and financing of drug treatment and rehabilitation into the Nation's health care system;

(4) recommendations for the National Institute on Drug Abuse for research on, and plans for the development of, chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction;

(5) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(6) a statement of specific goals and objectives to meet the Nation's current treatment, rehabilitation, and personnel needs in the area of drug abuse;

(7) estimates of public and private resources needed to accomplish the goals and objectives referred to in paragraph (6) and estimates of savings in resources that can be anticipated from the achievement of such goals and objectives.

SEC. 4013. CLEARINGHOUSE.

(a) The Secretary of Health and Human Services, through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

(b) The Secretary of Health and Human Services shall ensure that the clearinghouse established under subsection (a) coordinates its activities with similar activities conducted by the Secretary of Education.

SEC. 4014. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs.".

SEC. 4015. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4016. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (d)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 302(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4017. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Food, Drug, and Cosmetic Act.

SEC. 4018. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4019. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) FINDINGS.—The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact on societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) CATEGORIZATION.—It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

Section 4043 of the House amendment is amended to read as follows:

SEC. 4020. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that if the possession or distribution of a drug is an of-

fense under the Controlled Substances Act, the laws of the States should provide that the possession or distribution, respectively, of such drug is a criminal offense.

SEC. 4021. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) of the Public Health Service Act (42 U.S.C. 290cc(a)(5)) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to reduce the incidence of drug abuse or the severity of addiction to specific drugs.".

SEC. 4022. ALKYL NITRITES.

In the administration of the Federal Food, Drug, and Cosmetic Act, alkyl nitrites and their isomers shall be treated as a drug under such Act unless alkyl nitrites and their isomers are not manufactured, processed, distributed, or sold for use by individuals.

SEC. 4023. ADMINISTRATOR OF VETERANS' AFFAIRS.

There is authorized to be appropriated for fiscal year 1987 to the Administrator of Veterans' Affairs $6,000,000 for the purpose of providing outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitutes a grave threat to their physical and mental well-being and significantly impedes the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 4103. PURPOSE.

The purpose of this subtitle is to assist States in their efforts to educate concerning, and to prevent, drug use and alcohol abuse through school and community based programs.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

(a)(1) From the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year—

(A) $2,000,000 shall be reserved by the Secretary for programs under sections 4135 and 4136 for such fiscal year, of which $300,000 shall be for programs under section 4136 for such fiscal year;

(B) $10,000,000 shall be reserved by the Secretary for regional centers under section 4132(b) for such fiscal year;

(C) $15,000,000 shall be reserved by the Secretary for grants to and contracts with institutions of higher education under section 4131 for such fiscal year; and

(D) $7,500,000 shall be reserved by the Secretary for programs and activities under sections 4132(a) and 4134 for such fiscal year.

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $7,500,000 shall be available to the Secretary of Health and Human Services to carry out section 4134 for such fiscal year.

(b)(1) From the remainder of the amount appropriated or otherwise made available to carry out this subtitle for each fiscal year after the application of subsection (a) for such fiscal year, the Secretary may reserve up to 1 percent for allotments to territories and possessions.

(2) From the amount reserved under paragraph (1) for a fiscal year, the Secretary shall allot to each territory or possession an amount which bears the same ratio to such reserved amount as the school-age population of such territory or possession bears to the population of all territories and possessions.

(3) For purposes of this subsection, the term "territory or possession" means Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(c)(1) From the amount available to carry out this subtitle for a fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to such available amount as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than $800,000 under this subsection.

(2) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) The Secretary may reallot any amount of any allotment to a State under subsection (b) or (c) to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under subsection (b) or (c).

(e) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under subsection (b) or (c) from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 35 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State programs is accordance with section 4122.

(b) An amount equal to 65 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency for—

(1) programs described in section 4123(b); and

(2) grants to and contracts with local educational agencies, intermediate educational agencies, and consortia for activities in accordance with sections 4123(a) and 4125.

SEC. 4122. STATE PROGRAMS.

(a) Funds made available to the chief executive officer of a State under section 4121(a) shall be used for grants to and contracts with local governments, local educational agencies, institutions of higher education, consortia, and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broad based programs for drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education for all age groups;

(2) training programs for teachers, counselors, other educational personnel, parents, local law enforcement and judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) aimed at drug-free communities in every State;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia of such agencies—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs; and

(B) in undertaking the coordination of such programs with related community efforts and resources; and

(C) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

(b) In carrying out subsection (a), the chief executive officer of a State shall ensure that model, innovative, community based programs of multiple coordinated services for high risk youth are given the highest priority. For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is the child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

SEC. 4123. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use 90 percent of the amounts available to such agency under section 4121(b) for grants to, and contracts with, local educational agencies, intermediate educational agencies, and consortia in the State, for the purposes described in section 4125(a), except that for fiscal years 1989 and 1990 the State educational agency shall allot to each local educational agency an amount which bears the same ratio to the amounts available for purposes of this subsection for such fiscal year as the school-age population in the local school district bears to the school-age population in the State.

(b) Each State educational agency shall use 10 percent of the amounts available under section 4121(b) for each fiscal year for programs of drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education. Programs carried out under this subsection may include activities such as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricula and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children, sparsely populated areas, or to meet other special needs;

(5) collaborative and coordinated activities, including grants to and contracts with institutions of higher education, local educational agencies, and regional centers established under section 4132(b); and

(6) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

(c) Each State educational agency shall submit to the chief executive officer of the State a plan which—

(1) describes the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(2) provides assurances that the State educational agency will provide financial assistance under this part only to local educational agencies, intermediate educational agencies, and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

(3) describes how funds will be allocated among local educational agencies, intermediate educational agencies, and consortia for fiscal years 1987 and 1988 and how funds will be used under this part; and

(4) provides for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. STATE APPLICATIONS.

(a) In order to receive an allotment under subsection (b) or (c) of section 4112, a State shall submit an application to the Secretary. As part of such application the chief executive officer of the State shall agree to use the funds paid to the State under this part in accordance with the requirements of this subtitle.

(b) Each application submitted under subsection (a) shall—

(1) cover a period of two fiscal years;

(2) be submitted at a time, in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this subtitle for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this subtitle and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part; and

(6) designate the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part and include the plan for use of funds under section 4123(c).

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to a local educational agency, intermediate educational agency, or consortia pursuant to a grant or contract under section 4123(a) may be used by such agency or consortia for drug abuse and alcohol abuse prevention and education activities primarily directed toward elementary, secondary, and postsecondary schools. Such activities may include—

(A) the development and implementation of drug abuse and alcohol abuse education curricula for elementary and secondary schools;

(B) drug abuse and alcohol abuse prevention counseling programs including peer and professional counseling;

(C) programs of drug abuse and alcohol abuse treatment referral;

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(I) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

(b) Not more than 2.5 percent of any grant, contract, or allotment under section 4123(a) for any fiscal year may be used for administrative costs of a local or intermediate educational agency or consortium in carrying out programs under this part.

SEC. 4126. LOCAL APPLICATIONS.

(a) A local educational agency, intermediate educational agency, or a consortia may submit an application to the State educational agency for a grant, contract, or allotment under this part. A local educational agency may receive a grant, contract, or allotment under this part for any fiscal year for which such application is certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

(1) sets forth a comprehensive plan for programs to be carried out by the applicant under this part;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establishes or designates a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describes the manner in which the applicant will establish, implement, or augment age-appropriate, developmentally-based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, including a description of provisions to target education efforts to students most at risk of drug abuse and to schools with the greatest need of drug abuse prevention programs;

(5) provides assurances that the applicant enforces related rules and regulations of student conduct;

(6) describes the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(7) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(8) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(9) provide assurances of compliance with the provisions of this part;

(10) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation,

consistent with the responsibilities of the State agency under this part; and

(11) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From amounts reserved by the Secretary under section 4112(a)(1)(C), the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia thereof for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education or consortia thereof which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to institutions of higher education of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b)(1) Training grants shall be available for—

(A) pre-service and in-service training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(B) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(C) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and

(D) training programs for law enforcement officials, community leaders, parents, and government officials.

(2) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this paragraph, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(c) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4132(b).

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including treatment and rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 4132. FEDERAL ACTIVITIES.

(a)(1) The amount reserved by the Secretary under section 4112(a)(1)(D) for each fiscal year shall be used to carry out the activities described in paragraph (2).

(2) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(A) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under the Public Health Service Act;

(B) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug and alcohol abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(C) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug and alcohol abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies;

(D) identify research and development priorities with regard to school-based drug and alcohol abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4; and

(E) collect data concerning, and evaluate, programs that reduce drug abuse and alcohol abuse among students.

(b) The Secretary shall use the amount reserved under section 4112(a)(1)(B) for each fiscal year to maintain at least 5 regional centers to—

(1) train school teams to access the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

(c) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the Committees on Appropriations and Labor and Human Resources of the Senate and the Committees on Appropriations and Education and Labor of the House of Representatives not later than one year after the date of the enactment of this Act.

SEC. 4133. INTERAGENCY COORDINATION.

The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, and the Director of ACTION shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, and ACTION, respectively, to coordinate interagency drug and alcohol abuse activities.

SEC. 4134. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

(a) The Secretary of Health and Human Services and the Secretary of Education shall provide training and technical assistance to States and public and nonprofit private entities in planning and operating activities to be carried out under this subtitle.

(b) The Secretary of Health and Human Services and the Secretary of Education may conduct data collection and evaluation activities to assist in carrying out this subtitle.

SEC. 4135. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the amounts reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423(a) of the Indian Education Act (20 U.S.C. 3385b) is amended by inserting "clinical psychology," after "medicine,".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.".

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 4136. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

PART 4—GENERAL PROVISIONS

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, treatment and rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies, intermediate educational agencies, State educational agencies, and institutions of higher education or a consortium of one or more such agencies or institutions.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 4144. MATERIALS.

Any materials produced or distributed with amounts appropriated under this subtitle shall reflect the message that the use of illegal drugs and the abuse of alcohol and other drugs is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this section.

Subtitle C—Indians and Alaska Natives

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

SEC. 4202. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in education, social services, law enforcement, and other areas, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indians is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their members and the resources made available under this subtitle will assist Indian tribes in meeting that responsibility.

SEC. 4203. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 4204. DEFINITIONS.

For purposes of this subtitle—

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 4205, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 19 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, Indians who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help Indians reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 4205. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 4206, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 130 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 4206. TRIBAL ACTION PLANS.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such resolution shall be the basis for the implementation of this subtitle and of the Memorandum of Agreement under section 4205.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 4205, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for scheduling Federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among Indians as provided under section 4228, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 4205(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted the resolution for the Plan,

(2) the identification and coordination of available resources and programs relevant to a program of alcohol and substance abuse prevention and treatment,

(3) the establishment and prioritization of goals and the efforts needed to meet those goals, and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. The Secretary shall allocate funds based on need.

(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal year 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 90 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 4207. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 4206.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 4208. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction: Provided, That the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available Federal, tribal, State, local, or private funds, if not otherwise prohibited by law. This subsection does not require the Secretary of the Interior nor the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

SEC. 4210. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

PART III—INDIAN YOUTH PROGRAMS

SEC. 4211. REVIEW OF PROGRAMS.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) Federal programs providing education services or benefits to Indian children,

(2) tribal, State, local, and private educational resources and programs,

(3) Federal programs providing family and social services and benefits for Indian families and children,

(4) Federal programs relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 4206.

SEC. 4212. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such

sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 4213. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 4206 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 4205, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operated.

(e) AUTHORIZATION.—For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989. For the operation of emergency shelters or half-way houses there is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 4214. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 4215. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION: SOURCE ERADICATION

(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal Law enforcement agencies, including the United States Customs Service.

(2) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989.

(b)(1) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(2) AUTHORIZATIONS.—To carry out subsection (a), there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 4218. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in subsection (a) shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 4228.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4219. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 4205 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either through its direct or contract health service.

SEC. 4220. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall construct or renovate and staff new or existing juvenile detention centers. The Secretary shall ensure that the construction and operation of the centers is consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there is authorized to be appropriated $10,000,000 for construction and

renovation for each of the fiscal years 1987, 1988, and 1989, and $5,000,000 for staffing and operation for each of the fiscal years 1987, 1988, and 1989.

SEC. 4221. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 4222. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 4224. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 4225. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 4205 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 4226. INDIAN HEALTH SERVICE PROGRAM.

The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

SEC. 4227. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) CENTERS.—The Secretary shall construct or renovate a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For purposes of the preceding sentence, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health professionals. There are authorized to be appropriated $6,000,000 for the construction and renovation of the regional youth treatment centers, and $3,000,000 for the staffing of such centers, for each of the fiscal years 1987, 1988, and 1989.

(c) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures, suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth, and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(3) There are authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4228. TRAINING AND COMMUNITY EDUCATION.

(a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical parties.

(b) TRAINING.—The Secretary of Health and Human Services shall, either directly or through contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Indian Health Service, and personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Indian Health Services, including supervisors of emergency shelters and half-way houses described in section 4213.

"(c)(1) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall establish at least one demonstration project to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, * * * depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

"(5) For purposes of this paragraph, the term 'health promotion' shall include:

"(A) reduction in the misuse of alcohol and drugs,

"(B) cessation of tobacco smoking.

"(C) improvement of nutrition.

"(D) improvement in physical fitness.

"(E) family planning, and

"(F) control of stress.

"(6) For purposes of this paragraph, the term 'disease prevention' shall include:

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) pregnancy and infant care (including prevention of fetal alcohol syndrome),

"(6) control of toxic agents,

"(7) occupational safety and health,

"(8) accident prevention,

"(9) fluoridation of water, and

"(10) control of infectious agents.

"(7) Sec. 4228 is amended by adding at the end the following 'provided that $500,000 shall be made available for activities described under section 4228(c)(1).

(d) AUTHORIZATION.—There are authorized to be appropriated $4,000,000 for the fiscal year 1987 and such sums as are necessary to carry out the purposes of this section for the fiscal years 1988 and 1989.

SEC. 4229. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 4230. INDIAN HEALTH SERVICE REPORTS.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and section 4204 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle D—Miscellaneous Provisions

SEC. 4301. ACTION GRANTS.

The Domestic Volunteer Service Act of 1973 is amended—

(1) in title I by adding after section 123 the following new section:

"SPECIAL INITIATIVES

"SEC. 124. The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, public service announcements, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations). In fulfilling the authority of this section, the Director is authorized to (1) coordinate the agency efforts with the White House and other Federal agencies, and (2) accept in the name of the ACTION agency funds received through solicitation of profit and nonprofit entities.";

(2) by amending subsection (c) of section 501 to read as follows:

"(c) There is to be authorized to be appropriated to carry out programs under part C of title I of this Act $4,484,000 for the fiscal year 1987 (of which $2,500,000 shall be available for drug abuse prevention), $1,984,000 for fiscal year 1988, and $1,984,000 for fiscal year 1989."; and

(3) by amending section 504 to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the Administration of this Act, as authorized in title IV of this Act, $25,812,000 for fiscal year 1987 (of which $500,000 shall be available for support of drug abuse prevention), $25,312,000 for fiscal year 1988, and $25,312,000 for fiscal year 1989.".

SEC. 4302. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under subtitle B, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matters, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Reports.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

SEC. 4303. INFORMATION ON DRUG ABUSE AT THE WORKPLACE.

The Secretary of Labor may collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary may conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The Secretary may submit the findings of such collection and research to the House Committee on Education and Labor and the Senate Committee on Labor and Human Services no later than two years from the date of enactment of this Act.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "United States Insular Areas Drug Abuse Act of 1986".

SEC. 5002. PURPOSES.

The purposes of this subtitle are to improve enforcement of drug laws and enhance interdiction of illicit drug shipments in the Caribbean and Pacific territories and commonwealths of the United States and to assist public and private sector drug abuse prevention and treatment programs in United States insular areas.

SEC. 5003. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 5004. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services of the United States are authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated $700,000 to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(2) There are authorized to be appropriated $1,000,000 to carry out paragraph (1). Funds appropriated under this paragraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services, as appropriate, are authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated $250,000 to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The United States Customs Service should station an aerostat in Puerto Rico.

(3) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(4)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent and treat narcotics abuse, such sums to remain available until expended.

(2) The United States Coast Guard should station a patrol vessel in St. Croix, Virgin Islands.

(3)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

Subtitle B—National Park Service Program

SEC. 5051. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 5052. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 6002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subchapter, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of employees and to employees who have family members who are drug

abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (42 U.S.C. 290ee-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of the Federal Employee Substance Abuse Education and Treatment Act of 1986 and annually thereafter, submit to each House of Congress a report containing the matters described in subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362 of this title, including the costs associated with each such program or service and the source and adequacy of any funding such program or service;

"(2) a description of the levels of participation in each program and service provided under section 7361 or 7362 of this title, and the effectiveness of such programs and services;

"(3) a description of the training and qualifications required of the personnel providing any program or service under section 7361 or 7362 of this title;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) any recommendations for legislation considered appropriate by the Office and any proposed administrative actions; and

"(6) information describing any other related activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.— The Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290dd-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(2) in section 525 (42 U.S.C. 290ee-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

SEC. 6003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes prescribed in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed to provide information to Federal Government employees with respect to—

(1) the short- and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law or regulation, and any administrative action (permissive or mandatory), relating to the use of alcohol or drugs by a Federal Government employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 6004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 6005. SUBSTANCE ABUSE COVERAGE STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent to which the cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and (2) the adequacy of such coverage for the rehabilitation of drug abusers.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of Health and Human Services shall transmit to the Congress a report of the results of the study conducted under subsection (a). The report shall include recommendations of means to meet the needs identified in such study.

SEC. 6006. HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT.

(a) FINDINGS.—The Congress finds that—

(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

(4) the total cost of drug abuse to the nation in 1983 was over $60,000,000,000; and

(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 7002. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 7003. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "President's Media Commission on Alcohol and Drug Abuse Prevention Act".

SEC. 8002. ESTABLISHMENT.

There is established a commission to be known as the President's Media Commission on Alcohol and Drug Abuse Prevention (hereinafter in this title referred to as the "Commission").

SEC. 8003. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public education programs in effect on the date of the enactment of this title which are—

(A) implemented through various segments of mass media; and

(B) intended to prevent alcohol and drug abuse;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, motion picture, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) professional sports organizations and associations;

to assist the implementation of new programs and national strategies for dissemination of information intended to prevent alcohol and drug abuse;

(3) encourage media outlets throughout the country to provide information aimed at preventing alcohol and drug abuse, including public service announcements, documentary films, and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 8004. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this title, and should include representatives of—

(1) advertising agencies;

(2) motion picture, television, radio, cable communications, and print media;

(3) the recording industry;

(4) other segments of the business sector of the United States;

(5) experts in the prevention of alcohol and drug abuse;

(6) professional sports organizations and associations; and

(7) other Federal agencies, as designated by the President, including the Director of the Agency for Substance Abuse Prevention of the Department of Health and Human Services.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of his term until his successor has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 8005. MEETINGS.

(a) IN GENERAL.—(1) The Commission shall meet at the call of the Moderator.

(2) The Moderator shall convene the 1st meeting of the Commission within 30 days after the date of the completion of appointments under section 4(a).

(b) MODERATOR.—One member of the Commission shall be designated by the President to serve as Moderator of the Commission.

(c) QUORUM AND PROCEDURE.—The Commission shall adopt rules regarding quorum requirements and meeting procedures as the Commission deems appropriate at the 1st meeting of the Commission.

(d) VOTING.—Decisions and official acts of the Commission shall be according to the vote of a majority of members at a properly called meeting.

SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR AND STAFF.—(1) Subject to paragraph (2), the Moderator, with the approval of the Commission, may employ and set the rate of pay for a Director and such staff as the Moderator deems necessary.

(2) Rates of pay set under paragraph (1) shall be less than the rate of basic pay payable under section 5316 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Moderator, with the approval of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

SEC. 8007. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—Upon the request of the Moderator of the Commission, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8008. REPORT.

The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

SEC. 8009. TERMINATION.

The Commission shall terminate on a date which is three years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

TITLE IX—BALLISTIC KNIFE PROHIBITION

SEC. 9001. SHORT TITLE.

This title may be cited as the "Ballistic Knife Prohibition Act of 1986".

SEC. 9002. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

"SEC. 7. (a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable

blade that is propelled by a spring-operated mechanism.".

SEC. 9003. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

The amendments made by this title shall take effect 30 days after the date of enactment of this title.

TITLE —HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. . SHORT TITLE.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. . MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. . JOB TRAINING FOR THE HOMELESS.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN TO INCLUDE HOMELESS.—(1) Section 121(b)(1) of the Job Training Partnership Act (20 U.S.C. 1531(b)(1)) is amended by inserting after "rehabilitation agencies" a comma and the following: "programs for the homeless".

(2) Section 121(c)(3) of the Job Training Partnership Act is amended by inserting after "offenders" a comma and the following: "homeless individuals".

(b) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by striking out "or addicts" and inserting in lieu thereof "addicts, or homeless".

Subtitle C—Entitlements Eligibility

SEC. . TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER AFDC, SSI, AND MEDICAID PROGRAMS.

(a) AFDC.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (38),

(2) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(40) provide a method of verifying the eligibility of, and making aid available with respect to, a dependent child who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(b) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide a method of verifying the eligibility of, and making payments under this title to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(c) MEDICAID PROGRAM.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(47) provide a method of verifying the eligibility of, and making medical assistance available to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2) If a State agency administering a plan approved under part A of title IV of the Social Security Act or under title XIX of such Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by subsection (a) or (c) of this section, respectively, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or the date of the enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

SEC. . SINGLE APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

(a) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Single Application for SSI and Food Stamp Benefits by SSI Pre-Release Individuals

"(j)(1) The Secretary shall provide for the establishment, maintenance, and improvement of procedures designed to ease the transition of institutionalized persons from medical, penal, and other institutions to the community, and to prevent homelessness, by permitting such persons to apply for benefits under this title prior to their discharge or release from such institutions and thereby assuring that essential support (such as housing, food, and clothing) is available to them upon such discharge or release.

"(2) Under regulations prescribed by the Secretary, the procedures described in paragraph (1) shall—

"(A) require that personnel of the district offices of the Social Security Administration, and of the appropriate State disability determination services, make regular visits to all institutions of the types involved to receive and process applications for benefits under this title and for food stamps under paragraph (3);

"(B) provide for the development of descriptive materials on such procedures for use by such district offices and by social service departments in such institutions;

"(C) provide training for employees in such district offices; and

"(D) establish time limits within which State agencies must complete their processing of applications filed pursuant to such procedures.

"(3) The Secretary and the Secretary of Agriculture shall establish special procedures under which persons applying for benefits under this title prior to their discharge or release from an institution pursuant to the pre-release procedures described in paragraphs (1) and (2) can also apply to participate in the food stamp program under the Food Stamp Act of 1977, utilizing a single application for this purpose.".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall become effective April 1, 1987.

(2) The Secretary of Health and Human Services shall promulgate final regulations to implement the amendment made by subsection (a) not later than April 1, 1987.

SEC. . DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

Strike out title XII and insert in lieu thereof the following:

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 12001. SHORT TITLE.

That this title may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

SEC. 12002. PURPOSE.

The purpose of this title is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, by providing penalties for the operation of commercial motor vehicles by persons who have used alcohol before or during the operation of such vehicles, and by increasing inspections of commercial motor vehicle operators and the equipment they operate.

SEC. 12003. DEFINITIONS.

As used in this title, the term—

(1) "alcohol" has the meaning the term alcoholic beverage had under section 158(c) of title 23, United States Code;

(2) "commence" means—

(A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or

(B) trade, traffic, or transportation in the United States which affects any trade, traffic, or transportation described in subparagraph (A);

(3) "commercial driver's license" means a license issued by a State to an individual which authorizes the individual to operate a class of commercial motor vehicle;

(4) "commercial motor vehicle" means any self-propelled or towed vehicle used in commerce to transport passengers or property if—

(A) such vehicle has a gross vehicle weight rating of twenty-six thousand and one or more pounds, or such lower weight rating (not less than ten thousand and one pounds) as the Secretary considers appropriate;

(B) such vehicle is designed to transport more than fifteen passengers, including the driver; or

(C) such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(5) "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(6) "driver's license" means a license issued by a State to an individual which authorizes the individual to operate a motor vehicle on highways;

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle) who is employed by an employer;

(8) "employer" means any person (including the United States, a State, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

(9) "felony" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year;

(10) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on the highways other than a commercial motor vehicle; such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail;

(11) "Secretary" means the Secretary of Transportation;

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident; and

(D) any other similar violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) which the Secretary determines by regulation is serious;

(13) "State" means a State of the United States and the District of Columbia; and

(14) "United States" means the fifty States and the District of Columbia.

SEC. 12004. RESPONSIBILITIES OF THE SECRETARY.

(a) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which establish minimum Federal standards for the licensing, testing, qualifications and classification of operators of commercial motor vehicles. Such regulations shall, at a minimum—

(1) establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) require a driving test of each person who operates or will operate a commercial motor vehicle in commerce in the type of vehicle such person operates or will operate, except that the Secretary may, by regulation, permit any State to waive such test in the case of any such person who applies for renewal of a commercial driver's license;

(3) establish minimum scores for passing such tests;

(4) ensure that each person taking such tests is qualified to operate a commercial motor vehicle in commerce under regulations promulgated under this section, regulations contained in subpart E of part 391 of title 49 of the Code of Federal Regulations, and such other Federal Motor Carrier Safety Regulations contained in title 49 of the Code of Federal Regulations as the Secretary considers appropriate;

(5) establish requirements for the disqualification of the operator of any commercial motor vehicle who is once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(6) establish requirements for the immediate revocation of the operator's license of any individual who is more than once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(7) disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

(8) establish a system of classification for licensing that provides different minimum Federal testing standards for operation of different classes of commercial motor vehicles;

(9) provide that each commercial driver's license shall contain, at a minimum—

(A) the legal name, date of birth (including day, month and year) sex, address, and a physical description of the person to whom such license is issued;

(B) other identifying information which the Secretary considers necessary or appropriate;

(C) the type of commercial motor vehicle which such person is authorized to operate under such license;

(D) the name of the State which issued such license; and

(E) the dates between which such license is valid; and

(10) may require the issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests, and may require such person to have a copy of such certification in his or her possession when such person is operating a commercial motor vehicle.

(b) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which shall be in addition to regulations promulgated under subsection (a) of this section and which shall establish minimum Federal standards for the licensing, testing, qualifications and classification of any person who operates or will operate a

commercial motor vehicle carrying a hazardous material (as defined in section 103(2) of the Hazardous Materials Transportation Act (49 App. US.C. 1802(2)). Such regulations shall—

(1) ensure that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such hazardous material issued by the Secretary under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(2) establish minimum Federal standards for, and scores for passing, written tests which ensure that such person is knowledgeable regarding (A) all such regulations, (B) the handling of such hazardous mateial, and (C) the appropriate response to emergencies arising out of the transportation of such hazardous material; and

(3) establish minimum Federal standads for driving tests which ensure that such person is knowledgeable regarding the type of vehicle that such person operates or will operate and regarding the safety system of such vehicle.

The Secretary may exempt any such person from any requirement of this Act if the material to be transported is a harzardous material listed pursuant to section 306(a) of the Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Department of Transportation, or if the material to be transported is a consumer commodity or limited quantity hazardous material, as defined in section 171.8 of title 49 of the Code of Federal Regulations.

(c) Nowithstanding any other provision of this Act, after notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to a class of persons or class of commercial motor vehicles if the Secretary determines that such waiver promotes the public interest and does not diminish the safe operation of commercial motor vehicles. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

(d) The Secretary shall, not later than October 1, 1988, submit to the Congress a study regarding the manner in which the requirements of subsection (a)(5) and (6) and section 12005 of this Act regarding blood alcohol content level impact on operators of commercial motor vehicles who are required by their employers to be available to operate such commercial motor vehicles on short notice.

SEC. 12005. RESPONSIBILITIES OF OPERATOR OF COMMERCIAL MOTOR VEHICLES.

(a) No person may operate a commercial motor vehicle in commerce unless such person—

(1) complies with all requirements imposed by regulations promulgated under section 12004 of this title; and

(2) has a blood alcohol content level of less than 0.04 percent whiie operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, subsection (a) of this section shall become applicable with respect to any person who operates or will operate a commercial motor vehicle in commerce on the date on which the State in which such person is domiciled adopts a licensing program under section 12006(a) of this title or September 30, 1990, whichever is earlier, except that, with respect to a person to whom a commercial driver's license has been issued on or before such applicable date, who has not been found to have violated a State or local law relating to motor vehicle traffic control (other than a parking violation) in the three-year priod ending on such date, and who has not been disqualified by the Secretary pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle in commerce or has had a commercial driver's license suspended, revoked or cancelled for cause at any time during such three-year period, subsection (a) of this section shall only take effect on the date after such date on which—

(A) such license is required to be renewed under State law,

(B) such person is found to have violated such a State or local law, or

(C) such person is disqualified pursuant to title 49 of the Code of Federal Regulations by the Secretary from operating a commercial motor vehicle in commerce and has had such person's license suspended, revoked or cancelled for cause by a State,

whichever is earliest.

(2) If any such person is not domiciled in a State that has adopted such a licensing program, the Secretary may, in accordance with regulations to be prescribed by the Secretary, permit such person to obtain a commercial driver's license from any State that has adopted such a program.

(c) Effective on July 1, 1987, no operator of a commercial motor vehicle shall at any time have more than one driver's license, except during the 10-day period beginning on the date such person is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. The second exception in the preceding sentence shall not be effective after September 1, 1989.

(d)(1) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify such operator's employer of such violation, within 30 days after the date such person is found to have committed such violation.

(3) Effective on July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right or disqualification.

(4) (A) Effective on July 1, 1987, subject to subparagraph (B) of this paragraph, each person who applies for employment as an operator of a commercial motor vehicle with an employer shall, at the time of such application, notify the employer of such persons's previous employment as an operator of a commerical motor vehicle.

(B) The Secretary shall by regulation establish the period with respect to which notice must be given under subparagraph (A) of this paragraph, except that such period shall not be less than a 10-year period ending on the date of application for employment.

SEC. 12006. RESPONSIBILITIES OF THE STATES.

On or before September 30, 1990, each State shall, at a minimum—

(1) adopt and administer a program for the issuance of commercial driver's licenses that includes testing and qualification standards for persons who operate commercial motor vehicles in commerce in accordance with all of the minimum Federal standards established by the Secretary under section 12004 of this title, which program (A) may include standards for its domiciliaries that are more stringent that the minimum Federal standards established by the Secretary under section 12004 of this title, (B) shall provide that such State shall recognize any license issued by another State if such license meets all of the Federal minimum standards established by the Secretary under section 12004 of this title, (C) shall not require any person other than its domiciliaries to obtain a commercial driver's license, and (D) provides that such State may issue a commercial driver's license to a person domiciled in another State if such person satisfied all of the requirements for such a license required of domiciliaries of such State under this Act;

(2) not issue a commercial driver's license to a person unless such person passes a written test and driving test for the operation of a commercial motor vehicle which complies with such minimum standards and complies with all requirements imposed by regulations promulgated under section 12005 of this title;

(3) ensure that each commercial driver's license contains the information described in section 12004(a)(9) of this title;

(4) until the information system established under section 12009 of this title provides a means of rapid communication of the information specified in such section—

(A) notify the Secretary, before the issuance of a commercial driver's license, of the proposed issuance of such license and such other information as the Secretary may require to ensure identification of the person applying for such license;

(B) within 30 days after issuance of a commercial driver's license, notify the Secretary of the issuance of such a license;

(C) maintain information regarding (i) any suspension, revocation or cancellation for cause of such a license and any disqualification pursuant to title 49 of the Code of Federal Regulations of the holder of such a commercial driver's license from operating a commercial motor vehicle for a period of 60 days or more, (ii) a decision to deny for cause a license to a person applying for such a license, or (iii) the conviction of the holder of such a commercial driver's license of any of the offenses specified in section 12009(b)(2) of this title;

(D) upon the request of the Secretary, another State, or an employee requesting information regarding such employee, transmit (to the extent permitted by law) to such State, the Secretary or such employee, the information specified in subparagraph (C) of this paragraph; and

(E) at such State's option, upon the request of an employer or prospective employer, transmit (to the extent permitted by law) to such employer or prospective employer, the information specified in subparagraph (C) of this paragraph;

(5) when the information system established under section 12009 of this title allows for the rapid communication of information, comply with the requirements of all regulations within such time periods as the Secretary establishes under section 12009(d) of this title, including a requirement that the State shall respond to all requests for information from the Secretary, another State, an employee who is requesting information regarding such employee, and employers a requirement that the State shall furnish to such information system the information specified in paragraph (4)(C) of this section, and information regarding all violations of any State or local law relating to motor vehicle traffic control (other than a parking violation), and a requirement that the State shall notify the information system of the issuance of a commercial driver's license and of the disqualification of the holder of a commercial driver's license for a period of 60 days or more;

(6) before issuance of a commercial driver's license, contact any other State which has issued to such person such a license to determine the driving record of such person and, if the State determines as a result of such contact that such person has been disqualified pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle by the Secretary, or has had a license suspended, revoked or cancelled for cause for violation of an offense pursuant to section 12004(a)(5) of this title, within three years before application has been made for such a commercial driver's license, not issue such a license to such person;

(7) not issue a commercial driver's license to any person to whom such a license has been issued by any other State unless such person first returns such license issued by such other State;

(8) prior to issuing a commercial driver's license to any person, consult the National Driver Register established pursuant to the National Driver Register Act of 1982 (23 U.S.C. 401, note) (after such Register is determined by the Secretary to be operational) to determine whether, within three years before application has been made for such a license, such person has either been disqualified from operating a motor vehicle other than a commercial motor vehicle, or has had a license other than a commercial driver's license suspended, revoked or cancelled for cause or has been convicted of any of the offenses specified in section 205(a) of the National Driver Register Act of 1982 and, if the State is informed that such person has been so disqualified or convicted or such license has been suspended, revoked or cancelled for cause, not issue a commercial driver's license to such person;

(9) impose such penalties for a violation of section 12004 of this title as the State determines appropriate, if such penalties are the same as or more stringent than the guidelines established by the Secretary in section 12008(b) of this title; and

(10) provide for disqualification, through suspension or revocation of a license, in accordance with section 12004(a) (5) and (6) of this title.

SEC. 12007. GRANTS.

(a)(1) The Secretary may make a grant to a State in a fiscal year if the State enters into an agreement with the Secretary to comply with all provisions of section 6 of this Act.

(2) The amount of a grant under this subsection to any State shall not be less than $100,000 in any fiscal year.

(3) The Secretary may not make a grant to any State under this subsection unless such State agrees that the aggregate expenditure of funds of the State, exclusive of Federal funds, for testing and licensing of operators of commercial motor vehicles will be maintained at a level which does not fall below the average level of such expenditure for the last two fiscal years preceding the date of enactment of this Act.

(4) A State which receives a grant under this subsection may use the funds provided under such grant only for testing and licensing of operators of commercial motor vehicles.

(5) A grant made under this subsection shall be for a period of 1 year.

(6) Funds made available to carry out this subsection shall remain available for obligation by the Secretary for the fiscal year in which such funds are made available and the three fiscal years after such fiscal year.

(7) There shall be available to the Secretary to carry out this subsection—

(A) $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for each of fiscal years 1987, 1988, 1989, 1990, and 1991; and

(B) after deducting the amount permitted under section 402(c) of title 23, United States Code, $3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(8) Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this subsection shall be deemed to be a contractual obligation of the United States for payment of the amount of such grant.

(b)(1) The Secretrary shall withhold highway funds from any State that is not in compliance with section 12006 of this Act after September 30, 1993.

(2) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006 (10) of this title).

(3) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second fiscal year beginning after September 30, 1993, and the first day of each fiscal year thereafter, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006(10) of this title).

(4)(A) The Secretary shall withhold 2 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(B) The Secretary shall withhold not less than 2 percent nor more than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second through fifth fiscal years beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(C) The Secretary shall withhold not less than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the sixth fiscal year, and each fiscal year thereafter, beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(5)(A) Any funds withheld under this subsection from apportionment to any State after September 30, 1993, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) If, before the last day of the period for which funds withheld under this subsection from apportionment are to remain available for apportionment to a State under subparagraph (A) of this paragraph, the State complies with the provisions of section 12006 of this title, the Secretary shall, on the day following the date on which such State complies, apportion to such State the withheld funds remaining available for apportionment to such State.

(C) Any funds apportioned pursuant to subparagraph (B) of this paragraph shall remain available for expenditure as follows:

(i) Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

(ii) Funds apportioned under section 104(b)(1), 104(b)(2), 194(b)(5)(B), or 104(b)(6) of title 23, United States Code, shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse.

(D) If, at the end of the period for which funds withheld under this subsection from apportionment are available for apportionment to a State under subparagraph (A) of this paragraph, the State has not complied with the provisions of section 1 of this Act, such funds shall lapse.

SEC. 12008. PENALTIES.

(a) Section 521(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting immediately after paragraph (11) the following:

"(12) The civil penalties provided in this subsection shall apply to any violation of section 12005(d) of the Commercial Motor Vehicle Safety Act of 1986, and the provi-

sions of this subsection shall apply to any person who operates a commercial motor vehicle without a commercial driver's license after the applicable date specified in section 12005(b) of such Act and any violation of section 12005(c) of such Act, except that—

"(A) the amount to be assessed under this subsection for any such violation shall not exceed $5,000 for each such violation; and

"(B) the exceptions regarding employees in paragraphs (2) and (6) of this subsection shall not apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, but (i) in the case of paragarph (2) of this subsection, the amount to be assessed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation, and (ii) in the case of paragraph (6) of this subsection, the penalty to be imposed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation or imprisonment for a term not to exceed one year, or both.".

(b) The Secretary shall establish guidelines for civil and criminal penalties to be imposed by the States for a violation of this Act. Such penalties shall not exceed $5,000 for each such violation, and shall not provide for imprisonment of more than one year.

SEC. 12009. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.

(a) Not later than January 1, 1989, the Secretary, after consulation with the States, shall cause to be in operation an information system pertaining to the driving status and licensing of operators of commercial motor vehicles. The information system shall serve as a clearinghouse by which the States may communicate rapidly concerning the licensing, identification and driving records of operators of commercial motor vehicles.

(b) The information system established under this section shall—

(1) provide for a depository of information that will, at a minimum, include (with respect to each operator of a commercial motor vehicle)—

(A) the birth date and physical description of such operator, and any other information which the Secretary considers necessary or appropriate to identify specifically such operator;

(B) the address of such operator; and

(C) all States in which such operator currently has a commercial dirver's license; and

(2) provide a system of communication among States that, at a minimum, shall provide exchange of information specified in paragraph (1) of this subsection and information regarding whether such operator has been denied a commercial driver's license, has been disqualified by the Secretary pursuant to title 49 of Code of Federal Regulations from operating a commercial motor vehicle, has had a license suspended, revoked or cancelled for cause, or has been convicted under the laws of any State for (A) operating a commercial motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance or with a blood alcohol content level of 0.04 percent or more; (B) violating a traffic rule or ordinance arising in connection with a fatal traffic accident, reckless driving, or racing on the highways and involving a commercial motor vehicle; (C) failing to render aid or provide identification when involved in an accident involving a commercial motor vehicle which resulted in a fatality or personal injury; or (D) committing perjury or knowingly making a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a commercial motor vehicle.

(c)(1) The operator of the information system established under this section shall, to the extent otherwise permitted by law, make available—

(A) to the Secretary such information in such information system as the Secretary may request to enable the Secretary to comply with the requirements of section 12004 (a)(5), (6) and (7) of this title;

(B) to a State such information in the information system as the State may request;

(C) to an employer or prospective employer of an employee such information in the information system relating to such employee as such employer or prospective employer may request; and

(D) to an employee such information in the information system relating to such employee as such employee may request.

(2) Any prospective employer of a person as an operator of a commercial motor vehicle shall consult the information system established under this section to determine, prior to employing such person, whether a commercial driver's license issued to such person has been suspended, revoked or cancelled for cause. If such prospective employer determines, as a result of such consultation, that such person's license has been suspended, revoked or cancelled for cause, the prospective employer shall not employ such person as an operator of a commercial motor vehicle.

(d) When the information system required by this section has become available, the Secretary shall issue regulations establishing appropriate time periods for transmission of information regarding any violation of this Act.

(e) The Secretary shall establish and the Secretary or a State, as appropriate, shall collect fees for utilization of the information system established under this section. The amount of fees collected by the Secretary or a State under this subsection in any fiscal year shall as nearly as possible equal the costs of operating the information system in such fiscal year. The Secretary shall deposit fees collected by the Secretary under this subsection in the general fund of the Treasury.

(f) There shall be available for fiscal year 1987 to the Secretary for purposes of establishing the information system under this section not to exceed $2,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304). Such sums shall remain available until expended.

SEC. 12010. FREQUENT INSPECTIONS.

(a) Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)(1) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period in subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(H) with respect to any fiscal year beginning with fiscal year 1989, provides for the adoption and implementation of an effective program to conduct inspections of commercial motor vehicles, which program shall provide—

"(i) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside;

"(ii) for the administration of observations, and (with proper safeguards) for the administration of tests, to determine if the operator of a commercial motor vehicle is operating such vehicle with a blood alcohol content level of 0.04 percent or more; and

"(iii) for the prompt suspension, for a period of not less than one year, of the operator's license of any individual who is determined, as a result of an observation or test administered under clause (ii) of this subparagraph, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, and for the immediate revocation of the operator's license of any individual who has been twice determined, as a result of such an observation or test, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who has twice refused to submit to such a test.".

(b) Section 402(b) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)) is amended by adding at the end thereof the following:

"(3)(A) As part of a grant made under this subsection, the Secretary may also provide funds to encourage the States to adopt and implement programs providing for the administration of tests to determine whether the operator of a commercial motor vehicle is under the influence of a controlled substance while operating such motor vehicle.

"(B) For puposes of this subsection, the term 'controller substance' shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).".

SEC. 12011. TRUCK BRAKE REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall revise the regulations of the Administrator of the Federal Highway Administration contained in section 393.42 of title 49 of the Code of Federal Regulations to require trucks and truck tractors manufactured after July 24, 1980, to have brakes operating on all wheels. The Secretary may provide for a delayed effective date (not exceeding one year) for trucks and truck tractors manufactured after July 24, 1980, and before such date of enactment.

SEC. 12012. RADAR DEMONSTRATION PROJECT.

(a) Notwithstanding any other provision of law, the Secretary, in cooperation with State and local law enforcement officials, shall conduct a demonstration project to assess the benefits of continuous use of unmanned radar equipment on highway safety on a section of highway with a high rate of motor vehicle accidents. Such project shall be conducted in northern Kentucky on a hilly section of Interstate Route I-75 between Fort Mitchell and the Brent Spence Bridge over the Ohio River during the two-year period beginning on the date of enactment of this Act.

(b)(1) Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit to the Congress an interim report on the results of the demonstration project conducted under subsection (a) of this section, together with any recommendations on whether to extend the duration of such demonstration project and whether to expand the scope of such project.

(2) Not later than 60 days after completion of the demonstration project conducted under subsection (a) of this section, the Secretary shall transmit to the Congress a final

report on the results of such project, together with any such recommendations.

SEC. 12013. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to alter or affect the authority of the Secretary to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than twenty six thousand and one pounds or such lesser gross vehicle weight rating as determined appropriate by the Secretary under section 12003(4)(A) of this title.

SEC. 12014. AUTHORIZATIONS OF APPROPRIATIONS.

Section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) is amended—

(1) by striking "$40,000,000" and inserting in lieu thereof "$50,000,000";

(2) by striking "and" after "1987,";

(3) by striking "1988." and inserting in lieu thereof "1988; not to exceed $60,000,000 in the fiscal year ending September 30, 1989; and not to exceed $60,000,000 in the fiscal year ending September 30, 1990."

TITLE XIII—ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

SEC 13001. SHORT TITLE.

This title may be cited as the "Electronic Communications Privacy Act of 1986".

Subtitle A—Interception of Communications and Related Matters

SEC. 13011. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception";

(C) by striking out "as a common carrier"; and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof" and inserting in lieu thereof "such disclosure";

(B) by striking out "the carrier" and inserting in lieu thereof "such person"; and

(C) by striking out "an order or certification under this subparagraph" and inserting in lieu thereof "a court order or certification under this chapter".

(2) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(3) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(4) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2515, 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": Provided, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" in both places it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "carrier" and inserting in lieu thereof "service provider".

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, the offender shall be fined not more than $500.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

"(i) to a broadcasting station for purposes of retransmission to the general public; or

"(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

"(5)(a)(i) If the communication is—

"(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

"(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

"(ii) In an action under this subsection—

"(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

"(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

"(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

(f) STATE OF MIND.—Paragraphs (a), (b), (c), and (d) of subsection (1) of section 2511 of title 18, United States Code, are amended by striking out "willfully" and inserting in lieu thereof "intentionally".

(2) Subsection (1) of section 2512 of title 18, United States Code, is amended in the matter before paragraph (a) by striking out "willfully" and inserting in lieu thereof "intentionally".

SEC. 13012. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 13013. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect

commercial advantage or private commercial gain, then the court shall assess damages as follows:

"(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5)(a)(i) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

"(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5)(a)(i) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1,000.

"(2) In any other action under this section, the court may assess as damages whichever is the greater of—

"(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 13014. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 13015. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),";

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)"; and

(F) by—

(i) striking out "or" before "section 351" and inserting in lieu thereof a comma; and

(ii) inserting before the semicolon at the end thereof the following: ", section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code;

"(j) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act); or";

"(k) the location of any fugitive from justice from an offense described in this section;

(4) by redesignating paragraph (h) as paragraph (l); and

(5) in paragraph (a) by—

(A) inserting after "Atomic Energy Act of 1954)," the following: "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),";

(B) striking out "or" after "(relating to treason),"; and

(C) inserting before the semicolon at the end thereof the following: "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 13016. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF THIRTY-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

"(a) in the case of an application with respect to the interception of an oral communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(iii) the judge finds that such specification is not practical; and

"(b) in the case of an application with respect to a wire or electronic communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(iii) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason

of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 13017. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this title or the amendments made by this title constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 13018. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 13019. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 13020. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 13021. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or (c), this subtitle and the amendments made by this subtitle shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this subtitle shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this title.

(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 13014 of this title shall take effect on the date of enactment of this title.

Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access

SEC. 13031. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703, 2704, or 2518 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by

means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1)(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

"(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(ii) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(iii) obtains a court order for such disclosure under subsection (d) of this section; or

"(iv) has the consent of the subscriber or customer to such disclosure.

"(2) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

"(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within fourteen days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis

of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or

entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access..... 2701".

SEC. 13032. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

Subtitle C—Pen Registers and Trap and Trace Devices

SEC. 13041. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

"Sec.

"3121. General prohibition on pen register and trap and trace device use; exception.

"3122. Application for an order for a pen register or a trap and trace device.

"3123. Issuance of an order for a pen register or a trap or trace device.

"3124. Assistance in installation and use of a pen register or a trap and trace device.

"3125. Reports concerning pen registers and trap and trace devices.

"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register and trap and trace device use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or

"(3) where the consent of the user of that service has been obtained.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register or a trap and trace device

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register or a trap and trace device

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed sixty days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR A TRAP AND TRACE DEVICE.—An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

"§ 3124. Assistance in installation and use of a pen register or a trap and trace device

"(a) PEN REGISTERS.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) TRAP AND TRACE DEVICE.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical

assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court, at reasonable intervals during regular business hours for the duration of the order.

"(c) COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"(d) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

"(e) DEFENSE.—A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

"§ 3125. Reports concerning pen registers and trap and trace devices

"The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the terms 'wire communication', 'electronic communication', and 'electronic communication service' have the meanings set forth for such terms in section 2510 of this title;

"(2) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

"(3) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

"(4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers and Trap and Trace Devices..... 3121".

SEC. 13042. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this subtitle; or

(2) the date two years after the date of the enactment of this title.

SEC. 13043. INTERFERENCE WITH THE OPERATION OF A SATELLITE.

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1367. Interference with the operation of a satellite.".

Subtitle D—Special Rule Relating to Effect of Title

SEC. 13061. SPECIAL RULE.

If the bill H.R. 4952, the Electronic Communications Privacy Act of 1986, is enacted, this title and the amendments made by this title shall have no effect after that enactment.

TITLE XIV—CYANIDE WRONGFUL USE

SEC. 14001. STUDY AND REPORT.

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures, or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) MATTERS TO BE INCLUDED.—Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) a determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of the matter of interstate versus intrastate to the extent that it involves the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes; and

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(c) REPORT.—On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(d) DEFINITIONS.—As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XV—SENATE POLICY REGARDING FUNDING

SEC. 15001. STATEMENT OF POLICY.

(a) The Senate finds that—

(1) there is an urgent critical need for funds to carry out the programs and activities authorized by the preceding provisions of this Act in order to ensure a drug free America;

(2) this Act is the result of a bipartisan effort to combat our national drug abuse problem; and

(3) only the exceptional nature of the drug abuse problem warrants the expenditure of funds in excess of otherwise applicable budget limitations.

(b) Therefore, it is the sense of the Senate that—

(1) amounts authorized to carry out the preceding provisions of this Act should be provided as new budget authority for fiscal year 1987 in H.J. Res. 738 (99th Congress, 2d Session); and

(2) such amounts should not be provided through transfers from, or reductions in, any amount appropriated by such joint resolution for any other program, project, or activity for such fiscal year.

TITLE —RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. . RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Code of 1954 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Secretary for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum ultimately recovered. The Internal Revenue Service shall maintain records reflecting the receipt of information from the contributing agency, and shall notify the agency when a recovery has been effected. Following such notification, the agency shall submit a statement detailing the investigative costs incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Secretary shall equitably distribute the costs reimbursements among those agencies up to an aggregate sum of 10 percent of the taxes recovered.

"(b) ESTABLISHMENT OF A FUND.—The Secretary shall establish a fund for recovering that portion of recovered Federal taxes authorized under subsection (a) and intended as reimbursements for State and local law enforcement agencies. In conjunction with the fund, the Secretary shall develop guidelines on the procedures and timetables for reimbursing those law enforcement agencies which have contributed to the recoupment of Federal taxes.

"(c) REIMBURSEMENT.—Reimbursements under section (a) shall be made directly from the fund under subsection (b), as provided by appropriations acts, prior to the deposit of such funds into the Treasury of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

TITLE —ANTI-DRUG TRUST FUND

SEC. . DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) any amount of an overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, any contribution which the taxpayer includes with such return,

be paid over to the Anti-Drug Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if late, the date the return is filed.".

(b) ESTABLISHMENT OF ANTI-DRUG TRUST FUND.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. ANTI-DRUG TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Anti-Drug Trust Fund', consisting of such amounts as may be appropriated or credited to the Anti-Drug Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO ANTI-DRUG TRUST FUND.—There are hereby appropriated to the Anti-Drug Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Anti-Drug Trust Fund shall be available as provided by appropriation Acts, for making expenditures to carry out the purposes of the Drug Enforcement Act of 1986.".

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"PART IX. Designation of overpayments and contributions for Anti-Drug Trust Fund.".

(2) The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Anti-Drug Trust Fund.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

TITLE *—NATIONAL FOREST SYSTEM DRUG CONTROL

SEC. ***1. SHORT TITLE.

This title may be cited as the "National Forest System Drug Control Act of 1986".

SEC. ***2. PURPOSE.

(a) The purpose of this title is to authorize the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Nothing in this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) As used in this title, the terms "manufacture", "dispense", and "distribute" shall have the same meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. ***3. POWERS.

For the purposes of this title, if specifically designated by the Secretary and specially trained, not to exceed 500 officers and employees of the Forest Service when in the performance of their duties shall have authority within the boundaries of the National Forest System to—

(1) carry firearms;

(2) conduct investigations of violations of and enforce section 401 of Controlled Substances Act (21 U.S.C. 841) and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands;

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony;

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

SEC. ***4. COOPERATION.

For the purposes of this title, in exercising the authority provided by section ***3—

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations relating to marijuana and other controlled substances, and State drug control laws or ordinances, both within and outside the boundaries of the National Forest System.

*SEC. ***5. PENALTY.*

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following subsection:

"(e)(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

"(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

"(3) For the purposes of this subsection, the term 'boobytrap' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.".

*SEC. ***6. AUTHORIZATION OF APPROPRIATIONS*

There is authorized to be appropriated $10,000,000 for each fiscal year to carry out this title.

(b) Notwithstanding any other provision of law, and to the extent the sum authorized for each fiscal year by subsection (a) is not appropriated, the Secretary is authorized to fund activities under this title by using moneys received from the sale of products from or for the use of National Forest System lands. Such moneys shall be available without further appropriation.

*SEC. ***7. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL.*

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

EXTENSIONS OF REMARKS

AFTER SANCTIONS, WHAT NEXT

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, I want to share with all my colleagues an important article by Floyd Abrams and Diane Orentlicher of the Lawyers Committee for Human Rights, published in the New York Times on October 6, 1986, setting forth an agenda for effective implementation of our victory on the South Africa sanctions issue.

SANCTIONS AS A MEANS TO AN END

(By Floyd Abrams and Diane Orentlicher)

Congress has prevailed. The Senate and the House have both overriden President Reagan's veto, imposing stringent sanctions against South Africa, and the United States will soon register its abhorrence for apartheid in no uncertain terms. Having won the battle for sanctions, Congress now should consider how to make the most of their impact.

Such an effort will require continued congressional pressure on the Administration. It was, after all, damage wrought by Administration policy that made these new, strict sanctions necessary in the first place. Far from promoting positive change, the Administration's policy toward South Africa has consistently reinforced Pretoria's most sinister impulses.

In June, for example instead of condemning the new state of emergency in South Africa, President Reagan voiced strong opposition to serious American sanctions. The President has also adopted Prime Minister P.W. Botha's rhetoric of repression, describing South Africa's Government radio broadcasts.

These words are dangerous as well as wrong-headed, for they exonerate Mr. Botha for the most brutal excesses of apartheid. They also help to hide what is really happening on the ground in South Africa. In truth, it is estimated that some 800 South Africans, most of them black, were killed by security forces in the period between September 1984 and July 1986. A staggering 93 percent of the black detainees interviewed for a recent study by the University of Cape Town said they had been tortured.

Congress must not fail to use its leverage to elicit more effective diplomacy from the Administration. Congressional leaders should specify in some detail what kind of policies they would like to see the Administration pursue—and should make clear that progress toward these goals will influence what Congress does in the future.

To begin with, Congress should press this most rhetorically oriented Administration to condemn Pretoria's official violence in the strongest terms. Words matter in international diplomacy only when they are believed. Does the Administration lack words to condemn the many deaths in detention deliberately caused, and later shielded, by agents of the South African state? Can it offer—and credibly offer—special condemnation of the South African security forces' use of violence against children?

Children as young as four years old have been shot dead by those forces in the past year; babies have been tear-gassed to death in their own homes. Is it really too much to ask that the Reagan Administration express revulsion at such acts with the same passion that it uses when speaking of violations of human rights of Communist countries?

A second focus should be on South Africa's permanent security laws. These Draconian measures grant the Government sweeping powers of detention and permit the Minister of Law and Order to declare any township or neighborhood an "unrest area," giving him virtually free rein to govern those areas however he sees fit.

Third, the Administration must begin to protest Pretoria's efforts to crush those who seek to promote human rights in South Africa. Since the most recent state of emergency was declared, on June 12, at least nine human rights lawyers have been detained. Though those lawyers were subsequently released—thanks in part, to protests by the American Bar Association and other organizations—many other human rights activists remain in detention. The most recently detained include five white women affiliated with community-based organizations working in support of human rights.

Fourth, the Administration should bring itself to pressure Pretoria to lift its sweeping press restraints—restraints that now, during the state of emergency, include prohibitions on journalists' even bearing witness to acts of repression.

Fifth, the Administration must go beyond its well-rehearsed call for an end to apartheid—an appeal that goes no farther, after all, than what P.W. Botha himself has endorsed. The United States must of course continue to press for an end to the most flagrant abuses inflicted by the South African Government, but the Administration should also make known in the clearest of terms that it believes all South Africans are entitled to basic political rights. The time is long past due for the Administration to stand squarely beside those South Africans who demand representative democracy.

Thus far, the Administration has conspicuously failed to do so. Indeed, President Reagan has at times seemed almost aprehensive that blacks may some day wield political power in South Africa. How else can one explain the comment addressed to Mr. Botha in July; "We understand the apprehension and fear and concern of all your people"? The President's failure to call for majority rule has a grotesque significance given his much-vaunted policy of aggressively promoting democracy in places like Nicaragua and Angola.

There is, sadly, no dearth of evils in South Africa to which the Reagan Administration should turn its attention. Even as stronger sanctions are implemented, Congress must continue to press this Administration, for by itself it seems quite tone-deaf to the magnitude of the evil of apartheid.

IT'S ABOUT TIME!

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. COLLINS. Mr. Speaker, last Thursday was a great day for freedom, justice, and human rights. At last, Congress has acted decisively against the barbarism of apartheid in South Africa.

I want to take this opportunity to commend the Senate for overriding President Reagan's veto of H.R. 4868, the South African sanctions bill. I, and my colleagues in the House, recognized the need for sanctions long ago. It's good to see that the Senate has finally decided to join us.

It's truly gratifying to finally obtain strong sanctions against the racist regime in Pretoria. I only wish they could have come sooner. Many of us have been fighting for a realistic antiapartheid policy for years. We realized that support for that evil regime ran counter to all American ideals. We knew that President Reagan's policy was bankrupt. We did everything we could to publicize the inhumanity of apartheid. I even got arrested protesting outside the South African Embassy. Now, finally, we have accomplished something.

I am not naive. I realize that H.R. 4868 is only a start, a step in the right direction. Change will not come at once. The violence in South Africa will not stop tomorrow. There is still much work to do. But it feels good to be on the right road.

Apartheid's days are numbered. Freedom and justice are coming.

THE 100TH ANNIVERSARY OF MOUNT ZION MISSIONARY BAPTIST CHURCH

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to Mount Zion Missionary Baptist Church in Snow Hill, MD, on the occasion of its 100th anniversary, October 12, 1986.

Mount Zion Missionary Baptist Church is a small church in size but, very large in heart. This church has been a leader in community services. It was the site of the first Head Start Center for the Worcester County Community Action Committee. Shore-up, Inc., a self-help organization dedicated to rural economics and urban problems, was founded by Mount Zion members and clergy. Many citizens of Worcester County would have gone without food, shelter, or clothing had it not been for the members this church.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This congregation lives its religious teachings every day of the year. On behalf of the residents of the First Congressional District, I offer my congratulations, best wishes, and continued success as Mount Zion begins its second century.

H.R. 5565—THE DOMESTIC BANKING STABILITY AND HOUSING ACT

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WORTLEY. Mr. Speaker, I rise today in strong support of H.R. 5565, the Domestic Banking Stability and Housing Act. There is a critical need for this legislation to be enacted, and I urge my colleagues to put aside differences on other banking-related issues and to unite in support of this bill.

The bill consists of four sections which would: Preserve the safety and soundness of our Nation's banks and savings and loans; benefit bank customers; and, extend important housing programs including the Federal Housing Administration's guarantees for mortgage loans.

First, I would like to comment on the safety and soundness issue. It is no secret that a record number of banks are expected to fail this year. But this is not to imply that our overall financial system is in jeopardy, for it is not. However, I am convinced that a serious crisis could develop unless we act to ease failing institutions into the mainstream of successful banks. If failing banks can be bought by healthy institutions, the problem is taken care of in a calm manner involving minimal assistance from the Federal Deposit Insurance Corporation. On the other hand, if no buyer is willing to assume a failing bank, then the bank must be closed—even if it is the only one in the community it serves—and Federal funds are required to pay off insured deposits.

H.R. 5565 modifies current law to facilitate the process of healthy banks acquiring failing banks. The FDIC would be permitted to sell, merge and manage problem banks and S&Ls before they actually fail. The legislation would also grant the regulators additional authority under which interstate acquistions of banks and bank holding companies can be accomplished. Interstate acquisitions are necessary because often there are no buyers within the State where the bank is failing. This could be because of the size of the State, or more likely, because the economy of the entire State is depressed.

Another factor in the safety and soundness issue is the very troubled thrift industry. Without cost to the taxpayer, the bill recapitalizes the Federal Savings and Loan Insurance Corporation. This action is absolutely essential—every day that we put this legislation off means more money will be needed in the future. Ed Gray, Chairman of the Federal Home Loan Bank Board, warns that there are currently 130 thrifts requiring Federal help, and that the costs involved will range from $7 to $10 billion. Yet the primary reserves of the FSLIC fund have dropped to $2.5 billion.

Not only money is at stake with the FSLIC recapitalization. I also fear a disastrous loss of confidence in our Nation's Federal thrift institutions unless decisive and timely action is taken by Congress. A panic along the lines of Maryland and Ohio could fatally harm the healthy S&L's and would certainly create chaos in the economy.

Mr. Speaker, the bill before us today also includes two pieces of legislation which have already been overwhelmingly approved by this Chamber, but have yet to be considered in the other Chamber. They are the Housing Act and Expedited Funds Availability Act.

The reason we need a comprehensive housing bill are numerous. Since September of last year, the House has reauthorized housing programs piecemeal. Besides consuming valuable time, legislating in this manner has led to many problems. Programs such as the Federal Home Administration Mortgage Insurance, Federal Flood Insurance, the Community Development Block Grant, the Urban Development Action Grant and others have temporarily lapsed or been on the brink of lapsing. Individuals served by these programs have been left confused and uncertain of their future.

Congress must continue its commitment of providing housing assistance for lower income and disadvantaged people. Not everyone is endowed with the gifts necessary to provide adequately for themselves and, in many cases, their families. Others have just been unfortunate enough to hit a rough spot in life: prolonged unemployment; a debilitating injury or handicap; the mental and physical problems associated with old age. Whatever the case, clean, safe and affordable housing is often a scarce commodity. The Federal Government has a major role to play in insuring that the citizens of this country are properly housed.

The Expedited Funds Act is much better described as anticheck hold legislation. It is unfortunate, but financial institutions have a record of placing unnecessary and unwarranted holds on checks deposited by their customers. This is done in spite of the fact that the banks are sometimes earning interest on customers' deposited checks before the customers can even access their own money.

Mr. Speaker, for some this is a matter of inconvenience and lost dollars of interest. For others, check holds can even mean the difference between having food on the table or being able to pay the month's rent. There are many persons who absolutely need timely access to their money in order to survive. This access should be available as quickly as modern technology will allow. H.R. 5576 requires financial institutions to credit local checks to customers' accounts in 1 to 3 business days and within 6 days for out-of-state checks. After 3 years, the hold limit would be further reduced.

Mr. Speaker, because of the emergency nature of this legislation, I hope the House will expeditiously grant its approval so that the Senate and President may consider the measure before the end of our session.

IN HONOR OF LEONARD AND BERNARD SHAPIRO

HON. MEL LEVINE

OF CALIFORINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Leonard and Bernard Shapiro, brothers who are being recognized at the 1986 Trade Awards dinner as Major Achievement Award recipients. This award is given to industry leaders who have advanced bilateral trade and commerce with Israel.

Bernard and Leonard Shapiro have been recognized for many years for their philanthropic contributions. Bernard Shapiro is the past cochairman of the construction division of the United Jewish Fund, and past cochairman of the plumbing division of the City of Hope. He has held memberships with the American Diabetes Association, University Synagogue, and Guardians for Jewish Home for the Aged. Bernard and Rena Shapiro have a beautiful family consisting of their son, Alan Shapiro and daughters. Susan Gesundheit, Linda Manasee, and Gayle Simon. Bernard is president of Familian Corp.

Leonard Shapiro, chairman of the board of Familian Corp. has also found time to share with various organizations in the community. He is a member of the board of directors for the Pacoima Boys Club, the University of Judaism, where he is also chairman of the continuing education department, and the Guardians for the Jewish Home for the Aged. Leonard is past president of the 500 Club for the City of Hope. He is a member of the campaign cabinet of the United Jewish Fund and chairman of the gift advisory board to the American Diabetes Association. Leonard and Annette Shapiro have been blessed with three children, David, Joel, and Ilyse. Annette has been a driving force in fighting diabetes and has always kept me well advised on that critical issue.

It is a pleasure to share the Shapiro brothers' accomplishments with my colleagues in the U.S. House of Representatives. I ask that they join me in wishing the Shapiro families the best of luck in all future endeavors.

TRIBUTE TO JOHN McCAIN

SPEECH OF

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MICHEL. Mr. Speaker, I want to join our colleagues in paying tribute to our good friend, JOHN MCCAIN, as he leaves us for what I am certain will be a continuation of his legislative career in another place.

JOHN has impressed all of us around here with his fine work on the Foreign Affairs Committee and the Interior Committee. When JOHN spoke about defense or foreign affairs, Members knew they were hearing something special because of JOHN'S background as a Navy flier and as one of that handful of Ameri-

can heroes who withstood the tortures of the Communists in Vietnam as a prisoner of war.

He has brought something special to the House because he is something more than a good representative of his district. His very presence reminded us all of the sacrifices that are called for in the defense of freedom. All the congressional rhetoric about a strong defense and the willingness to sacrifice could not match what he endured and what he did in service to his country.

When he came to join us, he served in another way, the way of legislation, of trying to find honorable compromise among honorable men and women, for the common good. He performed his duties admirably

JOHN, I think you are leaving the really important body, but after 30 years of service here, I may be a bit biased. Our best wishes go with you as you enter into a new stage of service to America.

THE BLUE BIRD BODY CO.

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. RAY. Mr. Speaker, I would like to take this opportunity to insert into the RECORD, a copy of a recent article that appeared in Forbes magazine.

The article is about a family of businessmen in my district that have managed to become leaders in their industry by placing great faith in Christianity and the free-enterprise system.

The Luce family's Blue Bird Body Co. has become the No. 1 producer of school buses in the world. They are competitive and safety-minded.

For years, they have been respected members of the community of Fort Valley, GA, and I am proud to represent them in Congress.

[From Forbes Magazine, Oct. 6, 1986]

IT WAS IMPORTANT TO FATHER AND MOTHER, AND IT'S IMPORTANT TO US

(By Rita Koselka)

Down in Peach County, Ga., 25 miles south of Macon, you'll find miles of pecan tree groves, peach stands, rundown houses—and a 1-million-square-foot factory framed by a sea of yellow gold. The gold isn't peaches. It's school buses: 25 acres of school buses, plus an assortment of motor homes and bus chassis. You have stumbled upon the Blue Bird Body Co. of Fort Valley.

Never heard of Blue Bird? Your children may have. Owned lock, stock and barrel by the three publicity-shy sons of founder A. Laurence Luce, Blue Bird sells around 11,000 school buses a year, at an average price of $25,000 to $37,000, including the chassis. Net worth: $80 million. On these and other figures, Blue Bird is the world's largest manufacturer of school buses.

Luce, a Ford dealer, started Blue Bird in 1932. The country was still largely rural. Public education was dominated by one-room schoolhouses within walking distance of their pupils. But school buses were about to become a growth business as education budgets exploded and elementary, junior and senior high schools consolidated. In the U.S. today there are 350,000 school buses; they carry 22 million children a day, by far the world's largest public transportation system.

Laurence Luce died in 1962, leaving Blue Bird to his three sons: George, now 65; Albert Jr., 64; and Joseph, 60. Under them, sales have grown twentyfold as Blue Bird has moved from fourth place to first in an industry of five fiercely competitive companies. Now producing in four plants—Fort Valley, plus plants in Virginia, Iowa and Canada—Blue Bird accounts for one U.S. school bus sale in three.

Who are these Luce brothers? From one angle, they are owner-managers determined to control costs and make their productive capital sweat, a habit they learned at their father's knee. Over a lunch of chicken, grits and peaches with gingerbread in George Luce's home, the brothers and their wives recalled a story from Christmas 1939 when two of the boys were home from college (Asbury College, in Kentucky). George recounts:

"My father told us, 'Boys, I can tell you almost to the penny what the sides, windows or bumpers of a bus cost. If we think the costs are too high in any area, we can try to find ways to cut those costs. Now, it costs me $500 to send you to college. From your grades, I don't think you studied more than 100 hours. That means it cost me $5 an hour for you to study. That's way too much.'"

The old man announced his plan. He would lend the boys $500 at the beginning of the year for school. The loan would be repaid by studying. The old man would reduce each loan by $1 for every hour studied before dinner—the most productive time, he figured—and by 75 cents for every study hour after dinner. The boys had to inform Blue Bird's bookkeeper of their progress daily, by postcard.

And if one of the boy's loans still had an unpaid balance by the time school was out? He had to pay it off by working summers in the plant—at 40 cents an hour (the average assembly wage in those days).

That inbred appreciation for a dollar's value is very much at the heart of Blue Bird's success. School bus orders are won through very competitive bids to state or local school boards. So being the lowest-cost producer is critical. The Luces look at the local newspapers of their competitors' hometowns to make sure that they don't miss any intelligence that could influence a bid.

This kind of attention to detail helps discourage the big automotive companies from tromping on Blue Bird's turf. "It's a complicated business," says George Luce of school bus production. "The margins are tight. We have to deal with school boards. It takes time, and you really have to know your people. It's just not their (GM's) type of business."

Ford, GM, Navistar International, among others, do participate in Blue Bird's success, but as suppliers. They all sell chassis to Blue Bird, which then builds the conventional bus bodies on top. Customers can specify the chassis of their choice. Blue Bird manufactures almost all the other parts—everything from bus seats to heating units to windows.

You cannot fully understand Blue Bird and the Luce family without first understanding the importance they attach to religious beliefs, and to creating a sense of community within the company. Prayer meetings are usually held every other week in Blue Bird's Fort Valley cafeteria. The ten-point "Beliefs of the Blue Bird Company," posted throughout the plant, begins: "We will continue to build our companies on the foundations of Christianity and the free enterprise system."

If this sounds out of place to urban sophisticates, so be it. "We really don't mean to be obnoxious about it or force it on people," says George Luce, who spent five years in Africa as a missionary. "But we don't apologize, either. It was important to my father and my mother, and it's important to us."

To a large extent, Blue Bird is Fort Valley (pop. 9,000; Bluebird work force there, 1,500). But don't label it a company town, if the label is meant to suggest exploitation. At an average $10 an hour, Blue Bird workers are well paid by local standards. The plant operates a ten-hour shift, but runs only four days a week, so there is leisure time to spend the wages. George Luce was a member of Fort Valley's biracial committee in the 1960s and swears that Blue Bird has never had an overt racial problem. The workers, more than a third of whom are black, affectionately call the brothers Mister George, Mister Buddy and Mister Joe, and the Luces know many of the workers by their first names. The emphasis is on harmony, on fitting in. The three brothers' homes, scattered throughout the rocking-chair-on-every-porch streets of Fort Valley, are not grand or out of keeping with the community.

When the talk turns to world trade or to the transformation of the American economy, the Luces do seem very oldfangled. To them, manufacturing things is the essence of U.S. industrial might, and they regret to see the oldline manufacturing base ebb against the flow of the service economy. "We like the shop environment," says George. "After all, somebody has got to make something for the service economy to do its work on. You have to create a product first."

Yet the Luce brothers have been quick to take advantage of the new capital goods spawned by the information economy. On Blue Bird's vast shop floor, computer-aided engineering systems amply demonstrate the brothers' heavy spending on productivity-enhancing investments.

Debt financing? Here the Luces do counter the modern tide. The company has taken out long-term loans only twice. Both were for modest amounts, and both were repaid ahead of schedule. A recent credit report showed Blue Bird had $45 million in cash and securities. "We were born in the Depression," George Luce drawls. "That's an experience you never can get over."

With the number of school-age Americans declining, demand for school buses is mature, at best. The Luces saw this coming. In 1963 they began making prestige motor homes called Blue Bird Wanderlodges.

We are not talking Winnebago here. The Wanderlodges—"Birds," as fond owners call them—are luxury yachts on wheels. They are between 31 and 40 feet long, have 200-gallon gasoline tanks, electric generators, full bath tubs, microwaves, VCRs, satellite dishes and every other conceivable convenience. The "cockpit" resembles exactly that, and with 475 hp diesel engines, these powerful machines drive comfortably and accelerate with ease. Retail price: between $250,000 and $350,000. Fuel mileage: 6 miles per gallon—but if you have to ask about mpg, you probably can't afford one. The 150 or so Wanderlodges Blue Bird will produce this year will represent some 20% of sales and close to half the profits (which Forbes estimates at roughly $12 million a year).

Who buys these many-wheeled mansions? Mostly retired couples, who sometimes sell their houses and spend a few years traveling in their drivable homes.

"They're the type of people who like to be catered to, yet would stand in line for an hour to get free coffee and donuts," chuckles Blue Bird President Paul Glaske of the typical Wanderlodge buyer. But customers also include Jordan's King Hussein, Saudi Arabia's King Fahd, singer Johnny Cash and the late John Wayne.

There is cloud on Blue Bird's horizon. The cloud is the Luce brothers' mortality. In their characteristically straightforward manner, they say they have had six heart bypass operations among them.

Who next will run Blue Bird? The brothers intend to pass management of the business on to three third-generation Luce sons, now aged between 31 and 34, who are learning the ropes.

On the advice of Cleveland's Léon Danco, author of Beyond Survival: A Business Owner's Guide of Continuity, the Luces opened Blue Bird's board to outside directors in 1984—"before that we had board meetings around the water cooler," jokes George—in order to bring in competent outsiders to oversee the younger Luces. In June the brothers hired Glaske as their company's first outside president. He was formerly president of Longview, Tex.-based Marathon LeTourneau, a manufacturer of heavy equipment.

But don't expect big waves from Glaske as he shepherds Blue Bird from one generation of Luces to the next. "Blue Bird," he vows, "is really what an American company should be, the type of company I can be proud to be associated with."

THE SUPERFUND CONFERENCE REPORT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WOLPE. Mr. Speaker, as cochairman of the Northeast-Midwest Congressional Coalition, I am entering into the RECORD the following memo prepared by the Northeast-Midwest Institute on the Superfund conference report which was passed by the House yesterday. The memo contains very useful information about the tax provisions for the Superfund and I am happy to be able to share it with all my colleagues.

The memo follows:

THE SUPERFUND CONFERENCE REPORT: A REGIONAL ANALYSIS OF TAX PROVISIONS

(Prepared for the Northeast-Midwest Congressional Coalition by Eric Schaeffer)

The conference report on H.R. 2005, the bill to reauthorize the federal Superfund program, includes a variety of taxes designed to raise money for the cleanup of abandoned hazardous waste dumps. Table 1 compares the House and Senate positions on Superfund financing with the conference report.

TABLE 1.—5-YEAR REVENUES IN SUPERFUND FINANCING BILLS

[In billions of dollars]

Source	House	Senate	Conference
Manufacturer's excise tax	0	5.4	0
Alternative minimum tax	0	0	2.5
Petroleum excise tax	3.0	.2	[1] 2.75
Chemical feedstock tax	2.0	1.4	1.4
Waste-end tax	2.0	0	0.0
General revenues	2.0	0	1.25
LUST gasoline tax	.5	0	.5
Interest/cost recovery	.6	.5	.6
Total	10.1	7.5	9.0

[1] House bill provided for uniform petroleum excise tax rates; conference report provides higher rate for imported oil and refined products.

BACKGROUND

The 18 states of the Northeast and Midwest have 61 percent of the sites on the Environmental Protection Agency (EPA) National Priority List for cleanup. Excavation and containment work at dumpsites has come to a virtual standstill since taxing authority for Superfund expired last year. Congress twice has provided interim appropriations to keep the program funded pending reauthorization, but these funds were expended by the end of September.

Last week, EPA Administrator Lee Thomas wrote to private contractors carrying out the cleanup operations notifying them that their contracts would be terminated within 30 days if additional funds were not provided by Congress. Thomas has warned Congress that a failure to refinance the program before adjournment "would threaten the very existence" of Superfund. The Treasury Department has recommended that the president veto the conference report because it includes a new broad-based tax and a large increase in the petroleum excise tax.

BROAD-BASED TAX

The conference report, in a major victory for the House, does not include a manufacturer's excise tax, popularly known as a value-added tax (VAT). In December 1985, the leadership of the Northeast-Midwest Congressional Coalition joined an alliance of environmentalists, taxpayer public interest groups, and major manufacturers to defeat the VAT on the House floor. Coalition members voted instead, by a three to one margin, for the Downey-Frenzel amendment, which rejected the VAT and placed the burden of financing Superfund on the oil and chemical industries thought to be the major contributors to abandoned waste sites. The VAT had been criticized as a regressive national sales tax that would fall disproportionately on the poor and elderly.

The conference report includes a special minimum corporate tax that would raise $2.5 billion in revenue for Superfund. The income subject to the Superfund levy would be calculated in the same way as the income subject to the alternative minimum tax established by the Tax Reform Act of 1985 (H.R. 3838). In other words, deductions such as capital depreciation allowances and oil depletion writeoffs could not be used to offset income.

Unlike the alternative minimum tax in H.R. 3838, which generally is limited to companies that would otherwise pay little or no corporate income tax, the Superfund levy would be imposed on all businesses. However, it would be deductible for corporate income tax purposes.

The conference report would require corporations to pay $12 for each $10,000 of taxable income (with deductions excluded) to support the Superfund program. Corporations with less than $2 million in such income would not be taxed. Like the VAT, the Superfund minimum tax would be imposed on companies regardless of their waste management practices or connection to abandoned waste sites. Unlike the VAT, it would be imposed on corporate income rather than on sales volume.

PETROLEUM EXCISE TAX

The original House bill proposed taxing oil at 11.9 cents per barrel to raise a total of $3 billion over five years, with no distinction in the tax rates between domestic and imported petroleum products. The conference report taxes domestic crude at 8.2 cents per barrel, and imported crude and refined product at 11.7 cents per barrel. The tax on domestic crude would raise approximately $1.2 billion over five years, while the tax on imported oil and refined product would raise $1.55 billion over the same period.

TABLE 2.—PETROLEUM EXCISE TAX BASE

Product	1985 volume (1,000 barrels)
Domestic crude oil	3,274,553
Imported crude oil	1,168,297
Imported refined product	454,947
Total	4,897,797

Source: U.S. Department of Energy, Energy Information Administration, 1985 Petroleum Supply Annual (Washington, D.C., 1985), p. 24.

It should be noted that Table 2 does not reflect the surge in imports and decline in domestic production that followed the dramatic drop in worldwide oil prices that took effect earlier this year. The revenue estimates in the conference report assume that imported petroleum will supply approximately half the U.S. demand for oil over the next five years.

The Northeast-Midwest Congressional Coalition has supported a small, uniform, across-the-board tax on all domestic and petroleum products, as reflected in the original House position, for four reasons. First, oil is the raw material from which most organic chemicals found at Superfund sites are derived. Second, oil wastes containing PCBs are common contaminants at many dumpsites; they have been identified at about 153 Superfund sites in 32 states. Third, the consumer impact is minimal. An 8.2 cent tax would raise consumer prices by only 0.2 cents per gallon of gasoline or fuel oil, assuming the entire cost of the tax could be passed forward; an 11.7 cent tax would raise prices no more than 0.3 cent. Finally, while the region is disproportionately more dependent on fuel oil for home heating, it uses relatively less gasoline on a per capita basis. Gasoline accounted for 45 percent of the nation's total petroleum consumption in 1985, while home heating oil accounted for 20 percent. Attachment B provides data on each state's consumption of all petroleum products in 1983. Texas, with 13 percent of the national total, is the nation's largest oil consumer.

The leadership of the Coalition is concerned about the higher tax rate for imported oil, which was forced on the House conferees as the price of an agreement on Superfund financing. The region is thought to be disproportionately dependent on imported oil for home heating, although reliable state by state data are unavailable. The U.S. imported 73 million barrels of home heating oil in 1985. In addition, it is likely that some portion of imported crude was used to make

the 980 million barrels of home heating oil produced domestically in that year.

Table 3 compares refined oil products by type and according to whether it is domestic or imported. At least one-fourth of the domestic refined products are derived from imported crude.

TABLE 3.—REFINED PRODUCTS BY TYPE AND ORIGIN

Product	1985 domestic (1,000 barrels)	1985 imported (1,000 barrels)
Gasoline	2,342,981	138,954
Distillate fuel oil [1]	980,351	73,089
Aviation fuel	441,811	14,197
Residual fuel oil	321,997	186,284
Still gas	213,181	0
Petroleum coke	166,019	0
Asphalt and road oil	146,332	12,942
Petrochemical oils	129,982	8,566
Miscellaneous	133,316	20,915
Total	4,875,970	454,947

[1] Used for Home Heating Oil.

Source: U.S. Department of Energy, Energy Information Administration, 1985 Petroleum Supply Annual (Washington, D.C., 1985), p. 24.

The table above does not include natural gas liquids produced as a byproduct of refining. The volume of domestic refined products appearing in Table 3 is greater than the sum of domestic and imported crude oil supplies appearing in Table 2, because there is a natural expansion in volume as heavier crudes are refined into lighter, finished products.

The leadership of the Coalition is preparing a colloquy with Representative Tom Downey (D-NY), a supporter of the conference report and a long-time opponent of oil import fees. The colloquy will clarify the intent of the conferees that the 3.5 cent difference between the tax on domestic and imported oil not set any precedent for an oil import fee.

LUST GASOLINE TAX

The conference report includes a 0.1 cent per gallon tax on gasoline that will be used to provide $500 million over five years to finance EPA cleanups of underground aquifers contaminated by gasoline. Previously, the Superfund law had barred EPA from responding to sites contaminated solely by petroleum products such as gasoline. Thirteen states have reported approximately 80 percent of the gasoline-contaminated sites identified nationwide. Of these 13 states, ten are in the Northeast and Midwest: Connecticut, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania. Four of these states—Maine, Michigan, New York, and New Jersey—have identified leaking underground storage tanks as the primary source of groundwater pollution in their jurisdictions.

OTHER TAX FEATURES

The chemical feedstock tax would be held at the current levels, and is expected to raise $1.4 billion over the next five years. A new tax on chemical imports and their derivatives is intended to offset any advantage to foreign producers that the current feedstock tax provides. Despite the vigorous support it received from House conferees, the waste-end tax was dropped at the insistence of Senator Lloyd Bensten (D-TX).

ATTACHMENT A.—SUPERFUND SITES ON NATIONAL PRIORITY LIST—JANUARY 1986

[Final and proposed]

Region and State	Number of sites
New England:	
Connecticut	6
Maine	7
Massachusetts	21
New Hampshire	13
Rhose Island	8
Vermont	2
Total	57
Mid-Atlantic:	
Delaware	13
Maryland	8
New Jersey	99
New York	59
Pennsylvania	60
Total	239
Midwest:	
Illinois	24
Indiana	26
Iowa	12
Michigan	64
Minnesota	38
Ohio	29
Wisconsin	27
Total	220
Missouri	17
Total with Missouri	237
Northeast	296
Midwest [1]	220
Northeast and Midwest [1]	516
South	153
West	178
South and West	331
U.S. total	847

[1] Regional totals do not include Missouri figures; they are included under West.

Source: U.S. Environmental Protection Agency, January 1986.

ATTACHMENT B.—STATE-BY-STATE CONSUMPTION OF PETROLEUM PRODUCTS

State	1983 petroleum consumption (1,000 barrels)	Percent of total
New England:		
Connecticut	79,798	1.44
Maine	41,171	.74
Massachusetts	135,469	2.44
New Hampshire	21,379	.38
Rhode Island	16,652	.30
Vermont	10,550	.19
Mid-Atlantic:		
Delaware	19,800	.36
Maryland	86,741	1.56
New Jersey	215,982	3.89
New York	297,863	5.36
Pennsylvania	221,198	3.98
Midwest:		
Illinois	224,054	4.03
Indiana	118,122	2.12
Iowa	70,780	1.27
Michigan	124,668	2.24
Minnesota	93,598	1.68
Ohio	237,385	4.27
Wisconsin	85,118	1.53
South:		
Alabama	83,921	1.51
Arkansas	54,723	.98
District of Columbia	8,045	.14
Florida	261,109	4.70
Georgia	127,685	2.30
Kentucky	80,437	1.45
Louisiana	287,057	5.16
Mississippi	58,766	1.06
North Carolina	119,382	2.15
Oklahoma	84,943	1.53
South Carolina	58,946	1.06
Tennessee	87,588	1.58
Texas	734,687	13.22
Virginia	112,564	2.02
West Virginia	34,784	.63
West:		
Alaska	28,309	.51
Arizona	55,535	1.00
California	501,665	9.02
Colorado	61,774	.01
Hawaii	39,995	.72
Idaho	19,523	.35
Kansas	67,247	1.21

ATTACHMENT B.—STATE-BY-STATE CONSUMPTION OF PETROLEUM PRODUCTS—Continued

State	1983 petroleum consumption (1,000 barrels)	Percent of total
Missouri	106,607	1.92
Montana	23,881	.43
Nebraska	38,224	.69
Nevada	24,476	.44
New Mexico	37,215	.67
North Dakota	24,097	.43
Oregon	60,241	1.08
South Dakoata	20,035	.36
Utah	32,080	.58
Washington	94,448	1.70
Wyoming	29,027	.52
U.S. total	5,559,364	100.00

Source: Staff calculations from Energy Information Administration data.

EFFECTS OF AGENT ORANGE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. EVANS of Illinois. Mr. Speaker, as this Congress comes to a close, we are still awaiting final word on the study to examine the effects of agent orange on veterans of Southeast Asia.

This study has run into a number of obstacles and, in my opinion, has been hampered by a lack of commitment and good faith in seeing it through.

In the meantime, thousands of veterans continue to be haunted by the effects of their service in Vietnam and by their own personal conviction that exposure to agent orange produced harmful, sometimes fatal effects.

I urge my colleagues to read the following account from the Peoria Journal Star of one notable family's suffering. While the case of Adm. Elmo Zumwalt and his son may be particularly ironic, it is a reflection of the suffering of many American veterans across this Nation.

[From the Peoria Journal Star, Sunday, Oct. 5, 1986]

HOW A MILITARY DECISION SPELLED FAMILY TRAGEDY

(By Myra MacPherson)

Adm. Elmo Zumwalt, Jr. was not just any admiral. He was the youngest four-star admiral in U.S. naval history, the youngest to serve as chief of naval operation. From 1968 to 1970 he commanded U.S. naval forces in Vietnam, and it was his decision to order the spraying of Agent Orange to defoliate the jungles along the rivers in the Ca Mau peninsula.

On the ground, below that fine, deadly mist, a young officer ran river patrol boats. He was the admiral's son Elmo III.

The son is now in the advanced stages of an extremely rare, medically baffling form of lymphoma. He has joined the battalion of Vietman veterans who survived the war but feel they are the hapless inheritors of a sinister legacy—caused by Agent Orange contaminated with deadly dioxin.

It is a Greek tragedy come to life, and as they relive it, father and son finish each other's thoughts and words. Months of watching Elmo endure massive doses of chemotherapy and radiation have deepened the lines in the admiral's face—a face of

strong features and unforgettable bristling eyebrows, long caricatured in editorial cartoons.

Asked how he handled the pain, the father says softly, "Your eyes get wet." Then he quickly races on, "But the inspirational part was Elmo. Each time Elmo called up with bad news, beginning with the first call, he'd be in a semijocular mood, saying 'well, I'm lucky again, Dad, or 'The good news is . . .'"

And the bulletins were devastating. The first was four years ago, when Elmo learned that he had a specific form of cancer of the lymphatic system called nodular poorly differentiated lymphoma (NPLD).

But there was more. The next call was to tell his father that the doctor had characterized his type of cancer as very slow moving but "always fatal." A few weeks later, the incredulous doctor told them that Elmo had two completely different types of cancer, non-Hodgkin's lymphoma and Hodgkin's disease, the only recorded case of such a combination and sequence. "It was not comforting," says Elmo dryly, "to be a statistic of one."

His father looks at Elmo. "He has just a fantastic ability to cope. Never once did he call up and . . ." His voice slows. "It was always the recipient who got the tears."

Seven months ago, as a last resort, Elmo endured the excruciating pain of a bone-marrow transplant procedure. "There was a 20 percent chance of dying in the process, a 50 percent chance the cancer will come back—and a 100 percent chance of having to go through the agony, so no one goes in there lightly," says Elmo. Having survived the transplant, Elmo counts the odds—his 50 percent chance of recovery.

The next five months are cliffhangers. "If I get past the first year they feel that it is a very good sign.

"I went from no hope to having hope."

The Zumwalt tragedy has touched a third generation, Elmo's son Russell, who has a severe learning disability. (Like many Vietnam veterans—including those who won a celebrated settlement against seven chemical companies in 1984—Elmo and the admiral feel Russell is among the many deformed, retarded or learning-disabled children who were victims of genetic disorders caused by Agent Orange.)

The admiral writes in "My Father, My Son," their just-published book, "There is no question in my mind that, indirectly at least, I was responsible for Elmo's heavy exposure to Agent Orange, which makes me an instrument of his tragedy." Still, although he feels certain it caused his son's cancer and his grandson's severe learning disabilities, he steadfastly says he has no guilt about giving the order to spray the area with Agent Orange.

What is more, even knowing the toxicity—a drop of dioxin, if it could be divided equally among 1,000 people, would kill them all—Zumwalt says he would give the same order today. He clings to the view that "we reduced casualties tremendously by the use of Agent Orange. Each day we knew how many of our sailors were wounded and killed. As soon as we started the defoliation the numbers decreased dramatically."

Elmo nods, "Absolutely." There is not a second's hesitation. "In combat on those rivers you were obsessed with day-to-day survival. You could go up a canal with dense foliage over it and be shot at point-blank." After Agent Orange turned lush vegetation into landscape as barren as the moon, there were few places to hide.

"Literally thousands were saved from being killed or maimed as opposed to the hundred that are in Elmo's circumstances," Zumwalt contends. "And I believe there's an excellent probability that Elmo wouldn't be here today if I hadn't used Agent Orange."

One of his daughters, Mouzetta, says in the book, "I think Dad feels deeply responsible for the role Agent Orange may have played in Elmo's illness . . . and Russell's learning disability." And John Pekkanen, who wrote "My Father, My Son" with the Zumwalts, says, "I think he has to feel guilt; it's inescapable. But on one level they are warriors and adhere to 'It's the price you pay in war.'"

Zumwalt talks of cost/benefit ratios. "If we had to fight another war we'd be dropping our bombs close enough to our own troops to kill some of them, in order to save a lot more. It's that kind of thing you do in war. As long as we're saving more than we lose it's an action one has to consider."

But the chief of naval operations, famed for championing the rights of enlisted men, loses that distance as he speaks of the Vietnam Veterans Memorial he cannot bear to visit. "There's hundreds of names there, people whose parents and wives I wrote." The pain is in his dark brown eyes and he clears his throat. "And, uh, hundreds of people who are dead because of orders that I had to give.

"It will be a long time before I go to visit."

Elmo, the eldest of four, was a tenacious child who survived both polio and open-heart surgery. He speaks clinically about the details of his cancer—friends feel it is his way of coping—but there is an urgency to his voice as he explains why he did the book.

Elmo's primary concern was to provide for his family; he is obsessed about the care of Russell, 9, and Maya, 11. "I suddenly realized I was facing a terminal illness when I was 36 years old," says Elmo, now 40, "and that I wasn't as prepared as I should have been." Says his father, wryly, "I had always been overinsured so Elmo compensated by being underinsured."

"I have no idea whether the book will be successful, but I created a trust fund and all the proceeds will go into that for Kathy and the kids," continues Elmo.

Another reason for the book, says Elmo, was to help others struggling with catastrophic illnesses. "It was important to have people appreciate how relationships of love and support can make a difference."

Elmo speaks not only of his family, but of the men he led in Vietnam. "We initially started off not liking each other." His crew would say that was an understatement. They nicknamed him "Brass Brat III." In the book, top-gunner Geoff Martin calls Elmo a "rigid, tough (SOB) and there were times when I got so damned mad at him I felt like shooting him, but we all realized he was a good officer." His bravery broke down the animosity. He took them into territory few swift boats would enter, disobeyed orders and went into Cambodia, and, under heavy fire, captured a convoy of weapons.

The crew holds reunions; over the years, respect turned into love. "We became a band of brothers," says Elmo. All of the crew broke down and sobbed at various times during interviews for the book.

In part, "My Father, My Son" was written for his crew and other Vietnam veterans—especially those who feel they are victims of Agent Orange. Elmo's voice gets hard with anger as he speaks of one aftermath of America's most unpopular war. "We should be asking questions as to why the returning citizen-soldiers were treated like villains in their own country for over 10 years . . . The burden of Vietnam veterans who are less fortunate than I, economically and socially, has been a heavy one."

Despite those who say there is insufficient evidence of the linkage between Agent Orange and cancer, Elmo and his father point to a study in the current issue of the Journal of the American Medical Association that shows "devastating evidence that 2,4-D, one of the principal elements in Agent Orange, caused six times as many lymphomas among those farmers who used it without precaution as those who used gloves and other protective clothing."

It was 1945, just after the Japanese surrender, when Adm. Zumwalt met his wife. A 24-year-old lieutenant who had captured a Japanese gunboat, he was sailing up the Yangtze River to Shanghai to help clear the river of Japanese mines. At a dinner party in Shanghai he met Mouza Coutelais-du-Roche. Her father was a French national; her mother's White Russian family had fled to Manchuria after the 1917 revolution, then to Shanghai when the Japanese invaded Manchuria.

He recalls, "I met her on October 1st, proposed on the 7th and we were married on the 22nd." He smiles at what is obviously a long-standing family joke: "We tried to raise all four children never to do anything so foolish."

There are a few passages from Elmo's mother in the book; she still has great difficulty talking about the cancer.

Elmo was born in July 1946. A friend once said he was "born an adult." Says the admiral, "When I was away he was like a substitute father to his younger siblings."

The two recount a pivotal incident when the admiral locked the door on Elmo as he was being chased home by Tiger, the neighborhood bully who "seemed to relish beating the hell out of anybody smaller than himself." Elmo "pounded on the door but he would not let me in. I had to face Tiger head-on." It happened more than once. "Dad would never let me in the house when Tiger was after me. I never could be victorious but I got so I could fight well enough that I took some of the fun out of it for him. He had to find others to harass."

The admiral says, looking a bit chagrined, "To this day it breaks my heart to think of it. It took superhuman will power on my part not to go out and pull Tiger off. This all happened before Elmo was diagnosed as having a heart problem. After that I felt even guiltier."

But Elmo insists it was an "absolutely bedrock" lesson, teaching him how to deal with challenges larger than himself. "Facing polio as a child. Open-heart surgery. Facing the cancer . . . is the sort of thing that translated from trying to take on a kid that was clearly able to beat the hell out of me."

Despite long absences required by Navy duties, Elmo says, "Dad developed remarkably close relationships with all of us. It may sound unbelievable, but I can never remember him losing his temper at me, or at my brothers and sisters."

Zumwalt as commander of the Navy in the '70s became famous for his "Z-grams," calling for a relaxation of "Mickey Mouse restrictions" for enlisted men. They could grow beards and sideburns, drink beer in the barracks, listen to rock music. He instituted racial reforms in the supremely lily-white Navy. Despised by the old guard, Zumwalt was praised by those who credit him with

damping down a powder-keg situation in the polarized Navy of the 1970s.

But make no mistake; Zumwalt's liberal tendencies stop there. "I'm schizoid," says the admiral with a laugh, "You could say I have been more liberal than many military on domestic issues and more hawkish than many on national security."

Father and son have slowed their pace, although Elmo still works on some law cases. The admiral laughs at his past lean financial years. "I retired from my top job at the Navy with a net worth of $50,000 and finished my race for the Senate (his unsuccesful 1976 Virginia bid) with a net worth of minus $90,000.

Now, says the admiral, "I've reduced my involvement in foreign policy and national security, putting the extra time into ensuring that my income remains high so that I'll be able to help Elmo and his family." He runs two companies and is on the board of six others, but is seldom away from his son's side during his treatments.

Elmo now spends more time with his children. Before his cancer, he was financially cautions to the point of being penurious. After the diagnosis, he surprised his wife Kathy with a sports car and a trip to Europe. The family says the illness has brought them closer to the important things in life.

"The most emotional thing that ever happened to me was that year in Vietnam, but the most physical agony I ever had to endure was that bone-marrow transplant," says Elmo of the experimental process they are praying will save his life.

It is the autumn of their reprive from those days four years ago when the doctor said Elmo's cancer was fatal. Still, the admiral speaks of the tension that remains—the "sword of Damocles" that hovers as they wait out the months.

But there is more time now than they once thought they had.

Before the transplant, Elmo had been so prepared for the worst that he wrote letters to the entire family. They were to be opened only after his death, but five weeks after the transplant the admiral could not resist opening his letter.

Both in Vietnam and with my cancers, we fought battles and lost. Yet, we always knew even when the battle was clearly desperate, that our love could not be compromised, and that however bad the odds, we were incapable of ever giving up. . . .

How I loved you. How I would have loved to have continued to fight the battles by your side. You always made a difference. You made my last battle, the journey to death, more gentle, more humane.

I love you,

Elmo.

CALAIS ADVERTISER CELEBRATES 150TH ANNIVERSARY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Ms. SNOWE. Mr. Speaker, one of the vital components of eastern Maine has just celebrated its 150th anniversary. The Calais Advertiser, founded in 1836 as a twice weekly paper, continues today in its proud tradition of being more than just a news outlet. The Advertiser has helped shape the events that make Calais a community on the move here in the 1980's.

It is also important to note that the Advertiser is, as a recent editorial pointed out, very much a team product. Since the paper appears through the efforts of so many people, bylines are omitted to portray the group endeavor.

I want to join in congratulating the Calais Advertiser on its 150th anniversary, and extend my wishes for continuing success and journalistic excellence in the years ahead.

Mr. Speaker, I am submitting the following article tracing the history of the Calais Advertiser for the RECORD.

"OUR" HISTORY

(By Jay Hinson)

"The Calais Advertiser", one of the oldest newspapers in North America, was born in August 1836. Called "The Gazette and Advertiser", the paper was published every Tuesday morning by two businesmen named Snow and Jackson. The paper was vigorous and forceful, and had as its first editor, James Shepherd Pike, who went on to a distinguished career as Washington, D.C. correspondent and associated editor of "The New York Tribune", and as ambassador to The Netherlands, appointed by President Abraham Lincoln. Pike, incidentally, was also a prominent businessman and civic leader and was the person who installed the milestones between Calais and Robinston where he had a summer home, The Mansion House.

The price for a year's subscription to "The Advertiser and Gazette" was $2.50 and grocery products were accepted as payment for advertisement. The following can be found in the August 16, 1836 copy of "The Advertiser and Gazette", the first copy to have been printed, "Any person who will procure us six responsible subscribers shall receive the seventh copy gratis".

In 1836, eastern Maine was enjoying a considerable boom. The population was increasing rapidly and the financial status of many people was in good shape. In the first issue of "The Advertiser" it was stated that Calais had grown from 1,685 in 1830 to 3,202 inhabitants in 1836. Two banks had just opened in Calais and another in St. Stephen, N.B. People were awake and alive.

All these activities were interrupted by the financial crash of 1837. "The Advertiser and Gazette" suspended publication in 1838 but began operation again as "The Calais Advertiser" in 1841.

The newspaper has operated without interruption since that time.

Another great figure who acted as editor of "The Advertiser" from its revival in 1841 was John Jackson. He waged a relentless battle against Democrats; pro-slavery advocates, "rum sellers", employers who underpaid or mistreated their employees, and wasteful lumber operators for more than 40 years.

In those days, the presses were simple and crude. True, one or two men could manage the entire operation of printing, editing and reporting but it was difficult work. The type all had to be set by hand, and it was said that editor Jackson seldom wrote out any news story or editorial. He saved time by setting it up directly. John Jackson was followed as editor by his sister. Miss Lizzie Jackson, and she, in turn, was followed by Al Smythe. They kept the paper going, but the machinery and equipment was worn and outmoded. New inventions such as electrical and gasoline run engines were being used to power the presses and "The Advertiser" went behind the times. From a circulation of 5,200, "The Advertiser" dropped to about 300 printed copies a week. To keep the townspeople from realizing the decline, the basket which took the newspaper to the post office was first filled with scrap paper, and then the fresh copies were placed on top.

In 1899, the paper was purchased by 12 local men who were interested in seeing the paper kept up. The firm was re-named "The Calais Advertiser Publishing Company", and the dozen saviors were called the "Twelve Apostles". Charles Rose was hired as editor and the paper began to improve its position. The last of the "Twelve Apostles" was the late Frank Beckett, Sr., a Calais merchant, active until his death a few months before he would have been one hundred years old.

Waide Randall was a very kind and generous man who was a watch repairman before his father-in-law, Charles Rose, left his shares of the newspaper to Waide's wife. With the assistance of the remaining members of the "Twelve Apostles", Randall guided "The Calais Advertiser" through the thin years of the Depression when a year's subscription was only fifty cents and a column inch of advertising was half that. Randall took the newspaper through the worrisome Forties and into the late Fifties with the help of such popular writers as Arthur Kallenberg and historian Ned Lamb. During this time the paper was located on North Street.

On January 2, 1958, he sold "The Calais Advertiser" to Jay B. Hinson, who has been bureau chief for The Bangor Daily News for five years and a graduate of Colby College. Hinson purchased new equipment and about a year after the purchase, moved the shop to the former railroad station on Hog Alley where he continued to modernize the plant and expand the commercial printing part of it. In 1962 the newspaper shifted from letterpress (hot type) printing to offset.

When Hinson bought the newspaper in 1958, the subscription price per year was two dollars so he took the bull by the horns and jacked it up to what it had been when the first edition was published in 1836—$2.50 a year. With support from the community most of the time, "The Calais Advertiser" worked to have the city dump moved off Main Street, sought to have highways and streets improved, urged citizens to participate in their own government, rapped the knuckles of politicians and city managers and police chiefs believed to be inept, chided bureaucrats and praised the efforts of business people who worked through the doldrums of the early Sixties, survived the recession of the mid-Seventies and labored to bring forth an ever-improving community in the Eighties.

In 1967 Hinson and Eugene Townsend of Calais purchased "The Machias Valley News Observer", the only other weekly newspaper in Washington County. Formed in 1852, that newspaper, with a circulation of 3,800, covers coastal and western Washington County.

"The Calais Advertiser" steadily maintains a circulation of 4,000 to 4,500 copies each week, depending on the season. In 1983, Hinson sold the commercial printing part of the business to one of his sons, Eric, and moved the newspaper office to Knights Corner on North Street.

While publisher and editor of "The Calais Advertiser", Hinson served as executive secretary of the Calais Chamber of Commerce in the early Sixties; was chairman of the Washington County Development Author-

ity which spent $275,000 on boat launching sites and parks, including West Quoddy Head State Park, helped to form the city's first planning board and was president of the Calais Lions club for one year. He is still active with the newspaper in Machias and with commercial photography.

The new owner of "The Calais Advertiser" is Ferguson Calder who took over on October 5, 1985.

GOLDEN ANNIVERSARY OF THE NATIONAL FORESTS OF TEXAS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WILSON. Mr. Speaker, on Monday, October 13, the U.S. Forest Service celebrates the Golden Anniversary of the National Forests of Texas. Four of the five Texas National Forests are in my district, providing natural beauty, recreation and livelihood for east Texas. Without the contribution of the U.S. Forest Service, there would be no forest area in Texas. The thick woodland we now enjoy was stripped and barren 50 years ago, when reclamation and reseeding began on the newly acquired Federal land. I submit for the RECORD, to mark this important date, the following proclamation.

PROCLAMATION

Whereas on October 13, 1986 the U.S. Forest Service will observe the 50th anniversary of the National Forests of Texas; and

Whereas the National Forests of Texas have led in the conservation and protection of one of our most important natural resources; and

Whereas the U.S. Forest Service has successfully managed the thick woods of East Texas for multiple use including recreation, and as a result attracted thousands of tourists to enjoy the pristine beauty of nature; and

Whereas the National Forests of Texas have improved the economy in the East Texas Piney Woods, where the forests are located, through increasing the productivity of those timberlands and by returning a percentage of the income from the sale of the timber to local governments and school districts; and

Whereas the National Forests in Texas have demonstrated a great influence in the State on the economy and environment, as well as providing recreation, tourism and beautification with favorable and positive nationwide publicity;

Now, therefore, be it hereby proclaimed that as the member of the U.S. House of Representatives for the 2nd District of Texas, I praise and pay tribute to the Forest Service on the occasion of the Golden Anniversary of the National Forests of Texas.

HONORING THE B.P.O. OF ELKS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. TRAFICANT. Mr. Speaker, it is my distinct honor to bring to the attention of this body the 100th anniversary of the funding of the Benevolent and Protective Order of Elks on October 23, 1986.

The B.P.O. of Elks is a fraternal organization since 1886 that rose from the humble beginnings in New York City where a group of actors joined together for fellowship and brotherly love. With a strong tradition of charitable work, the Elks boast over 2,285 lodges and 1,600,000 members nationwide. Fiercely patriotic to our country and believers in God, the Elks are supporters of such worthwhile community needs as veterans' programs, youth activities, and drug awareness. Specifically, the Youngstown Lodge No. 55 is most active in fighting cerebral palsy; helping needy families by providing disaster relief; and always coming to the aid of our country in time of need.

I share the Elks' commitment to our Nation's children and its priority to help our young people by its creation of a Youth Activities Committee. Through scholarships and grants to students, the Elks are insuring a quality education for many needy students, the leaders of tomorrow.

The Elks have embarked on a recent project that is near and dear to my heart—that being drug awareness. To quote Exalted Ruler Roland Brothers, "We are using every weapon at our disposal to stop this terrible cancer of the mind, especially for children grades 5 through 8." On behalf of this auspicious body, I want to commend the Benevolent and Protective Order of Elks for their work in this area and congratulate them on the celebration of their 100th year.

AGRICULTURAL PESTS IN THE MAILS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. COELHO. Mr. Speaker, today I am introducing legislation that would strengthen our current laws prohibiting the use of first-class mail for the transport of plant materials that could contain harmful agricultural pests. The mails provide a pathway for entry of serious agricultural pests into my home State of California, which poses potential problems to all farmers. We have to take some action to prevent any additional harm to our agricultural products such as the Medfly incident that occurred a few years ago.

Recent evidence has shown that the problem of first-class mail containing agricultural pests is growing in California. On June 5, 1986, a 14-pound jackfruit was intercepted in first-class mail from Hawaii. It was found to be infested with a scale and a mealybug not present in California. On July 28, 1986, soursop was intercepted and found to contain 12 larvae of the oriental fruit fly.

The eradication costs to California since 1980 for fruit fly pests have exceeded $105 million. We need to do something to prevent California or any other States in the Union from having to incur these costs in the future.

Our present Postal Service policy prohibits the inspection of any first-class mail, even if it might contain these pests, unless a warrant is secured. Some means of handling parcels suspected of containing prohibited materials is needed that is less cumbersome than getting a warrant, but that protects citizens rights from having mail inspected randomly without cause. I believe the bill I am introducing is a reasonable method of addressing this problem.

This legislation would make it illegal to ship any plant or animal or related article in first-class mail unless the person or sender who submits the mail parcel agrees to allow agricultural inspection of its contents. The Postal Service would be authorized to refuse to accept any parcel suspected of containing prohibited plants or animals for which inspection is not authorized.

The Secretary of Agriculture would be required to work with the U.S. Postal Service in devising regulations for handling parcels found to contain prohibited materials. Additionally, they would be required to conduct a public education compaign to inform people of the problem and to advise them of current laws dealing with the use of the mails for such purposes. Finally, civil penalties of at least $1,000 would be authorized for those who violate this law.

While there is not time to enact this legislation during the current Congress, I am introducing the bill now to increase public awareness of the problem and to begin discussions on the need for this legislation. I intend to pursue this issue in the 100th Congress so we can bring some control to the problem of agricultural pests that are found in the mails.

TRIBUTE TO DR. FRANK HARRINGTON

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DARDEN. Mr. Speaker, I would like to direct the attention of my colleagues to the achievements of Dr. Frank Harrington, who is celebrating 25 years as a Presbyterian minister—including 15 years as senior minister at Peachtree Presbyterian Church, one of Metropolitan Atlanta's largest religious institutions.

Dr. Harrington not only is an outstanding speaker with a fine sense of humor; he also devotes great energy to providing day-to-day assistance to members of his congregation, whether their needs are physical or spiritual.

He also is widely known for the television ministry which he began in 1972 over WSB–TV in Atlanta. That ministry has expanded to include cable television outlets throughout the Southeast. On Christman Eve, viewers nationwide hear Dr. Harrington's holiday message via WTBS television.

I have visited Peachtree Presbyterian Church on numerous occasions. Each time, I have come away with a new appreciation for both Dr. Harrington's devotion to his tasks as minister and the congregation's love for him.

During Dr. Harrington's 15 years at Peachtree Presbyterian, more than 7,000 members have been received, and the congregation has contributed more than $29 million to help spread the Gospel and assist the needy. Al-

though the church stands in the city of Atlanta, it draws members from throughout the area—including many people from the Seventh District. My wife's aunt, Mrs. Christine Anderson, widow of the late Dr. John Anderson, is a member of Peachtree Presbyterian's board of elders.

Before his arrival at Peachtree Presbyterian Church, Dr. Harrington served as minister at the First Presbyterian Church in Hinesville, GA, and senior minister of Fairview Presbyterian Church in North Augusta, SC.

A native of Kingstree, SC, he earned degrees—with honors—from Presbyterian College and Columbia Theological Seminary. He and his wife, the former Sara Rogers, have two children, Mrs. Harold (Victoria) Franch and Susan.

Dr. Harrington has served as a member of the General Mission Board of the Presbyterian Church in the United States, and as a member of the board of directors of Columbia Theological Seminary. He also has served in various capacities with other church leadership organizations and educational institutions. He has been a member of the clergy staffs at both University Hospital in Augusta, GA, and Northside Hospital in Atlanta.

Mr. Speaker, I invite my colleagues to join me in paying tribute to the accomplishments and contributions of this outstanding religious leader, Dr. Frank Harrington.

TRIBUTE TO JOHN F. SEIBERLING

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to my good friend and distinguished colleague, JOHN SEIBERLING, who will be retiring from the House of Representatives at the end of the 99th Congress.

As a member of the House Interior and Insular Affairs Committee and as chairman of the Subcommittee on Public Lands, JOHN has been instrumental in efforts to defend America's heritage. He was one of the chief architects of our Nation's wilderness protection efforts and the drive to defend America's scenic beauty. He has also worked to promote America's historical legacy through his strong advocacy for the preservation and protection of historic buildings and sites. Through these efforts, JOHN has diligently worked to preserve our Nation's legacy for future generations.

JOHN's achievements on the national level have been impressive, but he has also served Ohio's 14th District with distinction. In his eight terms, he has worked tirelessly to protect the interests of his constituents and his district has benefited from his dedication and commitment. JOHN will be remembered for a number of achievements, including his efforts to defend and protect the Cuyahoga Valley National Recreation Area. JOHN has won the respect and devotion of his constituency and his colleagues and I know that he will be sorely missed.

For my own part, I am honored to have been able to serve in this body with JOHN SEIBERLING. He has served the people of Ohio and the country with dignity, dedication, and honor. His compassion and commitment have led to many outstanding accomplishments. It is an honor to salute the 16 years of distinguished service of my good friend and colleague, JOHN SEIBERLING, and I wish him and his wife Elizabeth the very best in all of their future endeavors.

TRIBUTE TO ELDON RUDD

SPEECH OF

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. SCHULZE. Mr. Speaker, I rise in tribute to and in honor of the gentleman from Arizona ELDON RUDD.

I've known ELDON RUDD since he came to the Congress in 1977. He's a quiet man and, like so many reticent individuals, we often miss the depth of that individual unless we take the time to watch and study him. This is true of ELDON. I could easily have missed out on knowing him better, except for an occasion I had to sit next to him at a Republican conference meeting shortly after he arrived in Washington. We got to talking about each other, where we come from, what we did in our "former" lives, that type of thing. Before long, I was listening and asking him more about his experiences and what sparked his desire to run for elected office. The details of the conversation are not important—the feelings of the man are. Common threads of motivation running throughout all his careers—and they have been many—number among them a sense of justice and patriotic pride. I know we sometimes throw those terms around a little freely, but ELDON feels them deeply and has been guided accordingly. He served in the Marine Corps during World War II, and devoted 20 years of his life as a special agent in the Federal Bureau of Investigation. In both careers, he served his country directly, and the people indirectly. In his next two careers—as a member of a county board of supervisors and Member of Congress—he has served the people directly, and his country indirectly. Odd that he would embark upon these goals? Not if you know ELDON. He is truly driven by his twin desires of justice for the people and service to his country.

So while the House of Representatives is losing a fine statesman, some other American institution or organization is sure to gain one. ELDON, I wish you and Ann continued success and happiness in all that you do.

PROPAGANDA TOUR IN KAZAKHSTAN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BEREUTER. Mr. Speaker, the Soviet Union continues to propagandize abroad in favor of a nuclear test ban, urging that the United States follow its example. To strengthen its case, the U.S.S.R. recently allowed a tour by foreign journalists of its nuclear test range in Kazakhstan. This member would like to share with his colleagues an Omaha World Herald editorial of September 29, 1986, discussing the test ban moratorium issue and underscoring the need for adequate means of U.S. verification of treaty provisions subject to discussion at the Reagan-Gorbachev upcoming summit talks.

[From the Omaha World Herald, Sept. 29, 1986]

PROPAGANDA TOUR IN KAZAKHSTAN

The Soviet Union didn't strengthen its case for a nuclear test ban the other day when it allowed a group of foreign journalists to tour its nuclear test range in Kazakhstan. The world already knew that the Soviets have discontinued nuclear tests. Two non-government U.S. observers have even been allowed to set up monitoring stations nearby.

Moscow has never been shy about capitalizing on a propaganda opportunity, however. Letting foreign journalists describe and photograph the rusting rails and abandoned machinery at the test range was just that—propaganda. See how firmly we hold the high moral ground, the Soviets seemed to say. See how deeply we want peace.

In 1963, the United States and the Soviet Union formally agreed to halt nuclear tests in the air, in the sea and in space. In 1974, they decided to limit underground tests to 150 kilotons.

Last year, the Soviets paused in their underground nuclear testing on the 40th anniversary of Hiroshima and urged the United States to do likewise. The Soviets had just finished a series of nuclear tests. The United States, which had additional tests scheduled, declined to halt its testing program.

In December, just before the United States made an underground test on a nuclear device for the Strategic Defense Initiative, the Soviets extended their moratorium. The United States again declined.

The United States has taken the position that testing is needed to maintain efficient weapons. American officials have said that the United States would be willing to consider a formal treaty banning underground nuclear tests. But the treaty would have to include adequate means for verification. And the United States would have to be convinced that a test ban would not simply lock in a Soviet advantage.

The propaganda show at the test range did nothing to discredit this reasonable U.S. position.

NOTRE DAME HIGH SCHOOL IN WEST HAVEN, CT, CELEBRATES 40TH ANNIVERSARY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today to share with my colleagues my pride in the 40th anniversary of Notre Dame High School in West Haven, CT.

Notre Dame was founded in 1946 by the Brothers of the Holy Cross. Today it has 7,700 alumni and 860 students from New Haven West Haven, Hamden, and other towns as

distant as Guilford, Meriden, and Beacons Falls.

Notre Dame is known throughout the region for academic excellence and a strong tradition of leadership and service to the community. A long list of its former students have distinguished themselves in athletics, business, medicine, law, and other fields.

On October 11, I will join with many distinguished colleagues and friends at the first annual Notre Dame High School Knights of Honor Dinner to celebrate this happy occasion and to honor seven individuals who have provided distinguished service to Notre Dame as alumni, faculty, and loyal friends.

They are: Nicholas Pietrosante, a Notre Dame football legend who went on to a distinguished career at Notre Dame University and on the Detroit Lions and the Cleveland Browns, and now a leading area businessman; Elizabeth Panza, who has served Notre Dame in many capacities, notably as president of the Mothers Club and the Alumni Mothers; Lawrence Tierney, M.D., who donated countless hours of medical services to Notre Dame athletes in the 1950's and 1960's; Brothers Theodore Oliveira, C.S.C., and Benjamin Sunday, C.S.C., two of Notre Dame's outstanding teachers; the late Raymond G. Tessier, a Notre Dame teacher-coach for over two decades; and the late Superior Court Judge Frank Kinney, a member of Notre Dame's first graduating class and leading Connecticut jurist, whose untimely death only a few days ago shocked and saddened us all.

Guests at the dinner will include Mayor Biagio DiLieto of New Haven, Mayor Azelio Guerra of West Haven, Probate Judge E. Michael Heffernan, Brother Francis Leary, C.S.C. Principal, Nicholas Cusano, chairman of the board, Rev. James G. Fanelli, superintendent of schools, Archdiocese of Hartford, William T. O'Brien, chairman of the Knights of Honor Committee, and many alumni and friends of Notre Dame.

Mr. Speaker, I know all my colleagues will join me in honoring Notre Dame High School and its seven "Knights of Honor."

CITATION FOR DISTINGUISHED SERVICE TO GUY W. WILLEY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DYSON. Mr. Speaker, I rise today to honor the distinguished career of a dedicated public servant, Mr. Guy W. Willey. The U.S. Department of Interior recently bestowed its highest honor, the Distinguished Service Award, on Mr. Willey for his many contributions in the field of wildlife conservation with the U.S. Fish and Wildlife Service.

Interior Secretary Donald P. Hodel, stated in his citation:

Throughout his eminent career at the Blackwater National Wildlife Refuge [NWR], Mr. Willey's sincere dedication to wildlife conservation has significantly contributed toward gaining national recognition for the refuge as a unique wildlife management area. He has an exceptional talent for communicating his concerns and knowledge of the marsh and wildlife with everyone from local residents to students to professors to ambassadors. As a result, Mr. Willey has gained the support of many with very positive tangible benefits. During the period when Blackwater NWR was experiencing rapid marsh losses, Mr. Willey was the moving force in a study program proposed by the University of Maryland and provided invaluable assistance in implementing recovery programs for the Delmarva fox squirrel and the southern bald eagle.

Mr. Willey's list of achievements go on to include the reestablishment of new colonies for the fox squirrel, and development of a protected area for the bald eagle. In addition, he served on the State of Maryland's Trapping Advisory Commission and helped to write new trapping statues for the State.

I join the Department of the Interior on behalf of the residents of Maryland's First Congressional District and salute Mr. Guy Willey for his outstanding dedication to the preservation of the Chesapeake Bay and the natural environment of the wildlife in and around the State of Maryland.

IN HONOR OF JESSE AND JOAN FELDMAN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize Jesse and Joan Feldman as they will be honored by the JWB on December 7, 1986.

Jesse will receive the first JWB Community Builders Award for his volunteer achievements, leadership in the San Francisco JCC and community, an active national involvement in JWB and for serving as an inspiration and a role model for others.

Jesse Feldman is a JWB vice president and chairman of its Israel Committee. He has been on JWB's board of directors since 1968. In that time he has served in many different capacities. A past president of the United Jewish Community Centers of San Francisco and the Jewish Community Federation of San Francisco, the Peninsula, Marin and Sonama Counties, and former chairman of the Jewish Community Relations Council in San Francisco, he has also served as a vice president of the Council of Jewish Federations.

An attorney, Mr. Feldman was founding partner of the San Francisco law firm Feldman, Waldman and Kline. He remains active in a number of business and community organizations in his native city.

He and his wife, Joan, live in San Francisco and spend part of the year in Jerusalem, Israel.

Jesse and Joan have been especially important to me personally, as devoted community leaders, as wonderfully caring people, as special friends, and as my very own cousins.

It is a pleasure to share the news of this special tribute with my colleague in the U.S. House of Representatives. I ask that they join me in wishing the Feldman's the best of luck in all future endeavors.

TRIBUTE TO ELDON RUDD

SPEECH OF

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MICHEL. Mr. Speaker, our colleague and friend ELDON RUDD has decided to retire after 10 years of distinguished service in this body. I want to join the rest of our colleagues in honoring the legislative career of this fine gentleman.

ELDON came to us after serving his country in the Federal Bureau of Investigation. As a member of the Appropriations Committee and as a strong supporter of President Reagan's foreign and defense policies during the past 6 years, ELDON RUDD has brought to his legislative tasks the same kind of dedication and patriotism he demonstrated in the FBI. In the fight against communism around the world, he has always been an informed and eloquent champion of western values.

He has served his district, his State and his country with distinction, as a citizen, as an FBI man and as a Member of this House.

Let me say personally that I will also miss his sartorial splendor which brought to us all the energy and bright color of his native Southwest.

ELDON, we will miss you.

HELP PENSION LOSERS BECOME WINNERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BIAGGI. Mr. Speaker, I am proud to have joined as an original cosponsor of legislation designed to assist over 80,000 senior citizens in this Nation whose pension plans were eliminated between 1942 and 1974, thus depriving these workers of much-needed income they had rightfully earned after years of hard work in our labor force. These people have come to be known as pension losers.

Although the Employee Income Security Act provides compensation for workers whose pension plans were terminated after 1974, this arbitrary cut-off date has left thousands of additional workers stranded with no compensation, no pension, no retirement income at all. This is a tragedy that must not be allowed to continue. Our Nation's citizens have been told by our Federal Government and President Reagan that the Government is not going to bear the responsibility for their welfare after they retire. Yet what about the thousands of people across our Nation who have worked many long and hard years planning for their retirement—only to have their plans dashed through no fault of their own. The Federal Government is the only entity that can provide relief to these individuals.

As an original member of the House Select Committee on Aging, I have long worked to improve the plight of our elderly population. This bill represents a reaffirmation of my com-

mitment to do just that. I have cosponsored this legislation in the past. I joined as a supporter of this bill and believe it is time for us to act.

It is my understanding that this issue will be a priority of Mr. CLAY and the Subcommittee on Labor-Management Relations next year. I want to commend the gentleman from Missouri, Mr. CLAY, for his insight in introducing this bill and I certainly look forward to working with him on this important issue during the next session of Congress.

The beneficiaries of this legislation are those workers who embody the American work ethic. They represent the spirit of this Nation and they should not be penalized in their retirement years. I pledge my commitment to ensure that these workers receive some compensation and that this terrible injustice is given meaningful consideration in the upcoming session of Congress.

PEPSICO'S ROGER ENRICO ON THE THREE "E'S" OF EMPLOYMENT, EDUCATION, AND ECONOMIC DEVELOPMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. KEMP. Mr. Speaker, I recently had the opportunity to read the remarks made by PepsiCo's pathbreaking president and CEO, Roger Enrico, before the Memphis Chapter of the NAACP. Roger spoke eloquently about the need to create an opportunity society where all people have the chance to succeed and fulfill their dreams. I hope my colleagues will take the time to read Mr. Enrico's interesting and uplifting speech.

REMARKS OF ROGER A. ENRICO

MEMPHIS BRANCH, N.A.A.C.P. FREEDOM FUND DINNER, MARCH 27, 1986

Thank you.

Good evening, ladies and gentlemen.

I bring you greetings from my fellow New Yorkers and extend our condolences for the recent loss by Memphis State in the NCAA playoffs.

We share your grief as we too mourn the loss by our St. John's team in the Western Regional playoffs.

Well, at any rate, I'm sure you'll be waiting until next year to cheer the Tigers on to victory. Just as we'll be cheering for the Redmen of St. John's.

On a more uplifting note, I want to say how good it is to be with you tonight. And to thank you for the chance to speak to you this evening.

You know, when Ben Hooks called me a few weeks ago and asked me to speak at this event, my first reaction and immediate response was: I'd be delighted.

I was delighted to accept because it's an honor to speak to this group. The N.A.A.C.P. has done more to bring out the best in this Nation than any organization I know.

Besides, no one says no to Maxine Smith!

But I was really delighted to accept because I consider Ben Hooks a good friend.

My second reaction, though, was: What in God's name am I going to talk about?

Do I give you a litany of all the things Pepsi-Cola Co. and it's bottlers have done to support your cause? Do I tell you about fighting the cola wars? About my experiences with Michael Jackson?

Well, I could talk about those things. It would be easy for me to do so, and hopefully easy for you to listen to.

But I decided not to take the easy route. Instead, I'd like to talk to you about three critical areas I see facing the black community: Economic development, employment, and education.

I want to share with you my perspective on these three "E's" because I feel that the progress we make in those areas will drive the level of success that blacks and other minorities achieve within our society.

(Pause.)

And I'm also going to talk about a new mood that is sweepting the Nation—a mood that promotes togetherness without sacrificing individualism—a mood that puts making things happen on top of the list—a mood where people are saying: "I can—can you? OK—Let's get it done!"

(Pause.)

You know, a man once asked Billy Graham to explain the difference between Heaven and Hell.

That's easy, Reverend Graham said. Heaven is a wonderful place. Because in Heaven, the natural order of things is in perfect balance.

In Heaven, the British are the cops, the French are the cooks, the Germans are the mechanics, the Swiss are the administrators, and the Italians are the lovers.

But Hell, he said, is an entirely different matter. Because in Hell the Germans are the cops, the British are the cooks, the French are the mechanics, the Swiss are the lovers, and the Italians are the administrators.

(Pause.)

Well, any of you who have spent some time in Europe have probably observed that nationalities do tend to excel in some things, and perhaps from that perspective, there is a bit of truth to that story.

But the dream of America, the magic of this bold human experiment, is that distinctions like those aren't supposed to apply in our country.

And neither are distinctions of race or of religion.

We Americans believe in a revolutionary human concept, called freedom. And we also believe in equal opportunity for everyone to make it according to his or her own drive, vision, and ability.

Yes, we Americans believe in those things, but we all know it doesn't work that simply. It's not that easy. If it were, the struggle would have been over a long time ago.

(Pause.)

Is there anyone who doesn't remember the struggle and the pain endured by those who were in the civil rights fights of the 1950's and 1960's?

Well, let's get out there and remind them.

(Pause.)

And remember the tremendous gains from laws passed in State and Federal legislatures to protect the civil rights of black Americans in the 1960's and 1970's?

Well, almost a quarter of a century later, we're still faced with a social condition that is not dramatically different from that which existed before all those laws were passed.

To be sure, there have been some successes. But we should all be well aware of the 18 percent unemployment which exists among black Americans, and the 40 percent unemployment among black teenagers.

And fewer black high school students are enrolling in colleges today than was the case just 10 years ago.

Now, we've got to ask ourselves, why is this?

Well, I'd like to offer one highly plausible reason: I think that we may very well have neglected to recognize the fact that the tactics and weapons we should be using to fight today's battles need to be alot different than those used so successfully 25 years ago.

(Pause.)

You see, people, not laws, populate this Nation, and people will make the difference if the social condition in America is to be corrected.

Think about it.

People—each of us—have the capacity for compassion and fair play, and the bravery necessary to bring it about. But people—you and I—also have the ability to be selfish, deceitful and cowardly.

The single most important element that will make the difference in how you and I and all Americans act is the quality of our leadership.

Leadership in a Nation is what brings out the best qualities in its people and surpresses the worst.

(Pause.)

Notice, I didn't say our Government—I said our leadership.

For the two are not necessarily synonymous. The late Roy Wilkins never held an elected position in this Naiton. And neither was the Rev. Dr. Martin Luther King a government official

They were both true leaders, however, and they both captured the imagination of the American public like no government official every did.

They did so by appealing to the best within us all. And we saw in Wilkens and King, and others like them, integrity and dignity. We saw in their ideas and their leadership something more powerful than all of the laws, and all of the governments, and all of the armies of the world.

We saw morality and decency and a sense of fair play.

(Pause.)

Today, Americans are sick of big government. They are sick of big spending. They are sick of deficits. They are sick of too many laws, too many lawyers and too much paperwork.

They're sick of those things because they don't work very well. They just don't get the job done no matter how many billions they throw against it.

But Americans are not sick of doing what's right and what's good. Deep inside them, there is the desire to help the poor and feed the hungry.

Deep inside there is the will to fight discrimination. Deep inside there is the will to fight for equal opportunity for all.

But to bring these qualities from deep inside to the outside where they can do some good requires leadership. Leadership is the fuel that makes the machine run.

(Pause.)

And so tonight, I am asking you to look at the world, to look at what you're trying to accomplish right here in Memphis, in a different way than you may have in the past. I am asking you to achieve. Be a winner.

(Pause.)

If you're looking in the direction of Washington, you're looking the wrong way. Because Government is not the answer—you are.

Yes, Government can and should play an important role, but not anywhere near as

important as yours. Speak to the people, energize them. Bring those fundamental American beliefs to the surface again, and do that with the power of your ideas, your integrity and your dignity.

Ganhdi changed the world. King changed the world. Mother Theresa is changing the world. Let us change the world, too. Let us unshackle the human spirit. Let us set loose the brilliance and creativity and love that's in every human being in this Nation.

(Pause.)

It can be done. Everywhere I go in this great country, from Maine to Florida, from Wisconsin to Texas, from California to Memphis, TN, I see a rekindling of enthusiasm and spirit.

I see a resurgence of optimism, an optimism that says all things are possible.

I see people demonstrating for real that the free enterprise system under which we operate gives the individual untold opportunities to make a difference.

And I mean a difference in areas that count.

I'm talking about the three E's I spoke about earlier; Education, Employment, and Economic Development.

Of the three, economic development deserves our principal focus, because only after gains have been made in this economic power of black enterprise can satisfactory levels of employment result.

Increased employment levels will then give our young people the necessary incentive to remain in high school and pursue their education at the college level.

Right now, we, at Pepsi-Cola, are addressing the economic development of the black community through our minority purchasing program.

We recognize that if we are to ever make a major contribution to the overall social condition, it's going to be through our normal day-to-day operations.

And so today, Pepsi has pioneered one of the most aggressive minority business enterprise programs in the country, a program in which we spend millions of dollars each year to purchase services from minority vendors—minority entrepreneurs with visions and dreams.

Let me give you a few examples.

There is the case of a minority research firm that was given a temporary assignment to do ethnic research by one of our departments trying to reach its minority purchasing goal.

They began to work at Pepsi because of our minority business enterprise program.

They have stayed at Pepsi over the last 3 years because of their performance.

Another example is that of the minority car dealership's which currently supply Pepsi with all of the vans we use.

In fact, over the next 5 years, we'll be spending upward of $150 million with minority-owned businesses.

And our managers have learned to ask the question: Why not a minority supplier? And the result has been more minority suppliers, more economic clout for the black community, and improved services and costs for us.

A win-win for everyone, if I've ever seen one.

(Pause.)

A minority business enterprise program, such as the one just described, results in more than just increased sales for the minority business.

It's ultimate effect is like the stone thrown in the water where ripples are continually made.

Top U.S. corporations last year showed sales increases of about 4 percent; but gross sales of the top 100 black businesses expanded by nearly 8 percent.

Now, most of these 100 black businesses were small businesses.

But small businesses are the ones which drive the economy of this Nation and create the overwhelming majority of all new jobs in America. And they can do it in the black community like no government ever can.

(Pause.)

A minority business enterprise program which yields employment opportunities in the black community is sure to lead to a renewed sense of purpose for black teenagers, and increase enrollment levels at high schools and colleges.

Which brings us to the third "E": Education.

The American economy has moved from one which relied heavily on manufacturing, to one which is more service and information based.

Fewer and fewer are the workers who can rely solely on hands and muscle power to make a decent living. Instead, knowledge of basic business skills are becoming more and more in demand.

Who will fill the jobs in the tommorrows to come? The answer must be obvious. Our children must—all of our children.

Together, we must provide the leadership to get our young people to stay in school and achieve an education.

At Pepsi, we recognize this, too.

In fact, Pepsi was the first company to give $1 million to the United Negro College Fund. And this, thank goodness, has started a trend of million-dollar gifts to that great group of institutions.

And, our company has developed a remarkable relationship with the National Association for Equal Opportunity in Higher Education, and its 114 historically black colleges and universities, to more effectively market these fine institutions to prospective students and potential donors.

In addition, we've established an intern program for college-aged minorities in which more than 50 young people participated last year. They work in and learn about our business, earn an excellent salary while doing so, receive a scholarship from us to help complete their education, and an offer to permanently join our company upon graduation.

(Pause.)

But, you say, Pepsi is just one company.

(Pause.)

Well, I say our challenge—yours and mine together—is to multiply these efforts a thousandfold. I mean creating a spirit so infectious that it spreads throughout the land.

Think about that for a moment. Really think about it.

Sure, Pepsi is just one company, and you are just a local NAACP chapter. But what would happen if more chapters and more companies—the entire Fortune 500—joined us in this effort? And what would happen if we added the determination and commitment of all Americans north, south, east, and west?

Well, I'll tell you what would happen—those Pepsi successes would be multiplied several thousandfold. And your NAACP fair share program would multiply its many successes.

The $150 million minority business program could become $10 billion. The support of historically black colleges could grow beyond your most fervent dreams, and those 50 interns could become 50,000—or even 500,000 interns.

Now that's true progress. That would make the real difference we all seek.

(Pause.)

But you know as well as I, that progress like that demands a price.

And my friends, the buck not only stops here, it has to start right here.

As community leaders, ours is the responsibility of forming the leading edge of change—change that makes things better.

We are the ones who set the standards who raise the level of progress to more lofty heights. We are the ones who must lead the way for the next generation—and the next after that.

And we can do those things. We have the power—we are in the right. What we need is the vision. The courage, and the determination to make it happen—to get it done.

And I say we can do those things because I see today a new sense of national spirit, a new sense of commitment. Some polls even conclude that we're beginning a new ethic of commitment.

(Pause.)

OK, I've tooted Pepsi's horn a bit tonight—but that's not why I came here. I used those examples to illustrate that great things can be accomplished when we commit ourselves—when we let all that is good and noble about us rise to the surface.

And to demonstrate to you that, despite the big problems we face, there really is more potential right now to make things better than they've been in a long time.

Of course there is a lot more to be done much more.

But I can see the day when our efforts are rewarded—when opportunities for all Americans are truly equal and bountiful.

Every trend I look at says there's opportunity for growth in all areas. We can see that every day—everywhere we look. Many of the products and services out there today were unheard of just a few years ago. And more new products and services keep being produced.

This Nation is going to need people to develop them, manufacture them, package them, install them. Brown people, white people, yellow people, black people—or, my friends, just people—period.

That alone can be a shot in the arm for our work force. And a boon to new employment in cities like Memphis—if we get out there and make sure it happens.

That is our challenge—that is our quest.

To meet it, we'll need to strike a new balance between what Government must do and what the private sector—Business and citizens—will contribute.

But I know we will do that. I know that no matter what the obstacles are, we'll manage to get through.

We always do.

We're a resilient people.

We're a Nation of pride and promise and optimism.

A Nation of hope and opportunity and challenge.

Our future—yours and mine—is where it always has been—right here in our own hands.

Together, we can shape it to be as terrific and fulfilling and meaningful as we want it to be.

Tonight, let us rededicate ourselves. Let us make sure that the future is just that.

Let's give this Nation what it needs, What it is thirsting for: Leadership. Aggressive—determined—uplifting—towering leadership.

Let's get up there, like Wilkens and King did. Fly with the eagles.

Thank you very much.

IN MEMORY OF DON FORTIER

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. HYDE. Mr. Speaker, on September 25, I participated in a special tribute to the late Don Fortier that was coordinated by our colleague, TOM COLEMAN. To complement the historical record of that day, I would like to share with Members three additional eulogies that recently came to my attention as they provide additional insights on why Don Fortier was such a special person. They were delivered during the Fortier Memorial Service at the Chevy Chase Presbyterian Church on September 9 by some of Don's closest associates in the Reagan administration—Adm. John Poindexter, the President's National Security Adviser whom Don served so ably as his top deputy, Assistant Secretary of Defense Richard Perle, and Dennis Ross of the National Security Council Staff. Their remarks follows:

THANKS TO GOD FOR DON'S LIFE

(Remarks by Adm. John Poindexter)

We are all indeed thankful for Don's life.

And we are all privileged to have known him and worked with him—in academia—on Capitol Hill—at the State Department—and at the White House.

Don approached the problems of the world with great vision, dedication and constancy of purpose.

His contribution to the quality of our lives and thoughts is very signficant.

Through his great intellect he brought into sharp focus that which is important to us.

And, because of his presence, we understand a little better what is possible in working to bring peace and stability to the world.

Don had a way of discussing an issue that helped all of us understand it better.

By using his hands and gestures, he would almost bring life to concepts. By sheer sincerity and conviction, he could lend credibility to an idea; and then in his gentle, disarming manner, he would once again convince us of the rightness of his solution.

Don and I went on a mission for the President some months ago.

In the long hours over the Atlantic we discussed the many aspects and intricacies of our forthcoming encounters.

Through it all Don's focused vision of our objective, his steadfastness of purpose, and his humbleness of approach were crucial to the successful conclusion of the mission.

Even while Don was sick he continued to work with the staff developing concepts for addressing many important and difficult issues.

He would not give up.

His focus was beyond himself and his illness.

We are all very fortunate to have been Don's friends—through his strength of character, we learned excellence; through his humility, we learned restraint; and through his kindness, we learned compassion.

We thank GOD for Don's presence, for the qualties that he brought, for his life of sharing, and for the difference he has made to our lives.

We will carry those memories and throughts with us forever.

DONALD ROBERT FORTIER

(Remarks by Richard Perle)

It was so terribly short, the time that we were privileged to share with Don Fortier. But privileged we were. And what was lost in time was made up in the depth of a friendship that enriched our lives, our country and the cause of freedom.

In years too few our friend and colleague burned brightly with wisdom and compassion as he worked tirelessly to make democracy more secure and the world a safer place. For no one are these words of Robert Frost more appropriate than they are for Don:

Nature's first green is gold,
Her hardest hue to hold.
Her early leaf's a flower;
But only so an hour.
Then leaf subsides to leaf.
So Eden sank to grief,
So dawn goes down to day.
Nothing gold can stay.

In the time he had—that hour of gold—Don moved all who knew him to reach for a higher standard of public service: more thought, more probing, more imagination, more facts; new solutions, new ideas, new approaches. The issue, the place didn't matter. It could be Libya or the Asian subcontinent or Central America. If some day the world is freed from the scourge of terrorism, if India and Pakistan compose their differences, if free institutions replace totalitarianism in Nicaragua, it will be in part because our friend used what time he had to listen and inquire and reflect and then to shape policies and plans and programs with a self-effacing creativity that earned the admiration of us all.

Don was the most-minded of men, guided by a combination of fierce integrity and gentle kindness.

He was more effective than anyone I know at guiding a meeting to a conclusion, coaxing from each participant the contribution he was best suited to make, teasing out ideas from people who may not have known they had them, deflecting the army of departmental nay-sayers who can be counted on to show up at the most stifling of all institutions, the interagency meeting. This great gift, so evident in Don's work, was derived not only from the exercise of a powerful, inquiring mind, but more importantly, it grew out of his thorough decency and deep humanity. He understood how to work with people because he cared about people. And it didn't take very long before they came to feel that and respond to it. Thus he could elicit compromise that eluded others; and he accomplished this by earning the trust and affection of all who knew him. My staff always cringed when my schedule showed a meeting with Don; they knew from experience that Don could fashion a compromise by wresting a cherished position—even from me.

Don harbored no illusions about the world. Tough-minded, he knew of terror and war and intrigue and corruption. But he also knew that if he worked long and hard enough, with care and deliberation and the courage of his convictions, he could make the world a better place. And this he did in the time he had.

We must be grateful for that time. There is a place in our memory to be cherished and a place in our hearts to be enlarged. One day, when Graham Fortier is old enough to understand what we now know, there will be many of us, Allision, to tell him of the pride we felt in knowing that his father was our friend.

DON FORTIER MEMORIAL SERVICE

(Remarks by Dennis Ross)

In the few minutes that I have today, I would like to talk about some of my impressions of Don Fortier. I guess the thing I enjoyed most about Don was his sense of humor. He had a great laugh, which was triggered most often when he was being kidded. Don never took himself too seriously and could always laugh at himself and at some of his passions.

Aside from his family and his work, golf was his passion. Many may know of Don's reverence for Aristotle, Lincoln, and Churchill, but few realized how high Arnold Palmer ranked in Don's pantheon of heros. One of Don's most prized possessions was a picture that Palmer had autographed. He talked about Palmer often and he loved to watch him play. I couldn't help thinking that Don had a hand in Palmer's two holes-in-one last week.

Don's admiration for Palmer simply reflectd his love for the game of golf. He loved to play golf and always liked to protect his Sundays so he could do so. He could never get enough, and it seemed that whenever he and I played we would always get out too late in the day to ever get a complete round in. But Don would always take it to the limit. He would always want to get in one last hole. Once when we were playing I told him that it was too dark to see the ball and we really ought to stop playing. But he said, "No, I can still see." I said, "OK." So I got up, hit the ball, didn't see it at all, and turned to Don asking, "Where did it go?" Without hesitating, he instantly said, "I didn't see it either, but I heard it go in that direction." The image of Don playing golf, racing around the course, trying to get in that one extra hole will always be one of my favorite.

Another favorite impression of mine was that of Don when he was writing speeches and trying to find just the right Churchill quote to insert in the speech. When he would find just the right passage, he would come and get me, pull out a cigar and read the speech, doing his best Churchill impersonation. In fact, Don's impersonations were quite good and he and I used to do them together. Typically, he'd call me up doing one of his imitations. I'd pick up the phone and hear this Kissingerian voice on the other end telling me my latest analyses were fatally flawed and that it was obviously the result of my hanging around this Fortier fellow.

Well I hung around this Fortier fellow because he was one of a kind, and he had so much to contribute. I am going to miss him, but I take some comfort in knowing that Don shaped the thinking and the approach of a great many people. That will surely be one of his enduring legacies and something that he would be very proud of.

Indeed, like a great professor whose ideas, spirit and genius live on through his students, Don has many disciples who will carry on his work. They are the people that Don brought into the government, who worked for him, who were promoted by him, or who simply benefitted from his counsel. These disciples will carry on, asking the questions Don would have asked; thinking in broad, strategic and narrow, tactical terms; having a vision of what they want to accomplish, even while they recognize the gaps between the real and the ideal, and develop plans for reducing these gaps. Don's disciples will always heed his insistence that they think through not just the first order

consequences of actions, but also the second, third and fourth order consequences. And they will always reflect his determination to question their own assumptions, even as they develop plans guided by those assumptions.

That Don would have this kind of effect on people shouldn't be surprising because those who worked with him know that they were working with the best. David Halberstam may have written about people he referred to as the "Best and the Brightest." But they were neither. They too often lacked historical perspective, a sense of self-doubt, a moral compass, and a basic trust in the American public. Don was lacking in none of these areas, and his belief in the American people was deep and abiding. Perhaps that belief and that trust came from his strong but relatively simple roots in Ohio; or perhaps it came from his work on Capitol Hill and the appreciation he gained for the political process; or perhaps it came from his own deep study of American history.

Don was a very serious student of American history. When he would go on vacation and return, he would tell you not only about his golf game but also about how he had reread the Lincoln-Douglas debates and had generated new insight as a result. That immersion in our history gave Don a profound belief in America's institutions and its people. Along with everything else, that made Don the best. Halberstam may have written about the best and the brightest, but I knew the best and the brightest. Don Fortier was the best and the brightest.

WILLIAM C. HOPKINS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. SKELTON. Mr. Speaker, I rise today to honor and pay tribute to an outstanding American and good friend of mine, William C. Hopkins, of Sedalia, who recently passed away. Bill Hopkins was a truly remarkable Missourian whom I had come to admire greatly.

Bill was a man who devoted his time energy to make the world around him a better place. He was a longtime leader in his community, providing leadership in several local civic organizations and in the establishment and expansion of local services. Chief among these is a community college and a children's therapy center. Additionally, Bill Hopkins was a successful businessman and served for 12 years as a special agent for the FBI.

I want the record to note publicly my respect and admiration for Bill Hopkins. Few of us can hope to match his capabilities, but all of us can benefit from an examination of his accomplishments. It is a record we should hope to emulate.

Mr. Speaker, I feel certain that our colleagues join me in extending the sincere condolences of the House to his loving wife Dorothy and their three children.

[From the Sedalia Democrat, Oct. 7, 1986]

BILL HOPKINS: A GENTLE MAN WHO WILL BE MISSED

One of the things that makes Sedalia a nice place to live is the willingness of our citizens to get involved in projects that benefit the community. Bill Hopkins, a man who exemplified that willingness for more than 30 years, passed away Wednesday.

Although he retired from his insurance career a couple years ago, he never lost his enthusiasm for public-spirited work. At the time of his death at age 71, he still was serving as president of the State Fair Community College board of trustees, a position he'd held since the school opened in 1968. He was also an active Rotarian and a Chamber of Commerce committee chairman.

Hopkins was a friendly, gentleman who will be missed by the many who knew him.

TRIBUTE TO DR. ARTHUR MARGOSIAN

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. COELHO. Mr. Speaker, this year marks a major change for the California State University, Fresno Department of Journalism. After a nearly 30-year tenure, Dr. Arthur Margosian has retired from his teaching post, and I know that CSUF faculty and students alike are making a difficult adjustment to life without their daily dose of Art's intellect, guidance and wit.

Art Margosian was born and raised in Fresno, and following a stint with the Air Force, returned in 1956, and began teaching parttime at his alma mater, then known as Fresno State College. Over the years, the institution has grown and evolved into an outstanding regional university, and Art oversaw much of the accompanying growth of the journalism program. He was not only a member of the faculty for three decades, but at various times, served as department chairman and dean of the school of professional studies. In February 1986 he was honored by the California Newspaper Publishers Association as the State's outstanding journalism teacher of the year; a fitting tribute to a deserving educator.

Along with his academic activities, Art has also been a leader in the Armenian community as the former editor of the California Courier and a spokesman for the efforts to see the Turkish government to properly recognize the facts of the Armenian genocide. In addition, he currently serves on the governing board of the California Community Colleges.

Later this month, Art will be honored by his friends, colleagues and former students at a dinner which is appropriately expected to be a sell-out. Although Art will be sorely missed by future Fresno State journalism students, he is quite deserving of his newly acquired status as a retiree. I know that his wife Mabel, and his children and grandchildren will enjoy having him around more, and as one of Art's many admirers, I would like to add my congratulations to the others he has no doubt received.

TRIBUTE TO JOHN SEIBERLING

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. DARDEN. Mr. Speaker, I would like to join my colleagues in paying tribute to Representative JOHN SEIBERLING, who has articulated the positions of the people of Ohio's 14th District so well for the past 16 years and is retiring at the end of this Congress.

JOHN, of course, also is one of the most active Members of Congress in matters pertaining to the preservation of our environment and our historic resources. It has been a great pleasure for me to serve on the Public Lands Subcommittee of the Interior and Insular Affairs Committee.

JOHN SEIBERLING is a vigorous outdoorsman who clearly understands the need to preserve our Nation's great physical riches and beauty for the benefit and enjoyment of future generations. Under his stewardship of the Public Lands Subcommittee, more wilderness areas have been designated than during any other period since the Wilderness Act became law in 1964.

Mr. Speaker, we certainly will miss JOHN's leadership, both in the House as a whole and on the Interior and Insular Affairs Committee in particular. But I know all of us wish him well in his future endeavors, and we thank him for his years of distinguished service to his State and Nation.

CONGRESSIONAL SALUTE TO STANLEY J. GREJDA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mr. Stanley J. Grejda of Lansford, PA. On October 26, 1986, Mr. Grejda will be honored for his contributions to the community with the presentation of the AMVETS Distinguished Service Award.

Mr. Grejda is certainly deserving of this important honor. Born in Pittsburgh, he has spent much of his adult life in the Lansford area. He enlisted in the Marine Corps in April 1942 and served with distinction in the South Pacific. He has been active with AMVETS ever since.

Mr. Grejda is a hard-working family man. He and his wife, Catherine, have one son and three grandchildren. Mr. Grejda spent over 20 years working with the Tamaqua Evening Carrier and has worked with the Reading Eagle since 1971. He is especially well known in our area for his baseball skills. He was a star in the St. Michael's Church league in the 1940's and 1950's and, in keeping with his commitment to the sport, he was instrumental in founding the Lansford Little League in 1958. Since then, Mr. Grejda has served the league in a variety of capacities, including terms as president, treasurer, field manager, umpire, and as manager of several teams. Much of

the league's success can be attributed to his hard work and commitment. Generations of little leaguers can attest to his devotion.

Mr. Grejda is being honored by the AMVETS for this commitment and dedication to Lansford and its little league. I commend him for his contributions and I know that my colleagues will join me in honoring Stanley J. Grejda on this important occasion and in wishing him continued success and good fortune in the years to come.

TRIBUTE TO TOM LOEFFLER

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1986

Mr. SCHULZE. Mr. Speaker, I am pleased to be able to pay tribute to our esteemed colleague, the Congressman from much of Texas, TOM LOEFFLER. While his departure will be a loss to us all, I am sure that my colleagues share my sentiment that Texas will be richer with TOM'S return to the ranch country he loves so much.

There is a lot I could say about Congressman LOEFFLER. His dedication to this country and his leadership, instrumental in securing the tax reductions of the early 1980's, have earned him a considerable measure of respect among his peers. TOM'S ability to work with Democrats and Independents and his knowledge of the legislative process propelled him into the Republican leadership ranks where he is currently chief deputy whip.

I am grateful to have had the opportunity to work with such a competent and intelligent legislator. Although he only turned 40 years old last month, TOM has demonstrated the wisdom and consideration of a seasoned statesman. His work on the Budget and Appropriations Committees had been exemplary, and I know that, though he is leaving this body, we will soon see TOM LOEFFLER again, leading this fellow Texans into the future.

MENTAL ILLNESS AWARENESS WEEK

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr EDGAR. Mr. Speaker, I rise today to commemorate this week as Mental Illness Awareness Week and to relay to my colleagues a tragic story of one young woman's fight with mental illness and her family's struggle to find help for their daughter. It is a story of how Congress, in our haste to reform a discriminatory mental health system, has allowed the system to degenerate to the point where those who truly need help are unable to receive it. Ruth Seegrist, the mother of one young victim of our present mental system points out that "just as it was cruel and unjust to indiscriminately lock up the mentally ill years ago, as it is unjust and socially irresponsible to allow the severely ill with established records of violent behavior to fend for themselves. * * *" I hope the retelling of this story will help my colleagues come to a clearer understanding of the disease of mental illness and the need to provide the funds necessary to develop adequate treatment and care. What follows are excerpts from the Philadelphia Daily News and the Delaware County Daily Times that tell the story of Sylvia Seegrist and her battle with mental illness, as seen through the eyes of her mother, Ruth Seegrist. I believe it will convince my colleagues that we must address the issue of reforming our mental health system so that tragedies like this can never happen again.

[From the Philadelphia Daily News, Sept. 1986]

MOM: HELP MIGHT HAVE PREVENTED SYLVIA'S RAMPAGE

(By Ann W. O'Neill)

Ruth Seegrist's voice rose in anger as she described for the legislative task force her sense of helplessness and inability to get psychiatric help for her daughter, Sylvia, in the months before the disturbed young woman killed three people and wounded seven in a shooting rampage at Springfield Mall.

"[Sylvia] phoned the crisis center repeatedly, saying she felt like shooting people. Nothing was done," Seegrist said.

"Sylvia cried out for help over and over as her escalating rage pushed her closer and closer to disaster. No one in responsible power heard her cries. No one," the mother declared, pounding her fist on the table for emphasis.

Ruth Seegrist was the first of about a dozen witnesses to address the blue-ribbon panel, a joint venture of the state Senate and House to review mental health commitment laws and procedures. The third of six planned hearings was held in the Delaware County Courthouse in Media.

The panel was formed shortly after Sylvia Seegrist's shooting spree at the mall last October. Panelists included state Sen. F. Joseph Loeper, of Drexel Hill, and Rep. Mary Ann Arty, of Springfield, and Philadelphia legislators Hardy Williams and Babette Josephs.

Ruth Seegrist said she found a bitter irony in the fact that laws that made it difficult for her to commit Sylvia before she hurt anyone provided her with the most costly and thorough treatment she had ever received—after she had killed.

Like most of the witnesses, many of whom had mentally ill family members, Ruth Seegrist urged the panel to reform the commitment laws, giving family members more say and making it easier to get someone committed against their will—before they hurt themselves or others.

She said she resents commitment laws that dictate that mental patients have to show they are dangerous before they can be forced to receive medication and treatment.

"You have not given the severely ill 'civil liberty.' You have merely given them the right to be slaves to their own devastating and debilitating brain disease," Seegrist said.

"Just as it was cruel and unjust to indiscriminately lock up the mentally ill years ago, so it is unjust and socially irresponsible to allow the severely ill with established records of violent behavior to fend for themselves . . . They are permitted to roam the streets untreated until there is a major catastrophe. And then they are held criminally responsible . . . What a travesty of justice!"

In June, Sylvia Seegrist, 25, was found guilty but mentally ill on three counts of first-degree murder and seven counts of attempted murder in connection with the mall spree. According to testimony during her trial, Seegrist, a paranoid schizophrenic, had been hospitalized a dozen times in 10 years.

She had assaulted her mother on several occasions, and stabbed a counselor with a fruit knife in 1981. Her longest commitment, court-ordered in connection with the stabbing incident, lasted six months.

"I am convinced that in recent years she was not even kept in the hospital long enough for doctors to learn just what medications and dosages she needed," Ruth Seegrist said.

The task force plans a public hearing in Philadelphia next month.

[From the Delaware County Daily Times, Sept. 1986]

SEEGRIST OFFERS POINTERS

Media—Here are Ruth Seegrist's suggestions to improve the state's mental health system:

Patients committed involuntarily because of aggravated assaults should have mental health hearings before being discharged.

The hearing officer—taking into account the patient's full record, not just the latest offense—may assign a case manager or "restricted rights."

The case manager would coordinate the patient's housing, therapy and program. With access to all the patient's records, the case manager would act as an "anchor" or liaison through the mental health system.

"Restricted rights" would be issued if the hearing officer feels the person has a potential for violence. The patient could be recommitted involuntarily when psychotic and before he or she is a "clear and immediate danger."

A mandatory six-week hospitalization would follow and police would be alerted to "restricted" patients after their release. They would be empowered to recommend an immediate commitment if an unusual incident occurs.

EARLY INTERVENTION IS LAW

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BIAGGI. Mr. Speaker, last night, an historic event occurred. President Reagan signed into law legislation that will provide early intervention services to handicapped infants and toddlers. I wish to congratulate the President for signing this important measure, and thank my colleagues for recognizing that these infants and toddlers should receive the early intervention services they clearly need, and deserve.

During the past 15 years, our Nation's commitment to providing the handicapped the avenue for full participation within our society has strengthened and expanded. This law has provided us the opportunity to reaffirm that commitment, a chance to continue to expand the Federal role in ensuring an appropriate education for all children with disabilities.

We have now traveled midway through the 1980's—the decade honoring disabled citi-

zens. But more importantly, we have traveled a great distance since the enactment of Public Law 94-142—the core of America's efforts to provide a free and appropriate education for all children with handicaps. This early intervention law will merely further our goals of equal education, of equal opportunity, of allowing handicapped citizens to move from a life of dependency into a life of productivity and self-sufficiency.

Both Congress and the President have recognized that early intervention services make sense—educationally an economically. Both Congress and the President have recognized that the Federal Government has a major role and a fundamental moral responsibility to develop and sustain the full participation of disabled Americans into our society. And both Congress and the President have recognized that this participation is dependent upon an adequate and effective education. If we really expect our handicapped citizens to take full advantage of the many opportunities this Nation offers, if we really expect our disabled citizens to be full contributing members of society, then we must provide them with the tools necessary to do so—namely, a free and appropriate education.

We have accomplished much with this law, yet we still have more work that needs to be done. What should our future goals be with respect to the education of the handicapped? Perhaps we should look no further than the declaration of independence:

That all men are created equal and independent, from that equal creation they derive rights inherent and inalienable among which are the preservation of life, liberty, and the pursuit of happiness.

IN TRIBUTE TO THE FRESNO LIBERTY SINGERS ON OCTOBER 28, 1986—THE STATUE OF LIBERTY'S 100TH BIRTHDAY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LEHMAN of California. Mr. Speaker, 1986 marks the centennial of the Statue of Liberty. Since its dedication on October 28, 1886, the Statue of Liberty has held high the beacon of freedom, hope, and opportunity to welcome millions of immigrants and visitors from foreign lands. From that time she has been one of the proudest symbols of the American ideal of liberty and justice for all.

Americans nationwide joined throughout the centennial year in celebration and commemoration of all that Miss Liberty represents. Across America, individuals and buinesses and organizations lent helping hands to the restoration of the statue while ceremonies and events paid tribute to her. With great pride I wish to recognize a group of young people in Fresno, CA, who have given their time and energy this year to the commemoration of this Nation's most moving and powerful symbol of freedom.

The Fresno Liberty Singers is a group of teenagers from the Central Valley of California which began with the recording of a song entitled "Happy Birthday, Liberty." The sentiment expressed in the lyrics sung by these teenagers captured the hearts of all who heard this recording. Through this song, the Fresno Liberty Singers reminded individuals young and old of the ideals that our Nation stands for:

We came from the north, from the south; we came from the east, we came from the west; just to see the lady that we love the best.
Happy birthday, Liberty.
On, what a sight you are to see; with your torch held high you light up the sky for the whole wide world to see.
You are a lady grand, all throughout the land.
You gave us equality—thank you, thank you.
How we love you, Liberty and thanks to you, we all are free.
Your freedom's light, it shines so bright—thank you, thank you.
Happy birthday, Liberty.
The old and the young will all agree that we love you best, above the rest.
Hey lady, you are number one with me, Liberty.

Throughout the summer of 1986, the singers, ranging in age from 14 to 16, traveled throughout California to spread their musical tribute to Laby Liberty's birthday. Television and radio stations throughout the region broadcasted the tribute and featured the group in interviews. Fresno Mayor Dale Doig met with the teenagers in his chambers and issued a proclamation naming their song "Happy Birthday, Liberty" as Fresno's official contribution to the centennial celebration in New York and proclaimed the first week in July as "Statue of Liberty Week." The group has been invited to perform for organizations, businesses, ceremonies, and others.

I rise to honor the Fresno Liberty Singers. In their dedication, energy, and talent, they have given us a powerful glimpse of what our Nation is all about. We are a nation of opportunity for all people, no matter how young or old. We are a nation where people are free to assemble and free to speak. We are a nation where a group of youngsters can pull together and travel to spread the message of freedom, hope, and liberty for which our Nation stands.

In recognition of the importance of the Statue of Liberty to the American people, the Congress, by House Joint Resolution 407, has designated the 12-month period ending on October 28, 1986, as the "Centennial Year of Liberty in the United States." Pursuant to this joint resolution, President Ronald Reagan proclaimed this year as such and called upon the people of the United States to observe this year with appropriate ceremonies and activites. I am proud that the Fresno Liberty Singers have represented the Fresno area and young people everywhere in carrying out this Presidential charge.

INVESTMENT TAX CREDIT PROVISIONS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MATSUI. Mr. Speaker, I rise to speak on an important feature of the conference agreement on the Tax Reform Act of 1986 (H.R. 3838) which has recently received congressional approval and is awaiting the President's signature.

The issues here addressed include those arising from expressed concerns that certain provisions in the Tax Reform Act of 1986 may be seized upon as a basis for denial or restriction of investment tax credit allowable on prior years' equipment purchases for acquisitions of equipment placed in service during tax years prior to the effective dates for repeal set forth in the bill.

For those reasons, two of my colleagues on the Ways and Means Committee have joined me in writing to Assistant Secretary Roger Mentz to express our specific concerns in some detail. A copy of our letter follows.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1986.

Re eligibility of property for investment tax credit under existing law and effect of Tax Reform Act of 1986.

Hon. J. ROGER MENTZ,
Assistant Secretary (for tax policy), U.S. Treasury Department, Washington, DC.

DEAR MR. MENTZ: The undersigned Members of Congress are writing here to apprise you of their views regarding certain issues that have been called to our attention regarding the effect of the Tax Reform Act of 1986 (H.R. 3838) on eligibility of property for investment tax credit under existing law.

The issues here addressed include those arising from expressed concerns that certain provisions in the Tax Reform bill may be seized upon as a basis for denial or restriction of investment tax credit allowable on prior years' equipment purchases for acquisitions of equipment placed in service during tax years prior to effective dates for repeal set forth in the bill.

Our views on these issues are summarized in the statement accompanying this letter.

We commend the views expresed in our accompanying statement to the Treasury and to the Internal Revenue Service for guidance in formulation of policies, rules, and administrative practices for application of the investment tax credit. We in the Congress will maintain continuing oversight of interpretative and administrative rules and positions on the issues addressed here.

Very truly yours,

BILL ARCHER,
ROBERT T. MATSUI,
JOHN J. DUNCAN,
Members of Congress.

STATEMENT ACCOMPANYING LETTER FROM MEMBERS OF CONGRESS TO U.S. TREASURY DEPARTMENT RE EFFECT OF TAX REFORM ACT OF 1986 ON ELIGIBILITY OF PROPERTY FOR INVESTMENT TAX CREDIT UNDER EXISTING LAW

This statement expresses the views of the subscribing Members of Congress in regard to certain issues and concerns that have been called to our attention regarding the

effect of the Tax Reform Act of 1986 (H.R. 3838) on eligibility of property for investment tax credit under existing law.

Concern has been expressed, for example, in regard to those depreciation provisions in the bill as reported by the conferees (new Code sec. 168(g)(4), added by bill sec. 201(a)), which direct that "rules similar to the rules under (existing investment tax credit law Code) section 48(a)(2), including the exceptions contained in subparagraph (B) therof. . ." shall apply in determining whether property is used predominantly outside the United States.[1]

We do not believe that this or other language in the bill in fact authorizes, or was intended to authorize, the Treasury or Internal Revenue Service to prescribe rules that would have the effect of retroactively denying or restricting the investment tax credit or depreciation allowable under existing law in respect to investments in equipment placed in service prior to the effective dates set forth in the bill for application of its new rules.

Our understanding is consistent with the declaration that "The Congress intends that prior law rules interpreting these (predominant foreign use) exceptions will apply" which appeared in explanation of a comparable provision of the ACRS depreciation provisions in the Economic Recovery Tax Act of 1981 (see p. 91 of "General Explanation of the Economic Recovery Tax Act of 1981, JCS 71-81, prepared by the staff of the Joint Committee on Taxation). Thus it is our understanding that any Treasury regulation or IRS rule purporting to diminish or restrict the property now eligible for investment tax credit under existing law would be invalid by reason of being outside the scope of authority delegated by Congress.

Similarly, some of our constituents have expressed concern that the same section 168(g)(4) could be used as a basis for revoking or otherwise narrowing the liberal ruling treatment heretofore accorded aircraft and vessels under section 48(a)(2)(B)(i) and (iii). Again, we do not believe that this or any other provision in the bill authorizes the Treasury to take a step which would be so sharply at variance with its present published ruling positions. Under current law, the IRS has ruled that an aircraft is eligible for the investment tax credit as long as it returns to the United States every fourteen days unless forces beyond the control of the taxpayer prevent it from doing so (Rev. Rul. 73-367, 1973-2 C.B. 8; LTR 8104069). In the case of a vessel, the IRS has ruled that a U.S. flag vessel documented by the U.S. Coast Guard for use in the foreign or domestic commerce of the United States qualifies for the investment tax credit, even though it is used exclusively outside the United States. (Rev. Rul. 69-509, 1969-2 C.B. 3.) Although the bill repeals the investment credit, after the effective dates prescribed, nothing in the bill should be construed as permitting Treasury or Internal Revenue Service to revoke or narrow its prior ruling policy with respect to aircraft or vessels, or indeed any other transportation equipment.

Another problem called to our attention during our work on the bill involves the eligibility of cargo containers for the investment credit under current law. We are advised that certain IRS agents, in selected audits of U.S. owners of cargo containers recently have taken the new and highly restrictive position that the owners of such containers are not eligible for the investment tax credit unless they prove that each individual container touched the United States, and touched with some as yet unspecified degree of frequency during its period of service.

This new position would interpret existing investment tax credit law (in Code section 48(a)(2)(B)(v)), which has been unchanged since 1962, so as to deny all or a large part of the credit claimed for prior years' investments in containers by certain members of our U.S. container equipment industry whose tax returns for prior years happen to remain open for audit and adjustment of their tax. Such a result would be manifestly in conflict with the intent expressed by Congress in Code section 48(a)(2)(B)(v) to insure availability of the investment credit for cargo containers of U.S. persons.

We are advised this would represent a substantial change in IRS audit practice, which for more than 20 years was generally to allow all the credit for cargo containers claimed by taxpayers in our U.S. industry. This change is proposed without any evidence of a change in the pattern of usage of cargo containers that would be relevant for tax purposes.

This new audit position has no judicial sanction and is contrary to the prior general audit position of the Internal Revenue Service. Many U.S. owners of cargo containers lease them to foreign companies. In these circumstances, it is clear that such owners would be hardpressed to gather evidence of the movement of individual containers for many previous years. Indeed, the cost of gathering information as to the world-wide whereabouts of containers of U.S. owners, assuming it were even available, could far exceed the value of the credit.

We believe that Congress should not be presumed to have intended to require U.S. owners of containers to expend funds as a condition of eligibility for the credit that would exceed the value of the investment tax credit or to have intended to authorize the Internal Revenue Service to impose administrative standards that would require U.S. owners to trace the movement of individual containers. Such a position is contrary to common sense principles for establishing the whereabouts and credit eligibility of a mass of fungible assets. Containers are made to be interchangeable and are useless if not.

In voting on the Tax Reform bill, we did not intend to embrace any such novel position or to put our stamp of approval on any efforts by the Treasury or the Internal Revenue Service to adopt interpretations that would impose upon U.S. owners of shipping containers such an onerous burden or proof.

We believe there are two principles that should be applied in response to any proposals for such a radical change in tax audit treatment. First, no interpretation should be presumed to be in accordance with the original or current intent of Congress, and particularly of its tax-writing committees, if it would result in denial of the investment credit for an investment made by a member of our U.S. industry in cargo containers that are leased or otherwise used and move about the world in response to the practical commercial necessities of prevailing conditions of world trade.

Second, there should be no change having such a drastic, adverse impact on the competitive position of our U.S. container industry that would result under the new interpretations recently proposed by some IRS field agents unless—

(1) The contemplated change is first evaluated and approved for its economic and tax policy implications at all appropriate policy making levels of the National Office of the Internal Revenue Service, the Treasury Department, and the tax-writing committees of Congress; and

(2) The change of position is imposed, not retroactively and unevenly on a case-by-case basis, but solely prospectively by rules of general application to all similarly situated taxpayers, promulgated through a proposed change in regulations which would be processed in accordance with the usual procedural safeguards accorded interested members of the public.

We should maintain diligent oversight to insure that the Treasury and the IRS adheres to these principles. Indeed, failure to observe either of these principles would result in disparate treatment of similarly-situated members of our highly competitive U.S. container equipment industry. Tax policy makers have no business unnecessarily introducing such inequalities into treatment of competitors in the market place.

We also wish to point out that the restrictive audit position newly devised by certain IRS field agents with respect to cargo containers is contrary to our understanding of the law and is legally defective on a broader ground than the burden of proof considerations previously mentioned.

From the very inception of the investment tax credit in 1962, Congress has included cargo containers of U.S. persons within the liberalized class of movable transportation and communication equipment that is not subject to the restrictive "predominant foreign use" test generally applicable to other types of tangible property. The exceptions to the predominant foreign use test are set forth in subparagraph (B) of Internal Revenue Code section 48(a)(2). The exception for containers covers "any container of a United States person which is used in the transportation of property to and from the United States" (Code section 48(a)(2)(B)(v)). Other transportation equipment covered by exceptions to the predominant foreign use test include "any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States" (Code section 48(a)(2)(B)(i)) and "any vessels documented under the laws of the United States which are operated in the foreign or domestic commerce of the United States" (Code section 48(a)(2)(B)(iii)).

With respect to aircraft and vessels, the regulations and published rulings set forth with clarity the standards to be applied in allowing the credit for those classes of transportation assets. Indeed, in the case of a vessel, the regulations (as amplified by Rev. Rul. 69-509, 1969-2 C.B. 3) make it very clear that any U.S. flag vessel documented by the U.S. Coast Guard for use in the domestic or foreign commerce of the United States qualifies for the investment credit, even though the vessel is in fact used exclusively outside the United States.

When the Service published the vessel ruling, it clearly manifested its intention to accept, in the case of a U.S. flag vessel, the U.S. Coast Guard's decision to enroll a vessel in the registry of those eligible to engage in the domestic or foreign commerce

[1] Significantly, this provision of the bill as reported by the conferees omits a clause, which appeared in both the earlier Senate and House-passed versions, which would have granted to the Treasury special regulatory authority respecting these rules.

of the United States as determinative of the vessel's satisfying the investment tax credit requirement that it be operated in the domestic or foreign commerce of the United States. The promulgation of this ruling was necessarily premised upon the Service's acceptance of the proposition that there is no basis in the language of the statute, the legislative history, or the regulations for any requirement that a documented vessel return to the United States at any time during its period of service. Accordingly, the publication of this liberalized ruling occurred only after a considered policy decision by the Service that it would not look behind the Coast Guard's documentation of a U.S. flag vessel and that the Service would not make its own factual determination as to whether such a vessel is, in fact, operated in the foreign or domestic commerce of the United States.

There is no basis in the language of the statute, the legislative history, or the regulations for applying a U.S. contact or frequency of U.S. contact test with respect to containers. In marked contrast, the regulations applicable to aircraft and motor vehicles expressly require that they return to the United States or be operated to and from the United States "with some degree of frequency" (section 1.48-1(g)(2) (i) and (iv). These regulations properly reflect Congress' explicitly stated intention to impose such a test with respect to such property. H. Rep. No. 1447, 87th Cong., 2d Sess. pp. A19-A20 (1962); S. Rep. No. 188, 87th Cong. 2d Sess. p. 156 (1962). There is, however, no proper or authoritative basis for the few revenue agents' reported attempts to apply the same requirement to containers.

Throughout the history of the investment credit, Congress has consistently accorded cargo containers markedly liberal treatment for purposes of qualification. For example, on a number of occasions the Congress, for purposes of assuring qualification of equipment for the investment tax credit, required that recognition be given to the fact that equipment is designed and constructed for use as complementary or integral parts of an ocean-going vessel or "mother ship". Thus, when Congress repealed the investment tax credit in 1969, it acted to preserve to credit for barges (and "machinery and equipment to be installed on such barges and necessary for their planned use") which are "specifically designed and constructed . . . for use with ocean-going vessels which are designed to carry barges," where credit for the vessel continued to the available pursuant to a binding contract or other type of transitional relief rule (Code sec. 49 (e)(9), added by sec. 703 of the Tax Reform Act of 1969 (P.L. 91-172)). Similarly, in providing a partial investment tax credit for certain subsidized vessels constructed out of subsidy funds established under the Merchant Marine Act of 1936, the Congress acted to assure that the credit would be available not only for "a qualified vessel" but also for "barges or containers which are part of the complement of a qualified vessel" (Code sec. 46(g)(1)(B)). At this juncture, when we are repealing the investments credit, there is no legal or policy justification for our taking any action that might be interpreted as Congressional approval of the restrictive positions of a few revenue agents.

Moreover, Congress' refusal to apply any type of U.S. contact, or frequency of U.S. contact standard, with respect to containers strongly demonstrates that there should be no U.S. contact, or frequency of U.S. contact, test imposed upon containers, as proposed by the agents in selected cases. Although worldwide statistics of container movements suggest that it is likely that a container will at some point make contact with the United States during its years of service, a U.S. container owner would be hardpressed to trace the movements of each container, especially while they are on lease to foreign companies which may not be accountable for the whereabouts of containers. It is hardly likely that Congress would have authorized the Internal Revenue Service to impose administrative standards that would render the liberalized container exception generally useless for most U.S. container owners. Indeed, Congress would never have intended to allow the credit for a costly container vessel ship (whose movements are easily traceable) whether or not the vessel ever touched the United States, but to disallow the credit for all of the relatively inexpensive containers used on such a vessel.

This conclusion is entirely in accord with the structure and underlying policy of Code section 48(a)(2)(B). An examination of the statute reveals that for each exception for transportation equipment where there are specific tests imposed by regulations or rulings, the test is formulated in a manner that is designed to further Congress intent that the investment credit will be generally available for such asset. For example, the frequency test imposed for aircraft is one that the owner can satisfy with reasonable diligence. As liberally interpreted by the Internal Revenue Service, the vessel exception can be easily met. Containers are low-unit-cost, high-volume items and the Treasury or the Internal Revenue Service should hardly be permitted to impose a test for containers that a majority of U.S. container owners could not satisfy without expending more money than the value of the intended tax benefit.

The U.S. courts have consistently held that shipping containers are the functional modern equivalent to the hold of a vessel. See e.g., *Northwest Marine Terminal Co.* v. *Caputo*, 432 U.S. 249, 270 (1977); *Leather's Best, Inc.* v. *Mormadynx*, 451 F. 2d 800, 815 (2d Cir. 1971). There is, accordingly, a close relationship between containers and the vessels. Since neither the vessel nor the container exception is premised upon a standard of U.S. contact or frequency of such contact. We believe that Congress always intended that the container exception be interpreted for containers of U.S. owners in a manner similar to the exception for U.S. flag vessels.

Accordingly, any container of a U.S. person should be treated as satisfying the requirement of Code section 48(a)(2)(B)(v) in any case where it meets the safety and customs standards currently prescribed by the United States Coast Guard respecting use of the container in the domestic or foreign commerce of the United States. A container of a U.S. person should be treated as meeting such standards if it is listed in the *Official Intermodal Equipment Register* or similar publication.

We commend the views expressed in our statement to the Treasury and to the Internal Revenue Service for guidance in formulation of policies, rules, and administrative practices for application of the investment tax credit. We in the Congress will maintain continuing oversight of interpretative and administrative rules and positions on the issues addressed here.

DUKE'S DR. RALPH SNYDERMAN TO HEAD NIH ARTHRITIS BOARD

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. VALENTINE. Mr. Speaker, October 1 was a landmark day for the National Institutes of Health. It marks the beginning of a yearlong celebration of the first centennial of NIH, one of the world' largest biomedical research institutions. October 1 also marked the first fiscal year of the new National Institute of Arthritis and Musculoskeletal and Skin Diseases [NIAMS].

I am pleased to report that the Advisory Board for the new Institute has elected as its chairman Dr. Ralph Snyderman, professor of medicine and chief of the Division of Rheumatology and Immunology at the Duke University Medical Center in Durham, NC.

Dr. Snyderman is known nationally for his research in inflammatory response. He received his medical degree from the State University of New York Downstate Medical Center and took his internship and residency training at the Duke University Medical Center, where he is now a member of the faculty.

I know I speak for all the citizens of the Second District of North Carolina in expressing my pride in Dr. Snyderman's achievements and leadership. Through his personal efforts, many Americans will have the opportunity for fuller, richer, healthier lives.

For the information of my colleagues, I am including Dr. Snyderman's testimony on behalf of the National Arthritis Advisory Board earlier this year. At the time of his presentation, Dr. Snyderman was Chairman of the Board's Research Committee.

STATEMENT OF RALPH SNYDERMAN, M.D., MEMBER, NATIONAL ARTHRITIS ADVISORY BOARD, BEFORE THE SENATE SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, APRIL 29, 1986

I am Ralph Snyderman, Chief of the Division of Rheumatology and Immunology, Department of Medicine at Duke University Medical Center and Chairman of the Research Committee, National Arthritis Advisory Board. I appreciate the opportunity to appear before you to present the recommendations of the National Arthritis Advisory Board.

Disorders of the joint and connective tissues afflict more than 35 million Americans. More than 120 different disorders of the joints and connective tissues are categorized under the broad term "arthritis," a group of chronic diseases that is the Nation's leading crippler. Although the prevalence of arthritis is higher among older persons, an estimated 250,000 children have chronic juvenile arthritis, which, in addition to causing pain and swelling of the joints, can retard growth and lead to early blindness, kidney disease, or death. Arthritis in children is, in fact, more prevalent than was paralytic poliomyelitis during the most severe epidemics of the past. Most forms of arthritis are chronic, and many patients unfortunately require lifelong medical care. The cost each year of hospital care, professional services and drugs for arthritis and the loss of pro-

ductivity from arthritis is estimated at $18.6 billion.

In 1976, Congress enacted P.L. 94-562, which formally established the National Arthritis Advisory Board. The Board's purpose is to monitor the implementation of the Arthritis Plan, to recommend any changes in the Plan, and to propose to Congress and the Administration appropriate guidelines, policies, and procedures for Federal programs relating to arthritis. My testimony is based upon the Board's findings and recommendations.

Advances in fundamental science are contributing to an improved knowledge of the disease processes and mechanisms of arthritis. A great deal of progress has been made in understanding these chronic, crippling disorders. Some of these diseases now can be partially controlled with medication and other types of therapy.

The research effort in arthritis encompasses three general areas: projects associated with immune disregulation, autoimmune diseases, rheumatoid factor, antigen-antibody reactions, and immune complex formation; research concerned with the structure and function of connective tissues such as collagen, basement membranes, synovial tissues, and articular cartilage damaged in the rheumatic diseases; and research projects in specific rheumatic diseases (rheumatoid arthritis, degenerative joint diseases, juvenile arthritis, systemic lupus erythematosus, gout, osteoporosis, and heritable disorders). A fourth related area of basic and clinical research involves the study of the musculoskeletal system in normal and diseased conditions.

Specific agents recently have been found that may initiate or trigger rheumatoid arthritis; these include infectious agents such as parvovirus and Epstein-Barr virus. Moreover, only certain persons who are susceptible to rheumatoid arthritis by their genetically determined immune responsiveness appear to develop the chronic and active inflammation of rheumatoid arthritis. Research on newly developed animal models of arthritis is enhancing the scientific knowledge of these diseases.

Osteoarthritis, the most common form of arthritis, affects 16 million people in the United States. One of the most disabling and crippling diseases in older populations, it has been a difficult disease to study. Two recent research developments point to possible advances in our knowledge of osteoarthritis. In the first, biochemical observations indicate that cartilage cells produce the substances that both build and destroy the cartilage; this may lead to an understanding of why damaged cartilage is unable to repair itself and may help in discovering new ways to induce this repair. In the second development, several new experimental models of osteoarthritis offer the hope for greater knowledge of the cause of and new treatments for this disabling disorder.

Remarkable advances in reconstructive surgery for osteoarthritis and rheumatoid arthritis have been made during the past decade. Improvements have been achieved in total joint replacements for severely damaged hips, knees, shoulders, elbows, and wrists. These results have been achieved through the combined research efforts of bioengineers, rheumatologists, materials scientists, and orthopedic surgeons. Loosening of the joint implant after several years remains a problem. Nonetheless, the future holds promise for the development of implants that will provide normal joint function over an indefinite period.

Systemic lupus erythematosus (SLES) is a serious inflammatory connective tissue disorder that involves main organ systems. Research on SLE, a condition that primarily affects young women, continues to be active and productive. More is being discovered about abnormal immunoregulation in SLE; for example, a newly identified defect in complement receptors on cells in lupus patients may be inherited. Dietary manipulation can alter SLE in experimental models in inbred mice; nonsaturated fatty acids may inhibit the disease-producing immune reactions in these SLE mice. Hormonal regulation also has been shown to be important in SLE and may explain the predominance of SLE in women.

The research potential is considerable for scleroderma, a serious connective tissue disease, and for the spondylitic (spinal arthritis) group of rheumatic diseases, such as ankylosing spondylitis (AS), Reiter's syndrome, psoriatic arthritis, and the gout-associated arthropathies. The Board believes that research in all arthritis-related diseases is at a critical point for major breakthroughs. New leads are emerging in many areas of investigation. Moreover, the availability of new biomedical research technologies such as monoclonal antibodies, recombinant DNA, molecular genetics, and computers is accelerating the pace of major scientific discoveries, yet needs to be exploited more fully.

The National Arthritis Advisory Board is encouraged by the accomplishments of research into the causes and mechanisms of arthritis and the development of new devices, surgical techniques, and drugs that are used to treat arthritis patients. These accomplishments result largely from the impetus generated by the Arthritis Plan that was developed by the National Commission of Arthritis and Related Musculoskeletal Diseases in 1976. The plan identified the major needs and opportunties in arthritis research and treatment and led to a modest increase in Federal appropriations for arthritis-related projects. However, the base of support for scientific investigation has been reduced in recent years because appropriations have not kept pace with the increased cost of biomedical research. Therefore, the research advances we have seen in the past decade are not likely to be duplicated in the future unless additional resources are provided. This reduction in the research base is a major concern to the Board, especially in light of the new and promising opportunities for progress in the prevention, early diagnosis, and treatment of arthritis.

Congress and the administration share the Board's concern about the impact of arthritis on the Nation. In 1985, the Secretary of Health and Human Services identified arthritis research as a departmental priority initiative and Congress authorized the establishment of a separate National Institute of Arthritis, and Musculoskeletal and Skin Disease (NIAMS) in P.L. 99-158. These actions have laid the foundation for the growth of arthritis-related research programs. However, additional funds must be appropriated before the promise of 1985 can become a reality in 1986 and in the future.

To continue this important program, the appropriation for NIAMS must be increased in fiscal year 1987 and subsequent years. The Board has carefully considered the resources required for the above programs and recommends a total budget of $178.4 million, including $3.5 million for administration, for fiscal year 1987. This recommendation includes funds for the following:

INDIVIDUAL RESEARCH GRANTS

The percentage of approved grants for arthritis and related research projects that can be funded has declined steadily from about 45 percent a few years ago to approximately 25 percent in fiscal year 1985. In fiscal year 1986, this rate will drop even farther under current budget allocations. The Board's recommendations would restore the award rate to approximately 45 percent of approved grants.

SPECIALIZED CENTERS OF RESEARCH (SCORS)

One of the most important initiatives of the Board this year is to obtain from Congress support to establish SCORs in the field of arthritis and related diseases. This special research mechanism has been extremely effective in disease areas supported by the National Heart, Lung, and Blood Institute. The Board is convinced that the establishment of Specialized Centers of Research will provide an extraordinarily effective means of concentrating research personnel and resources on three initial areas of priority and opportunity: rheumatoid arthritis, osteoarthritis, and osteoporosis. SCORs are multidisciplinary, having both basic science and clinical research emphasis, ensuring that advances in basic science are rapidly translated into clinical application, and that clinical needs provide the direction for the basic science. The major recent advances in biomedical technology, as exemplified by the field of molecular biology, need to be rapidly applied to research dealing with arthritis-related diseases. SCOR programs provide an important addition to investigator-initiated research projects, and will spur rapid application of new biotechnological techniques to arthritis research.

In its report on the fiscal year 1986 budget for the Department of Health and Human Services, the Committee on Appropriations stated that SCORs "are useful mechanisms for accelerating research in areas where coordinated, multidisciplinary efforts are likely to produce rapid clinical applications of basic science advances." The Committee requested the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases to prepare an assessment of the scientific feasibility and potential benefit of establishing SCORs in arthritis and related diseases. The resulting assessment clearly indicates that the SCOR mechanism would be a valuable adjunct to existing research programs in this area. The Board's recommendations include funds to establish 9 SCORs in 1987, three each in the areas of rheumatoid arthritis, osteoarthritis, and osteoporosis.

ARTHRITIS RESEARCH MANPOWER

The Board also is concerned about the lack of adequate funds for the development of future research scientists. Three different types of individual career development awards are used to support arthritis and related research. The Clinical Investigator Award and the Physician Scientist Award are key to providing adequate opportunity for M.D.'s to acquire sufficient research training and experience in modern methods of biomedical technology to become qualified as independent investigators. The Research Career Development Award enables young established investigators, either M.D.'s or Ph.D.'s, to devote themselves entirely to research during a crucial state of career development. The budget for all these three awards has become so restricted that we anticipate a very severe decline in capacity to support current and future can-

didates. Funds for institutional training grants also have been severely restricted in recent years, leading to a steady decline in the number of young investigators selecting a research career. The Board's budget recommendations include additional funds to support these vital programs. The national investment in biomedical research manpower needs to be maintained and fully supported.

ESTABLISHMENT OF THE NATIONAL INSTITUTE OF ARTHRITIS, MUSCULOSKELETAL, AND SKIN DISEASES

The creation of this new institute, authorized by P.L. 99-158, will require additional personnel positions and associated funds for essential administrative and scientific functions. The need for these resources was well documented by the sponsors of the enabling legislation. Neither the funds nor the positions have been provided. The Board recommends that 36 additional positions be provided and $3.5 million be appropriated for this purpose.

The Board appreciates your support for arthritis research and the opportunity to appear before this Subcommittee.

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Staff

Raymond M. Kuehne.

TRIBUTE TO GENE LAWHUN

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. STANGELAND. Mr. Speaker, the impending departure of Gene Lawhun from the Office of the Chief of Engineers here in Washington for new duties as Chief of Planning for the corps' Lower Mississippi Valley Division is good news for him and not so good news for those of us in Congress who have come to depend on his readily available expertise.

As Assistant Chief of the Planning Division in the corps' Directorate of Civil Works, Gene has been an invaluable asset to both the corps and to those of us in Congress who are closely involved with corps activities. We on the Public Works and Transportation Committee have especially found Gene to be a fountain of information, always totally prepared and always willing to be of assistance.

For public consumption, he goes by the name of "Gene" or "D.E.", but now that he is leaving "Redskin country", he may as well admit to Dallas Eugene Lawhun. That would be the same Dallas Eugene Lawhun who hails from Huntington, WV, and who graduated from Marshall University in the same Mountaineer State.

He and his lovely wife, Peg, are the proud parents of Richard and Deborah, although it is well known that his 6½-year-old grandson, Josh, believes that the title "best buddy" is his.

Gene truly embellishes the title "engineer." He is, in fact, a registered professional engineer, and he is recognized as a skilled craftsman with few equals, having built a home.

Over the years, Gene has been an active participant and a major contributor in the long battle to get a major water projects construction bill enacted into law. He has been a familiar and welcomed face to those of use who have worked on the front lines in drafting omnibus water resources legislation.

In fact, Gene was well known both cn the Hill and over at the corps for starting just about every speech with a reminder of just how many years it had been since the last omnibus bill.

We all know how he loves to quote statistics, but he may have to drop that one particular number from his repertoire if Congress finally does pass H.R. 6, as it seems poised to do, and if the President signs it into law.

The corps had a farewell luncheon for Gene today. There was a large turnout, as one might have expected given the stature and high esteem enjoyed by the honoree. I know that many of my colleagues were as disappointed as I that a busy House schedule kept us from attending the luncheon.

I understand, however, that it was disclosed at the luncheon that since it is unclear whether the Washington office or the Lower Mississippi Valley Division, with all its political power, actually runs the corps, some of the generals up here aren't sure if they will be calling Gene down in Vicksburg and telling him what to do, or if he will be calling them with directions.

In any event, I know that the valley is getting one of the very best public servants possible, and I wish Gene and his wonderful family the very best in his new assignment.

I do want to share with my colleagues a letter written to Gene and signed by the leadership of the Public Works and Transportation Committee and our Water Resources Subcommittee.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, October 8, 1986.

Mr. D.E. LAWHUN,
Assistant Chief, Planning Division, Directorate of Civil Works, Office of the Chief of Engineers, Washington, DC.

DEAR GENE: We would like to congratulate you on your new assignment as chief of Planning for the Lower Mississippi Valley Division of the U.S. Army Corps of Engineers.

While we are certainly going to miss you in Washington, we are pleased to know that LMVD is gaining a top notch employee. In our judgment, the strength of the Corps of Engineers, in fact the one asset that makes it the best agency in the Federal Government, is the quality of its personnel. Your service in Washington has been exemplary and, without question, you have had a major impact on the many accomplishments of the Corps of Engineers. We are especially appreciative of the unselfish assistance you gave the Members and staff of this Committee.

We wish you and your lovely wife Peg success in your new endeavors and expect to see you in Washington from time to time.

Best wishes.

Sincerely,

GENE SNYDER,
Ranking Minority Member.
JAMES J. HOWARD,
Chairman.
ARLAN STANGELAND,
Ranking Minority Member, Subcommittee on Water Resources.

I know, also, that my colleagues will enjoy the following little jingle, appropriately titled "Down in the Valley or Gene's Lament", composed for Gene and dedicated to him at today's luncheon.

DOWN IN THE VALLEY OR GENE'S LAMENT

(Lyrics by Rangos and Smith)

To the tune of 'Down in the Valley"

Down in the Valley, valley so low,
Congressmen call you, Oh don't you know!
Down in the office or out on your lawn,
Hear the phone ring, Gene, It's old Uncle John.
It's old Uncle John, Gene, chewing your can.
What he won't buy, Gene, is non-structural plans.
Here the phone ring, Gene, it's ringing again.
It's Senator Cochran and Jamie Whitten.
Hear Jamie blow, Gene, hear Jamie blow.
The waters are rising from damnyankee snow.
He wants a new levee to keep people dry.
Where's the report, Gene, now don't tell a lie.
The phone is too loud, Gene, it's bothering the dogs.
This time it's a woman, it's sweet Lindy Boggs.
She will be calm, Gene, and she won't rail,

If on your staff, Gene, you've lots of females.
Simon and Bumpers, Prior and Long,
Senators call you all the day long.
How's the B/C, Gene: is it in the pink?
And if it's not, Gene, they'll drive you to drink.

Down in the valley, there's questions galore
From Bennett Johnston and Albert Gore.
If, you get stuck, Gene, and haven't a clue,
Don't call on us, Gene, we will call on you.

TRIBUTE TO RAYMOND E. BALDWIN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. KENNELLY. Mr. Speaker, I have the sad duty to report to this body the passing of one of the most distinguished public servants in the history of the State of Connecticut—Raymond E. Baldwin.

Ray Baldwin was the Governor of our State, a U.S. Senator, and chief justice of the State supreme court. His public service to the people of the State, and the respect with which they in turn held him, was without bounds.

I believe the remarks of President Colin Campbell of Wesleyan University best show the affection we felt for Ray Baldwin and I submit them for the RECORD at this point.

REMARKS BY PRESIDENT COLIN G. CAMPBELL AT THE FUNERAL OF RAYMOND E. BALDWIN, OCTOBER 8, 1986

I am deeply honored to welcome you this afternoon on behalf of the family of Raymond E. Baldwin. As they have for so many years, Lucian, Raymond, Jr. and Tyler, their wives, children and grandchildren, are today generously sharing an intensely personal moment; sharing with all of us who so loved and respected this extraordinary man. They have been witness to that love and respect which marked Ray Baldwin's legendary career. And they have been much moved by the outpouring of affectionate tributes since his death this past weekend. This is a grateful family. Grateful for your caring, for your expressions of sympathy, and grateful beyond measure, as we all are, for the life we join here today to celebrate.

Raymond E. Baldwin was quite simply one of the most distinguished public servants and one of the finest human beings I have been privileged to know. He was rich in titles and accomplishments but richer still in humane qualities. He only attained all of the highest offices his beloved state of Connecticut can offer—Governor, United States Senator, Chief Justice of the Supreme Court—he carried out each of his many and varied assignments with matchless skill, and even more than skill, devotion. He enriched the life of his time. And what a time that was.

Think of the extraordinary transformation of American society in the 70 years since Ray Baldwin graduated from Wesleyan. Change that was so rapid and so profound over the course of those explosive years that it defies easy comprehension. Yet he was undaunted by that change even when it seemed to threaten his country and his beliefs. Fear was never part of his makeup. He intuitively comprehended the baffling ambiguities and fierce contradictions of a perilious age. A bedrock Yankee conservative—in the noblest sense of that oft-misunderstood term—he was like his hero Abraham Lincoln in holding fast to old virtues and settled practices while staying ever ready to "think anew and act anew" as public needs arose.

Throughout a long political and judicial career, Ray Baldwin always managed to remind us what our country stands for. Both in Hartford and in Washington, he fought injustice and inequality courageously and with an innovative spirit. Never blind to American shortcomings, he called on our native capacity for goodness and indeed greatness. The words "liberty and justice for all" never had the stale ring of stump rhetoric when he uttered them. They were to him bred-in-the-bone truths, as real as sunlight. As a guardian of the public trust for most of his adult life, he sought to make liberty and justice realities for everyone.

A ninth generation American with roots deep in our colonial past, Ray Baldwin drew strength from the Declaration of Independence. He spoke of it as a living document. He seemed to know the Constitution as the framers did, intimately and with deep faith in its permanence despite the pressure of changing circumstance. His belief that the Constitution meant what it said fueled his early and lasting fight for civil rights.

Ray Baldwin was a man of the law and like James Madison, another of his heroes, he believed its "benign magistracy" superior to "the awful coercion of the sword." He viewed the law as civilization's indispensable tool for coping wisely and fairly with the disorder of human experience. That is why he worked as a judicial referee until he was ninety years of age, two decades after he had retired from the bench. That way he could continue to grapple with the complexities and confusions of everyday life, always mindful of the ideal, of what ought to be. This was a source of his strength. He was as comfortable in the bustle of the town as in the cloister of his chambers. Though he never confused Main Street with the heavenly city, he always remembered his obligations to both.

Ray traveled at ease in the company of the mighty, but he was always at heart a local boy, at home with local people. He went to Middletown schools, sang as a choirboy in this fine old church, went to college up on the hill, lived here in town until just a few months ago. What made him so successful a politician was his common touch. He seemed to know everyone, and delighted in talk. To those with whom he worked, he was quick to express appreciation.

His early and lifelong love affair with the Connecticut River, which he explored by canoe as a youth, and in his "stink pot", as he lovingly caller her, in later years, gave him endless pleasure. It is no accident that conservation was one of his highest priorities. If we owned him nothing else, we would be forever indebted for Connecticut's fine public forests and parks which he did so much to establish as governor.

In each of our three branches of government, Ray had the uncanny ability to take great hopes, transform them into reasonable expectations and produce admirable and just results.

It was my good fortune to see Ray Baldwin in still another capacity, that of alumnus and trustee of his alma mater. Many here today can recall his beaming face and booming voice when he—well into his 70s and 80s—led fellow alumni in signing Wesleyan songs at campus gatherings. He was eaually involved in the work of the University. As a trustee, he displayed characteristic loyalty, courage, decency and unfailing good humor. In hectic situations, he could be counted on to recall a humorous anecdote that made you laugh while at the same time it shed light on the problem at hand. Discordant urgencies of the moment shrank to their proper size when seen against the larger duty imposed by our obligations to the future.

Duty, for Ray, was never a narrow confining necessity; it was always a joyous call to the best that was in him and, by example, in his colleagues.

How could one man do so much in one lifetime and mean so much to so many people? I have mentioned one source of his strength, his grounding in the history, particularly the legal history, of our country. The other source was his family. For whatever his professional obligations, his life revolved around Edith and their sons and in time their sons' families. So inextricably entwined were their lives that when Edith died Ray was bereft, and for a time confessed to being lost. The pain never left him, but he found solace as he had throughout his life in the company of his loved ones and loyal friends, and in the supportiveness of this parish he had served so faithfully. In his work for the court and numerous organizations and institutions, he continued to find the satisfaction that he derived from serving the public good so tirelessly.

There is never any excess of good men and women. When one of them is lost we grieve, knowing that on such as these civilization depends. So today we mourn Raymond E. Baldwin's death. Though we gather in sorrow, our sadness is tempered by the realization of a long and useful life lived generously and well. How much richer our own lives have been for his having lived among us. We bid him farewell with love for his memory and with pride in what he meant to each of us, to our state, and to our country.

GILMAN SEEKS CREATION OF NATIONAL BACK INJURY COMMISSION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. GILMAN. Mr. Speaker, today I rise to introduce a bill, H.R. 5681 to establish a National Back Injury Commission, which would conduct an extensive study of the nexus between package weight and chronic back injury, disablement, and impairment. Each year in the United States, approximately $15 billion is spent diagnosing and treating back injuries, with a significant loss of worker productivity and a concomitant burden on worker's compensation and private insurance industries.

Currently, the U.S. Postal Service is the only commercial industry which places a limit on the amount of weight which can be lifted at work. There is compelling evidence in ergonomic studies which indicates that a significant number of back injuries could be avoided if jobs were more effectively designed from a safety standpoint. Perhaps a more cost effective and simple remedy would be to place an appropriate weight limitation on all

packages, so that the general population would be able to handle them without injury.

Virtually none of the hundreds of studies conducted to date have attempted to isolate the variable of weight when researching the causation of back injury. Back injuries are of such frequency and severity, that a number of businesses are suffering from a pronounced reduction in worker efficiency and their continuity in employment.

In addition, such back injuries comprise approximately one quarter of all indemnity claims, and one third of all worker's compensation claims. Just these statistics alone should speak to the relevance of this issue. There does exist strong evidence that having to lift heavy packages or objects is overwhelmingly responsible for back injuries.

Therefore, it becomes manifest that back injuries be fully studied and analyzed, utilizing weight as a focal point, and attempting to keep all others as constant as possible. The long range benefits of placing a weight limit on all packages, whether used for occupational or nonoccupational use, would be highly significant from an economic, medical and social analysis. Additionally, this bill provides Congress with a legislative guidepost for addressing this serious national concern in the future.

The bill creates a 29 member commission, composed of a wide cross section of the business, medical and legal communities, and places a 1 year limitation on the study. Their final report would form the basis for further legislative action designed to prevent back injuries, and their concomitant burden on our health care and insurance industries.

Mr. Speaker, in urging my colleagues to support this bill, which addresses this serious problem that plagues the health of our Nation, I submit the full text of this bill to be inserted at this point in the RECORD for their consideration and review.

H.R. 5681

A bill to establish a commission on back injuries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Back Injury Commission Act of 1986".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The number and severity of occupational back injuries, the expenditures made to treat such injuries, and the resulting impaired efficiency of our work force and general public, are significant national problems.

(2) Such injuries adversely affect not only persons affiliated with such injuries, but also businesses, hospitals and other health care providers, and nonprofit organizations dealing with such injuries.

(3) Such injuries comprise approximately 1/4 of all indemnity claims and 1/3 of all claims for worker's compenation benefits.

(4) Such injuries are of such frequency and severity that businesses are suffering from a pronounced reduction in worker efficiency and continuity in employment.

(5) Preventing such injuries can be more cost effective than paying indemnity claims and worker's compensation benefits.

SEC. 3. ESTABLISHMENT.

There is hereby established a commission to be known as the Commission on Back Injuries (hereinafter in this Act referred to as the "Commission").

SEC. 4. DUTIES.

(a) IN GENERAL.—The Commission shall study the causes and consequences of occupational back injuries and recommend actions to prevent and alleviate such injuries. Such recommendations shall include actions that should be undertaken by the Federal Government, the governments of the several States, and the political subdivisions of the States, and the business community of the United States.

(b) INVESTIGATION.—As part of the study under subsection (a), the Commission shall investigate—

(1) general causes of occupational back injuries and in particular the extent to which—

(A) the weight of packages commonly lifted by workers,

(B) the instability of such packages,

(C) the height to which workers lift such packages,

(D) differences in the physical capacity of workers to lift such packages, and

(E) the repetitive lifting of such packages by workers,

contribute to such injuries,

(2) the effect that lifting packages weighing more than 50 pounds has on the musculoskeletal system,

(3) the feasibility of requiring that articles be packaged so that the relationship of the weight to the bulk of such package is within the limits of an average worker to lift without causing such injuries,

(4) the effect that claims for such injuries have on the worker's compensation system,

(5) the effect that claims for such injuries have on the private insurance industry,

(6) the effect that treating such injuries have on hospital utilization of available bed space.

(c) CONSULTATION.—As part of the study under subsection (a), the Commission shall consult with individuals who are afflicted by occupational back injuries and with individuals indirectly affected by such injuries, including—

(1) officials of State governments and governments of political subdivisions of States, including school districts and other special purpose districts,

(2) representatives of businesses that are subject to worker's compensation laws,

(3) individuals who purchase personal injury insurance and representatives of organizations that represent such individuals,

(4) representatives of labor organizations,

(5) individuals knowledgeable with respect to health insurance and worker's compensation laws, including attorneys who represent plaintiffs and defendants in tort litigation and worker's compensation cases,

(6) individuals knowledgeable with respect to the insurance industry, including the cyclical nature and the investment practices of such industry,

(7) individuals knowledgeable with respect to engineering, biomechanics, and epidemiology,

(8) individuals knowledgeable with respect to the long-term economic effects of occupational back injuries in countries other than the United States, and

(9) individuals knowledgeable with respect to public health who are concerned with preventing such injuries.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 29 members appointed by the President as follows:

(1) Two individuals who are knowledgeable with respect to—

(A) the business of underwriting insurance that provides compensation for personal injuries, or

(B) the legal representation of business organizations that underwrite such insurance.

(2) Three individuals who are knowledgeable with respect to—

(A) the economic impact on the materials handling industry that would result from requiring that the weight of packages lifted by workers not exceed 50 pounds, whether in component or final manufactured form, and

(B) the economic feasibility of reducing the package weight of all consumer goods that exceed 50 pounds.

(3) Three individuals who are knowledgeable with respect to the negative biomechanical implications of lifting heavy packages and whether reducing package weight can alleviate such implications.

(4) Two individuals knowledgeable with respect to biomechanical engineering.

(5) Three individuals knowledgeable with respect to the medical treatment of occupational back injuries,

(6) Three individuals who are representatives of industries whose workers have been afflicted by occupational back injuries.

(7) Two individuals who have sought worker's compensation benefits for back injuries.

(8) Three individuals knowledgeable with respect to orthopedics.

(9) Two individuals knowledgeable with respect to statistics.

(10) Three individuals engaged in consumer research regarding occupational back injuries and their causes.

(11) Three individuals who are public health officials.

(b) TERMS.—Members shall be appointed for the life of the Commission.

(c) TIME FOR MAKING APPOINTMENTS.—Appointments under subsection (a) shall be made not later than 30 days after the date of the enactment of this Act.

(d) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(e) QUORUM.—Fifteen members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members. The Commission shall hold its first meeting not later than 45 days after the members of the Commission are first appointed.

(g) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(h) PAY AND REIMBURSEMENT OF EXPENSES.—A member of the Commission shall serve without pay, but shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, for each day during which such member is engaged in carrying out the duties of the Commission.

SEC. 6. STAFF AND CONSULTANTS.

(a) STAFF.—The Commission may appoint and fix the pay of such staff as it considers to be appropriate. Such appointments and pay may be made without regard to the pro-

visions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and the General Schedule pay rates, except that no individual so appointed may receive pay in excess of the minimum annual rate of basic pay payable for GS-12 of the General Schedule.

(b) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-12 of the General Schedule.

SEC. 7. POWERS OF COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this Act, the Commission may hold such hearings and undertake such other activities as the Commission may determine to be useful.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) OBTAINING OFFICIAL INFORMATION.—Upon the request of the Commission, the head of any department or agency of the United States shall furnish to the Commission any information available under section 552 of title 5, United States Code, and determined by the Commission to be useful in carrying out this Act.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis any administrative support services the Commission may request.

SEC. 8. REPORT.

The Commission shall transmit a report to the President and to each House of the Congress not later than 1 year after the date of the first meeting of the Commission under section 5(f). The report shall contain the findings, conclusions, and recommendations of the Commission as a result of carrying out the duties of the Commission under section 4.

SEC. 9. TERMINATION.

The Commission shall cease to exist 30 days after submitting the report required in section 8.

SEC. 10. DEFINITION OF WORKER'S COMPENSATION.

In this Act, the term "worker's compensation" means a statutory system established by a State to provide compensation to workers or their dependents in the event of occupational injuries, without legal actions and proof of negligence.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect October 1, 1987.

POLITICAL INFLUENCE EXERTED BY SENIOR CITIZENS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. COELHO. Mr. Speaker, for years, we in politics have watched the rapid increase in the senior citizen population and wondered how soon it would be before these older Americans fully exerted their political influence.

Well, it now appears the day will be upon us far sooner than we had expected. And the National Committee to Preserve Social Security and Medicare is in the forefront of the effort to bring that about.

As a result of what must be one of the most sophisticated direct mail efforts ever, not only is the National Committee turning out millions of postcards, petitions, and letters to Congressmen and Senators, but it is also directing senior citizen campaign volunteer workers into House and Senate races all across the Nation.

And, I'm not talking about a handful of volunteers here and another handful or so there. I'm talking about scores and scores and thousands and thousands.

In just one race, a race involving our colleague from New Mexico, more than 300 senior citizens flooded BILL RICHARDSON'S campaign headquarters with volunteer worker cards in just a matter of days.

And that's in a district where the National Committee has fewer than 3,000 members. So imagine what they can do in a district where the membership totals 15,000 or 20,000—and there are a number of districts like that across the country.

But, even if they are successful in getting just half of that number to volunteer in the rest of the races where they've endorsed and asked members to get involved—and they've done that for either a House or Senate candidate in nearly 400 of the 435 districts in the Nation—the National Committee can point proudly to turning out some 65,000 volunteers nationwide.

As much as I wish this effort was being made solely for Members and challengers on this side of the aisle, such is not the case.

The National Committee is a bipartisan organization, supporting both Democrats and Republicans in both House and Senate races this year.

The use of direct mail in politics is a recent and sometimes misused phenomenon. Here is a clear case where direct mail can be—and is being—used to reach into the homes of America's seniors and encourage them to participate in the democratic process.

The National Committee to Preserve Social Security and Medicare is to be congratulated for its efforts and I, for one, look forward to ever increasing participation from this fastest growing segment of our Nation, our senior citizens.

A CONGRESSIONAL SALUTE TO TRINITY LUTHERAN CHURCH

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. YATRON. Mr. Speaker, I rise today to commemorate the 100th anniversary of Trinity Evangelical Lutheran Church in Bechtelsville, PA. The congregation is commemorating this important occasion with a number of celebrations.

The church was founded as a union church for members of the Lutheran and Reformed denominations and was constructed with the assistance of Mennonites in the area. The cornerstone was laid on Whitsunday 1886 and the church was dedicated on May 7, 1887. The first pastor was the Rev. J.H. Kline who served the congregation for 30 years. The congregation grew steadily for 60 years, so steadily in fact, that the church was forced to split and form a parish in 1946. In 1959, another change occurred, as the parish was dissolved into two separate churches. Since these changes, the church has steadily grown and expanded. Under the current leadership of the Rev. Wayne R. Kaufman, Trinity Lutheran is not only a place of worship but an integral part of the community.

Trinity Lutheran's congregation can certainly be proud of their many accomplishments. For the past 100 years, the church has grown and flourished, providing guidance and support for many generations. I salute the congregation of the Trinity Lutheran Church on their 100th anniversary and wish them continued success and good fortune in the years to come.

VICTIMS OF HOLOCAUST IN THE UKRAINE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. EDGAR. Mr. Speaker, despite the fact that this is the busiest time in any Member's term, I would like to take a moment to call attention to a resolution submitted by the American Foundation For Negro Affairs [AFNA] inviting us to join them in the commemoration of the victims of holocaust in the Ukraine in 1932–33. Such acts of extreme cruelty and injustice must be remembered if we are to prevent their recurrence. The AFNA, the Family of Leaders, and the American Foundation for African American Affairs are to be commended for supporting the Ukrainian people in its fight for self-determination. I salute these dedicated individuals who labor against oppression and fight for all our human rights. The following are their resolutions:

THE AMERICAN FOUNDATION FOR NEGRO AFFAIRS—RESOLUTION

VICTIMS OF HOLOCAUST IN UKRAINE

Our knowledge of the Holocaust of 1932–33 has come to us through personal contact with Ukrainian victims, survivors, relatives and friends . . . and from the worldwide communication system . . . From this vantage point, the 1932-33 Holocaust and the suffering of the Ukrainian people have emerged as among the world's greatest evils inflicted by humans on humankind . . .

We therefore pray, "that Africans and African descendants everywhere" join with "Ukrainians" and other concerned people of the world in support of the Ukrainians' total fulfillment of their historic cause . . .

Therefore, the following Resolution is hereby drafted:

Whereas, the Ukrainians have experienced the Holocaust of 1932-33 with a loss of eight million Ukrainians which occurred through murder and forced starvation, and

Whereas, the Ukrainian Philadelphia Chapter Of The American Friends of the Anti-Bolshevik Block Of Nations remembers the horror of the Holocaust of 1932-33 and expresses fervent hope and prayers that

this crime against humanity shall never happen again, and

Whereas, while this Resolution is being written, terrorism and death are spreading throughout the world; killing the aged, children, and women in: The Ukraine, Afghanistan, South Africa, South America, Israel, and the Middle East, and

Whereas, the United States of America is now engaged in a life and death struggle to prevent the spread of foreign ideologies and its dictatorial rulers, which now have under their bondage, 49% of the world's population, and

Whereas, we respectfully request the President of the United States to renounce the Yalta and Potsdam Agreements and request the United States Congress to ratify this action, thus reinforcing the position of the United States in its previous statement "that the Republic of the Ukraine be free and independent," and

Whereas, we believe that only when all nations and people under bondage by an Imperialistic empire gain freedom, and the right to self-determination, will peace on earth become a reality.

Now, therefore, The American Foundation for African American Affairs, AFNA National Education And Research Fund, and The Family Of Leaders, representing 180 organizations, do hereby pray, that Africans and African descendants everywhere, join with the Americans of Ukrainian origin, as a memorial to those who suffered as a result of these crimes against humanity, and to assure the continuation of the struggle against the inhumane oppression that continues to date in Ukraine and other parts of the world, and

Further, that a copy of the Resolution be presented to The Honorable William Nezowy, President of the Ukrainian Philadelphia Chapter Of The American Friends Of Anti-Bolshevik Block Of Nations, in acknowledging the week of May 18-24 as a week of mourning for the victims of the Holocaust and of the Ukraine, presently now occupied by Russia.

Be it further resolved that a copy of this Resolution be mailed to the President of the Organization Of African Unity (O.A.U.), representing forty-one African governments.

Certified and signed this Fourth day of March, 1986 City and County of Philadelphia, Commonwealth of Pennsylvania, United States Of America.

Sincerely,

SAMUEL L. EVANS,
National Chairman, American Foundation for Negro Affairs, AFNA National Education and Research Fund, and Family of Leaders.

BOARD OF JUDGES, COURT OF COMMON PLEAS OF PHILADELPHIA

Whereas, the Board of Judges of the Court of Common Pleas of Philadelphia joins the City of Philadelphia in acknowledging the Week of May 18 as the period of mourning for the victims of the Ukrainian Holocaust of 1932-33;

Whereas, We remember the past injustices perpetrated during this unfortuate period in which the Russian Government refused to allow European aid programs to help the starving Ukrainians;

Whereas, it is our intent to urge world leaders to be ever vigilant to prevent the reoccurrence of these inhumanities to man.

Now, therefore the Judges of the Philadelphia Court of Common Pleas extends to Americans of Ukraine origin, and to all peoples of this earth, our fullest support for justice and fair play; and further, We present this Commemoration to William Nezowy, President of the Ukrainian Philadelphia Chapter of American Friends of the Anti-Bolshevik Bloc of Nations, and acknowledge his untiring efforts on behalf of his organization to bring peace and tranquility to people of all races, origins and ethnic backgrounds.

EDWARD BRADLEY,
Presiding Judge,
Court of Common Pleas.
CALVIN T. WILSON,
Secretary, Board of Judges.

Presented this 21 day of May 1986.

TRIBUTE TO DR. EOIN McKIERNAN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. O'NEILL. Mr. Speaker, I want to take this opportunity to pay tribute to a truly extraordinary American, Dr. Eoin McKiernan, the founder of the Irish American Cultural Institute.

Through his passion for the homeland of his mother and grandparents, Dr. McKiernan has brought an awareness of Ireland and its rich literature, theater, art and music to all Americans, but especially to those of us 44 million Americans of Irish ancestry.

Dr. McKiernan was born in New York City in 1915. He learned the Irish language from his mother in his early years, and later became fluent after attending classes run by the Gaelic Society in New York. After completing his studies and a successful business career, he became a professor at the State University of New York and then head of the English department at the College of St. Thomas, St. Paul, MN.

In 1962, Dr. McKiernan founded the Irish American Cultural Institute, which among other cultural activities, sponsors scholarships to allow Irish students to study in America, summer schools to allow American students to study in Ireland, United States lecture tours by Irish academics, and tours of the United States by Irish theater companies. In another effort to bring Irish Americans closer to their homeland, Dr. McKiernan created the "Trees of Ireland" project, which invites Irish Americans to sponsor the planting of a tree in Irish soil to commemorate their ancestors.

Mr. Speaker, I join thousands of other Americans of Irish descent and countless world leaders in praising the works of Dr. McKiernan. The text of an article on Dr. McKiernan appearing in Ireland of the Welcomes magazine follows:

EOIN MCKIERNAN

(By Desmond Rushe)

Eoin McKiernan is that most rare of modern humans—a dreamer who is wide awake; an idealist who is totally practical. He is also a great rarity among Irish-Americans, for though he is a native New Yorker (born Manhattan, 1915), he is a fluent speaker of the Irish language and is more versed in Irish literature, history, arts and inherited culture than the vast majority of Irishmen. He is a remarkable mixture.

How did he become so? Among early memories he treasures are those of his mother (Delia Nagle, an emigrant from near Lahinch, Co. Clare), telling old Irish folk tales, singing snatches of songs in Irish and introducing the odd piece of her native tongue into family prayers. His father was a second generation Irish-American with roots in Co. Leitrim.

It was his mother's influence that caused him to attend Irish language classes run by Gaelic Society in New York and, when he was subsequently awarded a scholarship, led him to the Gaeltacht village of Rosmuc in Connemara, where he achieved fluency. And though he was to become, in turn, an executive in Macys department store, a farm manager, professor of English at the State University of New York and head of the English department at the College of St. Thomas, St. Paul, Minn., the Irish cultural heritage remained his consuming passion.

It grieved him to see it being neglected, forgotten, ignored or trivialised by the Irish-American community. I also grieved him that to the general public in America. Ireland came into prominence only once a year in a solurge of St. Parrick's Day Paddywhackery.

To Eoin McKiernan, Ireland and its people were something else. They meant at glowingly rich inherited culture and a virbrant contemporary scene in literature, theatre, music, painting and sculpture. He set about generating an awareness of what the country and its people are all about in terms of the ancient and the modern, particularly among the 44 million Americans who claimed Irish ancestry in the last U.S. census.

The record of his activities and achievements over the past 25 years is, by any standards astonishing. To him is due the setting up of the Irish American Cultural Institute; the publication of Eire-Ireland, a quarterly journal of Irish studies; awards for Irish artists, writers and musicians; scholarships to allow Irish students study in America and summer schools to allow American students study in Ireland; annual visits to the U.S. of Irish lecturers; periodic tours by Irish theatre companies; a 53-episode TV series on aspects of Ireland screened throughout the U.S., and much more.

In 1972, Princess Grace of Monaco told him how highly she admired his work, and became International Chairman of the Institute. In 1969, the National University of Ireland conferred on him an honorary D.Litt. degree and in 1976, the Ancient Order of Hibermians awarded him the John F. Kennedy Medal.

Meanwhile Eoin McKiernan was shuttling between America and Ireland, guiding cultural package tours; meeting Presidents, Prime Ministers and cabinet Ministers; overcoming scepticism; facing pig-headed bureaucracy with terrier tenacity, always promoting his dream. Part of his dream which has taken many years to come to fruition is his Trees for Ireland project. In the realm of practical idealism, it could well become his greatest single triumph.

The concept is vastly appealing. Irish-Americans would be invited to sponsor trees at ten dollars each in commemoration of their forebears or as gifts to others. They would receive certificates indicating the chosen place of planting. Their names would be entered in registers maintained at the nominated forest centres. They would symbolically and literally, be sinking roots in Irish soil. They would be giving themselves a point of ethnic identification and, in the process, they would be enriching their

ancestral land environmentally and economically.

Trees for Ireland blends with peculiar appropriateness Eoin McKiernan's vision and practicality, and a memorial (an inscribed Connemara marble slab on a granite plinth) to mark the first planting was unveiled by the Taoiseach Dr. Garret FitzGerald in September. It is located at Cappaghoosh, Co. Galway in the Maam State Forest. There, 25,000 sitka spruce (of North American origin) have now taken root: they occupy a 15-acre area on the side of a hill which rises gently from one of the small lakes that enhance Connemara's poignant beauty. Other and bigger plantings in other and beautiful parts of the country will follow.

It was the wise of Horace that his poetry would be, for him, 'a monument more lasting than bronze'. That thought is quoted in each issue of 'Eire-Ireland' magazine because Eoin McKiernan, who took a degree in classical languages in addition to one in English literature, agrees with it. Works of the spirit of man make the most lasting of monuments. A sponsored tree can be such a monument in metaphoric terms. His monuments is in his work for Irish culture, and it will outlast any metal.

SUFFERING IN ETHIOPIA

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. ROTH. Mr. Speaker, in hearings just 2 weeks ago before the House Foreign Affairs Subcommittee on International Economic Policy and Trade, administration officials testified that they fear the Marxist Ethiopian regime will resume their controversial resettlement program within a matter of weeks. The same resettlement program, interrupted earlier this year, is said to have claimed the lives of over 100,000 Ethiopian men, women, and children.

This month's cover story of Reader's Digest details the horrors uncovered in Ethiopia by Dr. Rony Brauman, a French physician who directs Doctors Without Borders. It is a story that again exposes the horrible truth about the suffering continuing today in Ethiopia.

For the benefit of my colleagues, I am submitting both the Reader's Digest report and a Washington Times summary of our hearing on this troubling situation.

[From the Reader's Digest, Oct. 1986]

FAMINE AID: WERE WE DUPED?

(By Dr. Rony Brauman)

On a hot afternoon in early 1985, I stood on the tarmac of the airport at Addis Ababa, the capital of Ethiopia, and lived a privileged moment. As cargo plane after cargo plane landed, others circled overhead, awaiting their clearance to come in. The Western world's air bridge to Ethiopia was in full swing. In whatever direction I looked, those hulking giants, symbols of the best that is in humanity, were unloading food and grain, tents, blankets, jeeps, even fully equipped hospitals.

Shocked by the terrible images of starvation brought into their homes by television, millions of ordinary citizens throughout Western Europe and North America spontaneously dug into their pockets and gave unreservedly to the charities that asked for their help. The surge of generosity that I witnessed that day only grew greater as the months passed. A host of rock stars in America recorded the spectacular best-seller "We Are the World" (more than 16 million copies sold) and dedicated 90 percent of the proceeds to African famine relief. Irish musician Bob Geldof founded Band Aid and its American counterpart Live Aid, and organized the hugely successful 16-hour, all-star rock marathon held simultaneously in Philadelphia and London, and beamed to the whole world via satellite. More than $100 million was gathered in response to the call for help.

In the months that followed, the euphoria that swept over me that day at the airport gradually gave way to bitter disappointment while we watched the cynical betrayal of the international-aid campaign. Here is the harsh truth: your donations have been massively misappropriated by Lt. Col. Mengistu Haile Mariam's Soviet-dominated regime. Money, food and equipment intended for the starving have been hijacked by the authorities and used as a means of pressure on the anti-government peoples of Ethiopia's northern provinces.

Like bait in a trap, Western-donated food is being used to lure the starving from their villages into deportation centers. From there, the people are herded away at gunpoint to barely disguised labor camps.

In the words of my colleague and predecessor at Doctors Without Borders, Dr. Claude Malhuret, now France's Secretary of State for Human Rights: "Western governments and humanitarian groups unwittingly fueled—and are continuing to fuel—an operation that will be described in hindsight in a few years' time as one of the greatest slaughters of our time."

HIDDEN FAMINE

We at Doctors Without Borders should have known better. We had first applied to enter Ethiopia in 1982 when the country was in one of its cyclical periods of drought. Since our request was ignored, we served clandestinely in the northern provinces of Tigray and Eritrea, treating the sick and starving. In this region of unrest, we had seen the scorched-earth tactics of Mengistu's army in its attempt to suppress the rebel fronts.

The army's drives into enemy territory were a deliberate attempt to ruin that secessionist part of the country and one of the main reasons why the famine reached such dramatic proportions. Villages suspected of supporting the rebels were systematically pillaged, their stocks of grain confiscated or burned, their livestock slaughtered. Dispossessed of reserves, the peasants were helpless when the cycle of drought struck again. This made them prime candidates for "resettlement" in the southwest, where they could no longer help the rebels.

For two years the Mengistu government hid the famine from the world. But after a lavish celebration of the tenth anniversary of the Ethiopian revolution—at a cost of $100 million—the government threw open the doors of the country to the Western press. With the rush of TV crews and newspapermen, alarming stories about the suffering were encouraged. The government now did its best to magnify the famine, flying journalists to carefully chosen locations. It took us months to understand that the aim was to make the West pay for the resettlement scheme and help the war effort in the north.

As Western food and medical aid flooded in, the Soviets sent arms. Grain rotted on docks and in warehouses, because the only trucks available belonged to the army, which did not consider food transport for the starving a priority. Wheat ships were made to wait several days at anchor while Soviet freighters unloaded tanks, ammunition and cement. In November 1984, Ethiopian authorities even brazenly demanded that the United States pay for the rental of government-owned vehicles to distribute the $100 million of emergency aid that it had sent to Addis.

If Americans were naive in their response to the Marxist government's call for help, so, too, were Doctors Without Borders. We had eagerly accepted the Ethiopians' sudden invitation to join the struggle against famine. By late fall of 1984, we had two teams working in the worst areas. In those days before the international rescue effort was in full swing, there was a shortage of food, medication and supplies. In the vast camp of Korem, 385 miles north of Addis in Welo Province, the 100,000 inmates were dying by the hundreds before we could give them the least care.

TERROR RAIDS

When food, tents and blankets first arrived, Dr. Brigitte Vasset, chief of our medical crew at Korem, joyfully ordered all 150 tents to be set up and the blankets distributed: the cold season was already on the land, complicating and worsening the problems of malnutrition. Hardly had her order been given when the camp's Communist Party chief stormed into Dr. Vasset's consulting room to countermand it. "We don't want the camps to be comfortable," he said.

It was a question of life or death, not comfort, but the message was clear. We had assumed that the camps were relief stations where the peasants could regain their strength before returning to their farms after the drought. We were wrong. The government saw them as nothing more than way stations on the road to resettlement, the first step to emptying the north of a large part of its population—over one million people who did not want to leave.

In December Dr. Vasset returned from Addis Ababa to find the camp empty except for babies, the aged and the sick. It was her first experience with a resettlement raid. The army had arrived with its trucks, herded away as many people as the vehicles could carry and driven them off for transport south. Terrorized, the remaining Korem inhabitants who were strong enough fled into the nearby mountains. But stalked by hunger, they soon straggled back, resigned to whatever fate had been decided for them.

Next a quota system was established: so many individuals required from each district; never mind the niceties. Husbands and wives were split up, probably never to see each other again. Hundreds of children were left behind to fend for themselves. The kids who did not die were sent to orphanages to be raised as Mengistu's "new human beings."

Dr. Vasset and her colleagues witnessed three deportation raids at Korem. A total of 17,232 were taken away, almost all of them against their will. By the time of the third raid, the militia moved right into our hospital and convalescence shelters and dragged off those who were too weak to flee. As the militiamen beat them to the trucks with sticks, Dr. Vasset protested that most would not survive the trip. The Party chief shrugged. He had a quota to fill.

We and our brother organizations in the field watched helplessly as the sick, hungry and dying were manipulated and coerced into joining the flood south. Time and again, even when stocks were overflowing, we saw food withheld from the camps while being made abundantly available in nearby resettlement transit centers. The bargain was starkly simple: if you want to eat, come in for deportation.

The same kinds of tactics operated in the countryside far from the camps. Promises of grain distribution brought farmers trudging from miles around to central trapping points where the soldiers were waiting in hiding. A call for free vaccination of cattle served doubly well, because it netted both the farmers and their herds. The farmers joined the lists of resettlers, and the cattle went to the milita. It was after campaigns of this sort that relief workers discovered what otherwise would have been inexplicable: ghost villages with huts, tools and household utensils intact, and crops untended in the fields.

SLAVE LABOR

In June 1985 we installed a treatment center at Sek'ot'a, an important northern city. We found desolation. The Ethiopian army had destroyed all the crops, herds and farms in the vicinity. With no food available, the people would become dependent on the government camps, and the rebels would lose their support. To the world's press who were ushered into Sek'ot'a, these masses of barely living humanity were presented as victims of natural calamity—in fact they were victims of the government.

Even the famous drought proved to be something of a false issue. Our organization dispatched a hydrogeologist to Sek'ot'a and he discovered an enormous deposit of readily accessible underground water. At relatively low cost—only a small fraction of what was being raised for famine aid—there could have been water for everyone. Our representations to the government fall on deaf ears. What was desired was not water but a Sek'ot'a emptied of people.

The longer we stayed, the more the horror stories repeated themselves. By the middle of 1985, grain was rotting on the docks at the port of Aseb because trucks that had been donated for its transport were being used in the relentless pursuit of resettlement. Today, I am certain that at least half the deaths in Ethiopia must be attributed directly or indirectly to its own government.

The majority of the deportees serve the government as slave labor on the coffee plantations, which account for two-thirds of the country's hard currency. The death toll in these resettlement villages is appalling. An estimated 15 to 20 percent of the resettlers died in the first three months after being taken from their homes. For these population shifts alone, not taking into account the deliberate starvation instituted in the north, the Ethiopian government has on its hands the blood of at least 100,000 victims.

The failure of the resettlement program has been total, as demonstrated by Cultural Survival, Inc., a nonprofit group of Harvard anthropologists. Their comprehensive study, based on hundreds of interviews with victims of government-imposed resettlement, presents a shattering image of the Ethiopian tragedy. Not only are the work camps unable to feed the Ethiopian people, but these very collectives are prime candidates for future famines.

Even the collective farms, established several years earlier, are still so notoriously inefficient that they consume 90 percent of the government's agricultural investment, while producing barely five percent of the country's farm output. Yet Mengistu and his fellow theorists plow obdurately forward on their corpse-littered path.

GUIDED TOURS

As the mass deportations continued, the situation in the field camps and nutrition centers continued to be desperate, in spite of the massive arrival in Ethiopia of foodstuffs from the West. The notables who visited the camps, the charity representatives and even the ambassadors of the donating countries were continually duped by their Ethiopian guides. Every time, the scenario was the same: suddenly, as if by magic, the trucks got through and the sacks of grain were plentiful. The notables returned home to write glowing reports about the efficient distribution system, but as soon as they left, the miracles ceased. The desire to believe in the success of the good cause was so powerful that these people fell into a bizarre kind of voluntary blindness.

I was particularly shocked by the U.N.'s resident representative, and assistant secretary-general installed in Addis, who invariably dismissed our protests with a few condescending phrases. Even when I told him point-blank that the resettlement program which the West's aid had made possible was killing more Ethiopians than the famine was, he answered, "I have no reason to believe that these people left the camps against their own free will." One day I should like to understand how the U.N.'s highest representative in Ethiopia could be unable to see the murderous nature of these deportations, thereby lending a blessing to one of the world's bloodiest and most tyrannical governments.

Numerous and prominent were the victims of the same hoodwinking—show-business stars, Western government ministers, ambassadors—all good and concerned human beings. They usually arrived in the Korem camp by government helicopter or car, spent an hour or so on the standard VIP tour, then were whisked away as swiftly as they had arrived. As far as they could see, all was well.

In June 1985 the government allowed us to set up a regional food-distribution center in Kelala, a sprawling farm district in southwest Welo Province. By then the zeal with which the resettlement was pursued was utterly unbelievable.

To survive, the thousands of malnourished little children at Kelala required small amounts of high-energy food six to eight time a day. We had the food, but authorities refused to allow us to carry out the treatment. The system of nourishment we had proposed was unacceptable, a functionary explained, because it would maintain the population at Kelala. By October nearly all the children—3000 of them—were dead. They were as good as murdered.

FINANCE FAMINE

Last December we were ordered out of Ethiopia. Armed militiamen burst into our compounds, seized our equipment and menaced our volunteers. Some of our employees were beaten, and our trucks, medicines and food stores confiscated. We left Ethiopia branded as enemies of the revolution. The regime spoke the truth. The atrocities committed in the name of Mengistu's master plan *did* make us enemies of the revolution.

Today, Ethiopia remains the only country in the region still demanding huge quantities of food aid—even though the drought has long since ended. It is because the government has destroyed its own agricultural structures. It has prepared future famines. Meanwhile, the mass deportations and the work camps continue, and we in the West are expected to pay for them.

I am convinced that it is morally wrong for us to assist Mengistu and his callous functionaries in carrying out this murderous policy. During the famine, millions in the West responded with unequaled generosity, and no doubt saved many people from starvation. How, however, the main cause of death in the northern provinces is no longer famine but forced resettlement.

It is tragic, but what I am saying it this: we have been duped. The best way to save lives now is for the West to demand an end to the forced resettlements. Unless they cease, further food aid will only grease the gears, of Mengistu's killing machine.

[From the Washington Times, Sept. 26, 1986]

ETHIOPIA SEEN RESUMING RESETTLEMENT

(By Ed Rogers)

Reagan administration officials yesterday expressed fear that the Marxist Ethiopia regime will resume a resettlement program that is believed to have cost 100,000 lives before it was halted last December.

"We see a serious danger that the Ethiopian government, emboldened by the improved food situation, will resume its forced resettlement program and accelereate other efforts at regimentation," said Alan L. Keyes, an assistant secretary of state.

Chairman Mengistu Haile Mariam, head of the Soviet-backed Ethiopian government, announced in a Revolutionary day speech two weeks ago that the resettlement program will resume shortly, said Mark L. Edelman, an assistant administrator at the Agency for International Development.

Messrs. Keyes and Edelman made their remarks in testimony before a House Foreign Affairs subcommittee.

The subject of the hearing before the subcommittee on international economic policy and trade was a bill sponsored by Rep. Toby Roth of Wisconsin, the panel's ranking Republican. The bill would impose tough economic sanctions against Ethiopia.

The bill has virtually no chance of enactment this year. Nevertheless, Mr. Roth said, the hearing would help keep the issue alive.

"The people of Ethiopia are dying," Mr. Roth said after the hearing. "We know that over 100,000 people have perished because of the resettlement program. We are going to do everything we can to prevent slaughter of these people."

The Ethiopian government in 1984 began a mass movement of inhabitants of the drought-stricken highlands to more fertile lowlands, where they have been forced into crowded villages, Mr. Edelman said.

"This massive program, which is completely changing the fabric of rural Ethiopia, requires families to literally destroy their ancestral homes and relocate in new areas," he said.

"The great fear is that the government's ultimate purpose is full collectivization of all land," he said.

Mr. Edelman quoted from an official Ethiopia "Villagization Handbook."

"The long-term aim of our revolution is, of course, the emancipation of the population from spiritual influence and enhance their belief in materialism," the handbook say.

The handbook also calls for tolerating religious institutions during an interim period in order to "make villagization palatable," he said.

One of the immediate purposes of the relocation program, according to a widely held view, was to isolate members of the population who would support rebel forces engaged in a civil war in the nation's Northern provinces.

The Soviets and the Ethiopians are preparing for a new offensive against rebels in the provinces of Eritrea and Tigre, according to Aradom Tedla, an Ethiopian exile who formerly served as a minister of law and justice.

The offensive will involve 3,000 to 4,000 Soviet officers—the largest number in any of the previous eight offensives planned by Soviet strategists—Mr. Tedla said yesterday.

Separatist rebels in Eritrea have been battling the Marxist government and its predecessor, the regime of the late Emperor Haile Selassie, for nearly 25 years.

Mr. Tedla, who was arrested by the Ethiopian government in 1979 and fled to Somalia in 1980 after his release, spoke on "The Impact of Marxist Rule in Ethiopia" at a recent forum on human rights in Africa.

He is president of the African Human Rights Committee.

Ten years under Col. Mengistu—whose 300,000-man army is the largest in Africa and is fortified with $3 billion in Soviet arms—have left the country one of "fear, hunger and death," he said.

ILLITERACY IN AMERICA: A NON-RACIAL PROBLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. RANGEL. Mr. Speaker, the remarks of Japanese Prime Minister Nakasone concerning illiteracy in America were widely denounced in the media and by national leaders. We should be aware, however, of the comments of local leaders, because these are the people who work most closely with everyday members of the community.

Assemblywoman Geraldine L. Daniels of Harlem has long been an outspoken advocate of equal opportunity for all Americans. She is a leading champion in New York for adequate housing, fair government, and public welfare. Few local leaders can equal her zeal for the betterment of her community.

Assemblywoman Daniels has written a very thoughtful statement on illiteracy and the Nakasone statement. I would like to submit it for inclusion in the CONGRESSIONAL RECORD.

STATEMENT BY ASSEMBLYWOMAN GERALDINE L. DANIELS

If news reports are true that the Prime Minister of Japan said that the reason U.S. citizens intelligence is so low or its illiteracy is so high is because of Blacks and Hispanics, statistics do not indicate so. Last May the Department of Education released a Census Bureau study that said between 17 and 21 million U.S. adults are illiterate for an overall rate of nearly 13%. The population of America is over 225,000,000.

The study found that 41% of adult illiterates in the United States live in urban areas compared with 8% in rural areas. Also, said the survey, 56% are under the age of 50 and 50% do not speak English at home. According to education specialist Judith Koloski, two groups make up the bulk of those deficient in literacy skills, "the number of High School dropouts in the country is, at least, remaining steady or decreasing very lightly. These people are added to the pool".

As an Assemblywoman representing Harlem, this means, Black, White, Asians, and Hispanics. Not just Black and Minority, or Japanese in this country.

Speaking about Asians coming to this free country as well as other foreigners, Ms. Koloski said, "the number of foreign born coming into this country adds to the number of illiterates. The first wave of immigrants from Laos and Cambodia were all literate in their own language. The second and third wave immigrants were illiterate in their own languages as well as in ours. They added immediately to the pool.

The Department of Education's Adult Literacy Initiative Director Karl O. Hagler says, "the elderly are also a major factor". This includes all Americans. Not just Black and Minorities.

The Japanese Prime Minister should be very careful in isolating Blacks as being responsible for either America's low intelligence or high illiteracy.

In the first place the Japanese people have never been enslaved. But they have been enslavers. Ask the people of Korea and Manchuria. In spite of being slaves in America, Black Americans have contributed much to the advancement of mankind in the world.

A Black American Man invented the traffic light that the Japanese use today.

A Black American Man invented the shoe last that the Japanese use to make their shoes.

A Black American Man helped develop the telephone that the Japanese use.

It was a Black American Surgeon, Dr. Daniel Hale Williams, who first perfected the techniques of Heart surgery that is performed around the world today that is saving Japanese lives and lives around the world.

It was Black American soliders who treated the Japanese civilly during the occupation of its country.

If Black Americans are so illiterate, I shall immediately ask all Black Americans to stop buying Japanese products unless we get an apology from the Prime Minister.

In conclusion it was not illiterate Black Americans who stole valuable and one of a kind in the world micro chips to improve Japanese computers, so that they could compete against American made computers in the world market.

Also it is Black Americans who always agreed with the American government to not shut out imports from Japan, even though it costs Black Americans jobs.

Japan should do the same. Do not shut out American made goods including Black American made goods.

WHAT AMERICANISM MEANS TO ME

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. PEASE. Mr. Speaker, again this year it gives me great pleasure to share with my colleagues the following winning essays from the "What Americanism Means to Me" contest that is an annual event in my district.

WHAT AMERICANISM MEANS TO ME

First Prize Winner Mr. James Vaszily, Jr., Junior, Elyria High School, Elyria, OH

"I only regret that I have but one life to lose for my country." This quotation by Nathan Hale is probably one of the first vocal expressions of Americanism in the New World: Americanism that was here to stay. In this quotation, Hale embodies his and his countrymen's allegiance to the ideals of freedom, justice, and equality for all, regardless of race or creed, for which America stands. It is because of the heroic efforts of such men as Nathan Hale, George Washington, and all those that fought in the Revolutionary War that Americanism was born. Americanism shows the world the greatness of the American nation and her people's belief in the ideology and principles of democracy.

It is Americanism that has made this country so great and has proven to the world the true meaning of freedom and equality for all. Americanism is the deep attachment of its citizens to the traditions, interests, ideals, and values that have evolved from a country with political principles that serve all the people. Americanism creates ideals that allow all people to contribute to the glory of this beloved nation. Americanism has allowed scientists in all fields to develop such technological discoveries as the artificial heart, harnessing of atomic energy, computers, and designs for better rockets that will lead to the permanent colonization of space. We would not possess such technological innovations if it were not for Americanism.

Americanism has motivated our literary community to reflect Americanism in their writings. Francis Scott Key, Patrick Henry, and Benjamin Franklin were all brilliant men who produced great works for their country that inspired their countrymen. Authors such as Nathaniel Hawthorne, Washington Irving, Edgar Allan Poe, and Samuel Clemens gave American Literature the world respect that it deserves.

In its greatness, Americanism serves not only the American people, but the whole world. Americanism contributes to all of humanity. U.S.A. for Africa, Live Aid, Peace Corps, and the Red Cross have made our world a better place to live. Martin Luther King, Jr. demonstrated how to use Americanism to serve and benefit everybody in the Civil Rights Movement. Simon Bolivar was inspired by Americanism and brought freedom to five countries in South America. Mahatma Ghandi was also inspired by Americanism and brought freedom to his people peacefully.

Americanism is the defender of world peace. N.A.T.O., the United Nations, and summit meetings with leaders of the Soviet Union demonstrates how Americanism is pioneering for world peace. Americanism is striving to make war extinct instead of mankind. Americanism's goal is to make all men free so they can prosper and live in peace.

It is quite evident how Americanism influences this great nation and the world. Americanism is pride in ourselves and country, self-confidence in ourselves and others to make our country better and stronger, and the love of brotherhood towards all people. Americanism verifies what Abraham Lincoln said—We are "a government of the people, by the people, and for the people . . ." Americanism strengthens our Great Democracy so that future generations will

be able to inherit the blessings of freedom we enjoy now. We are the only government in the world that offers true democracy and true freedom for all people. It is because of all that the word Americanism embodies that I take the great pride in saying, "I am proud to be an American."

WHAT AMERICANISM MEANS TO ME

Second Prize Winner Miss Christine Smith, Junior, St. Paul High School, Norwalk, OH

The words Americanism represents an ideal situation, new beginnings and opportunities. Americanism means freedom. America not only has freed other nations but allows for more freedom than any other country I know of. Freedom of speech, religion, education, press, freedom to pursue a career or to make a dream come true. Our ancestors fought hard for our rights and privileges during the American Revolutionary War. What did Americanism mean to them? It meant patriotism, hard work, and willingness to lay down one's life for one's beliefs.

Americanism is knowledge. Immediate understanding of world events—good or bad. We are barely sheltered from anything. The United States has the best media coverage of all countries of the world. Our country wouldn't be what it is today if we didn't have freedom of the press. This directly goes along with the right to speak one's mind. I feel that is one of the greatest aspects of Americanism. Judging from what history I've had, it seems many great ideas started out not so great but people fought for these ideas by speaking their minds.

For people who aren't familiar with the United States, Americanism is virtually a mystery. Just recently, I have had the experience of meeting and talking with a dissident of the Soviet Union, specifically, a young man named Victor Borovsky, originally from the Ukraine now living in Canada. Americanism is a privilege which has never and will never exist in the Soviet Union. Victor Borovsky introduced new startling ideas of life without freedom to me and 100 other young people. Machine guns, barbed-wire fences, and an environment of violence are three examples of obstacles to everyday life.

I can't even imagine no freedom of religion. To me, what makes a group an intelligent, unique, working organization such as America is the uniqueness of the individuals. Here, we live by our spiritual laws and our government's laws with no worrying—separation of church and state.

Besides religion and personal opinions, there is another way to stress one's individuality: background and ancestry. The United States, termed the melting pot, combines all nationalities. Why, for centuries and even today, do men and women flock to America? It's the "land of the free and home of the brave"; a chance to make something of yourself. Americanism is opportunity. Here, we have the choices to determine what our lives will be like. It's called social mobility. So many great persons have carved their own way to the top—and have stayed there.

Americanism is also responsibility to uphold, to the best of one's ability, one's duties. Duties to the world, to the rest of the country, the community and to one's own self and to God. Americans are leaders. We have to keep this country alive, and give it support. This is done by voting and simply exercising the freedoms given to us.

In summary, the term Americanism entails several ideas and ideals. First, it's freedom. Next, Americanism means history—the U.S. has survived a great deal and every part is important to our over-all make-up. It involves duties, patriotism, traditions, mixed cultures, loyalty to each citizen. Americanism represents the beliefs and values shared by Americans and admired by all.

DRUG ABUSE ESSAY CONTEST WINNERS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. SMITH of Florida. Mr. Speaker, today I congratulate 14 students in my district on their outstanding essays against drug abuse. More than 5,000 sixth graders were invited to enter a congressional drug abuse essay contest. These winners were chosen as the best in each of the 14 schools which participated. Of the 14, 5 will compete with essays from other congressional districts around the country.

The students were asked to write their views in 50 words or less on two topics: Part I: "What I Would Do If Offered Drugs" and part II: "As A Good Citizen, How Can I Help My Community?"

The results of this contest show that many of our youngsters do understand the terrible effects of drugs. They all realize that drugs won't solve their problems and that the best solution is to "say no" to drugs. I hope they will be the future leaders of a generation that eliminates this cancer in our society.

I am also very proud of all the participants and the staffs and teachers of the schools. I believe this contest enabled parents and teachers to work together to further educate our children, while they are still young, about the dangers of drugs.

For the benefit of my colleagues, I herewith include the five best essays along with the name of the winner, the school, and the principal. I also have listed the names of the nine other winners.

Winner: Lourdes Bernal, Everglades Elementary School Prinicipal: Dr. Frazier Cheyney.

Part I—If I were offered drugs, I'd just say no! There is no reason for me to accept drugs. Drugs aren't good for me and they won't solve my problems. They"ll just make my problems worse. If I say no I'll be helping the fight against drugs.

Part II—As a good citizen I can help my community by reporting any drug activity I see or suspect. I can also help by stopping anyone I can from using drugs. Drugs are harmful to person's lives. They don't only make people addicts, but they also contribute to crime.

Winner: Marci Lerner, Pines Middle School. Principal: Jamie Davidson.

Part I—Besides saying "no" to drugs, I would report the person offering them to a teacher, rabbi or minister. People who push drugs need help, not only from law enforcement but also from drug education programs and people who will listen to their problems.

Part II—I can help my community by becoming involved in community affairs and government. People must be taught that along with civil rights go civil responsibilities. People must be made aware of what they can do to help others improve the quality of life.

Winner: Alfie Monthei, Attucks Middle School. Principal: Margarita Hall.

Part I—If I was offered drugs, I would say "no thanks." I feel you don't have to be high to have fun.

Part II—I can help my community by setting a good example and not taking drugs, drinking alcohol, or smoking. I can help my community by getting involved in community activities.

Winner: Kristen Meyers, Olsen Middle School. Principal: George Schafer.

Part I—I have an enormous amount of love for my family and if anything ever happened to me due to drugs it would distress them deeply. My life has been fruitful and I would not want to ruin it on something that would only give me temporary relief.

Part II—In today's world I would be frightened to find out about a serious crime. Most citizens would probably feel the same and instead report traffic violations and pick up litter. I hope such problems will be eliminated, but until then that is what I could do for my community.

Winner: Russell Moon, H.D. Perry Middle School. Principal: Dr. Everett Putney.

Part I—Let's take this whole thing into perspective; pleasure is created by things that come naturally, the inner feelings. If offered drugs, I'd reply "no thanks." I'm a person with simple pleaures, the best kind.

Part II—In respect to helping my community, I can simply avoid corruption of the mind and body.

Other winners:

Winner: Lisa Garcia, Annunciation Catholic School. Principal: Lucretia Furst.

Winner: Miriam Valdes, Village Green Elementary School. Principal: Camille King.

Winner: Jennifer Feifer, Nova Middle School. Principal: Suzanne Alvord.

Winner: Luandrala Warner, Driftwood Middle School. Principal: Frank Campana.

Winner: Rotarsha King, North Glade Elementary School. Principal: Herbert Day.

Winner: Christina Morera, Rockway Elementary School. Principal: Tessa Gold.

Winner: Joel Sunstrom, Pioneer Middle School. Principal: Kenneth Black.

Winner: Odenia Rodriguez, Olympia Heights Elementary School. Principal: Clifford Herrman.

Winner: Mark Cates, Palm Springs North Elementary School. Principal: Robert Gray.

CONGRATULATIONS TO SNOW HILL ON ITS 300TH ANNIVERSARY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Ms. MIKULSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues, the 300th anniversary of a very special town on Maryland's Eastern Shore, Snow Hill, MD.

Snow Hill was settled in 1630 by English and Scottish colonists as well as Virginia dissidents. Located along the shores of the Pocomoke River, Snow Hill flourished as a trade center. In October 1686, it received its charter as a town and it is now the 300th anniversary of that charter which Snow Hill celebrates on October 25 and 26, 1986.

In 1742 Snow Hill became the county seat of newly formed Worcester County. Schooners and sloops plied the waters of the Pocomoke River up to Snow Hill which served as a business and political center for the surrounding area. Soon steamboats provided regular contact to Baltimore for passengers and freight. Today, the Pocomoke River continues its role in the community as a recreational waterway.

Snow Hill today is a place rich in historic buildings and traditions. They proudly celebrate their 300th year of history. I join my colleagues from Maryland and across the Nation, particularly First District congressional Representative, Roy Dyson, in recognizing this great center of Maryland's rich colonial heritage.

TIME RUNNING OUT ON CHILDREN'S VACCINES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WALGREN. Mr. Speaker, I want to call to the attention of my colleagues the urgent need for Congress to act on a bill developed in the Energy and Commerce Health Subcommittee and cosponsored by my distinguished colleague, Mr. WAXMAN. The bill, the National Childhood Vaccine Injury Compensation Act (H.R. 5546), has been reported by the committee and awaits action by the Ways and Means Committee which must develop an excise tax on vaccines to pay for the compensation fund. The Ways and Means Committee has had its hands full of late with the tax bill, Superfund and budget resolution, but I do hope they are able to deal with this measure and send it to the House before we adjourn.

I would like to share with other Members an article by Mr. WAXMAN which appeared in today's Washington Post and makes a cogent and compelling case for this bill. The bill is a carefully crafted compromise that addresses a most serious problem.

WHEN A VACCINE INJURES A CHILD: A NO-FAULT WAY TO COMPENSATE

Childhood immunization programs have created a public health miracle in this country. In 1952 there were 57,000 cases of paralytic polio; last year there were four. In 1941 there were more than 2,200 deaths from measles in a single year; last year there were two.

Every state requires that children be immunized before they start school. With vaccines, we have avoided thousands of deaths, hundreds of thousands of disabilities and millions of dollars in medical costs.

But these vaccines, which we take for granted now, are not completely safe. Some children will suffer adverse side effects for a few days. Some will face severe reactions, even mental retardation, permanent disability or death. There will not be many such reactions (for polio vaccine, for example, it is literally a one-in-a-million chance), but some children will be hurt.

The particular tragedy and the paradox of vaccine injuries is that these children really are hurt in the line of public duty. They are required to receive vaccinations not just for their own protection but also for the group immunity necessary to protect the population from disease and from the catastrophic medical costs of epidemics.

But unlike veterans who are injured in war or workers injured on the job, these children have no place to file their grievances or turn for care. The schools and clinics and private pediatricians who administer the shots are not prepared to take care of lifetime injury.

Many of the families of these children have been turning to the courts for relief. They have brought suits for negligence, for failure to warn, for design defect, for breach of warranty, for inadequate research. Some of these families have won—sometimes millions of dollars. Many more have lost.

But the litigation costs and the occasional million-dollar award have made pharmaceutical firms nervous about the vaccine market. These firms say that this sort of thing can make it less profitable to prevent illness than to treat it. They say that affordable insurance is increasingly hard to find and that they make the best vaccine they know how to and still lose lawsuits. One result, they say, it that they are forced to increase prices drastically, or simply to get out of the market.

These are complex arguments, but it is clear that the vaccine injury controversy has slowed progress in the development of preventive health care. And it is clear that a number of vaccine-injured children are being left to fend for themselves on Medicaid or disability or whatever else may be available.

Many of these arguments have been made this year about other liability fights. But vaccines are a unique product. They are required for all children. They are regulated before, during and after production. They are inherently unsafe. And we cannot afford to be without them.

A broad array of conservatives and liberals, consumer advocates and pharmaceutical lobbyists has crafted a compromise bill—the National Childhood Vaccine Injury Compensation Act—that is now either almost law or almost history. It has passed the review of doctors and parents and manufacturers and lawyers, but it has not yet passed Congress.

The bill would establish a generous no-fault compensation system to pay for the medical, rehabilitation and education costs of those children who are injured. If the injury were particularly severe, the program would pay for lost earnings of the disabled child and for the pain and suffering that he or she endures.

In turn, the bill would limit that child's ability to sue the manufacturer of the vaccine. If an injury is the result of a bad vaccine or one inadequately researched or warned of, then the courts could still make awards. But those children who are the innocent statistics of the necessary war on infectious disease would not have to go to court to get their medical bills paid.

The compensation fund would be paid for by an excise tax on vaccines. The tax would differ on each vaccine, according to how dangerous it is known to be. The final price of a shot would thus reflect its true cost to the society, and those children who avoid the dangers of whooping cough would help pay for those children who reacted to the whooping cough vaccine.

The bill is no one's first choice. The parents' group wants fewer restrictions on litigation and more children eligible for compensation. The manufacturers want more protections from tort action and less specificity about awards. The doctors want to close off malpractice suits.

But almost everyone agrees that the compensation bill is better than the current situation. No one wants to return to the terrors of epidemics of crippling and killing disease.

Congress is dealing with the tax bill and with the budget. Before we leave, we must also finish this ounce of preventive work. We cannot afford the pounds of cure.

COLUMBIA RIVER GORGE DESERVES FEDERAL PROTECTION THIS YEAR

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BONKER. Mr. Speaker, the Columbia River Gorge, which cuts through the Cascade Mountains between Oregon and Washington, is an area of unique and dramatic beauty. Its towering waterfalls, verdant forests, and diverse characteristics have awed residents and visitors for centuries. Without immediate Federal protection, more of the gorge's natural beauty will be lost to development.

Complicating the task of preserving the famous scenery of the gorge is the fact that the 85-mile long ravine cuts through six counties and two State, and is home to some 40,000 people. The House and Senate delegations from the area have crafted a measure which can save the scenery without undermining the economic viability of the area. The bill would also balance Federal, State, and local interest in managing the public and private lands in the gorge.

Efforts to protect the beauty of the gorge date back to the 1930's. This year, in the remaining days of the 99th Congress, we are tantalizingly close to enactment of legislation that will accomplish this goal. I commend the following article from the National Journal to the attention of my colleagues and trust that the gorge legislation will get the timely support from Congress it deserves.

[From the National Journal, Oct. 4, 1986]

COMPROMISING

The towering cliffs and plunging waterfalls that line the Columbia River Gorge on the Washington-Oregon border "really do take the breath away," exclaimed an eastern conservationist who is no stranger to scenic beauty. "When I first saw the gorge, my initial reaction was: Why didn't they get it protected 50 years ago?"

"They" tried. Since 1937, citizens groups, state study commissions and federal parks officials have been pushing for federal protection of the 85-mile long Columbia River Gorge. Not only is the gorge spectacularly beautiful but it also contains prehistoric Indian structures, campsites that were used by Lewis and Clark, one of the earliest highways and other natural and historic sites that have caught preservationists' fancies over the years. But interstate politics, local opposition and a host of other complications have always stymied the protection efforts.

But preservationists are still trying. This year, they may succeed. Friends of Columbia Gorge, a conservation group headquartered in Portland, Ore., has been holding nonstop meetings with interested Members of Congress to try to patch together a com-

promise Columbia River Gorge National Scenic Area bill (S. 2055).

Whenever the outcome of the latest legislative campaign, the long-running battle for the gorge teaches important lessons about the nature and direction of conservation politics.

Lesson one is a reminder—for idealistic conservationists who have refused to take no for an answer—that the day of massive federal park acquisitions is over, probably forever. For decades, Columbia Gorge protagonists tried to get the federal government simply to buy the land as a national park. Now, they don't even ask.

Even though a moratorium on park acquisitions imposed in the early years of the Reagan Administration didn't last, large land purchases are no longer feasible. It's more than just the multimillion dollar price tag in an era of multibillion dollar budget deficits. Much of the land isn't for sale. Some of it is owned by private parties, including 13 towns and cities within the boundaries of the gorge. Other portions that the federal government owns—such as the hydroelectric power facility at Bonneville and the Dalles dams—aren't available for conversion into a park. In fact, about 50 federal, state and local government agencies have authority over different parts of the gorge.

Lesson two, a corollary of lesson one, is that few large scenic tracts remain unclaimed. When President Grant created Yellowstone National Park as the first national park in 1872, millions of acres of untouched natural beauty were there for the choosing. Little, if any, land in the lower 48 states is now so unfettered. Any proposals to preserve the gorge run headlong into plans—equally justifiable to many who live there—to make use of it. Local developers have residential development plans for parts of the gorge that are adjacent to the urban areas. The timber industry has logging plans for the forest lands owned by the Forest Service.

Lesson three is that lessons one and two don't necessarily mean that special scenic, natural or historic places have to be abandoned. Federal, state and local officials, along with private groups, are working out ingenious ways to protect these sites while permitting late-20th century civilization to proceed unimpeded by conservationists' rules.

The Columbia River Gorge bill is the latest in a series of efforts to tailor protective regulations to the needs of politics of a particular area. The bill would set up a three-tiered arrangement under which the federal government would protect 108,000 acres designated as "special management areas," a bistate commission appointed by the governors of Oregon and Washington would manage 140,000 acres in which development would be controlled, and the 28,000 acres already in the hands of cities and towns would be exempted from any kind of control.

This would be a variation on such innovative partnerships as the Pinelands National Reserve in New Jersey, which relies on state zoning rules to prohibit or limit development in sensitive parts of the 1 million-acre area and encourage it in others. Similarly, the 225,000-acre Santa Monica Mountains National Recreation Area combines federal, state and private ownership to set various levels of protection and development. In Florida, the campaign to save the Everglades ecosystem is based upon another version of federal, state and private conservation efforts.

The President's Commission on America's Outdoors is struggling to develop a scheme for the national stewardship of all parks and other natural areas. At the center of the commission's vision of the future are what the commission tentatively calls "greenway systems." These are pieces of territory that have been used for various purposes in thc past and that the commission believes can be turned into natural or recreational areas. They include utility corridors, old railroad rights-of-way and scenic roads and highways.

While conservationists are enthusiastic about the reuse of abandoned facilities—there's a new organization called Rails to Trails that has been set up solely to seek conversion of abandoned rail lines to nature trails—they are skeptical of a scheme that emphasizes recycling used sites rather than preserving pristine areas.

In the Columbia River Gorge, the conservationists are trying to accomplish a variety of goals at once—to save some relatively untouched natural areas, preserve historically important man-made structures, provide for recreational activities and allow for some economic development. No single model will work on a national scale, but the creativity of combining objectives could serve as a model for those developing a national program.

If the Columbia Gorge bill doesn't pass this year, a different version undoubtedly will be sewn together next year by conservationists, local development interests and the politicians. And if that fails, the various forces that have been sparring since 1937 are unlikely to give up. Lesson four is that these people don't quit.

U.S. JAYCEE HEALTHY AMERI - CAN FITNESS LEADER AWARDS

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. JOHNSON. Mr. Speaker, I rise to congratulate two of the recipients of the U.S. Jaycees Healthy American Fitness Leaders Awards, President Ronald Reagan and Mr. Kirk Bauer, the executive director of the National Handicapped Sports and Recreation Association. These significant awards are administered in cooperation with the President's Council on Fitness and Sports and are sponsored by Allstate Life Insurance Co.

The U.S. Jaycees has demonstrated a keen understanding of the courage and determination which it takes to be a model of fitness for all other Americans. President Reagan has demonstrated his vibrancy both of mind and body time and time again while executing the many tasks of his office. At the age of 75, President Reagan serves as an example to Americans of all ages of the power of healthy living and an optimistic, resilient philosophy of life.

Mr. Kirk Bauer serves as an inspiration to all individuals who have faced obstacles and seemingly impossible challenges and doubted if they measured up to the task. A disabled veteran of the Vietnam war, Kirk Bauer has dedicated himself and his family to achieving health and physical fitness for others by helping them battle their disability. Mr. Bauer has also been recognized for his outstanding service in the rehabilitation of other Vietnam veterans. A Bronze Star and Purple Heart recipient for heroism and now the recipient of the Healthy American Fitness Leader Award, Mr. Bauer along with the other winners upholds the fine tradition of service recognized and perpetuated by the U.S. Jaycees.

I applaud the foresight of the Jaycees for their recognition of the importance of fitness in healthy and productive lives and I also applaud Allstate for its sponsorship of this worthy program.

PERSONAL EXPLANATION

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. TAUKE. Mr. Speaker, because of the birth of my first son, Joseph Hubble Tauke, I was unable to be present for votes No. 443, the conference report on H.R. 2005, Superfund Amendments and Reauthorization Act of 1986; and No. 444, the House Joint Resolution 750, making further continuing appropriations for the fiscal year 1987. Had I been present, I would have voted "yea" on No. 443 and "nay" on No. 444.

THE ICELAND "PRE-SUMMIT"

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. BOXER. Mr. Speaker, President Reagan and General Secretary Gorbachev will meet in just 2 days in Reykjavik, Iceland. All of us hope that they will reach agreement on at least some key issues.

As we wait and watch and hope, I want to call to the attention of my colleagues a recent letter sent by over 50 organizations to President Reagan, encouraging agreement on three major arms control issues.

This large coalition in support of these priorities is unique—and I believe is a clear indication of the breadth and depth of American commitment to the need for meaningful arms control.

Mr. Speaker, the text of the letter, and a listing of the groups signing it, follows:

OCTOBER 8, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR PRESIDENT REAGAN: We, the undersigned organizations, urge that our government, as the representative of all U.S. citizens, take the strongest possible steps to end the nuclear arms race. We urge that you put high on your agenda in Iceland a halt to all testing of nuclear and space weapons and reaffirmation of a mutual commitment to abide by all existing strategic arms agreements.

We applaud all progress that can be made toward reductions in intermediate or strategic nuclear missiles. The following measures that we recommend will complement those efforts, and they are easily achievable as they build on already-existing restraints:

U.S. agreement to join the Soviet moratorium on nuclear testing that they have observed since August 1985, and immediate resumption of Comprehensive Test Ban negotiations to codify a permanent ban on testing;

Continuation of the current US/USSR moratorium on antisatellite (ASAT) weapons, since satellites are essential for verification of arms control agreements;

Reaffirmation of a mutual commitment to abide by existing treaties, including the Anti-Ballistic Missile (ABM) and Strategic Arms Limitation Treaties (SALT), to establish an atmosphere in which additional agreements can be negotiated.

We believe that these measures—in addition to other progress on weapons reductions—are the minimum steps that must be taken now to move our world away from the threat of nuclear annihilation. These measures build on the ten arms control treaties negotiated by six previous Presidents.

You travel to Iceland with the hopes of millions of Americans. Your two days in Iceland can produce results which will make our world safer for generations to come.

Nuclear Weapons Freeze Campaign; WAND (Women's Action for Nuclear Disarmament); MEND (Mothers Embracing Nuclear Disarmament); Young Women's Christian Association National Board; Peace Links; Coalition for a New Foreign Policy; Church of the Brethren, Washington Office; National Council of Churches of Christ, Washington Office; Women for a Meaningful Summit; SANE: Presbyterian Church (USA), Washington Office; Women's International League for Peace and Freedom; Unitarian Universalist Association of North America, Washington Office; Church Women United, Washington Office; Feminists International for Peace and Food; and United Campuses to Prevent Nuclear War.

Greenpeace; United Church of Christ, Office of Church in Society; Church of the Brethren, Washington Office; Physicians for Social Responsibility; Council for a Livable World; Network: a Catholic social justice lobby; Union of American Hebrew Congregations; Jesuit Social Ministries; Episcopal Church Washington Office; Veterans Fast for Life; Mennonite Central Committee Washington Office; Institute for Security and Cooperation in Outer Space; Americans for Democratic Action; Friends Committee on National Legislation; Veterans' Peace Coalition; IMPACT; and Center for Creative Non-Violence.

Citizens Against Nuclear War and its member organizations:

Amalgamated Clothing and Textile Workers Union, AFL-CIO; American Coalition of Citizens with Disabilities; American Jewish Congress; American Library Association; American Medical Student Association; American Public Health Association; Americans for Indian Opportunity; Association of Community Organizations for Reform Now, ACRON; Congress of Italian-American Organizations; Friends Committee on National Legislation; Gray Panthers; Greenpeace USA; International Chemical Workers Union, AFL-CIO; International Woodworkers of America, AFL-CIO; League of United Latin American Citizens (LULAC); National Black Caucus of State Legislators; and National Conference of Black Lawyers.

American Art Therapy Association; American Association of University Women; American Federation of State, County and Municipal Employees, AFL-CIO; American Nurses Association; Americans for Democratic Action; Coalition of Black Trade Unionists; Delta Sigma Theta Sorority; Environmental Action; Friends of the Earth; Graphic Communications International Union, AFL-CIO; International Association of Machinists and Aerospace Workers, AFL-CIO; Japanese-American Citizens League; National Association of Social Workers; National Black Communications Coalition; and National Council for the Social Studies.

National Council of Negro Women; National Education Association; National Union of Hospital and Health Care Employees, AFL-CIO; The Newspaper Guild, AFL-CIO; Nuclear Information and Resource Service; Organization of Pan Asian American Women; Presbyterian Health, Education and Welfare Association; The Ripon Society; Fund for Renewable Energy and the Environment; Union of American Hebrew Congregations; United Church of Christ; United Farmworkers of America AFL-CIO; United Food and Commercial Workers International, AFL-CIO; Women for Racial and Economic Equality; and National Council of Senior Citizens.

National Institute for Women of Color; National Women's Health Network; Older Women's League; Planetary Citizens; Presbyterian Church (USA); Reformed Church in America; Rural American Women; Southern Christian Leadership Conference; Unitarian Universalist Association; United Electrical, Radio and Machine Workers of America; United States Student Association; National Urban League; and Young Women's Christian Association.

WASTE END TAX

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Miss SCHNEIDER. Mr. Speaker, yesterday, the House voted on final passage of a historic Superfund bill. Regrettably, it did not include a waste-end tax. I would like to submit for the RECORD the following information explaining the elements of the waste-end tax, which was included in the House's version of the Superfund legislation.

The Superfund financing bill approved by the House includes a tax on the disposal of hazardous waste that has been endorsed by the Administration. The tax would be limited to disposal of federally regulated hazardous waste in facilities regulated under the Resource Conservation and Recovery Act (RCRA).

The waste-end tax is a fair financing mechanism because it is limited to those waste disposal activities that have caused the Superfund problem. The House bill exempts from the tax all waste-water treatment, incineration, and recycling, as well as mining and paper wastes.

In addition to having the enthusiastic support of the White House, the waste-end tax has been endorsed by the Congressional Budget Office, the Office of Technology Assessment, the National Governors Association, the Environmental Policy Institute, a broad array of manufacturers, and economists such as Murray Weidenbaum, former Chairman of the Council of Economic Advisors (CEA), and William Nordhaus, former CEA member.

Rates and Revenues (House Compromise)

$500 million over five years.

Rates rise gradually from $9.25 to $11.75 per ton over five years for federally regulated hazardous waste placed in all land disposal facilities (except injection wells) regulated under Resource Conservation and Recovery Act.

Establishes rate of $1.05 per ton for injection wells to allow for dilute nature of injected wastes.

The House bill exempts the following from the waste-end tax

All wastes not covered by RCRA on the date of enactment.

All mining and paper wastes.

All waste management activities exempt from the RCRA system, including temporary on-site storage.

Most forms of treatment, including wastewater treatment, incineration, and recycling.

Wastes removed from Superfund sites during cleanup.

The waste-end tax is fair, because

According to 1985 Treasury testimony, "the tax would be paid in large measure by those industries that generate the hazardous wastes that are believed to be responsible for many of the existing Superfund sites."

It would include industries that currently generate large volumes of waste, but do not pay feedstock taxes (such as commercial waste disposal companies).

A waste-end tax is workable because

The tax is based on existing RCRA rules, regulations, and reporting requirements. According to the Treasury Department, "the Internal Revenue Service would not be required to develop new information systems to collect and enforce the tax, nor would taxpayers be required to maintain separate books and records."

Revenue estimates from the waste-end tax are conservative, because they allow for the reduction of waste disposal in response to the disincentive effects of the tax and the upcoming bans on land disposal.

A study by the American Bar Association's Tax Committee found that a waste-end tax could be workable.

According to EPA and the Treasury Department, the tax would not create a significant incentive for midnight dumping: "Because the cost of the tax is small compared to the cost of the RCRA sanctions, generators of small quantities of hazardous waste would have virtually no incentive for illegal disposal."

More than twenty states have had workable waste-end taxes in place for several years.

A waste-end tax would not place an unreasonable burden on chemical companies because

The chemical industry manages the overwhelming proportion of its waste in wastewater treatment impoundments and injection wells. Wastewater treatment im-

poundments are exempt from the tax, and injection wells are subject to lower tax rates.

A waste-end tax would not affect the petrochemical industry's trade position significantly because

The impact of a domestic waste-end tax on international trade would be "miniscule" when compared to other factors, according to Treasury testimony in 1985.

The waste-end tax can be avoided through investment in such tax-exempt activities as incineration or recycling. Our European competitors have already opted for high-technology treatment. West Germany, our second largest competitor, generates only one-third as much toxic waste per citizen as the U.S.

Hon. DAN ROSTENKOWSKI, OCTOBER 1, 1986.

Chairman, House Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to reaffirm our opposition to the use of broad-based taxes for Superfund. No matter how they are structured, broad-based taxes share one distinguishing feature: they would be imposed on manufacturers irrespective of their contribution to the hazardous waste problem. Broad-based taxes thus violate the "polluter-pay" principle that is a cornerstone of federal environmental policy. Studies show that, whether measured according to current waste management practices or past contribution to abandoned dumpsites, the petrochemical industry is responsible for 70 to 83% of the Superfund problem.

We strongly support a waste-end tax and urge its inclusion in any Superfund financing package for the following reasons. First and most obviously, it establishes the clearest nexus between Superfund and the kind of industrial waste management practices that have been linked to the cleanup problem. That is why the Administration supports it, and why the Treasury Department informed the Committee that "the tax would be paid in large measure by those industries that are believed to be responsible for many of the existing Superfund sites." We note that some of the companies we represent will be subject to a waste-end tax, to the extend that they engage in manufacturing activities that generate waste for land disposal.

The logic of requiring industries that dispose of hazardous waste in landfills to contribute to Superfund is irrefutable. That is why the waste-end tax has been endorsed by economists such as Murray Weidenbaum and William Nordhaus as well as the Office of Technology Assessment, the Congressional Budget Office, and the Environmental Policy Institute. Not long ago, as Members of the Committee may remember, the most enthusiastic proponent of waste-end taxes was the Chemical Manufacturers Association, which argued that, "A waste-end tax would internalize the cost of waste disposal by placing its cost on the waste disposed of today, not on someone else tomorrow." The Dow Corporation went as far as to commission a public opinion poll that showed overwhelming support for a waste-disposal tax; ARCO commissioned a study by Bill Nordhaus that concluded that, "a waste disposal tax would be a useful and environmentally sound source of revenues."

It is well established that the waste-end tax, which has received far more study than any of the other financing mechanisms before the conference committee, is administratively feasible. The Treasury Department and the EPA both concluded after a thorough review that a waste-end tax could be easily administered as it would be based on existing RCRA rules, regulations, and reporting requirements. According to Treasury, "the Internal Revenue Service would not be required to develop new information systems to collect and enforce the tax, now would taxpayers be required to maintain separate books and records." The American Bar Association's Tax Committee, after exhautive review, concluded that the waste-end tax was workable.

We also strongly support relying on a petroleum excise tax to provide a major portion of Superfund financing. Oil is the basic feedstock from which petrochemicals are derived; in addition, oil wastes have been found at scores of Superfund sites. Yet a tax on petroleum would be spread among all users of oil products, including the industries we represent. A 12 cent tax per barrel of oil would add about a quarter of a penny to the price of oil products. These low rates would not affect consumers, the petrochemical industry or independent refiners, and are dwarfed by the much higher severance taxes imposed by states like Texas. It is not surprising that the oil lobby has produced no evidence that a petroleum excise tax would be harmful to their industry in any way.

Finally, we encourage the use of general revenues, as is provided in current law, to supplement the financing of Superfund. The administration has expressed support for relying in part on a general revenue contribution as an alternative to establishing new, broad-based taxes.

The conference committee stands at an important crossroads. It must decide whether to risk a Presidential veto by enacting an unpopular broad-base tax that will be inflicted on thousands of businesses with no connection whatsoever to the hazardous waste management problem, or to stand by the "polluter pays" principle that guides our environmental policy. We urge the committee to take the wiser course.

We appreciate your steadfast support of the position that the polluting industries should bear the major share of the cost of financing Superfund, and ask you to stand by that principle as the reauthorization process draws to a close.

Thank you for considering our views.

Sincerely,

American Furniture Manufacturers Association, Grocery Manufacturers of America, Caterpillar Tractor, Inc., Deere & Co., Phillip Morris, White Consolidated, Inc.

American Compressor Co.
Athens Products
Aurora Steel Products
Bedding Products
Blaw-Knox Construction Equipment Co.
Jerguson Gage & Valve Co.
Capes Vulcan Inc.
Edison Products Co.
Eureka Co.
Franklin Manufacturing
Frigidaire Company
G.R. Manufacturing
Gerard Metal Craftsmen
Heatex Inc.
Hupp Co.
KCP Co.
Kelvinator International
National Union Electric Corp.
Philco International
Richards-Wilcox Manuf. Co.
Tappan Company
Universal Nolin
Viking White Sewing
Webster City Products.

WHAT OTHERS SAY ABOUT THE WASTE-END TAX

"The underlying philosophy of this approach (the waste-end tax) would be to reward those who minimize future risks and costs to society through the use of preferred alternatives which permanently reduce the risks involved in hazardous waste managements." Office of Technology Assessment (OTA), March 1983.

"Taxing producers rather than polluters does little to curb the actual dumping of waste. A waste-end fee on hazardous waste disposal would be more economically sound. It would (1) provide an incentive to reduce the actual output of hazardous waste, (2) promote development of recycling and reuse systems, (3) encourage alternative disposal technologies, and (4) cover the disposal of products produced overseas. In short, rewriting the Superfund law so that it is more fair would also help protect the environment—and would probably save money at the same time." Dr. Murray L. Weidenbaum, Center For Study of American Business, Washington University, August 1984.

"A tax on waste disposal makes sense. It would provide a fiscal incentive—the kind the private sector understands—to minimize the generation and facilitate the disposal of hazardous wastes." David Friebert, National Center For Legislative Research, August, 1984.

"The Congress finds that in order to adequately protect human health and the environment from hazardous substances, pollutants, and contaminants it is necessary to create a waste-end tax on the land disposal of hazardous substances which will discourage the environmentally unsound disposal of hazardous substances and provide additional revenues for the Superfund." Amendment Adopted By Unanimous Voice Vote, Floor of House of Representatives, 9 August 1984.

"(Under a waste-end tax) changes in behavior may include a reduction in the quantity of waste disposed or generated, higher costs for on-site waste-management and higher prices for off-site waste management. Careful tax design can ensure that the adverse consequences of these economic affects are minimized and that the changes that do occur will be consistent with overall policy goals.

"The experience of several states indicates that, in spite of some initial difficulty in estimating revenues, the waste-end tax is also capable of generating significant amounts of revenue." The Environmental Protection Agency, A Report To the Congress On The Agency's Experience With Superfund, December 1984.

"Recent EPA figures show that over 120 billion pounds of hazardous waste are disposed of on or in the land every year. The current method for paying to clean up abandoned sites requiring corrective action provides no incentive for disposers to reduce this waste. A waste-end tax would, for the first time, provide a direct pocketbook incentive to minimize the land disposal of hazardous waste. A waste-end tax would internalize the cost of waste disposal by placing its cost on the waste disposed today, not one on someone else tomorrow." The Chemical Manufacturers Association, Spring 1985.

"Fees and taxes on the landfilling of waste, and waste-end taxes on the generation of waste, are direct mechanisms for making other waste management options more competitive with the use of landfills

for some waste." "Reducing Hazardous Waste Generation", National Academy of Sciences, Spring 1985.

"By taxing the disposal of wastes at rates which encourage treatment or recycling alternatives, the Schneider/Wyden proposal will increase the revenue flowing into the Superfund Trust fund while diminishing the amount of waste being discarded . . . Your contribution to the Superfund Debate is a careful approach to encouraging the shift of wastes to treatment and recycling facilities which will increase in number as generators find the increased cost of disposal working against their profit margins." John L. McCormick, The Environmental Policy Institute, 16 April 1985.

DEPARTMENT OF THE TREASURY,
Washington, DC, September 26, 1985.

Hon. BYRON L. DORGAN,
House of Representatives,
Washington, DC.

DEAR MR. DORGAN: We are writing in response to your September 11, 1985 letter requesting information on the waste-end tax proposed by the Adminiistration as part of the funding mechanism for the Superfund reauthorization. The attachment contains answers to the questions you submitted regarding the Administration's waste-end tax. We trust this information adequately responds to your concerns.

We appreciate your support of the waste-end tax. In contrast to broad-based corporate taxes, a waste-end tax would be paid by the industries that generate the hazardous waste believed to be responsible for many of the existing Superfund sites. Thus, we share your view that a waste-end tax is an appropriate funding source for Superfund.

Thank you for your interest in the Administration's tax proposal. We appreciate the opportunity to respond to your inquiry and look forward to continuing to work with you on the reauthorization of Superfund.

Sincerely,

RONALD A. PEARLMAN,
Assistant Secretary (Tax Policy).
LEE M. THOMAS,
Administrator, Environmental Protection Agency.

Enclosure.

LOSS OF "POLLUTER PAYS" PRINCIPLE

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DENNY SMITH. Mr. Speaker, yesterday, the House approved an extension of the Superfund Program. My home State of Oregon is one of the most environmentally aware States in the Nation, and I had very much hoped to support the extension. It saddened me greatly to be unable to do so.

I was pleased to support the Superfund legislation which was approved by the House earlier in the session. That legislation offered a commonsense solution to the question of who should pay for Superfund. We said simply: "Those who make the mess, must pay to clean it up."

This "polluter pays" principle has been the guiding philosophy of Superfund since the program's inception. This House very wisely resisted numerous attempts to do away with the principle, and, instead, to substitute a new and radical value-added tax—the first step on the road to a national sales tax.

Unfortunately, the conference committee went against the will of the House, and presented us with an entirely new tax which never had the benefit of a hearing. By passing this landmark tax, we have violated the "polluter pays" principle. Now, many segments of our society will pay a high price.

Our environment will pay because Congress has removed an incentive for companies to stop polluting.

Our farmers and others will pay in higher fuel taxes.

American business will pay with the new tax—even if they have absolutely no connection with toxic wastes. Products of medicine will be treated just the same as producers of toxic sludge.

Consumers will pay because businesses will be forced to pass on their tax increase in the form of higher prices.

All Americans will pay, because Congress has now set the machinery in motion for a national value-added tax—in reality, a national sales tax. We are setting a very dangerous precedent with the imposition of such a tax. The new business tax can be raised with ease—and you better believe that the big spenders back here have never met a tax they didn't like—or hike.

Even though I could not support this radically new and unfair funding mechanism, I stand with other Members of Congress in urging the Superfund administrators to get their bureaucracy in shape, and to run a smooth and efficient cleanup program.

TRIBUTE TO GEORGE J. KOSANOVICH

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. KOLTER. Mr. Speaker, it gives me great pleasure for this opportunity to recognize George J. Kosanovich for his outstanding accomplishments and his dedication of many years to the armed services of the United States.

George Kosanovich was born May 14, 1920, as the only child to Mike and Eva Kosanovich, and he was graduated from Homer City High School, whereupon he attended Indiana State Teachers College. After having been inducted into the Army in 1942, George studied mechanical engineering.

George Kosanovich's exemplary behavior was first clearly demonstrated in his service in the Army. While in the Army, George Kosanovich rose to the position of a squad leader to the 120th Combat Engineers of the 29th Infantry. Because of his committed demeanor and natural leadership ability, George was quickly promoted to platoon sergeant. It didn't take long for his command to recognize that Sergeant Kosanovich was a natural born leader, capable of handling the responsibility of his men's lives.

George Kosanovich received several honorary medals while in active service during the war. For example, George never stood behind the lines in service of his country but instead, he was a direct participant in the D-day invasion. Sergeant Kosanovich was part of the first wave of Allies to hit Omaha Beach, attempting to secure a beachhead during the first crucial hour of the D-day invasion. Those first units sustained heavy losses and Sergeant Kosanovich's unit was not spared the cost as they sustained an 80-percent casualty rate. Sergeant Kosanovich himself received shrapnel wounds in action which necessitated his evacuation to a stateside hospital. It was through the gallant sacrifices of Sergeant Kosanovich and countless others that the Allies secured success.

On September 27, 1945, George was discharged from Thomas England Hospital and returned to the private sector. Until 1950, Mr. Kosanovich worked at the R&P Coal Co., he resigned to take a managerial position with Mr. Phillips Department Store in Indiana and served there until his retirement in 1971, but Sergeant Kosanovich's involvement with the military did not end in 1945, because he is dedicated to the men who have served in the defense of our Nation. You see, Mr. Kosanovich is known as the watchdog for veterans. He is affectionately described as a man who has lived, breathed, and will die Mr. V.F.W.

George Kosanovich is a life V.F.W. and a life American Legion member. In the veterans organization, George Kosanovich held many offices as well as received many awards for his committed service to the V.F.W. In 1964, George was named chairman of the Pennsylvania V.F.W. State Golf Committee. He has held post, district, and State level V.F.W. offices. In 1972–73, he was named All State Post Commander by the State of Pennsylvania. In 1972 through 1975, he held the position of the commander of the Indiana City United Veterans Organization. In 1973 George was named Veteran of the Year for his outstanding service to Indiana County veterans. Also in 1973, George was named State membership director, and has received National Aide to Camps appointments for the past 14 years. George Kosanovich served as secretary to the United Veterans War Council. For over 20 years he has been a member of the Disabled American Veterans Voiture No. 798, and is a member of the Military Order of the Purple Heart.

George J. Kosanovich also is a family man, being married to the former Helen Harris, and is the father of two daughters, Debra Lynn Funnel and Reverend Cathy Higgins. As you can see, George Kosanovich is an active community participant of may years. Not only is he active in veterans' affairs, but he is also involved in social and fraternal organizations.

THOMAS B. McGUIRE, JR. DAY

HON. H. JAMES SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. SAXTON. Mr. Speaker, as the Representative from the 13th District of the Great State of New Jersey, and on behalf of the Honorable James Courter, I am proud to com-

mend the Honorable Thomas H. Kean, Governor of New Jersey, for proclaiming November 7, 1986, Thomas B. McGuire, Jr., Day.

Maj. Tommy McGuire was born in Ridgewood, NJ, and received a college education at the Georgia Institute of Technology. In 1941, when he was in his third year at the Georgia Tech, Maj. Tommy McGuire left school to volunteer his service in the U.S. Army Air Corps as an aviation cadet.

On January 7, 1945, during a hectic dogfight over Los Negros in the Philippines, Maj. Tommy McGuire attempted to save a fellow pilot under attack by a Japanese fighter by consciously maneuvering his P-38 Lightning into an untenable position at an extremely low altitude. This caused his P-38 to snap roll, plunging him inverted into the ground. He was pronounced missing in action.

Maj. Tommy McGuire's was credited with 38 aerial combat victories, making him the second highest American ace of World War II. He also received the Distinguished Service Cross, 3 Silver Stars, 6 Distinguished Flying Crosses, and 15 Air Medals. In addition, Gen. George C. Kenny, 5th Air Force, Pacific Theatre, said of him, "His loss was one of the worst blows I took in the whole war." Gen. Dwight D. Eisenhower awarded Maj. Tommy McGuire the Medal of Honor—posthumously.

On September 17, 1949, McGuire Air Force Base was named in honor of the late Maj. Thomas B. McGuire, Jr. As New Jersey's only Air Force base, and known as the "Gateway to NATO", it serves as the Headquarters for the 21st Air Force, Military Airlift Command, the 438th Military Airlift Wing, and the Military Airlift Command NCO Academy East. It is also the headquarters for the New Jersey Air National Guard, its two flying units the 108th Tactical Fighter Wing and the 170th Air Refueling Group; the 514th Military Airlift Wing; and the USAF Reserve.

With historical heritage dating back to the American Revolution, New Jersey continues in that tradition through voluntary contributions of money and manpower from every corner of the State. Private citizens, veterans groups, the civilian business and industrial sector, organized labor, religious and fraternal organizations and others, are all intent on perpetuating the spirit of patriotism in our Nation by constructing a special memorial and tribute to this New Jersey wartime hero, Maj. Thomas B. McGuire, Jr.

Mr. Speaker, Mr. COURTER and I endorse Maj. Thomas B. McGuire, Jr., Day, as proclaimed by the Honorable Thomas H. Kean, Governor and commander in chief of the Militia Forces of the Great State of New Jersey.

BISHOP CONNARE MARKS 50TH YEAR IN PRIESTHOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MURTHA. Mr. Speaker, I want to take a moment to make special recognition of some milestones passed recently by Bishop William G. Connare of the Catholic diocese of Greenbury, PA.

On May 8, 1985, Bishop Connare marked his silver anniversary as bishop of the 224,000 Catholics in the countries of Westmoreland, Fayette, Armstrong, and Indiana. On June 15, a special mass was celebrated in the basilica of St. Vincent Archabbey marking the anniversary of the 50th year of his ordination to the priesthood. And it has also been announced that later this year Bishop Connare will be retiring.

Bishop Connare has throughtout those years been a church leader at the local, diocesan, national, and international levels. Moreover, he has been an integral part of the lives of all the residents of the area as a community leader.

Think for a moment about all the change and turmoil that has occurred in our world and in western Pennsylvania over the 26 years he has led the Greensburg diocese. His spiritual leadership during times of assassination, of unemployment, of natural disaster, of local and national tragedy, of spiritual and family crisis has helped the lives of thousands of families to survive and to presevere whatever the hardship, task, or burden.

While we in Government have talked a great deal over the past few years about the strength and rejuvenation of the American family, reflect for a moment on how much the families in our area have benefited over the years at times of celebration, loss, or crisis from the leadership of Bishop Connare.

Our greatest strength as a nation comes from the individual caring and concern which our citizens express for one another. Bishop Connare's life has been, and will continue to be, a monument to that American strength and what is finest about our communities and our Nation.

Put quite simply: we have all had our lives enriched within the Greensbury diocese, within Pennsylvania, and within America through the friendship, leadership, hard work, and dedication of Bishop William G. Connare.

THE 50TH WEDDING ANNIVERSARY OF GENE AND CLARA HARRAH

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. PANETTA. Mr. Speaker, it is with great pleasure that I inform my colleagues of the 50th wedding anniverary of a wonderful couple, Gene and Clara Harrah, of the Monterey Peninsula in California.

Gene and Clara Harrah are not only a couple that has made great contributions to the Monterey Peninsula but they are also close and longtime friends of mine. They will be celebrating their anniversary this New Year's Eve, and their daughters are organizing a marvelous tribute to them from their many friends. This statement will be a part of that tribute.

Gene is a native Californian, having been born in the Los Angeles area. Clara is almost a native Californian. She was born in Minnesota, but her family moved to the Los Angeles area when she was 3 years old. They met in 1930 at the restaurant run by Clara's brother and sister-in-law, and in 1936, on New Year's Eve, they were married.

Gene had the good fortune to be stationed at Fort Ord when he served in the Army, and, inevitably, he and Clara fell in love with the area. They never left, and we who also have the good fortune to reside on the Monterey Peninsula are all the more lucky for that fact.

Gene practiced law in the Monterey area for 20 years after leaving the Army. My father was among his clients. Then, Gene was appointed to the municipal bench, where he has served with distinction. Clara is noted as a fine hostess, and her culinary skills have pleased the palate of family and friends alike.

Gene and Clara have two lovely daughters, Shirley and Jean, both of whom still reside in California.

Mr. Speaker, Gene and Clara Harrah have lived a rich life and have now shared half a century together. I think their marriage is a tribute to their quality as human beings and serves as an inspiration to all of us. I count myself fortunate to have them as friends, and I know my colleagues join me in wishing them good health and fortunate for many years to come.

DISINFORMATION: MOSCOW'S ORWELLIAN DISTORTION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BROOMFIELD. Mr. Speaker, the Soviet Union's interference in the freedom of expression extends far beyond its own borders. The unwarranted seizure or expulsion of foreign correspondents, illustrated most recently in the Daniloff case, is fairly common by Moscow's standards, and the Soviet press is known to be nothing more than a mouthpiece for the Communist government. However, Soviet infringement on freedom of information and opinion has a lesser known, more sinister side. The Soviet Union is engaged in a large-scale effort to manipulate foreign audiences through disinformation. In an Orwellian distortion of truth and fabrication, the Soviets use forgeries and agents of influence to disinform unwitting foreign journalists and audiences under a KGB-administered program they call activnyye meropriyatiya, the Russian term for active measures.

Good journalism relies on verifiable information from confirmed sources. In recognition of this, the U.S. Government has sought closer cooperation with the press. Though in the past the United States gave a blanket no comment to leaked documents, efforts are now under way to combat Soviet active measures. An interagency working group, formed by order of President Reagan, is actively seeking and exposing Soviet disinformation.

Identifying Soviet active measures, a practice once considered antidetente or red-baiting, is necessary in today's world as the Soviets attempt to present a new, disingenuous public image. Realizing that their own newspapers have little credibility in the East or the West, the Soviets attempt to influence the

readership or foreign newspapers with their fabrications.

Several examples or Soviet active measures have been indentified and traced to Moscow. The hand of the KGB has been found in faked documents regarding the Korean Airliner shot down by Soviet fighters in 1983 and in forged United States diplomatic cables concerning international efforts to investigate Bulgarian involvement in the attempted assassination of Pope John Paul II. Forged letters and diplomatic cables have been issued by Soviet agents under the names of United States officials ranging from President Reagan to Herbert Romerstein, the United States Information Agency's specialist on Soviet active measures.

In an attempt to add credibility to these forgeries, Soviet Embassies abroad collect official United States letterheads and documents, which in turn are inscribed with fabricated messages and given to gullible foreign publications. Forged documents, identified at a rate of about 25 per year, are occasionally mailed or leaked to Western news agencies, and even more often to the Third World press, in an attempt to manipulate world opinion. Some of these forgeries are easily identifiable, largely because of the Soviets' inability to duplicate perfectly English grammar, idioms, spelling, or bureaucratic jargon.

When a British Intelligence Officer, Kim Philby, defected to Moscow in 1963, he significantly raised the quality of Soviet disinformation. Philby proofread major forgeries and corrected the stilted grammar and misspellings that make such documents more easily identifiable. In this connection, the recent defection to Moscow of a former American Intelligence Operative, Edward Howard, must be viewed with consternation by specialists in detecting documents forged by the KGB. A person familiar, as he is, with the inner working of the United States Government, could enhance substantially the believability of Soviet disinformation.

President Reagan's Strategic Defense Initiative [SDI] is the latest target for Soviet active measures. The Soviets have embarked on a campaign to discredit President Reagan and SDI with fabrications and misinterpretations, aimed in particular at our Western Allies. The current debate in the West between the proponents and opponents of SDI is a valuable process that is characteristic of democracy. Citizens of free countries are voicing their opinions publicly, unhindered by the apparatus of a police state. After drawnout public debate, the ultimate decision will most likely be reflected at the ballot box by the honest and open electoral process that Western democracies guarantee their citizens. Unfortunately, there is a third party, hiding in the shadows, hoping to undermine these democracies for their own interests through subversion and fabrication. This third party is, of course, the Soviet Union.

HOSTAGES IN BEIRUT: YOU ARE NOT FORGOTTEN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. FEIGHAN. Mr. Speaker, Americans everywhere are overjoyed that Nicholas Daniloff is back home in the United States safe and unharmed. After more than 2 weeks of negotiations by Secretary of State Shultz, administration patience paid off, and now President Reagan and Chairman Gorbachev will meet in Reykjavik, Iceland, to discuss arms control, human rights, and regional issues. The Daniloff affair severely strained relations between the Soviet Union and the United States. Now let's hope we are back on a responsible diplomatic course.

But as our eyes turn to Iceland, we must not forget our American hostages in Beirut, including Terry Anderson and David Jacobsen. These two men were taken hostage 18 months ago by the Islamic Jihad and have been held in captivity ever since without any indication from their kidnapers that they will soon be released.

Terry Anderson, 38, in a videotape appeal said, "It hurts to see the propaganda and bombast with which the administration solved the problem of Mr. Daniloff, a citizen like us who was imprisoned for only a short time." Mr. Anderson questioned how any official could justify the interest, attention, and action given in the Daniloff case and the relative inattention paid him and David Jacobsen.

On the same videotape, in a message directed at President Reagan on behalf of all five American hostages in Lebanon, David Jacobsen asked: "Don't we also deserve the same attention and protection given Nicholas Daniloff?"

I think they do. In a letter to Secretary of State Shultz on October 6, I urged the administration to pursue negotiations with the Syrian Government over the release of our Beirut captives. Secretary Shultz has expressed his willingness to discuss with anyone the situation of our hostages in Lebanon. He raised this issue with Syrian Foreign Minister Farouk al Sharaa and it is reported that the Syrian Government is committed to doing what it can to gain the release of our hostages. These leads must be followed.

White House spokesman Larry Speakes stated, "If those who are holding the hostages would step forward for discussion, that might move the process forward." This remark signals a shift in emphasis in the administration's policy, which rejects any negotiations over the kidnapers' demands for the release of 17 Shiite terrorists who are jailed in Kuwait.

Mr. Speaker, the administration should note the offer of Peggy Say, sister of kidnaped U.S. journalist Terry Anderson, to come to Beirut to negotiate his release. These are her words: "Tell me who you are willing to talk to about Terry's freedom and the freedom of the other American hostages. Please name the person you would be willing to negotiate with. I will ask that person to meet with you."

Peggy Say is a courageous woman whose voice the administration should heed. It must determine who is holding our hostages in Beirut and press them for their release. The American people will support the President and the Secretary of State in this endeavor.

TRIBUTE TO HENRY RIZZO

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WHEAT. Mr. Speaker, on Sunday the local chapter of the Sons of Columbus, a civic organization in Missouri's Fifth Congressional District, will honor the recipient of its annual Columbian of the Year Award. The Sons of Columbus chapter was organized in 1964 to promote the image of Italian Americans in Kansas City by encouraging its members to share the strengths of their community with the larger community of Kansas City.

The Sons of Columbus remind us that our Nation has an old and proud heritage. They encourage each of us to live up to the hopes and dreams of the explorers who sought a better world and discovered a new world. Each year, the Sons of Columbus honor a member of their community who has lived up to these ideals and succeeded in his or her commitment to improving the community and the city.

Mr. Henry Rizzo, a friend, a neighbor, and an outstanding public servant, deserves to receive this prestigious award this year. In one of Kansas City's proudest communities, Henry Rizzo stands out as an example of what is best in our Nation. The honor bestowed by the Sons of Columbus to Henry Rizzo deserves recognition.

As a young man with a great future, Henry Rizzo has earned this award and our respect. His service to his community began with his involvement in his parish church, the Holy Rosary Catholic Church. Since then, his concern for his community, his city and his State typify the goals and aims of the Sons of Columbus.

As Henry grew, his concern for his community broadened. Graduating from DeLasalle High School, Henry attended Central Missouri State University. Studying business administration, Henry's understanding of the small businesses in his neighborhood and the needs and concerns of his neighbors grew and matured.

Now, Henry Rizzo shares his understanding with the State of Missouri as an elected official representing his family, his business, and his community in Jefferson City.

Mr. Speaker, Henry Rizzo is not driven by a desire for personal recognition but by a genuine concern for the needs of people. It is fitting that his tireless dedication to his community is being formally acknowledged. I want to congratulate Henry Rizzo on his award and ask my colleagues to join me in a salute to this outstanding public servant.

TRIBUTE TO REPRESENTATIVE JOHN F. SEIBERLING

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MITCHELL. Mr. Speaker, it gives me great pleasure to join the other Members of this body in a salute to my good friend and colleague JOHN SEIBERLING. JOHN and I came to Congress together in 1971, and I can say without hesitation, that the 14th District of Ohio will have trouble replacing this individual who has unselfishly devoted that last 16 years to his constituents in Akron.

We all know JOHN as a man of conviction, a man with a conscience. His creative leadership on environmental issues, and legislation to preserve our Nation's natural and historic heritage, has led him to receive numerous awards from various environmental groups over the years. His interests are not confined to the environment however, along with being floor manager for antitrust legislation and being an active member of the Arms Control and Foreign Policy Caucus, during those tumultuous years when our men fought in Vietnam, JOHN led the fight in Congress to bring about a complete U.S. military withdrawal from Vietnam.

Yes, Mr. Speaker, the 14th Congressional District of Ohio will miss JOHN SEIBERLING very much, and this House, and indeed the Nation, will suffer from his absence in the Congress. I know that JOHN wants to get back home and spend more time with his family and enjoy the fruits of his labor on behalf of the scenic Cuyahoga Valley, but I know that he will continue in some special way to make significant contributions to this country and to its esthetic beauty which he has fought so hard to preserve.

CHOKING ON THE ARMY'S FOOD CONTRACT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. STARK. Mr. Speaker, the Washington Post reports today that the Army has granted a $139,000 contract to the University of Maryland to conduct a study of how to prepare healthy food that tastes good. I submit that the Army asking a college food service about healthy, tasty food is rather like Phyllis Diller asking Joan Rivers about beauty aids. There isn't much expertise on either side.

What the Army is expert at is spending a lot of money on some pretty worthless projects. It resists spending money to test the Bradley fighting vehicle to make sure it won't blow up or sink with soldiers inside, but it will fritter away a pretty good chunk of money to determine whether breaded veal parmigiana and lumpy mashed potatoes taste better with a little less salt in them. When I was in college and the Air Force, all the food looked and tasted alike, anyway, and we buried it all in catsup to make it edible.

If we want to conduct a taste test, I'm sure we could do it for a lot less than $139,000. And if we want to know more about the culinary preferences of soldiers, why not run this test in Army mess halls instead of the ivory towers of the University of Maryland? All we would have to do is look in the garbage cans at the end of the cafeteria lines to know what our soldiers prefer. In the end, the Army will still have to run a massive disinformation campaign to convince its soldiers that its food is going to be any better. I hope it doesn't cause any spokemen to resign.

Mr. Speaker, we are told that the way to a man's heart is through his stomach. We are also told that an Army travels on its stomach. But the Pentagon seems to think that the way to anyone's heart is through his pocketbook. It seems to think that if it can give out enough pork barrel contracts and sweetheart deals that it can buy public support for the massive defense buildup. I don't buy it. Secretary Weinberger loses a lot of credibility when he claims that the House has cut defense to the bone and unilaterally disarmed the United States and then somehow finds $139,000 for this. Credibility is in short supply in the administration right now. This doesn't help their position.

DUE PROCESS RIGHTS MUST BE PROTECTED FOR SAVINGS & LOANS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MANTON. Mr. Speaker, the events of the last 10 days relative to the FSLIC bailout legislation have served to focus attention upon the regulatory nightmares that have befallen many and continue to face countless of our Nation's savings and loans. As Majority Leader JIM WRIGHT has attempted to make clear to the Federal Loan Bank Board, all too often Federal regulators have failed to work in a constructive manner with our savings institutions, relying instead upon extreme measures—such as placing institutions into receivership—without exploring other available measures such as the infusion of capital and loan restructuring to protect the integrity of the institution and assure the safety of depositor's funds. The problems that have recently plagued certain sectors of the economy and particular areas of the country have indeed promoted Federal regulators to examine the loan portfolios of many of our banks and savings and loans, and we all recognize the need for such vigilance to protect the savings of our citizens.

Mr. Speaker, a disturbing facet of this situation has been illustrated by a recent Federal court ruling construing the rights of an association after Federal regulators have placed the institution in receivership. More accurately, this ruling illustrates a construction of the statute which declares that the association has virtually no right to question the determinations and decisions of Federal regulators.

In *Guaranty Savings & Loan Association* v. *Federal Home Loan Bank Board,* 794 F.2d 1339, the 8th Circuit Court of Appeals held on July 9, that after the Federal Savings & Loan Insurance Corporation ["FSLIC"] takes over a savings and loan association as receiver, the subsequent judicial proceeding under 12 U.S.C. § 1464(d)(6)(A) is not a full trial de novo but instead a very narrow one restricted to the administrative record upon which the Federal Home Loan Bank Board (the "Board") originally acted.

The key provision of the statute provides: In the event * * * [a receiver is appointed], the association may, within thirty days thereafter, bring an action in the U.S. district court for the judicial district in which the home office of such association is located * * * for an order requiring the Board to remove such * * * receiver, and the court shall *upon the merits* dismiss such action or direct the Board to remove such * * * receiver. [Emphasis added.]

Mr. Speaker, it appears to me that when Congress used the phrase, "upon the merits", it intended a complete, full and fair hearing before a Federal district court, not limited to the record which the Board had chosen to rely upon in taking over the savings and loan association. Without such a full hearing, the association is never accorded due process.

Let us look at what actually occurs in these cases. The Board determines that a receivership is called for, appoints FSLIC as receiver and, in the case of a State-chartered FSLIC-insured institution, obtains the concurrence of the appropriate State official that grounds for the receivership exist. After the appropriate State official concurs in the Board's determination, FSLIC's appointment as receiver takes effect and FSLIC takes over the subject association without any prior notice of any kind. There is good reason for this. First, the Board may have to act in an emergency situation—for example, where there is a run on the association. Second, if it acted with notice, there might be a sudden dissipation of assets or a concealment of records. Thus, Congress clearly intended that the Board would have authority to move quickly in these situations and without affording the association an opportunity to challenge the basis for the Board's determination.

As a result of this procedure, however, the record establishing the grounds for the appointment is one assembled by the Board, giving the Board the opportunity to pick and choose among the documents in its possession those that will establish the grounds, such as insolvency, that will support the appointment. The association, on the other hand, does not have access to all, if any, of its records to prove that the Board acted improperly, without an adequate basis, or against the record as a whole.

Both because of this basic inequity, and also because the association obviously must have its day in court and a due process hearing, Congress provided for a judicial proceeding "upon the merits" to determine what the true facts are, on a complete and full record. To hold, as the eighth circuit did, that the only hearing to which the association is entitled is one limited to the record which the Board chose to compile as a basis for its own emergency action is not only directly contrary to

Congress' intent but a denial of the association's due process rights. This is a particularly egregious situation in view of the fact that the Board hearing is nonpublic and ex parte.

On a complete record, for example, the association might be able to show that the Board was in error and that substantial assets which were neglected or overlooked by the Board made the association solvent. Or it might show that the Board acted for wholly improper reasons. The point is that only by the development of a full record, and a decision by a court on all the facts, can the Board be properly challenged in regard to what is, after all, a drastic action: The sudden, virtually unimpeachable takeover of a private business.

It is my understanding that the 8th Circuit interpretation is being challenged by the parties, and I would hope that whatever other court review is available would focus upon the true congressional intent rather than giving a cramped interpretation of this important statutory language.

LEGISLATION TO SUSPEND YUGOSLAVIA'S MFN STATUS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. CRANE. Mr. Speaker, today we have the opportunity to issue a strong statement on the persecution of American citizens travelling in communist countries. Mr. Pjeter Ivezaj, a U.S. citizen from the Detroit area, has been sentenced by Yugoslav authorities to 7 years in prison for peacefully demonstrating near the Yugoslav Embassy here in Washington 5 years ago. In addition, two other naturalized Americans from Yugoslavia have been arrested in the past month and are being held in Yugoslavia with no charges specified.

This outrageous treatment of American citizens cannot continue. Although these cases have not received nearly the same media coverage as that of the Daniloff case, the injustice that they are suffering is certainly no less than that experienced by Mr. Daniloff. Any country, Communist or non-Communist, that violates the generally accepted principles governing the treatment of foreigners must be dealt with harshly and quickly. To do otherwise, will ensure that an increasing number of Americans will await a similar fate at the hands of repressive Communist governments.

The time for a negotiated settlement in the case of these three Americans is rapidly coming to an end. The time for action is at hand. For this reason, I join with Representative Broomfield and several of our distinguished colleagues on the Foreign Affairs Committee in introducing legislation that would suspend Yugoslavia's most favored nation [MFN] trading status until such time that the President certifies that there are no Americans being illegally detained in Yugoslavia. At the present time, Yugoslavia is one of the few Communist countries that enjoys our preferential MFN trading status.

To permit the Government of Yugoslavia to violate the rights of American citizens, and then at the same time, to grant them preferential trading status is ludicrous. If they insist on illegally imprisoning our citizens, then the least we can do is to stop bailing out their economy.

In an effort to free our captive Americans, I would also urge the administration to apply economic pressure on the Government of Yugoslavia. For instance, the President has the power to ban future Eximbank loans and other foreign assistance to Yugoslavia. If Yugoslavia is going to act with total disrespect for the rights of American citizens, then they should have to suffer the consequences of our retaliation.

Congress must take immediate action on this legislation, or else we will in effect be sealing the fate of these three Americans. I, for one do not want to go into the holiday season knowing that these U.S. citizens are paying the price for our inaction. Through a unified and concerted effort we were able to secure the release of Nicholas Daniloff. Let's apply the same pressure against Yugoslavia and unite these men with their families. I urge your support of our effort.

CONGRATULATIONS TO BETTY BUTLER

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LUJAN. Mr. Speaker, on behalf of myself and other members of the New Mexico delegation, I would like to bring to the attention of my colleagues the outstanding work of one of our constituents who is doing something constructive about a serious problem.

In a relatively short period of time we, as a nation, have become painfully aware of terms such as abused, missing, runaway, throwaway, latch-key, exploited children, as well as of teenage drug addiction. It seems there is a daily account in our newspapers of a child being misused or in trouble in some way. It is a national tragedy which will require a herculean effort to rectify.

Betty Butler, herself a mother of seven, founded a program in 1982 which she calls "Identi-Find-A-Child/Safety Smart" program. The program originally was designed to provide fingerprinting, dental identification, educational and outreach awareness to children, parents, teachers, and communities throughout the State of New Mexico. With the help of "thumbs-up" puppets she designed and her Safety Smart series of educational booklets, Mrs. Butler conducts seminars in the school system for the very young children teaching them to take responsibility for their own safety. The children interact with the puppets and are educated in a nonthreatening manner.

The program has grown to encompass older children and Mrs. Butler brings seminars to children from kindergarten through the 12th grade on a grade/age level. Older students learn safety covers everything in their environment which can be harmful to them such as drugs, alcohol, and even giving in to peer pressure.

Over the past 4 years, Mrs. Butler has given numerous workshops and trained over 750 volunteers. She has received recognition for her work from the President, from the Governor of New Mexico, many city mayors, the New Mexico State School Superintendent, the New Mexico PTA, the National Volunteer Action Center, and is listed as a referral source in "Action", the Department of Justice Child Safety Booklet.

Now, on October 19, Mrs. Butler will receive the Award of Honor from the National Safety Council.

We would like to congratulate Mrs. Butler and to commend her for her dedication and hard work.

LEGISLATION TO AMEND THE BANKRUPTCY CODE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. SEIBERLING. Mr. Speaker, on July 17, the LTV Corp. filed for protection under chapter 11 of the U.S. Bankruptcy Code. At the same time, LTV notified more than 60,000 retirees that it would no longer pay the company's share of their health and life insurance benefits.

After a firestorm of adverse publicity, LTV reversed itself, and asked for permission from the bankruptcy court to restore health and life insurance coverage to its retirees. The company's unwise and legally dubious decision to unilaterally abrogate its obligations to pay for retiree benefits covered under a collective bargaining agreement has prompted the Congress to take a long, hard look at the protections under the Bankruptcy Code accorded to employees of a bankrupt company.

Terrible though the impact of the demise of a major corporation may be on its present employees, they at least are entitled to unemployment compensation, whatever Federal supplemental compensation may be in effect at the time, and job training. Unless the employees are near retirement age, they also have at least a hope of reentering the workforce.

The same cannnot be said for those who have retired before the bankruptcy. Retirees depend, often entirely, on whatever pension and insurance benefits they have earned during their career. It is wholly unreasonable to take away a retiree's pension and insurance and then expect him to go back to work—if he is employable at all—in order to make ends meet. Retirees health insurance, pension benefits, and life insurance ought to be unassailable. But as the LTV experience so bitterly points out, those benefits may indeed be lost.

With that in mind, I am today introducing legislation to establish a new fifth priority under section 507(a) of title 11 for the unsecured claims of retired former employees for any health insurance plan, employee pension plan, or employee life insurance plan, subject to certain limits. Pension claims would be limited to $90,000 per each retired former employee less the benefits paid to such employee under ERISA. Life insurance would be limit-

ed to that which provides $10,000 in death benefits for each retired former employee.

Mr. Speaker, the mere establishment of a priority claim does not necessarily mean that sufficient assets will exist to fully satisfy the claim. But enactment of my bill would at least provide one small layer of protection for retirees, who have worked for their retirement benefits and find themselves without them.

H.R. 4300

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DREIER of California. Mr. Speaker, it appears certain that the House will not bring up for consideration H.R. 4300, the Parental and Medical Leave Act, before Congress adjourns. However, I am dismayed over recent rumors that suggest a renewed effort next year to enact similar legislation. For this reason, I want to make clear my opposition to H.R. 4300, and pledge my commitment to fight any future legislation to implement a federally mandated uniform leave policy.

While H.R. 4300 has been lauded by its supporters as "pro-family" legislation, I fear it as I do the "wolf disguised in sheep's clothing." Labeling H.R. 4300 as a pro-family bill is totally misleading.

Certainly the issues of child-care and parental leave demand our attention as more women enter the workforce. No one denies that employment demographics are changing and that society must adapt to meet the needs of men and women who seek better ways to mix work at home and in the market. While this change is often stressful, legislation like this is not the answer.

A national "family policy" which purports to reconcile women's new roles as both mothers and breadwinners does not necessarily make a family happier or more well-adjusted. H.R. 4300 is a pandora's box, not a panacea for the tough choices that many Americans are now making for themselves and their children.

I am concerned about the potential impact H.R. 4300 will have on the American family through the business community. I fear this legislation will inadvertantly fuel job discrimination by inhibiting employment of "family-oriented" men and women. In addition, imposing federally mandated leave policies discourages the creation of new jobs and penalizes small businesses who employ over 70 percent of the work force.

According to a survey by the National Federation of Independent Business [NFIB], about one-third of small firms do not offer any health insurance to their employees because they cannot afford it. Requiring these small firms to provide additional benefits will exacerbate the problem, making it even more difficult for small businesses operating on slim profit margins to stay in business.

Simply mandating a benefit does not increase the total benefits package available to employees. Any additional benefit required reduces or eliminates some other equally attractive benefit, thus destroying the flexibility employers and employees need to meet individual needs.

Businesses are as individual as the employees that work for them. Each operates under different seasonal, social, and economic demands. In light of these differences, a uniform national standard on parental leave and childcare is not practical. I believe these issues can be more effectively addressed at the private sector level where flexibility is maintained, enabling employers and employees to determine the benefits that best meet their needs.

The small business community is so concerned about uniform paid leave legislation that it categorically rejected H.R. 4300 and other national mandated employee benefit proposals during the White House conference on small business. In fact, only liability insurance crisis was considered a higher priority to the conference delegates. As a member of the House Small Business Committee, I've found the concerns of the small business community to be totally justified.

H.R. 4300 is well-intentioned legislation, but it will lead to unforeseen consequences for businesses and more important, the American family. I am pleased that H.R. 4300 will not be considered this year, and plan to oppose any future attempt to resurrect legislation mandating employee benefits in the future.

A GOLDEN ANNIVERSARY OF SERVICE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LEVIN of Michigan. Mr. Speaker, I rise to pay tribute to the officers and members of the Ferndale Chamber of Commerce. Originally organized as the "Ferndale Boosters" in 1916, they were officially chartered in 1936 and are presently observing their 50th anniversary.

This group of business people work, not only to promote business and industry in their community, but to maintain the unity and concern that exists in their city. They demonstrated a continuing interest in the welfare of all the residents of Ferndale by their active promotion and participation in many of the programs sponsored by the service organizations in the community.

I congratulate this organization for its history of dedicated service and the promotion of the spirit of free enterprise, and I extend every good wish for their continued success.

PERSONAL EXPLANATION

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BORSKI. Mr. Speaker, I was unavoidably absent on October 9 when the House of Representatives considered the conference report on H.R. 2005, the Superfund reauthorization bill. Had I been present, I would have voted "aye."

As a member of the Public Works Committee and as a strong supporter of the Superfund bill, I would like to commend the chairman of the Subcommittee on Water Resources, Mr. ROE, and the chairman of the Energy and Commerce Subcommittee on Commerce, Mr. FLORIO, for their outstanding leadership in developing a fair and balanced bill that addresses the Nation's hazardous waste cleanup crisis.

After more than 2 years of deliberation and negotiation, the House has finally reached agreement on a greatly expanded Superfund Program. The conference agreement provides $9 billion over the next 5 years to cleanup the Nation's worst abandoned hazardous waste sites and uncontrolled leaking underground storage tanks. It establishes ambitious cleanup schedules and stringent cleanup standards, as well as increased penalties for violators of the Superfund law.

I am particularly pleased that the conference agreement contains a meaningful community right-to-know program that will enable the public and emergency personnel to obtain detailed information about chemical threats that may exist in their communities. When H.R. 2005 was considered by the Public Works Committee, I was involved in efforts to include language which ensures that communities would be prepared in case of accidents and provides citizens with information on the routine release of chemicals in their neighborhoods which may pose long-term health threats.

Mr. Speaker, I believe the agreement approved by the House on October 9 establishes a stronger Superfund Program that has the resources and the mandate to protect the health and safety of the American people. I urge prompt approval by the President of this landmark committment to a cleaner environment.

TRIBUTE TO JIMMY B. CLARK

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DIXON. Mr. Speaker, it is my deep pleasure to bring to the attention of my colleagues the accomplishments of my friend, Mr. Jimmy B. Clark of Los Angeles, CA, on the occasion of his retirement from local 47 of the American Federation of Musicians.

For 30 years Clark has worked to promote the professional interests of musicians. During his tenure he worked, ably and effectively, to improve musician's wages and working conditions. Clark, himself a talented musician, has played in musical groups since his boyhood in South Bend, IN—through high school and college, in jazz and military bands, in Chicago and New York, and with the greats, among them Duke Ellington.

Aside from his great love of music and service to the music world, Clark dedicated his career in a more general sense to service to others. He is a charter member of the Hollywood branch of the NAACP, and has served there as chairman of the Labor Industry Committee. He is a member of the Kappa Alpha

Psi fraternity, and recently was recognized for his 50-year membership. He currently serves as a member of the board of directors of Save Our California Kids (SOCK) of the California Youth Authority. Clark has made his contributions felt in many areas, and in doing so, touched many lives.

At the close of this fruitful career, it gives me great pleasure to join with Jimmy's family, friends, and coworkers in wishing him well.

TRIBUTE TO JOYCE KILMER

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DWYER of New Jersey. Mr. Speaker, it is an honor to bring to the attention of my colleagues the centennial anniversary of the birth of one of America's most treasured poets, Joyce Kilmer. This gifted writer was born December 6, 1886, in New Brunswick, NJ, part of the Sixth Congressional District which I am honored to represent.

The City of New Brunswick and the State of New Jersey have shown their gratitude for the many accomplishments and contributions to our literary heritage made by Joyce Kilmer, who was killed in France as a soldier in the First World War. His untimely but heroic death on the battlefield in 1918 was a great and tragic loss, yet even at such a young age, he left behind him a body of work that will endure forever.

Among the many memorials to Joyce Kilmer is a street bearing his name in the city of New Brunswick, and Camp Kilmer, which was dedicated in his honor in 1942 during the Second World War. He is celebrated throughout the Nation with parks, forests, and clubs, all in recognition of his valor and unique literary talents.

Joyce Kilmer attended Rutgers College and was graduated from Columbia University in 1908. He taught Latin in New Jersey, wrote extensively for magazines, and in 1913 was appointed to the staff of the New York Times Sunday Magazine Section and Review of Books.

Several volumes of Kilmer's poems have been published and stand as a compelling testament to his talent and insight. His poems have deeply enriched our literature, and it is most fitting that as we approach the centennial year of his birth, we pause and pay tribute to the man and his work.

PAY EQUITY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Ms. OAKAR. Mr. Speaker, today I am introducing legislation which will permit members of the U.S. Park Police and the U.S. Secret Service Uniformed Division to receive premium pay in the same manner as other employees of the Federal Government. My bill would no longer exclude the Park Police or the Secret Service Uniformed Division from coverage of that portion of title 5 of the U.S. Code.

Prior to the full implementation of the District of Columbia Home Rule Act (Public Law 93-198) in 1975, the Metropolitan Police Department of the District of Columbia, the U.S. Park Police and the Executive Protective Service were all considered to be Federal agencies under the control of the Congress, which had direct responsibility for compensation for all three law enforcement agencies. Since the implementation of home rule, the District of Columbia is no longer considered a Federal agency for purposes of employee compensation. The Council of the District of Columbia enacted the Comprehensive Merit Personnel Act, which permits employees of the D.C. government, including the Metropolitan Police Department, to bargain collectively for wages and other forms of compensation. However, the U.S. Park Police and the Executive Protective Service—now called the U.S. Secret Service Uniformed Division—were not covered by the Comprehensive Merit Personnel Act, and were not employees of the District of Columbia.

Congress enacted legislation in 1976 for the U.S. Park Police, and in 1980 for the U.S. Secret Service Uniformed Division, which required that basic pay for those two entities be set by Congress. This legislation, coupled with the impact of the Home Rule Act and the D.C. Comprehensive Merit Personnel Act, thereby severed the common origins of the Metropolitan Police, the Park Police and the Secret Service Uniformed Division. It created an anomaly whereby members of the Park Police and the Secret Service Uniformed Division, who are clearly Federal employees, are excluded from the definition of "employee" for purposes of entitlement to premium pay under title 5 of the U.S. Code. Such premium pay had previously been granted by the Congress through special provisions of the District of Columbia Code, which no longer applies to them. Thus, the U.S. Park Police and the Secret Service Uniformed Division, are the only Federal employees who are not eligible for any premium pay, because they no longer fall within the provisions of the D.C. Code, which provides for collective bargaining of wages, and they are specifically excluded from the applicable provisions of title 5, U.S. Code.

The legislation I am introducing today provides an easy resolution of this inequity. It requires only a minor modification to title 5 of the U.S. Code to correct what appears to have been an oversight. There is no conceivable reason that we should distinguish employees of these two Federal law enforcement agencies from other Federal employees with regard to eligibility for premium pay for overtime, night work, standby duty, Sunday and holiday work, and hazardous duty. It is only through a quirk of history that these employees are now excluded from both the Federal premium pay laws and from the D.C. Code which authorizes collective bargaining for premium pay.

It is essential that we treat these valued employees of the U.S. Park Police and the Secret Service Uniformed Division equitably and provide them with premium pay in the same manner as other Federal employees.

Mr. Speaker, I urge my colleagues to support this legislation.

THE SIXTH-GRADE WINNERS, HEALTHY MIND—HEALTHY BODY—NO DRUGS CONTEST

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. GOODLING. Mr. Speaker, nine schools in my district participated in the "Healthy Mind—Healthy Body—No Drugs" contest this year. The sixth-grade contestants each wrote 50 words on "What I Would Do If Offered Drugs" and "As A Good Citizen, How I Can Help My Community."

The overall winner of the local contest, Christine Butczynski from Carlisle, has had her entry submitted in the national contest. As you are aware, the final winner will receive national recognition and be invited to visit Congress, the White House, and participate in the week-long 1987 Cherry Blossom Festival.

Tremendous efforts are being made at all levels of government and in the private sector to fight this war against drugs. From reading the essays of Christine and her first four runners-up, it is encouraging to see that our youngsters are aware of the detrimental effects of drugs and are willing to do something about it. The enthusiasm among these sixth-grade students in assisting in our battle against drug abuse is remarkable, as you will see when you read their essays, which are printed below.

CHRISTINE BUTCZYNSKI

I would say NO and walk away. I would tell a responsible adult what happened and see if that kid could get counseling so he doesn't hurt himself anymore, or someone else.

"Keep Kids Safe" would be my motto. I wouldn't want a parent going through the nightmare of losing a child.

JALONDA WOODYARD

If I were offered drugs, I would simply say, "No!" Why should I ruin my life? Drug abuse is a terrible thing. Together we can end it.

To help my community, I can start by being involved. One thing to think about is drug abuse. We have to fight.

HOLLY MCGLAUGHLIN

If offered drugs, I'd say NO. I'd then run to the nearest safe place. Later I'd describe the man to the police so they'd catch him.

A group of teenagers, like me, could explain to younger kids what drugs are. Hopefully we'll lead them to the right choice about drugs.

MENDY SECHRIST

If offered drugs, one answer comes to my mind: NO! Drugs hurt and harm. who wants to do that to their bodies anyway? Say NO!

As a citizen, I feel my job is to be an "informer". I'd spread the word of the pain, guilt, and strings attached to drugs.

JENNIFER HINES

If I were offered drugs I would say, "NO!" I don't need drugs. They don't help me with my problems, only create worse ones.

I would help my community by telling others the facts about drugs. If I knew someone was taking drugs I would get them help.

S. 2129

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. WYDEN. Mr. Speaker, today we stand ready to send a bill to the President that will give consumers some immediate relief to the high cost of liability insurance. I would like to commend the efforts of the gentlemen from New York and New Jersey for all their hard work in getting us to this point.

This self-help measure provides nurse/midwives, truckers, restaurant owners, child care centers, small businesses and other insurance consumers with the bargaining power they need to cope with the rising cost of liability coverage. The Federal role remains limited in this bill. It doesn't repeal the McCarran-Ferguson Act. It doesn't create any new bureaucracies, and it won't cost the Federal Government anything.

Groups that are priced out of the current market would benefit from this act in two important ways. First, this legislation would give a group sharing similar risks the opportunity to set up their own insurance cooperative. This cooperative would be chartered in one State and be able to operate nationwide under one set of rules. Because the establishment of an insurance cooperative is beyond the ability of certain groups, this legislation provides a second option. This second option would allow a group of insurance consumers with similar risks to pool their buying power and form a purchasing group that could find group coverage with an insurance company. This is very important because members of these groups will be able to obtain more favorable terms, rates, and conditions of liability coverage on a uniform group basis. Both of these options would give insurance consumers greater leverage in the marketplace.

There has been some discussion about whether this legislation sufficiently protects consumers. In fact, State insurance commissioners will have more tools to protect consumers in a risk retention group under this bill than they do under more traditional forms of insurance. These consumer protection measures are not meant to be used to arbitrarily frustrate the formation and operation of risk retention and purchasing groups. Under these provisions, a State should be able to protect the public without unduly hindering the operation of these groups.

The subject of financial responsibility has been given special attention in this legislation. This legislation is not meant to undermine the ability of a State to set standards of financial responsibility as a condition for obtaining a license or permit to do business or perform a service in a State. However, this provision does not provide States with the authority to inhibit the formation of risk retention or purchasing groups. As stated in the House committee report, any such discriminatory use of State authority would be contrary to the intent of this legislation.

I would like to comment briefly on one of the provisions added by the other body. Section 11(c) of the legislation before us seeks to establish a rule of interpretation with regard to this legislation and a similar provision on Pollution Liability Insurance included in the Superfund Amendments and Reauthorization Act of 1986. The intent of section 11(c) appears to amend the recently passed Superfund bill so as to have the provisions of this legislation prevail where there may be a conflict.

Frankly, I do not believe this provision accomplishes that objection. It is a well-established rule of statutory interpretation that where two statutes address a single issue, the one which is most recently enacted will prevail. Similarly, it is impossible for this statute—should it be enacted before Superfund—to amend a new Superfund bill which is not yet enacted. Regardless of the provision in this statute, when the President signs that subsequent act—should it take place in that order—the subsequent measures will be enacted as the President signs it.

I hope that the President promptly signs the Superfund amendments which were passed yesterday by the House, and that this issue does not arise.

However, if the circumstances occur as I have suggested, let there be no mistake that those in this body do not believe that section 11(c) will have any effect.

All of us have in our districts businesses and people who provide services are still having trouble finding liability insurance. This lack of affordable liability insurance is endangering key sectors of the economy. Tourism and outdoor recreation are vital industries to the economy of Oregon. Yet recreation outfitters and other such groups in my State are hard-pressed to find affordable insurance coverage for their outdoor recreation activities on public lands. Obtaining permission to conduct these activities on public lands often requires liability coverage. This legislation will provide this group with an important alternative when seeking to find this necessary insurance.

This legislation is no cure-all, but it's a strong step in the right direction. Our constituents have demanded that Congress act. Let's send this bill to the President for signing.

MEDICAL SERVICE PROGRAM OF INDIANA COUNTY, PA

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to a volunteer, nonprofit service organization located in Indiana County, PA, which has helped provide hundreds of umemployed individuals with low cost or no cost health care. The Medical Service Program of Indiana was initiated in late 1984 and has served well over 1,600 people in less than 3 years. The program was started to expand the range of health care available for those individuals who cannot afford to pay for health care, and who have no health care plans of their own. The Medical Service Program has recruited many local physicians, dentists, optometrists, and pharmacists who provide services at a minimal cost. It also acts as a referral agency, directing those individuals who need medical treatment to the proper sources of care and publicizing the availability of such care to the unemployed of Indiana County.

For the past 3 years this remarkable nonprofit organization has existed solely through the generosity of the Indiana County commissioners' annual donation and donations from a variety of other local sources. It has operated on a shoestring budget of less than $6,000, mostly due to the dedication of its director, Mr. Gary Lefevbre. This young man, unemployed initially himself, has worked thousands of hours to help the unfortunate of Indiana County. His strength and perseverance has been a shining light which has led many others to help as well.

Mr. Speaker, I want to offer my sincerest and deepest thanks to these courageous individuals of Indiana who have shown through their kind deeds and actions that the proud people of Indiana County do care for their own. I salute them and hope that one day the terrible malady of unemployment will be erased from Indiana County forever.

PTO AUTHORIZATION

HON. ROBERT W. KASTENMEIER.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. KASTENMEIER. Mr. Speaker, during House floor debate on H.R. 2434—to authorize appropriations for the Patent and Trademark Office in the U.S. Department of Commerce, a concluding paragraph was not printed in the daily edition of the CONGRESSIONAL RECORD (October 2, 1986). Due to the importance of this paragraph, I have made the necessary correction in the permanent record. In addition, I would like to share it with my colleagues before enactment of the reauthorization legislation.

The text of the paragraph follows:

Mr. KASTENMEIER. The overall agreement is made contingent on three further policy factors. First, the appropriation/user fee percentage for funding automation—70/30 percent—in no way sets a precedent for future authorizations. It may be that either less or more user fees will be used to fund automation in the future. Second, the compromise clearly proceeds on the assumption that automation of the Patent and Trademark Office operations should proceed. Finally, the Office's retention of user fees—or "back door" spending—must be carefully examined in the next authorization. What needs to be scrutinized is is not charging fees for certain activities, but whether fees can be retained by the Office, and how fee decisions are made in the public interest.

TRIBUTE TO THOMAS P. O'NEILL, JR., SPEAKER OF THE HOUSE

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. BURTON of California. Mr. Speaker, as the time approaches for Speaker O'NEILL's retirement, I want to add my comments to the host of accolades that will accompany him as he departs these Halls. Although our Speaker seeks retirement from this office, the wisdom and humanity that have graced his tenure as Speaker will always remain here with us as the outstanding hallmarks of his service to the Nation.

The very special friendship and concern he has shared over the years, and particularly during my term in the Congress, will always be valued and remembered. The "Boys at Barry's Corner" are testimony to the enduring friendships he has sustained with so many. "TIP" has never forgotten his roots and we will never forget his big heart and good will.

The compassion and concern he has demonstrated toward those who are less privileged and outside the mainstream of luxury are the monuments that will remain in our memories. The legacy "TIP" imparts to our world is a lifetime of caring and that of a great Speaker.

May I extend to "TIP," and to Millie, my very best wishes as they begin this new chapter and my sincere hopes for happy and fulfilling days ahead. We will miss you, "TIP."

IRRESISTIBLE OFFER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MONTGOMERY. Mr. Speaker, the Army has once again demonstrated its commitment to the new GI bill. The active duty side of the Army has already shown this new Educational Assistance Program is a very effective recruitment tool and the Army continues to do the job. Now the Army National Guard is coming on strong by using great creativity in publicizing the new GI bill program (Chapter 106 of title 10, United States Code) available to the Guard and Reserves.

Designed by Col. C.E. Rhodes, Chief of the Army Personnel Division, the Army Guard is distributing wallet-size information cards which describe the benefits available under the Chapter 106 Program as well as eligibility requirements for participation. In bold letters on the front of the card appear the words "irresistible offer." What young person would pass by and not investigate this bold assertion? I have no doubt that a great many high quality young men and women will join the Army Guard as a direct result of reading this informative card.

I want to extend my congratulations to the Honorable James Webb, Assistant Secretary of Defense for Reserve Affairs, Maj. Gen. Stuart H. Sherman, Jr., Deputy Assistant Secretary of Defense for Reserve Affairs, Lt. Gen. Emmett H. Walker, Jr. (retired). former Chief, National Guard Bureau, Maj. Gen. Herbert R. Temple, Jr., Chief, National Guard Bureau and Brig. Gen. Richard Dean, Acting Director, Army National Guard. The support that all of these individuals are showing for the new GI bill is encouraging to those of us who worked so hard to establish this vital, needed program.

LAURA JOY WITTENBERG CELEBRATES BAT MITZVAH

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. BERMAN. Mr. Speaker, on November 8, 1986, Laura Joy Wittenberg will celebrate her bat mitzvah at the Brandeis-Bardin Institute. Before her parents, Richard and Joyce Wittenberg, family, friends, and congregation, Laura will be taking her place as an adult member of the religious community. The ceremony will include Laura's recitation from the Torah and her personal statement reflecting on her life and studies thus far and how she perceives her place in future society.

When I hear of children like Laura, I am optimistic about our future. I know from Laura's father that she is the kind of child that is going to make a positive difference in this world. Her beauty, intelligence, and concern for her fellow human beings will allow her to achieve much. I have no doubt that she will succeed in the sense of personal accomplishments, but also in the sense that she will make substantial contributions to society.

It is my honor to wish Laura success and happiness on this important day; and to the entire Wittenberg family mazel tov. May Laura and her brothers David and Kevin always be a source of pride.

PERSONAL EXPLANATION

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. DANNEMEYER. Mr. Speaker, unfortunately due to a previous commitment in my congressional district, I could not attend the session on Tuesday, October 7, and subsequently missed four votes. Had I been present I would have voted:

"Yea" on rollcall No. 434, final passage of H.R. 5445 as amended, to amend chapter 96 of title 18, U.S. Code pertaining to civil RICO;

"Nay" on rollcall No. 435, final passage of House Resolution 2880, as amended, to provide a temporary extension of the interstate transfer deadline for the H-3;

"Yea" on rollcall No. 435, final passage of H.R. 5215, to authorize construction by the Secretary of Agriculture of a salinity laboratory at Riverside, CA; and

"Nay" on rollcall No. 437, final passage of H.R. 2868, to settle Indian land claims in the town of Gay Head, MA.

TRIBUTE TO HANS H. DOE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. PACKARD. Mr. Speaker, Mr. Hans H. Doe, a Vista, CA resident since 1946, will be retiring from the board of directors of the Metropolitan Water District of Southern California on October 20, 1986.

Mr. Doe has served the water community of California faithfully for over 35 years, the last 27 years of which he served continuously as a member of the MWD board representing the San Diego County Water Authority.

Some of the projects of benefit to San Diego County during his tenure include the construction of the State water project at a cost of over $2 billion, construction of Lake Skinner and its Robert A. Skinner Treatment Plant at a cost of over $30 million and, most importantly, the development of a water system allowing MWD to deliver an ample supply of imported water to nearly 13 million persons in the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, and San Diego.

Mr. Doe started this extensive water career in 1950 on a "temporary" basis—the rest is history.

I would like to salute the outstanding accomplishments of Mr. Hans Doe and his wife Margaret. It is through dedication to service, foresight, and long-range planning that the citizens of San Diego County enjoy the fruits of his labor.

MAY THE MEETING IN ICELAND PRODUCE AN EXIT VISA FOR IDA NUDEL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mrs. SCHROEDER. Mr. Speaker, in the spirit of the approaching meeting between President and Chairman Gorbachev in Iceland, I wish to remind my colleagues of the situation of Ida Nudel. I hope that the efforts of the President to discuss humanitarian issues will lead to an exit visa for this courageous woman.

For 15 years, Ms. Nudel has been seeking an exit visa so that she may join her sister, Ilana Fridman, in Israel. She has assisted other refusniks and their families. For her efforts, she has been denied an exist visa repeatedly, treated violently, arrested, tried, and sentenced to exile in Siberia, where she lived for 4 years. While there, she was beaten and then housed in a barrack lacking electricity, water, and heat at a time when temperatures dropped to 40 degrees below zero.

When Ms. Nudel returned to Moscow, she was not allowed to live in her home. It is often difficult for refusniks to find a place to stay, so it took her several months to find a place in Bendery, Moldavia.

I am very concerned about the conditions under which Ms. Nudel is living now. Recent reports indicate that the way she walks and looks show that her health is very poor. She has been harassed in her efforts to obtain medical care. Her sister has told us that people are afraid to be her friend and that she is very lonely.

I hope that the Soviet Union will take the humanitarian route and give Ms. Nudel an exit visa soon so that she may be reunited with her family.

TRIBUTE TO LOTTIE MASSIE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. HUBBARD. Mr. Speaker, I would like to pay tribute to Lottie Louise Robinson Massie of Hopkinsville, KY, who died Saturday, September 13, 1986, at the age of 75.

Lottie Massie was a dear friend to many in Hopkinsville and western Kentucky. A native of Hopkinsville, she was the daughter of the late Frank and Addie Merriweather Robinson. She was a retired schoolteacher, having taught for 24 years in the Christian County school system at Booker T. Washington and Indian Hills elementary Schools at Hopkinsville. In addition, she taught at an elementary school for 5 years in western Tennessee.

Mrs. Massie was a longtime active member of the Virginia Street Baptist Church in Hopkinsville, spending many years teaching Sunday school classes there. She was also very active in her community, having performed volunteer work for the Pennyrile Museum, the Red Cross, and the Medco Center Nursing Home.

Survivors of Lottie Massie include a son, Daniel Frank Massie of Louisville, KY; a daughter, Vivian Hicks of Hopkinsville; a brother, Milton Robinson of Ripley, TN; three sisters, Gladys Bronaugh and Sarah Cruce, both of Indianapolis, IN, and Piccola Bundrent of Louisville; and three grandchildren. Her late husband, John Daniel Massie, predeceased her in 1977.

Lottie Massie was a great asset to Hopkinsville and Christian County, and she will be missed for years to come.

My wife Carol and I join with the many friends of this outstanding Kentuckian in extending our sympathy to the family of Lottie Massie.

TRIBUTE TO THE PAYNE CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. LELAND. Mr. Speaker, I would like to take this opportunity to pay tribute to the Payne Chapel African Methodist Episcopal Church in Houston, TX. The church will be celebrating its 100th anniversary during the week of October 12, 1986.

The theme of this celebration is "A Salute to 100 Years of Victorious Christian Service" and is a fitting tribute to the history of Payne Chapel. From the time of the church's founding in 1886 on the 1500 block of Hill Street in Houston, the church has been an active, progressive force in the community.

The guiding spirit which led to the founding of Payne Chapel originated in a group of black members of a segregated church in Philadelphia. They left that institution in 1787 and inspired the founders of Payne chapel 100 years later.

Today, under the leadership of Reverend Arthur J. Bundage, the church's members continue to be active participants in the community. I commend Payne Chapel African Methodist Episcopal Church for its years of service to Houston, and I congratulate the church and its members on this, their 100th anniversary.

PRICE-ANDERSON ACT: LEAD-OFF ISSUE FOR 100TH CONGRESS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. MARKEY. Mr. Speaker, yesterday, I addressed the House on the apparent demise of the Price-Anderson Act renewal legislation for this year. I find it unfortunate that the House was unable to debate the Price-Anderson renewal bill before adjournment since current law is so inadequate in providing coverage to victims of nuclear accidents.

Today, I want to make sure that all Members understand where we stand on this legislation. The Price-Anderson Act expires on August 1, 1987. In other words, the 100th Congress will have a full 7 months in which to renew and improve the Price-Anderson Act. Given the enormous amount of time and effort invested into the issue this year, I expect the 100th Congress will act with dispatch to pass this legislation.

The major issues left unresolved by the committee consideration of this bill are few, albeit significant. Unfortunately, it was the opinion of the Rules Committee that the unresolved issues were not few enough to let the bill go to the floor this year at this late date in the schedule. Nevertheless, I expect this legislation, or similar legislation next year, to be considered under an open rule and resolved in a relatively short time period early next year. As we all know, the beginning months of a new Congress are not overflowing with legislative activity. I am confident that there will be ample time in the spring of next year for Congress to fully debate and appove Price-Anderson renewal legislation.

As chairman of the subcommittee which has wrestled with this issue for 5 months, and as a member of both of the committees with jurisdiction for commercial nuclear accident liability, I can assure all Members that this issue will be the first item on the nuclear legislative agenda next year. Renewal of Price-Anderson is very very important to the nuclear industry, and it is very important to those citizens living near nuclear powerplants. There will be a substantial amount of pressure from both of these constituencies for the 100th Congress to move swiftly to renew this legislation. The Congress next year will not shrink from that responsibility. There will be a Price-Anderson renewal bill considered by the House before the summer next year, and I plan to work with all my colleagues to insure that a strong Price-Anderson bill is enacted well before the August 1, 1987, expiration date.

TEMPLE EMANU-EL

HON. DON EDWARDS

OF CALIFORNIA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. EDWARDS of California and Mr. MINETA. Mr Speaker, we would like to ask you and our distinguished colleagues to join us in saluting Temple Emanu-El in San Jose, CA, as they celebrate their 125th anniversary in Santa Clara County.

In 1861, the population was sparse in the Santa Clara Valley, but there was great promise for growth because gold had been discovered in the Sierra Nevada just 12 years before. Many people were lured to leave their homes in Europe and the Eastern United States to seek their fortunes in commerce and trade. On August 5, 1861, a meeting was held to organize a Hebrew Society in San Jose, CA. The officers of this fledgling congregation were Jacob Levy, president; Jacob Rich, vice president; Morris Lubliner, secretary; Solomon Eisner, treasurer; Mayer Levy, L. Morris and Hyman Rich, trustees.

The name Bickur Cholim, meaning visiting the sick, was adopted and the purpose of this society was threefold: First, it was to establish a house or worship; second, it was to provide care for the sick and needy; and third, it was to provide a consecrated burial place.

In 1863, a land search and building campaign was formed so that Bickur Cholim could have its own site. And in August 1870, their first facility was dedicated at San Antonio and Third Streets. The synagogue prospered, but remained small. In 1940, the 70-year-old synagogue was forced to close due to an unexplained fire. Following the fire, numerous churches loaned the congregation their facilities. During this time, the congregation began to grow, in step with the burgeoning growth of the Santa Clara Valley.

In 1948, the new building became a reality and Bickur Cholim became Temple Emanu-El, meaning God Be With Us. The new facility was completed and opened its doors at University and Myrtle Street.

From 1948 to 1961, Temple Emanu-El saw unprecedented growth as families came from Europe and the Eastern States, not unlike the original influx of settlers. But it wasn't commerce and trade which lured them here to the Valley of Hearts Delight, rather the space and engineering industry. In 1955, the Temple

House was completed, and in 1958 the school building was dedicated.

Membership reached more than 1,000 families, and over 600 students filled the school in 1971. In 1976, the school was renamed the Rabbi Joseph and Rosalie Gitin Religous School in honor of their then-retiring Senior Rabbi and his wife.

Throughout the years, the leaders of the temple have distinguished themselves in the community and the surrounding cities have always recognized the value of their leadership. Business and industry have also recognized the special talents of Temple Emanu-El members, and a number of businesses which were established in the 19th century by its early members still bear those illustrious names.

Therefore, we ask you, Mr. Speaker, and our colleagues to join us in honoring and celebrating the 125th anniversary of Temple Emanu-El. We sincerely hope the next 125 years of achievement will match the first 125 years.

INTELLECTUAL PROPERTY AND TRADE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1986

Mr. KASTENMEIER. Mr. Speaker, intellectual property and trade issues are now a dominant part of our policy discussions. Without question, the American creative genius has been nurtured by strong legal tradition of protecting the property rights of intellectual property owners. As we undertake a discussion of these issues my colleagues may benefit from two recent articles from the New York Times. These articles articulate why this issue is no complex.

[From the New York Times, Oct. 5, 1986]

COPYRIGHTS ARE AS VITAL AS MERCHANDISE

(By Elliott Hurwitz)

Itaewon, a sprawling commercial district in South Korea's capital of Seoul, is a bargain-hunter's paradise. In shops and on the streets, vendors hawk audiotape cassettes for $2.50—before any bargaining starts. Authenic-looking Louis Vuitton handbags are $12, and Gore-Tex running suits, which sell for $150 in the States, go for $45. The standard price for all types of Reebok athletic shoes is $10. The major constraint facing shoppers in not paying for, but physically carrying, all the products they would like to buy.

The products sold in Korea, as in many other Asian and Latin American countries, are frequently counterfeits—illegal copies of popular branded merchandise. Some may be of poor quality, but most seem to be well made and cannot be distinguished from the real thing. Some may indeed be the real thing: Many foreign companies have their goods made in Korea, and local factories can easily turn out extras.

In Korea and many other Asian countries, however, all this may be changing, as their governments move to strengthen the protection afforded to "intellectual property." Specialists use this term to denote a wide range of goods and services, including branded merchandise and patented products, as well as creative work, such as books and movies.

Degrees of permissiveness vary among countries. In some, protection may be adequate for patented products, but weak for new technologies or services such as semiconductor chips, computer software, data bases, or telecasts. And in other countries, formal legal protection may be sufficient, but enforcement lacking.

In an encouraging move last July, Korea, settling a trade dispute with the United States, said that it would submit strong legislation to its National Assembly to increase the protection given to sound recordings and computer software. Additional legislation will be submitted extending patent coverage to numerous chemical and pharmaceutical products currently unprotected. Enforcement of copyrights is to be strengthened, and Korea will study the feasibility of extending protection to data bases, computer chips, and cable and satellite television broadcasts. Finally, Korea has said it will also join certain international intellectual property conventions.

The Korean agreement stands as a benchmark in the acceptance of intellectual property protection as a major trade issue. As the agreement is carried out, it will dramatically improve the protection afforded to those specific products and services in which the United States has a strong competitive advantage.

While Korea has taken the lead, other Asian nations are moving to strengthen protection as well; in Singapore, a copyright bill is working its way through Parliament; in Indonesia, officials have said they will submit such a bill later this year; in Malaysia, the parliament is considering a proposed copyright law.

Violation of intellectual property rights is by no means limited to Asia, however. There have also been reports that signals from satellites owned by American cable companies have been captured and illegally retransmitted on cable system in Central America. The cable operators then charge their subscribers for the signals they acquire for free.

As the American comparative advantage in the manufacture of many goods has declined, the Reagan Administration has insisted that creative or artistic products where we still have an important edge—in computer software, music cassettes, or Hollywood films, for example—be protected from piracy. In bilateral negotiations, officials have made it plain to our trading partners that we are unwilling to tolerate illegal copying of our branded merchandise while we maintain complete protection for their goods and open markets for their manufactures.

At the same time, the Administration has often met resistance from nations where protection of intellectual property may not be part of the prevailing culture. Until recently, many overseas governments were unwilling or unable to crack down on illegal duplication of products. In this context, it is significant that Korea agreed to strengthen the protection afforded to precisely those products in which the United States has a strong advantage.

More important, however, our trading partners have come to realize that protecting intellectual property affords them important benefits. For example, effective patent protection is a strong incentive to foreign technology owners to license products or participate in joint ventures in countries like Korea. Such ventures can provide a strong stimulus to developing economies. Fundamentally, stronger intellectual property protection demonstrates a nation's commitment to integrate itself more fully into the world trading system and to undertake the obligations, as well as receiving the benefits, of this system. No nation wishes to be known as a haven for counterfeiters.

The trend toward stronger protection of intellectual property is likely to continue. The need was one focus of the new trade round discussed recently by trade ministers at the conference of the General Agreement on Tariffs and Trade in Uruguay. This round will not only reduce tariffs on manufactured goods, as has been done in the past, but is also expected to reduce obstacles to trade in agricultural products and services. The move toward inclusion of intellectual property in the new trade round recognizes the emergence of this issue as one of considerable importance to the world's major trading powers.

A HIGH COST TO DEVELOPING COUNTRIES

(By Kyung-Won Kim)

Last July 21, the Republic of Korea agreed with the United States to increase its protection of patents, copyrights and trademarks. The negotiations were difficult, in part because the changes were widely viewed in Korea as having been won by the economic power of a large country from a smaller one. The United States claimed that Korea must change its intellectual property rules in order to insure international norms of fairness.

The Korean public, however, remembers that the United States was not as preoccupied about fairness when it enjoyed a trade surplus with Korea, a situation that lasted for nearly 40 years only ended a few years ago. And today, more than one-third of Korea's annual exports to the United States are covered by such import restrictions as quotas, excessive "dumping" margins and repetitious "temporary" relief measures.

Historically, Koreans have not viewed intellectual discoveries or scientific inventions as the private property of their discoverers or inventors. New ideas or technologies were "public goods" for everybody to share freely. Cultural esteem rather than material gain was the incentive for creativity.

The development of patent and copyright protection in Korea is similar to what has happened historically in other developed nations. Patent and copyright protection is provided by a country only when it has intellectual property that needs to be protected, that is, when its inventors and artists are close to catching up with the state of the art in their fields.

When that happens, patent, copyright or brand-name protection becomes an incentive to further research and production—whereas, in an early stage such protection had been an obstacle to obtaining techology.

This process was characteristic of other countries exhibiting rapid development, including the United States. Korea, in fact, has agreed to protect intellectual property at a far earlier stage of industrialization than either the United States or Japan. Many early American writers were never able to collect royalties on their works because there was no copyright protection.

In the 19th century, the United States often recruited skilled foreign workers who could bring new, sometimes secret, technology with them. The recent agreement between Korea and the United States is far superior to the record of any similar developed country.

Innovation and technology "diminish gradually the real price of almost all manufacturers," as Adam Smith wrote. To encourage this creation process, societies provide incentives; patents and copyrights. But, patents and copyrights can also create obstacles to development. They grant monopoly power to discoverers and inventors.

The exercise of monopoly power, in almost all cases, results in much higher prices and, thus, less use of ideas, designs, and productive techniques by the world. A critical problem for poor developing countries is drastic price increases in such necessities as processed food, prescription drugs and textbooks.

In recent years, the increase in real interest rates has driven up the relative real price of patents and placed a further damper on developing-country growth where patents are enforced. Scholars may argue about exactly how much enforcement drives up the price of technology, but the historical record is clear; developing countries have rarely paid the price in the past.

As its economy has grown, Korea has become sensitive to the value others place on protecting the property rights of inventors, artists, and the manufacturers of brand-name products. The protection of intellectual property rights is, however, only a part of the effort that Korea has made to integrate its economy into the industrialized world.

The first steps were taken in the late 1970's when Korea, despite a chronic current account deficit and a large foreign debt, began removing controls that limited imports well before the United States began pressing Korea to open its economy.

Today, more than 92 percent of the different products traded internationally can be freely imported, a record unmatched by any developing country with a per-capita gross natonal product of only $2,000. Also, Korea has started to open up industries to foreign investment that had previously been closed or restricted. Foreign banks provide services through 50 branches operating in Korea; 20 of them from the United States.

Still, some Americans argue that Korea should make more rapid changes. They fail to recognize that opening industrial and financial markets and fully protecting intellectual property require our companies and workers to adapt to major changes. This takes time.

A sudden, comprehensive liberalization of the Korean economy woud cause Korea to plunge into a deep recession. Failure to take that into consideration threatens the Korean political consensus in support of free and fair trade.

Korea remains committed to free and fair trade and is moving as fast as economic conditions and political support permit. It is one of the few developing countries that has supported the United States in its call for a new GATT round designed to dismantle growing protectionism in world markets. Korea believes that its record deserves better recognition than it has received.

NEED TO ASSURE SAFE USE OF ARTIFICIAL GROWTH HORMONE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. WAXMAN. Mr. Speaker, today I am introducing H.R. 5695, a bill to assure the appropriate and safe use of artificially produced growth hormone.

Mr. Speaker, this bill would have the same effect as H.R. 5653, which I introduced on October 6, but includes the addition of a provision delaying the effective date. My remarks in the RECORD concerning H.R. 5653 certainly apply to this bill as well. I would only add that there is substantial support in the sports medicine community for placing human growth hormone into schedule II of the Controlled Substances Act.

A recent article in the August 10, 1986, Washington Post notes that a number of physicians, including the chief medical officer for the U.S. Olympic Committee, favor making this hormone a controlled substance. Action is urgently needed to prevent this important medication from becoming abused by athletes, anxious or pushy parents, and unprofessional physicians.

Classification of artificial human growth hormone as a schedule II substance would in no way limit the proper use of this drug, nor would it inhibit necessary research. It would, however, provide appropriate safeguards against the deliberate and potentially life-threatening abuse of this product.

Mr. Speaker, I ask my colleagues to join with me in taking this small step to protect the public while scientific research continues on the safety and efficacy of using artificially produced human growth hormone.

Without objection, I ask that the following article entitled: "Growth Hormone Proves To Be Tempting for Athletes" from the August 10 Washington Post be printed in the RECORD at this point.

GROWTH HORMONE PROVES TO BE TEMPTING FOR ATHLETES

(By Dave Sell)

"And there seems to be little doubt, therefore, that chronic administration of exogenous human growth hormone also will produce a human giant, and perhaps a giant athlete with gargantuan abilities!"—Dr. William N. Taylor.

The use of anabolic steroids has been a fact of life for some athletes for more than a decade, but in the last few years something new has found its way into the medicine cabinets. The substance is human growth hormone, and it has some athletes and physicians convinced it could lead to a world in which sprinters run the 100 meters in less than eight seconds and 308-pound William Perry is too small to play professional football.

Human growth hormone is used almost exclusively to treat children suffering with dwarfism, a condition that occurs when the pituitary gland fails to produce enough of the hormone naturally. Only since October, when a mass-produced synthetic form of the hormone was approved for use, has it begun to be used in research.

Those athletes using it, doctors say, are under the impression that they will gain height (depending on their age) and lean muscle mass and will better utilize fat. Athletes, who obtain growth hormone mainly through the black market, are also attracted to it because, as of now, there is no test to detect it.

Still, because there has been no definitive research completed on the hormone's effects—beneficial or harmful—there is considerable disagreement among doctors and others close to the issue as to whether there is any beneficial effect for athletes.

Some are convinced that use of growth hormone could lead to the day that, instead of cheering for The Fridge, fans would be yelling for three-bedroom colonials. Others aren't so sure. And a number of experts say they think growth hormone should be classified as a controlled substance until those questions are answered.

Taylor, a Tucker, Ga., physician with an emphasis on sports medicine, has studied and written about the misuse of steroids and growth hormone by athletes. Of growth hormone he said, "I'm convinced it will enhance height and muscular strength."

YOU CAN'T TRUST ATHLETES

"There's no question that it's been used by a lot of athletes," said Terry Todd, a former power lifter who is a professor of physical education at the University of Texas, where he was the host of a seminar on the subject earlier this year.

Taylor attended the seminar, as did Robert B. Kerr, a southern California physician who said he has prescribed growth hormone for about 100 athletes, though not in the last two years; and Don H. Catlin, chief of clinical pharmacology at UCLA Medical Center and director of drug-testing during the 1984 Los Angeles Summer Olympics, who said he would never prescribe growth hormone for athletic performance reasons.

"I don't think the use of growth hormone is a widespread problem in the sense of anabolic steroids," Catlin said. "Sure some have tried it to see, but the magnitude is probably low. I don't know that, but I deduce the amount is low because I've talked to athletes one on one and . . . I asked them, and some would say, 'Well, maybe, I tried it but it doesn't work.'

"I'm not surprised that it doesn't; though, again, it's not knowing the facts. But the amount taking it is really quite small. In my opinion, which comes from my knowledge of internal medicine, endocrinology and the study of growth hormone, I don't see any beneficial effect. The only evidence is Dr. Kerr's articles in muscle magazines and anecdotes. I know of no scientific evidence that it works. But I also know of no evidence that it doesn't work.

Kerr said the hormone is used extensively in Europe and "I believe it is an anabolic agent." He said he no longer prescribes it because athletes, particularly body-builders, don't follow his instructions.

"I used to think that because so many were taking black market anabolic steroids that, if the physician gave a little guidance and said to them that a little will give them the gains they want without taking the other things, it would be better," Kerr said, "But they take what I prescribe and supplement it with five or six other things. I've changed my mind. You can't trust athletes."

The possible side effects include diabetes, hypertension and a condition known as acromegaly. The condition, which results from an oversupply of growth hormone, can leave a person with Neanderthal-like facial features, larger hands and feet, thicker skin, heart disease and shorter life expectancy.

Kerr said that the amounts he gave were small.

"When you take large amounts, you're going to see acromegaly," Kerr said. "What I was using in adults was one-fifth of what they use in a 8- to 10-year old."

Normally, growth hormone is produced by the pituitary gland and is responsible for

triggering growth, either directly or by activating other chemicals in the body, during the growth years which end at about age 17. However, the Human Growth Foundation, located in Bethesda, estimates that in the United States there are 10,000 to 15,000 children whose pituitary glands don't produce enough of the hormone. If the disease, referred to as dwarfism, isn't treated, the children may reach adult heights of substantially less than five feet.

INFECTION A DANGER

Until the synthetic human growth hormone was approved for use by the Food and Drug Administration, the only source of the hormone was through extraction from the pituitary glands of human cadavers. And, according to the company producing the synthetic hormone, it took 50 human cadavers to keep one child supplied with the hormone for one year. That meant two things: a) the supply was extremely low and b) the cost was extremely high, upward of $20,000 a year. However, in the spring of 1985, the natural hormone was taken off the market when it was linked to four deaths from Creutzfeldt-Jakob disease, an extremely rare brain infection.

But the purity problem and the supply barriers may be lessened now that Genentech Inc. of South San Francisco has been allowed to market its synthetic human growth hormone, which has a trade name of Protropin.

Although the greater supply will mean a happier future for children with dwarfism, it also will increase the likelihood that the hormone will find its way to athletes through a doctor's prescription or the black market.

A Genentech spokesperson, acknowledging the possibility of misuse by athletes, said the company will distribute the synthetic hormone only through hospital pharmacies to about 500 pediatric endocrinologists and 500 adult endocrinologists who also treat children. The spokesperson added, "There is no clinical study that indicates any advantage to an adult in taking growth hormone."

Because of the short supply, and the ethical problems involved with doing tests on humans, there has not been a thorough scientific study done to measure what effect human growth hormone has on normal adults or normal children, and what the side effects are for those two groups. That leaves only anecdotal evidence, theory and more questions than answers.

"It's not okay to make superficial dogma based on no research," Taylor said. "It gets you into trouble every time." He proposes that the hormone be registered as a controlled substance. Currently, human growth hormone is available through prescription.

PARENTS WANT AN EDGE

Even with all the questions, Dr. Rebecca Kirkland, a professor of pediatrics specializing in endocrinology at Baylor University, said she gets several calls a week from parents inquiring about growth hormone for their children.

"They think the growth hormone will give their child an added advantage," said Kirkland, who added that she usually persuades them to simply wait.

Not all parents are so easily persuaded. Taylor recalled the father of a 16-year-old, 6-foot-6 basketball player coming into his office with his own supply of growth hormone.

"The father came in and said, "How much do I give him?" Kerr said. "He had obtained it from a Florida health club."

As more companies produce the synthetic hormone, Taylor thinks it's "only a matter of time" before it becomes readily available to athletes.

Said Kerr: "When you have an overabundance, there is a greater likelihood of it getting on the black market. There's also a lot of fake products on the black market, and people pay fantastic prices for them."

Taylor, Todd, Kerr and Dr. Robert Voy, chief medical officer for the U.S. Olympic Committee, favor making the hormone a controlled substance.

"The drug ought to be controlled to give research scientists five to 10 years to work with it," Taylor said. "We have no clue what it really does. It does have potential to increase height and the potential for abuse. If a doctor is willing to write down the [Drug Enforcement Administration] number for a drug, he's saying it's for a legitimate purpose. Now, if he wants to write it for 50 athletes . . . it's like penicillin—it's difficult to follow."

Dr. Richard P. Bowles, a family practitioner with an interest in sports medicine, would like to see human growth hormone classified as a Schedule II controlled substance. Schedule II, the second-most tightly controlled of the five classes, includes cocaine. (Schedule I includes drugs such as heroin for which there is no acceptable medical use, according to the DEA.)

TRACKING SCHEDULE II DRUGS

Substances on Schedule II cannot be prescribed by phone, cannot be refilled, must be stored in a vault or safe and must be carefully recorded. The DEA also has a computerized method for tracking Schedule II drugs. Misuse of a controlled substance can bring stiff criminal penalties and, depending on the classification, can include physicians losing their licenses if the substance is prescribed illegitimately.

"It is both wonderful and fearsome," Bowles said of the hormone's capabilities. And of the effort to have it controlled, he said, "That way it would still be available and it still can be prescribed. But it can give a severe sting for abusers, enough so that the use in that regard would be curtailed."

Dr. John Gueriguian, an FDA supervising medical officer who was involved with the Genentech case, said, "We have to count on the medical integrity of the doctors who should prescribe it for legitimate purposes. People would have to be immensely stupid to take it if they didn't need it. It doesn't work [to build muscle], it costs too much, it's detrimental to yourself and may be illegal."

Others aren't so sure that will keep all athletes from trying it.

"We'll bury our heads in the sand and forget about it," Taylor said. "It's a major cancer in the fitness revolution. It's only been since '84 that the medical profession said steroids were effective. Before that we said it was a placebo. That is the most ridiculous scenario and it got us into the problem with steroids, and I think it's unprofessional—hear no evil, speak no evil, see no evil, and don't stir up any trouble."

Said Todd: "It's somewhat similar to the position people took on anabolic steroids until they became laughingstocks."

Like steroids, the use of human growth hormone is one more attempt at better performance through chemicals.

"That tells you about the value system and competitive motivation of some athletes," Todd said. "They want to win awfully bad."

FREEZE ON FULLY AUTOMATIC FIREARMS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. STUMP. Mr. Speaker, recently Members of Congress received a letter that misrepresents the issues surrounding the recently enacted freeze on fully automatic firearms. To set the record straight, the freeze was enacted despite expert testitmony that such action would not impact on crime, as it would not address the problem of illegally owned, manufactured and/or converted full-auto-fire weapons.

This past Congress, Bureau of Alcohol, Tobacco, and Firearms [BATF] Director, Stephen F. Higgins, testified before the Subcommittee on Crime that "law enforcement problems are caused by illegally converted machineguns, not legally registered machineguns. We recommend stronger restrictions on conversion parts and against a ban on registered machine guns."

Legally registered machineguns are not a problem. That is a fact made abundantly clear by the 52-year record of lawful machinegun ownership, a record which confirms that no crime has ever been committed by those owners with those guns.

The National Firearms Act was enacted in 1934. It requires the registration of all automatic firearms and the payment of a $200 transfer tax on every firearm acquired. In order to acquire an automatic firearm, a person must be 21 years of age, undergo an extensive background check by the FBI, be fingerprinted and photographed, and have his chief local law enforcement officer approve his application. In the more than 50 years the law has been in effect, there is not one documented instance of any firearm acquired under the NFA being missued in a criminal act. An astounding record, to be sure.

This spotless record has left gun control advocates without ammunition to support the freeze, and they are once again reduced to blaming lawful gun owners for the actions of criminals.

Mr. Speaker, the inaccurate information represented by this letter, a letter which offers no proof that there is an "ever-increasing" problem with lawfully owned machineguns and that contradicts the direct testimony of Federal law enforcement, points up the need for full and fair hearings on this topic. I hope that the 100th Congress will do just that.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. CLINGER. Mr. Speaker, on October 9, 1986, I was absent for one vote on the floor of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 446: Motion to adjourn, the House rejected a motion to adjourn, "no."

KILDEE HONORS GENESEE COUNTY CHAPTER OF THE MICHIGAN TOWNSHIPS ASSOCIATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my distinguished colleagues in the House of Representatives the twenty-fifth anniversary of the Genesee County Chapter of the Michigan Townships Association. The Genesee County chapter will celebrate this important milestone on October 16, 1986.

The Genesee County chapter was founded in 1961 with the intention of helping charter members become more responsive to the needs of their respective communities. By sharing thoughts and information through monthly meetings and education sessions, the members of the chapter have created a better understanding of township government and how it should best operate on all levels. Through the continuing efforts of this chapter, Genesee County has township government that is unsurpassed. Not only is Genesee County township government effective and competent, but it is also compassionate and dedicated to the needs of the people it represents.

By maintaining a direct working relationship with legislators and officials on local, State and Federal levels, the Genesee County chapter has been a valued partner in the creation of implementation of legislation and governmental policy that has been beneficial to the citizens of Genesee County. The Genesee County chapter is concerned not only with those citizens and issues within its immediate jurisdiction, but also those lying in neighboring chapters as well. By effectively participating in such projects as the building and improvement of sanitary sewers, public water systems, emergency services, planning and development, public transportation, and solid waste facilities, the chapter and its members have helped improve the quality of life for all the people in Genesee County.

Mr. Speaker, during the past 25 years, the Genesee County Chapter of the Michigan Townships Association and its members have displayed exceptional leadership and responsiveness to their communities and those around them. I am confident that the great successes of the chapter over the past 25 years will only be surpassed by actions and accomplishments still to come. I would like now to ask all my colleagues in the U.S. House of Representatives to join me in paying tribute to the Genesee County Chapter of the Michigan Townships Association, upon the occasion of its 25th anniversary.

TRIBUTE TO HON. JOHN F. SEIBERLING

SPEECH OF

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. RODINO. Mr. Speaker, I rise to join my colleagues in tribute to a dear friend and one of the finest members of this great body who will retire at the end of this session—the Honorable JOHN F. SEIBERLING of the 14th District of Ohio.

JOHN SEIBERLING was born into a world of privilege. He is the grandson of the founder of the Goodyear Tire & Rubber Co. But despite his great wealth and prominent ties, he has never forgotten those in our society who are not so blessed. If JOHN'S work in Congress could be summarized in one word, it would be compassion. He has consistently championed the needs of the least protected members of our society—the poor, the elderly, the handicapped, minorities, children. For this work, JOHN will be remembered by the thousands of Americans, in his district and throughout the Nation, whose lives he touched. They will remember him as a man of rare decency.

JOHN was first elected to the House of Representatives in 1970. During his 16-year career in the House, he has successfully led efforts to win millions of dollars in Federal funds for businesses, housing, health care, and the arts in the 14th District.

An ardent conservationist, JOHN authored the American Conservation Corps Act to establish a program for hiring America's youth to work to preserve public lands. To give you an idea of JOHN'S commitment to preserving the beauty of the Nation's parks and wilderness areas, consider that a computer printout of wilderness protection bills he has managed is at least 9 feet long!

JOHN was one of the first Members of this body to condemn the insanity of the Vietnam war, and he has continued to be a staunch advocate for peace.

Since 1971, JOHN has been one of the most dedicated members of the House Judiciary Committee, which I chair. His sensitivity and judgment were indespensible during one of our Nation's darkest hours—the impeachment proceedings against President Richard Nixon.

The Judiciary Committee has also benefited from JOHN'S antitrust expertise. Before his election to Congress, JOHN was a successful antitrust lawyer for over 20 years. He has fought to ensure that the Nation's laws governing the merger of big businesses reflect a sensitivity to consumers, employees, and the communities in which firms operate. JOHN has played a key role in the passage of every antitrust law during the last 16 years. The most important antitrust initiative of this era, the Hart-Scott-Rodino Act of 1976, bears the imprint of JOHN SEIBERLING'S counsel and leadership.

He also was a key member of the National Commission for Review of Antitrust Laws and Procedures during the late 1970's, which spawned five crucial antitrust reform measures that passed the House and became law in 1980. More recently, he has helped to shape the National Cooperative Research Act of 1984, the Municipal Antitrust Act of 1984, and the House Vertical Restraints Resolution of 1985.

Throughout this period, JOHN SEIBERLING has steadfastly resisted the cries of special interests for exemptions from antitrust laws. He is, in short, a man with a vision for free enterprise at its noblest and best.

Although I join my colleagues in expressing sadness at the news of JOHN'S retirement, I wish him well in the coming years. His unique compassion, wisdom and commitment will be missed by those of us in the House and in the Judiciary Committee, but his legacy will live on for many years as all Americans continue to benefit from his legislative skill.

PORTUGAL TO HONOR HOLOCAUST HERO

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. COELHO. Mr. Speaker, as the only Portuguese American in Congress, it is with immense pride that I am able to announce that the Portuguese Government will posthumously award Dr. Aristides de Sousa Mendes do Amaral e Abranches its national medal of honor.

After 46 years of repudiation as an insubordinate bureaucrat, Dr. de Sousa Mendes will be rightfully returned to a place of dignity as a hero of the holocaust. You may be aware of the case of Dr. de Sousa Mendes, a Portuguese consular official in Bordeaux, France, who saved 30,000 Jews and others in 1940 by issuing them Portuguese visas so they could flee the oncoming Nazi invasion. Dr. de Sousa Mendes made a decision to save human lives at the risk of his own. Recalled to Lisbon by the Portuguese Government, he was removed from the diplomatic corps. Disgraced and forbidden to practice law, he was unable to make a living and died penniless in 1954.

His family never forgot his sacrifice, and their struggle to erase the damage done to his name, has not been in vain.

I commend the Portuguese Government for giving this issue the consideration it deserved. In particular, I want to thank Prime Minister Anibal Cavaco Silva, President Mario Soares, and Foreign Minister Pedro Miranda for their efforts in "righting" this "wrong."

House Joint Resolution 469, a resolution I introduced earlier this year to pay tribute to Dr. de Sousa Mendes for his selfless effort to save innocent lives, now has nearly 100 cosponsors. In view of Portugal's announcement, and the short time remaining in this session, I will introduce a new resolution next year with the expectation that its approval by Congress will coincide with Portugal's tribute to its newly recognized national hero.

It is my further pleasure to share with my colleagues this article that appeared in the Los Angeles Times.

[From the Los (CA) Angeles Times, Oct. 5, 1986]

FAMILY'S LONG QUEST ENDS HISTORICAL EXILE FOR HERO

(By Doug Smith)

Retired postal worker Sebastian Mendes of Saugus received a telephone call recently that signaled the fulfillment of an aching goal that has possessed him and his brothers and sisters most of their lives.

Theirs was a quest for honor that spanned four decades and followed the children of a Portuguese diplomat as they dispersed throughout the world after World War II. Today, five are dead; the remaining nine are growing gray with age.

They have waited and worked a lifetime for what they sought; the vindication of their father's slandered name.

The call last month brought word from a congressman's office in Washington that they had got it. The Portuguese government had agreed—after 46 years—to repudiate its condemnation of their father as an insubordinate bureaucrat and, instead, to honor him as a hero of the Holocaust.

Aristides de Sousa Mendes do Amarale e Abranches was the Portuguese consul to Bordeaux who defied his own country's orders in 1940 and granted passage out of France to thousands of Jews fleeing Nazi persecution. Some historians have compared his efforts to those of Swedish diplomat Raoul Wallenberg.

De Sousa Mendes paid dearly for his insubordination. Thrown out of the foreign service in disgrace, he died a pauper while the dictator he had disobeyed let others take credit for his good deeds.

Although the rest of the world eventually acknowledged De Sousa Mendes as the proper hero, the government of Portugal never formally erased the taint from his name. But that soon will change, thanks in part to the intercession of several members of Congress.

To celebrate their success, Sebastian Mendes and as many as three of his brothers will gather Oct. 20 at the Simon Wisenthal Center for Holocast Studies in West Los Angeles in a ceremony that will bring together some of the growing circle of friends who helped them.

The Mendes brothers expected to attend were among several of the diplomat's children who, dispossessed in their homeland, scattered to Belgium, Canada and the United States. Four settled in California, raised families. worked at careers, mourned the death of brothers and sisters and finally came to retirement age.

They never forgot.

At first they had used whatever small and ineffective devices they could muster from halfway around the world to rattle Portuguese dictator Antonio de Oliveira Salazar's regime, usually by asking local newspapers to print their story. This accomplished little.

"As long as Salazar was in power, nothing could be done," said the 10th of those children, Sebastian Mendes, 62.

He and his brother Carlos, 64, of Los Angeles had done nothing to ingratiate themselves with that regime. Both were Americans, having been born in Berkeley during their father's tour as consul there in 1943 they abandoned neutral Portugal to join the American Army for the European invasion.

After the war, Sebastian Mendes said, he traveled to Portugal briefly for a last visit with his parents, then ventured to America, where he discovered that his accounts of his father, steeped in European intrigue and retribution, found a no more receptive audience than did his thick accent.

In the 1950s, Sebastian Mendes wrote his father's story in a book, "How a Portuguese Hero Saved Thousands of Jews During World War II."

The book told a story that, although not widely known, has since been confirmed by historians of the Holocaust and Portuguese diplomatic papers.

It begins in Bordeaux in June, 1940, when frantic Jews and other refugees were streaming to the south of occupied France away from the Nazis. Their goal was Lisbon. As the Portuguese consul, De Sousa Mendes found thousands of people seeking visas to cross Franco's Spain on the escape route across the Pyrenees.

Requests for visas were supposed to be cleared by wire through the Portuguese national police, the PIDE. But, according to a later foreign ministry investigation, applicants "Waited in vain" for clearance "unless they had to do with individuals of 'pure race' or blue blood . . . in which case the permits came quickly."

Dictator Salazar had decided to stop issuing visas to Jews, according to the 1976 report of the foreign ministry.

Faced with this moral crisis, De Sousa Mendes chose conscience over obedience. He began issuing visas on demand to all refugees.

In his book "The Redemption of the Unwanted," historian Abram L. Sachar described the ordeal this led to: "Both the streets around the counsel's headquarters and around his home were overflowing with families who clamored for exit visas. De Sousa Mendes took as many into his home as could be accommodated until all rooms, staircases, floors and the roof and basement could hold no more.

"There De Sousa Mendes, his wife and children . . . all helped to prepare the scores of visas which De Sousa Mendes stamped hour by hour through three days until exhaustion compelled him to pause for rest."

Historian Yehuda Bauer called the marathon of visa writing "perhaps the largest rescue action by a single individual during the Holocaust."

Although the number of refugees who received visas from De Sousa Mendes during the three-day period cannot be documented, estimates run as high as 30,000, at least 10,000 of them Jewish.

It was over in three days. As quickly as possible, the foreign ministry sent a replacement to dispatch De Sousa Mendes home. There he was stripped of his diplomatic title, forced into retirement without compensation and barred from practicing his profession of law. He slipped gradually into poverty.

Sebastian Mendes, who was then just 20, remembers that refugees would come to the Mendes house in Cabanas de Viriato in rural Portugal and "applaud my parents in the street."

De Sousa Mendes never renounced his decision, not even in the face of disgrace and poverty. Upon his death in 1954, he was forgotten in his homeland, but not by his children.

Their first real glimmer of hope was not to come until 1967, and then from Israel rather than Portugal or the United States.

Receiving testimony from Jews who escaped through his help, Yad Vashem, the Israeli Martyrs and Heroes Remembrance Authority, placed Mendes among the Righteous Gentiles "who sacrificed their personal security to save the lives of the innocent."

Despite that recognition, the Mendes family found no reception in Portugal, where the Salazar regime was growing ever more repressive. Salazar died in 1970. His regime hung on until the revolution of 1974.

Elisa Joana, one of the Mendes children who remained in Portugal, pressed the new democratic government to reexamine her father's story.

In June, 1976, an officer of the foreign ministry turned in a meticulously documented report concluding that De Sousa Mendes had been illegally punished for an act of insubordination that had ultimately brought recognition to his country.

The author reported that, after the praise had begun to come forth, Salazar still rejected his 1945 appeal for reinstatement and allowed loyal diplomats to take credit for the shepherding of refugees.

The report spoke of the "profound disillusionment" that the Mendes family suffered and recommended that the government immediately consider the posthumous reinstatement of De Sousa Mendes and the "reparation of damages, material and moral, which were unjustly caused by the ministry for foreign affairs."

Today there are conflicting opinions about why those recommendations were not followed. De Sousa Mendes' sons believe that Salazar holdouts in the ministry were able to bury the report.

Luis de Sousa, press counselor at the Portuguese Embassy in Washington, conceded that the case has been "gathering dust," but denied that this was through any ill intent.

The resistance finally began to break last year. Elisa Joana Mendes got the story into the Capital, a Lisbon newspaper. Several American newspapers picked up the story. Then the American Congress stepped in.

Another of Sebastian's brothers, 55-year-old Oakland draftsman John Abranches, was introduced to Rep. PETE STARK (D-Alameda), who read a statement of praise for De Sousa Mendes into the CONGRESSIONAL RECORD.

This spring the story came to the attention of Rep.Tony Coelho (D-Fresno), who said it touched his pride as the first Portuguese-American elected to Congress.

Coelho and Rep. Henry A. Waxman (D-Los Angeles) pushed a resolution of praise for De Sousa Mendes through Congress this summer. And in August, they sent a letter, signed by 70 congressmen, to Portuguese President Mario Soares, urging him to honor the diplomat.

The case to a rapid conclusion last month. On an official visit to the United States, Portugese Prime Minister Anibal Antonio Cavaco Silva and Foreign Minister Pedro Pires de Mirando sought Coelho out for discussions on other topics. Coelho said he told them he had only one item on his mind—the De Sousa Mendes case.

Several days later, Coelho was told President Soares had promised to give De Sousa Mendes an award.

What award it will be and when it will be given have not yet been decided, said a Portuguese Embassy official.

Whatever the medal, the meaning is clear. After 46 years, De Sousa Mendes will finally be a hero in his own land.

Recently, in his Saugus town house, surrounded by Dali-like paintings, thick books and other *objects d'arts* that subtly recalled the postal clerk's background as a European intellectual, white-haired Sebastian Mendes mused on the end of his quest.

"It's like it's finally coming to an end and it's all been good news," he said. "Now we're

waiting to know when we will go there to accept it."

He broke momentarily into tears when told that his name had appeared in a short 1943 article in The Times reporting on his leaving Portugal to join the American Army. It was one more scrap of evidence that Mendes is a name of honor.

THE CARTER PRESIDENTIAL CENTER

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. RAY. Mr. Speaker, on October 1, the new Carter Presidential Center in Atlanta was dedicated, and President Reagan was the featured speaker. The President's remarks were very appropriate for the occasion, and his words were conciliatory toward former President Carter with whom he has had many differences.

I want to insert in the record the text of President Reagan's speech and call my colleagues' attention to it. It is a beautiful tribute that was well received by its Georgia audience last week.

The speech follows:

REMARKS BY THE PRESIDENT AT THE DEDICATION OF THE CARTER PRESIDENTIAL CENTER

The PRESIDENT. President and Mrs. Carter, Reverend Clergy, Governor, Mr. Mayor, the distinguished guests here, ladies and gentlemen, I want you to know that I often get invited to library dedications. There aren't that many people still around who knew Andrew Carnegie personally. (Laughter.) But President Carter and Mrs. Carter, it is indeed an honor for Nancy and me to be here. None of us today need feel any urge, in the name of goodwill, to downplay our differences. On the contrary. In a certain sense we can be proud of our differences, because they arise from goodwill itself—from love of country, for concern for the challenges of our time, from respect for, and yes, even outright enjoyment of, the democratic processes of disagreement and debate.

Indeed, from the time of Thomas Jefferson and Alexander Hamilton, frank debate has been a part of the tradition of this republic. Today, our very differences attest to the greatness of out nation. For I can think of no other country on Earth where two political leaders could disagree so widely, yet come together in mutual respect. (Applause.) To paraphrase Mr. Jefferson: We are all Democrats, we are all Republicans, because we are all Americans. (Applause.)

Now, it occurs to me after the tour that Nancy and I just completed, that in dedicating the Carter Presidential Center, we have set ourselves no easy task. To name just a few of the Center's aspects, there are facilities for organizations that will address President Carter's special concerns, such as human rights, and some 27 million documents that scholars will be poring over for decades to come.

Of course, the Carter Presidential Center will mean something different for each of the millions who will visit it and benefit from it each year. But going through the Jimmy Carter Library just now, and admiring the many photographs and films, it struck me that perhaps the central gift that this Center will give to the nation is a story—a story of one man's life—a story that is distinctively American.

In one of its aspects, the story of President Carter is the story of the family in which he grew up. Jimmy Carter's father taught him the virtues of hard work and self-discipline: From the time he was six, he knew that when the farm bell rang, James Earl, Sr. expected to see him out of bed and going to work with everybody else.

President CARTER. Amen. (Laughter.)

The PRESIDENT. He and his sisters and brother—Gloria, Ruth, and Billy—gave each other strength and support, Ruth especially providing counsel through all the long years, all the joys and disappointments, until her death in 1983. He misses her still, as do all who knew her.

Miss Lillian, Miss Lillian who went to work for the Peace Corps in India at the age of 69. Miss Lillian taught Jimmy Carter charity and justice. She taught him to care for all, regardless of race, especially those weaker and less fortunate than himself. And she taught him to laugh. Surely, Mr. President, James Earl, Sr., Ruth, and your precious mother, Miss Lillian, are with us today as we dedicate this Center in honor of one who loved you so much.

In another of its important aspects, the story of President Carter is a story of the South. For when Jimmy Carter was born on this date in 1924, many southerners knew only poverty, and millions lived lives that were separate and unequal because of the color of their skin. There's a photograph inside the Library that sets the scene—A little boy is drinking from a fountain—he is black. He's drinking from that particular fountain because on a tree next to the fountain there's a sign that reads: "Colored."

Well, the world has changed now. It has changed because men and women like Jimmy Carter stood up in church to protest the exclusion of black people from worship. And it has changed because Jimmy Carter spoke those words in his inauguration address as Governor of Georgia: "I say to you quite frankly that the time for racial discrimination is over . . . No poor, rural, weak, or black person should ever again have to bear the additional burden of being deprived of the opportunity for an education, a job, or simple justice." (Applause.)

That old world has been replaced by a new South, a South that combines the best regional traditions of pride and hospitality with a new sense of openness and opportunity for all. For at the same time they were combatting discrimination, Southerners like Jimmy Carter were hard at work, applying new techniques to farming, opening new businesses, and encouraging new industry. And in so doing, they were expanding economic opportunity and raising levels of education at historic rates. One need only look at Atlanta—bustling, prosperous Atlanta—to see that the South has truly risen again, transformed, self-confident, moving vigorously on to still greater justice and opportunity.

So, in dedicating this Center today, I want to express what all of us feel today in this beautiful Georgia landscape: That this celebration is in a sense a celebration of the South—the new South that Jimmy Carter helped to build. (Applause.)

Yes, yours is a powerful story of family and region—yet for all that, Mr. President, I cannot help thinking that in perhaps its most important regard, yours is a story of dedication to so many of the fundamental values that made our nation flourish, and grow great. Certainly the value of hard work is apparent throughout your life. There were those early days of manual labor on the family farm; then came the years in the Navy, working for a man never known for being an easy task-master, Captain, later Admiral, Hyman Rickover.

Jimmy Carter distinguished himself under Captain Rickover for his application to duty—for using his gifts, in particular, his superb intelligence—to the utmost. He would likewise distinguish himself when he returned to the family farm and expanded it, again in his early political life as State Senator and Governor, and perhaps most dramatically in those two grueling years during which he made political history, going from "Jimmy Who?" to use the cartoonists' phrase, to 39th President of the United States. (Applause.)

Beyond hard work there are the values of perseverance, loyalty, and family—I've already mentioned the family in which President Carter grew up, but of course I must mention the family he and Rosalynn raised. And as a grandfather myself, I can't resist pointing out that the Carters' four children have been joined by four grandchildren.

And then there's perhaps the most basic value of all, the value of faith—faith that endures, faith that gives strength and consolation and joy. President Carter is above all a man of faith; time and again throughout his life, at moments great and small, President Carter has turned to prayer.

When he learned that President Kennedy had been assassinated, Jimmy Carter knelt outside the farm warehouse in prayer. When he became President himself, it was prayer that sustained him. He knew that—well, he new what I have learned myself—that, as Lincoln put it, the burdens of the highest office in the land would be intolerable without the help of the Almighty. (Applause.) And I wouldn't be surprised to learn that when he got up this morning, President Carter said a prayer of thanks for all that would happen on this day. So it is that when we dedicate this Center, Mr. President, we dedicate an institution that testifies, as does your life itself, to the goodness of God, and to the blessings He bestows upon those who do their best to walk with Him. I can think of no greater gift that you could make to our Nation.

Well, I must thank you once again, Mr. President, for inviting us to be here today. It has been a high honor indeed. I'm afraid we won't be able to linger after the program is concluded. Congress is still in session, and, as you know, somebody has to keep an eye on them. (Laughter.) So, I wonder whether I might close now with a few personal words—words, if you will, from one President to another.

Mr. President, you and Rosalynn know that the White House is a place that resonates with history, with memories. And as you know, Mr. President, these White House images, these memories, provide hope and inspiration to anyone who lives there. They remind him that he has examples of greatness to live up to. And they let him know that, whatever challenges he faces, others have faced challenges like them.

And I must tell you, Mr. President, that your countrymen have vivid memories of your time in the White House still. They see you working in the Oval Office at your desk with an air of intense concentration, repairing to a quiet place to receive the latest word on the hostages you did so much to free, or studying in your hideaway office for the meeting at Camp David that would mark such a breakthrough for peace in the

Middle East. Others will speak today, Mr. President, of all phases of your political career and your policies.

For myself, I can pay you no higher honor than to say simply this: You gave of yourself to this country, gracing the White House with your passion and intellect and commitment. And now you have become a permanent part of that grand old house, so rich in tradition, that belongs to us all. For that, Mr. President, I thank you, and your country thanks you.

And there is only one thing left to say. From the 40th President to the 39th, happy birthday. (Applause.)

And, Mr. President, if I could give you one word of advice: Life begins at 70. (Laughter and applause.)

Thank you all. God bless you all. (Applause.)

THE INTERCOLLEGIATE ATHLETE AT RISK

HON. ALTON R. WALDON, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. WALDON. Mr. Speaker, last week as a part of the Congressional Black Caucus Weekend I had the pleasure of convening a workshop entitled "The Intercollegiate Athlete at Risk." The excellent panel which gathered included Coach Lenny Wilkens of the Cleveland Cavaliers, Commissioner Robert Moorman of the Central Intercollegiate Athletic Association, Valerie Thomas of the NFL Players Association, Robert J. Minnix, an investigator with the National Collegiate Athletic Association, Coach Hank Ford of Hampton University, Coach Chuck Granby of Andrew Jackson High School in Cambria Heights, NY., Brig Owens of the NFL Players Association, and Anthony Cotton, a sportswriter with the Washington Post. I would at this time like to share with my colleagues some of my remarks and highlights of the conference.

College sports represents many of the good attributes which are America. The spirit of amateur competition at its best happens here on our campuses. Young men and women pursue exellence daily, developing their strength and physical skills. These young people become our heroes as we celebrate the victories and share the suffering in their defeats. Their winning and losing seems so pure for we know most play for the love of the game and for the opportunity to be among the best.

Our colleges and universities represent excellence. We maintain our strength as a country because of the training our schools provide. It is no surprise that the pursuit of scholastic excellence should occur where athletic superiority is pursued. For a sound mind and a sound body is truly the best combination.

For many of today's athletes the pursuit of excellence on the playing field and the pursuit of excellence in the classroom are conflicting directly with one another. The resulting effect being that many of today's college athletes are inadequately prepared for life following their college careers. The obstacles to obtaining an education are numerous, ranging from social pressures to the time pressures of competing in the world of intercollegiate sports. One college football coach was quoted as saying that "athletic scholarships are based on need, if I need him then he gets the scholarship". If this is the prevalent attitude then it should be no surprise that the young athlete regards his sport as his first priority and the classroom as a distant second.

For many, the dramatic death of Len Bias will serve as a byproduct of the current state of intercollegiate athletics. His death from a cocaine overdose forced much attention on the issue of drug abuse and the abuse of our college athletes. Upon closer examination of the Len Bias case we see that he was flunking three courses in his final semester at the University of Maryland. Some say that he was doing relatively well for he was only 21 credit hours short of graduation.

Where does the black college athlete stand in the current state of college athletics? For black America our excellence at sports has been undeniable. Many talented young black people are highlighted as sports heroes on our college campuses and deservingly so. When they reach the college ranks they have worked hard, developed their natural skills, and risen to the top. These young people have the chance to hone their skills and perhaps earn a living playing professional sports but if the pros are not in their future they have earned the opportunity to gain an education as an athlete on scholarship. Now we approach the dilemma. Too many intercollegiate athletes are not being allowed to gain that education but instead are used for their talents. The black college athlete is a pawn.

Big time college sports means money. Big money. The 64 teams in the NCAA men's basketball tournament made a total of $22 million. College football teams earned $41 million from bowl games. The University of Michigan from sports earned total revenues of $15 million. And there are the upfront benefits to a university. Doug Flutie brought Boston College not only $10 million but as a result of the positive publicity he generated, admissions applications increased by 25 percent.

These numbers make the talented college athlete a valuable commodity. The schools enhance their coffers and their reputations through their sports programs. But they are truly putting the intercollegiate athlete at risk.

During the workshop, the panelists focused on what can be done to help our intercollegiate athletes overcome the obstacles that stand in their way under the present system. Until changes are made within the current system a solid support structure for the young athlete to obtain the proper advice must be developed. This guidance must be there for the athlete from the time the athlete becomes aware that he/she has a special talent. The athlete needs guidance and support in order to avoid becoming a victim of their sport.

The panel agreed that a black youngster is at a disadvantage from the outset due to an absence of readily available guidance. The illusion and realities that the college recruiter presents to student, parents, and coaches is appetizing. The possible material rewards for all involved, especially the recruiting university, pale the benefits of scholarship and maintaining the rules which have been established by the NCAA.

There has been a breakdown in the traditional support systems available to black youth. In the past the family, the church, guidance counseling, and community organizations have served as a structural support system for youngsters such as the athletes we are concerned about. Currently these traditional support vehicles have proved to be inadequate and disadvantageous to the young black athlete. Surrogate guidance can be provided, however with the stakes so high and those involved coming from different levels of sophistication different avenues of advise must be open. Those giving the guidance must be educated regarding the recruitment practices of the college coaches and be able to spot situations where the athlete will be used as a tool of the college or university. They must be aware of all the potential obstacles that can stand in their way from them receiving what they deserve as outstanding and accomplished athletes

The current educational system is inadequately preparing young black people. This is a national problem which is only highlighted by the black intercollegiate athlete. We must strive not only for our athletes but all black youth to receive a proper education so that they will be able to compete academically with their fellow students when they move on to college.

When the individual needs of the athlete were discussed the panel continually came back to the general social needs of youth particularly in black America. Adequately educating our young is central to addressing many of our social concerns as evidenced by our discussion. One young woman in the audience who had attended the University of Maryland in the mid 1970's asked why were these issues so talked about today when the same problems were evident during her college days. She stated that it was a shame that tragedy must occur before problems are addressed.

In 1929, the Carnegie Foundation for the Advancement of Teaching issued a report deploring "commercialized sports" on college and university campuses. Along with specific recommendations, the report urged the schools to remember that their primary mission was to serve the country as an "exponent of its highest intellectual life." I don't believe our schools of higher education have abandoned this cause but they have to be realistic about the profits available from their sports programs. These profits do pay for libraries, dormitories, science labs, and other capital needs of an educational institution.

THE COMMON SENSE IN GOVERNMENT PURCHASING ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. WYDEN. Mr. Speaker, as we all know too well, the Federal Government has a lot to learn about the way it buys products and services. One cannot pick up a newspaper or magazine or turn on a news program without learning about yet another story of how the

Government has paid exorbitant prices for common products or how taxpayer dollars have been wasted on something that either doesn't work or far exceeds the actual Government needs.

There is a real problem with the way the Government goes about buying the products and systems it needs to carry out its required functions. While at times the Government has a particular need that can only be served with a specially designed product, Government agencies have become accustomed to having products and systems specially designed, with detailed specifications, instead of first looking to the commercial marketplace for products that can meet its requirements.

An example of these buying practices is the integrated circuit or microchip. The Government will buy some $2 billion worth of microchips this year with most of them manufactured to Department of Defense specifications. Those integrated circuits will cost between 3 and 10 times that of commercial chips without any appreciable increase in capability or reliability. Other such examples abound. It takes over 20 pages of specifications to buy hot chocolate and 17 pages of specifications to buy olives.

Unfortunately, these problems are not new. They have been created by a system that has been built piece by unorganized piece over the last 35 years. Regulations and procedures have been added a few at a time, often with the good intention of protecting the Government from a few unscrupulous contractors or a few incompetent or dishonest government purchasing officers. The system that has resulted, however, honors form over good management and business judgment. We have taken away the initiative of both contractors and government employees to seek the best value for the Government. Indeed, we have created a system in which only the most adventurous or, perhaps at times, only the most foolhardy dare participate.

These problems continue to exist today for a variety of reasons. We in Congress have not paid enough attention to them. Government procurement policymakers have not given them the management attention they require. We have not trained our procurement personnel in the proper procedures for buying commercial products. Indeed, we depend upon "competition by specification" rather than "competition by performance."

I am introducing legislation today that will help solve some of these problems and bring some common sense back into Government procurement. This legislation would require civilian Government contract personnel to look first to the commercial marketplace for the items they need to buy. It is very similar to a military procurement provision that was incorporated into the Department of Defense authorization bill for fiscal year 1987.

Now many of my colleagues may not consider this a revolutionary idea—and they are right. For at least the past 15 years, Government and industry reports and agency initiatives have all recommended that the Government make better use of the products in the commercial marketplace rather than relying on Government-written, detailed design specifications.

A comprehensive commercial product procurement policy can save the Government money, save the commercial vendors money, increase competition as more companies are willing to sell their products to the Government, decrease acquisition lead time and overhead costs, and increase product quality and capabilities as the latest proven technology is incorporated into commercial products at a far faster rate than the Government can write specifications.

I would like to say that my legislation is unnecessary. Unfortunately, I cannot. We have created a system where program managers and contract officers are more likely to make decisions based upon protecting their careers and avoiding publicity rather than obtaining the best value for the Government. After 15 years of reports and agency generated initiatives that have failed, I believe it is time Congress acted.

The basics of my legislation and the solution to some of these problems are straight forward. Each executive agency must comply with a two-step process in order to purchase the products it needs. First, the agency must define its requirements in such a way as to take advantage of commercial products and other nondevelopment items to the maximum extent practicable. This means that at the very beginning of the acquisition planning process, Government procurement officers must look to the commercial marketplace to determine if existing products can meet their needs. And if existing items cannot meet the stated needs, the Government procurement officers need to go back to the actual users to determine if the needs are correctly stated or to determine if maybe they can't be changed so that existing products can be used.

The second step is just as simple. Executive agencies are required to buy commercial and other nondeveloped items to the maximum extent practicable. This is not policy direction. This is not just hortatory language that the agencies can ignore. This is a positive mandate directing agency personnel to take advantage of a proven procurement method that will benefit both the Government and commercial vendors.

Once this legislation is enacted, what we will no longer see or hear about are the stories that involve 33 pages of detailed design specifications on how to make dehydrated potatoes that can be sold to the Government or 20 pages of specifications for Federal hot chocolate. With technology-based items involving computer technology and advanced electronics, the potential savings are even greater as the Government can eliminate much of the research, development, and testing costs it now pays for when buying products developed to government specifications.

Mr. Speaker, we can no longer afford to support a procurement system that does not incorporate the advantages of an existing and sophisticated commercial marketplace. We must begin now to retrain our government purchasing officers to depend on good management practices and commercial products and procedures. We will save money. We will encourage small and currently disinterested companies to begin competing for government business as the process is simplified. And we will buy products that work.

GAO DOES NOT AND SHOULD NOT HAVE ACCESS TO CIA CONFIDENTIAL FUNDS TRANSACTION RECORDS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. STUMP. Mr. Speaker, when the executive branch and the Congress established the Central Intelligence Agency after the Second World War, they recognized that the effective conduct of intelligence activities requires secrecy. In the laws establishing the CIA and providing its basic authorities, they took great care to provide for such secrecy, and subsequent legislation has preserved it. One critical aspect of that secrecy is protection of information relating to CIA financial transactions integral to sensitive intelligence activities. For this reason, the laws of the United States do not give the Comptroller General, who heads the General Accounting Office, a right of access to CIA financial transactions with confidential funds, a right to those laws grant to the intelligence committees of the Congress.

The subject of GAO access to records has arisen in the context of title II of the Military Construction Appropriations Act, as incorporated in the Continuing Appropriations Resolution, 1987, which provides for a program of $100 million in assistance to the Nicaraguan Democratic Resistance. Title II permits the President to designate the agency or agencies which will administer the $100 million. If the President designates, for example, the Department of State or the Agency for International Development to administer all or part of the program funds, the GAO will have access to the financial transactions and related records for that portion. If the President finds it necessary for the success of the program to designate the CIA to administer all or part of the aid program funds, the GAO will not have access to those financial transactions and related records to the extent that the CIA receives the funds by transfer and expends them as confidential funds under section 8(b) of the CIA Act. The intelligence committees of the Congress will, however, have full access to those transactions and records. Consequently, if the President designates the CIA to administer the funds for support of the Nicaraguan Democratic Resistance, then the intelligence committees of the Congress, and not the GAO, will perform the role of oversight of CIA use of and accounting for the funds.

The Congress addressed the secrecy of intelligence activities in the statute creating the CIA. Section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3)) provided that "the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." As the Supreme Court has stated, with this provision "Congress vested in the Director of Central Intelligence very broad authority to protect all sources of intelligence information from disclosure." (*CIA* v. *Sims,* No. 83-1075, slip op. 9 (1985))

Two years later, the Congress enacted the Central Intelligence Agency Act of 1949 (50

U.S.C. 403a et seq.), providing the administrative and financial authorities that CIA needed to conduct its activities effectively, such as the authority to transfer to and receive from other agencies funds free from restrictions on the appropriations from which the funds are transferred. The CIA Act contained provisions for maintaining the secrecy of CIA activities, including specifically the secrecy of CIA financial transactions. Section 6 of the CIA Act provides that:

The Agency shall be exempted from [a repealed act] and the provisions of any other laws which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency.

Section 8(a) of the CIA Act provides that:

Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions

And section 8(b) provides that:

The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

In commenting in 1948 on a draft of the CIA Act, the Comptroller General acknowledged the importance of maintaining strict secrecy in CIA activities. Then-Comptroller General Lindsay Warren stated that:

While [the procurement, funds transfer, and confidential funds sections] of the proposed enactment provide for the granting of much wider authority than I would ordinarily recommend for Government agencies generally, the purposes sought to be obtained by the establishment of the Central Intelligence Agency are believed to be of such paramount importance as to justify the extraordinary measures proposed therein. The importance of obtaining, correlating, and disseminating to proper agencies of the Government intelligence relating to national security under present international conditions cannot be overlooked. In an atomic age, where the act of an unfriendly power might, in a few short hours, destroy, or seriously damage the security, if not the existence of the nation itself, it becomes of vital importance to secure, in every practicable way, intelligence affecting its security. The necessity for secrecy in such matters is apparent and the Congress apparently recognized this fully in that it provided in section 102(d)(3) of Public Law 253, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." (B-74185, Mar. 12, 1948).

Taken together, the National Security Act provision for the protection of intelligence sources and methods, the CIA Act provision exempting CIA organization, functions, and personnel data from laws requiring disclosure, and the CIA Act provision for CIA confidential funds—also occasionally called unvouchered funds or certificated funds—provide clear authority for secrecy in the conduct of intelligence operations, including the secrecy of CIA financial transactions with confidential funds. With respect to CIA financial transactions with confidential funds under section 8(b) of the CIA Act, the secrecy for which the law provides excludes the GAO from access to the transactions and related records.

The Comptroller General's authorities and responsibilities concerning financial records of Federal agencies stem from several sections of title 31 of the United States Code. Section 712 of title 31 contains a general direction to the Comptroller General to "investigate all matters related to the receipt, disbursement, and use of public money;" to "analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;" and to "make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures." As a general matter, to the extent that this direction to the Comptroller General might be construed to carry with it an implied instruction to Federal agencies to disclose information to the Comptroller General, section 102(d)(3) of the National Security Act and sections 6 and 8 of the CIA Act provide the authority under which, should the secrecy essential to the success of intelligence activities so require, the Director of Central Intelligence could decline to provide information requested by the Comptroller General on the basis of section 712. In any event, because Congress has legislated very specifically with respect to GAO access to CIA confidential funds transactions under section 8(b) of the CIA Act, the general provisions of section 712 would not govern that specific issue.

Section 3523(a) of title 31 provides: "Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency." Section 8(b) of the CIA Act, especially when considered together with section 102(d)(3) of the National Security Act and section 6 of the CIA Act constitutes a law providing otherwise, so that the GAO auditing requirement of section 3523(a) does not apply to CIA confidential funds transactions under section 8(b).

Similarly, with respect to government unvouchered funds transactions, section 3524(a)(1) of title 31 provides:

The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

However, section 3524(d) provides that section 3524 "does not * * * affect the authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b))." Thus, section 3524 does not permit the General Accounting Office to audit CIA confidential funds transactions under section 8(b) of the CIA Act.

Section 716(a) of title 31 provides:

Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

The inartfully drafted reference to section 3524 makes section 716 inapplicable insofar as it might otherwise require the CIA to give the Comptroller General information or access to records concerning CIA confidential funds transactions under section 8(b) of the CIA Act.

Section 716(c) of title 31 authorizes the Comptroller General in certain circumstances to bring a civil action in Federal district court to enforce his subpoena for Federal agency records, but section 716(d)(1) provides that the Comptroller General may not sue to enforce his subpoena if the record sought "related to activities the President designates as foreign intelligence or counterintelligence activities." thus, section 716 would not permit the Comptroller General to sue in Federal district court to enforce a subpoena he issued seeking records relating to CIA confidential funds transactions under section 8(b) of the CIA Act.

Although the congress has determined by law that the GAO should not have access to CIA confidential funds transactions under section 8(b) of the CIA Act, those transactions remain subject to strict controls. The CIA Office of Finance develops and implements systems to account for all CIA funds, maintains the records and accounts of CIA financial operations, and performs audits. Independently within the CIA, the CIA Office of Inspector General conducts financial and program audits of CIA components, including program audits pursuant to audit standards set by the Comptroller General. In these audits, the CIA Office of Finance and the Office of Inspector General have access to CIA financial records, including confidential funds transactions under section 8(b) of the CIA Act and related records.

While the Congress recognized that the secrecy essential to intelligence activities required that GAO not have access to CIA confidential funds transactions under section 8(b) of the CIA Act, the Congress also recognized that, given the extraordinary nature of intelligence activities, occasions might arise in which the necessities of good government require that an authority external to the CIA review such transactions. Thus, in the very statute in which Congress made clear that the GAO would not have access to section 8(b) confidential funds transaction information (31 U.S.C. 3424), the Congress provided that:

Information about * * * a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

Thus, the two Intelligence Committees of the Congress enjoy clear and full authority to review CIA confidential funds transactions under section 8(b) of the CIA Act, should they find it necessary to do so.

The statutory scheme established by the Congress with respect to access to CIA confidential funds transactions excludes the GAO from such access but permits the intelligence committees of the Congress to act as an ex-

ternal review authority. This system properly accommodates two compelling governmental interests: maintenance of the secrecy essential to intelligence activities and proper accountability for public funds.

KILDEE HONORS COURT STREET UNITED METHODIST CHURCH ON ITS 150TH ANNIVERSARY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my distinguished colleagues in the House of Representatives and to the Nation a celebration that will be held October 12 through 19, 1986, in Flint, MI. Through these dates, the Court Street United Methodist Church of Flint is observing its 150 years of service.

Added to the State Register of Historic Sites in 1979, the Court Street United Methodist Church is the oldest organized church in Flint. In the early 1830's the church's founder, Rev. Wiliam Brockway, came to Flint once a month to preach. His first sermons were held in the Wait Beach Bar and later in the Stage and Wright store. In 1836, Reverend Brockway assisted in the founding of the Flint River Mission. Later, the mission was to become the Court Street United Methodist Church. In 1841, trustees of the church sought land in order to erect their first building. They procured two lots on the corner of Court and Church Streets, still the site of the church today. Their first building was completed in 1844. The new church building became a meeting place for both civic and religious functions but, unfortunately, on March 19, 1861, the church and its contents were destroyed by fire.

With everlasting faith, members of the church managed to gather enough funds to build a new and larger building which was completed in August of 1861. By 1888, however a larger church was needed because of growing membership. A larger church was completed 1 year later but remained intact for only 3 years. Another fire ravaged the church and nearly destroyed it.

The fourth and present church was built in 1893. At the time of its completion the church was capable of seating more than 10 percent of the Flint population. In 1929, the church added a school room, a gymnasium, and a caretaker's apartment to benefit the growing congregation.

The Court Street United Methodist Church has helped keep the faiths and hopes of its congregation alive through the pioneer settlements, several wars, the birth of General Motors in Flint, and the Great Depression. Through its 150 years in existence, the church has faithfully served its parishioners and the community in a very unselfish and admirable manner.

Mr. Speaker, the Court Street United Methodist Church and its members continue to be a pillar in our society. It is with great honor that I pay tribute to this very fine religious institution on the occasion of its 150th anniversary.

TRIBUTE TO RABBI BERNHARD H. ROSENBERG

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. DioGUARDI. Mr. Speaker, I rise today to pay tribute to Rabbi Bernhard H. Rosenberg, who is an outstanding member of the community, and was recently honored at Yeshiva University.

Rabbi Rosenberg's educational background began at Yeshiva University where he graduated from the Rabbinical School. He later went on to receive two master's degrees from Yeshiva and is currently a doctoral candidate there. He is an expert in his field and a well known author and spokesman.

Rabbi Rosenberg has had a very significant impact on the Midchester Jewish Center. Through his hard work and dedication, he has been able to double the membership in the last 5 years. Currently, Rabbi Rosenberg is a member of the Rabbinical Council of America, the New York Board of Rabbis and the Westchester Holocaust Commission. He is also special assistant to Westchester County Executive Andrew O'Rourke and the police chaplain of the Metropolitan Police Conference of the State of New York. In addition, he is a representative for Yonkers to the President's Holocaust Committee. He founded the Hebrew Academy Day School of Yonkers and has served as chaplain at the Albert Einstein Medical Hospital, Peekskill Community Hospital, as well as a number of Geriatric Centers.

Rabbi Rosenberg has devoted his life to serving others. As a family man, a member of the clergy and a prominent member of the community, he is truly a model citizen and should be recognized for his efforts, as he was at Yeshiva University. I would like to take this time to pay a much deserved tribute to Rabbi Bernhard Rosenberg.

NAACP FREEDOM FUND DINNER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. RODINO. Mr. Speaker, it will be my great honor to be a guest at the 72d Annual NAACP Freedom Fund Dinner in Newark on October 24. The dinner will take place at the Quality Inn and will feature the Honorable Sharpe James, mayor of Newark, as guest speaker.

This dinner will be a special occasion for me and for the many Newark residents who care deeply about justice and equality. It will be a time to reflect on the gains we have made—the landmark Civil Rights Acts, the Voting Rights Act and extension, designation of Martin Luther King, Jr.'s birthday as a national holiday, passage of sanctions against the South African Government. It will be a time to recall the difficult struggles—marches, arrests, sit-ins—necessary to bring about these gains. We will celebrate the warm friendships forged in those difficult days and recommit ourselves to meeting the challenges that lie ahead—challenges posed by those in the Reagan administration who seek to turn back the clock on civil rights and return to the constitutional "dark ages."

Mr. Speaker, I salute civil rights champions like Ezella Johnson and Sally Carroll, chairpersons of the Freedom Fund Dinner; Keith Jones, president, Newark NAACP; John Woods, first vice president; Delores Carter, second vice president, Daisy Stokes, secretary; Denise McCoy, assistant secretary; Mamie Hale, treasurer—all of the Newark branch of the NAACP.

Mr. Speaker, it is a great privilege and pleasure to take this opportunity to pay tribute to the NAACP, of which I am proudly a lifetime member, and to its many activists, in Newark, and throughout our great land.

Thanks to their hard work and devotion to justice and equality, this Nation will remain a place where all of its citizens are free to pursue and realize their dreams.

THE TAX REFORM ACT OF 1986

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. McCANDLESS. Mr. Speaker, legislation, and the issues surrounding it, is seldom black or white. Most bills that we consider in the House of Representatives have good points and bad points. However, when it comes to the one vote on final passage, we must look through the shades of gray, and make a black or white decision. That was the case with H.R. 3838, the Tax Reform Act of 1986.

I have been a strong advocate of tax reform. Our tax system is so complex and bewildering that individuals are often forced to employ a tax attorney or accountant to correctly negotiate the jumbled array of IRS laws, regulations, and rulings. The effect has been to erode the voluntary compliance on which our system relies, and turn otherwise law-abiding citizens into law breakers, thereby increasing the burden on those who continue to meet their tax responsibilities.

Consequently, there are many provisions of H.R. 3838 that have my strong support, particularly the reduction in the marginal tax rates and the tough new minimum tax on corporations. In addition, the legislation will take 6 million of the Nation's working poor off the tax rolls. While our tax laws were never designed to tax low-income families, many of these people were added to the tax rolls over the years because of "bracket creep." President Reagan's Economic Recovery Tax Act of 1981 [ERTA] provided for the indexing of the tax tables and put an end to tax increases on individuals whose wages were merely keeping pace with inflation. H.R. 3838 takes the next step and eliminates the tax liability of the low-income victims of bracket creep.

Had the procedure allowed, I would have voted for those provisions and others. However, the procedure for final consideration of the tax bill before the House provided for only one vote—up or down—on the entire package. Therefore, H.R. 3838 had to be evaluated in its entirety.

When the President first proposed a reform of our tax laws, he said that the objectives were fairness, growth, and simplicity. Those are the standards, I told my constituents, by which I would evaluate and judge any tax reform package. After careful consideration and much deliberation, I reached the conclusion that H.R. 3838 did not meet those objectives, and that the negative features of the tax bill outweighed the positive. Consequently, I voted against H.R. 3838, and I would like to take this opportunity to outline some of my concerns about the legislation.

I. FAIRNESS

Retroactive provisions: As a matter of principle, I believe that changes in the law should be prospective—that is, effective in the future. Retroactive changes in the law should be avoided unless there is some compelling reason to do otherwise. Retroactive provisions have the effect of penalizing people for making decisions and relying on the current provisions of the law. As justification for retroactive effect, some argued that there were provisions and loopholes which should not have been a part of the Tax Code. That argument, however, ignores the fact that Congress put those provisions in the code and people, acting in good faith, relied on the law and made legal and binding commitments.

Among the retroactive provisions of the tax reform bill are the abrupt elimination of the Accelerated Cost Recovery System [ACRS] method of depreciation, the new "passive loss" rules that apply to real estate, and the elimination of the Investment Tax Credit [ITC], retroactive to January 1, 1986.

I am also very concerned about the retroactive changes in taxation of civil service and public employee retirement. It is simply not fair to our policemen, firemen, teachers, and other Federal, State, county, and city employees to retroactively change the rules under which they will receive their retirement benefits.

Consumer interest: H.R. 3838 eliminates the interest deduction for consumer credit. While I agree that the Tax Code should not encourage debt, I am concerned about the retroactive effect that the new law will have by eliminating the interest deduction for purchases already made. In addition, there is a question of priorities. The tax reform bill retains the interest deduction for second home mortgages. In view of the number of jobs and tax revenues that the second home industry generates in my congressional district and elsewhere, I believe that deduction is important and support its retention. However, that does raise the question of the priority of allowing a deduction for a second home, but not allowing a deduction for the family car or for a washing machine bought on an installment plan.

(C) Sales tax: It has long been the policy of the Federal Government that individuals should not have to pay tax on taxes paid to State and local governments. H.R. 3838 departs from that tradition and eliminates the deduction for sales tax. In effect, the tax bill establishes a Federal policy of favoring States which rely on income and property taxes, while discriminating against those States which rely on sales taxes as their chief source of revenue. All State taxes should be treated equally.

(D) Marriage penalty: Individuals should not be penalized with higher taxes just because they happen to be married. ERTA provided some relief in the form of the marriage penalty deduction. That deduction is eliminated by H.R. 3838.

(E) Transition rules: H.R. 3838 also contains some 300 "transition rules." A transition rule is nothing more than special consideration given to a particular taxpayer, while denying the benefit of that consideration to other taxpayers. In principle, I am opposed to transition rules. If such a large number of exceptions and transition rules are necessary, then perhaps we should not change the law. All should have to play by the same tax rules. It is not fair to include some under a transition rule while denying coverage to others.

Furthermore, it is both interesting and distressing to note that the benefits from the transition rules seem to be heavily distributed among the more senior members of the Senate Finance and House Ways and Means Committees. The price tag for the transition rules in H.R. 3838 is estimated to be $10 billion over the next 5 years. It will be very difficult for us to explain to our constituents why so many provisions and deductions important to them were eliminated while special interest provisions prevailed.

II. GROWTH

(A) IRA's: I am strongly opposed to the elimination of the deduction for Individual Retirement Account [IRA's] for most people. At a time when the U.S. savings rate is one of the lowest among the industrialized nations, it is ill-advised to remove one of the most successful incentives for people to save. IRA's not only encourage people to provide themselves with a source of retirement income, they also provide a source of capital formation, which is essential to business in the creation of new jobs. Furthermore, in one of the more onerous provisions of H.R. 3838, if both spouses work and one of them is covered by a pension plan, even if the other one is not, neither spouse would be eligible for an IRA.

(B) Pension plans: With regard to pension plans, particularly 401(k) plans, the Tax Reform Act of 1986 represents the fourth major change in the pension laws in the past 5 years. I am concerned that as a result of yet another change in conjunction with new limits on participation, many companies, particularly smaller ones, are likely to drop their plans altogether. That would have a devastating effect on savings and capital formation. Currently, 79 percent of all savings in this country is generated by business and not by individuals.

(C) Capital gains: Capital gains treatment, another key incentive for investment, capital formation, and the creation of new jobs, is also eliminated by H.R. 3838. The effect will be retroactive as assets must be held for a minimum of 6 months before qualifying for capital gains treatment. Consequently, assets which were acquired with the expectation of capital gains treatment, will be adversely and retroactively impacted. With a maximum marginal rate of 33 percent, the legislation represents a potential 61 percent increase over the current capital gains rate.

While we were told that the change was needed to raise revenue, history has shown that when Congress raises the capital gains rate, revenue decreases. When Congress has lowered the capital gains rate, revenues increase. One estimate of lost revenue caused by asset stagnation was $40 to $100 billion over the next 5 years.

The loss of capital gains treatment is combined with the failure of tax reform to provide for the indexing of the basis price of an asset. Without indexing, the increased value of an asset that is attributable to inflation is taxed as income. As an example of this inequity, if an individual purchased a house in 1975 for $50,000 and sold the house today for $90,000, according to the IRS, there would be a taxable gain of $40,000. (Under current law, the maximum tax on that gain would be $8,000; under H.R. 3838, the maximum tax would be $13,200.) The law and the IRS ignore the fact that a 1986 dollar is worth 49 cents in comparison to the purchasing power of a 1975 dollar. To keep pace with inflation, the homeowner would have to sell the home for over $100,000 just to break even. As it is, the homeowner must pay tax on what is, in reality, a loss. This is a problem in current law, and one which is compounded by the elimination of capital gains treatment by H.R. 3838.

(D) Real estate and housing: Changes in the treatment of real estate investments are estimated to cost that industry millions of dollars. While reforms in this area are needed, it must be acknowledged that additional taxes on real estate are likely to have two adverse effects: first, increased costs will be passed on to tenants in the form of increased rents; and second, fewer incentives to provide housing will result in less housing being made available.

There should be a distinction between "tax shelters" and legitimate economic real estate investments; however, H.R. 3838 provides for the same broad-brush treatment of all real estate investments, particularly with regard to "passive losses." Real estate owners and investors who materially participate in the management and operation of their real estate interests should be treated the same as material participants in other businesses. Losses that result from actual cash expenses should be deductible. Furthermore, the effect of these changes is retroactive as applied to existing investments.

(E) Farming: At a time when many American farmers are having a difficult time making ends meet, this legislation will have a particularly adverse impact on them. Two provisions of current law on which they rely, income averaging and the investment tax credit, are repealed. Becaused of the forces of nature, farmers' incomes fluctuate dramatically from 1 year to the next. Consequently, farmers often use income averaging to level their incomes from good years over bad ones. At the same time, many farmers have used the ITC to purchase expensive equipment and machinery.

(F) ITC and ACRS: Beyond farming, the repeal of the ITC will further cripple the ability

of U.S. companies to compete in a highly competitive world market. The ITC and the ACRS method of depreciation have been used effectitively by U.S. industry to retool and expand, and in the process, create 10 million new jobs since 1982. I have grave reservations about repealing two key elements of the economic recovery.

III. SIMPLICITY

Unfortunately, the idea of simplifying the Tax Code was lost in the process. Without question, it will be simpler for those who will be dropped from the tax rolls. After all, it is simpler not to file a return than to file one, even if one files a short form or a form 1040 EZ. However, as I noted earlier, those people should not have been on the tax rolls in the first place. For those who must continue to file a return, there is no simplicity. Some have cited the reduction from 14 tax brackets to 2 as simplicity. That claim may be exaggerated as most people find it relatively simple to check a tax table once taxable income has been calculated. So from that perspective, it really does not matter that much how many brackets there are. Computations and calculations necessary to get to taxable income really have not been simplified.

In many respects, the new so-called two bracket tax is more complicated than the current rates. In 1987, there will be five brackets. Thereafter, there will be at least four rates—15, 38, 33, and back to 28. There will be added complications with the 5 percent surcharge, the phasing out of the 15 percent rate, and the phasing out of the personal exemption.

H.R. 3838 does not represent real tax reform or a replacement of the cumbersome current Tax Code, but adds another 1,000 pages to it. Together with the implementing regulations which will take years to promulgate, there will be a dramatic addition to the 33 lineal feet of bookshelf space currently needed to hold the Tax Code and IRS regulations.

IV. BUDGETARY IMPACT

Of an even stronger concern, is what H.R. 3838 will do to the effort to balance the federal budget. In surveying my district, and seeing the same results reflected in surveys around the country, the American people are much more concerned with the deficit and efforts to control it than they are with tax reform. While not perfect, and certainly not to everyone's complete satisfaction, Gramm/Rudman represents the last best hope that the Federal Government will balance the budget any time in the near future. The Gramm-Rudman Balanced Budget law sets a maximum deficit for the next 5 years, reducing the deficit by $36 billion each year, and resulting in a balanced budget in fiscal year 1991.

H.R. 3838 will provide an increase in Federal revenues of $11 billion in fiscal year 1987. Based on past history, Congress will use that amount to avoid any spending reductions needed to meet the fiscal year 1987 Gramm-Rudman deficit target of $144 billion. The real problem will come in fiscal year 1988 when revenues are expected to drop by $17 billion. The fiscal year 1988 Gramm-Rudman deficit target is $108 billion. The deficit reduction situation in fiscal year 1988 will be this:

	Billions
Gramm-Rudman reduction	
($144—$108=$36)	$36
Revenue shortfall	17
To offset the non-reductions in fiscal year 1987	11
The amount of deficit reduction required in fiscal year 1988	64

If recent history is any sort of guide, it is safe to say that Congress is not going to reduce spending by $64 billion in a single year. That means one of two things will happen: (1) there will be a push to have massive tax increases in fiscal year 1988; and/or (2) that will be the end of Gramm-Rudman and any possibility of balancing the federal budget anytime in the near future. I do not regard either alternative as acceptable.

V. OTHER CONCERN.

H.R. 3838 represents the fourth major change in our tax laws in 5 years. No organization or business can engage in any necessary long-range planning in the face of constantly changing tax laws. There will be more changes as Congress will have to enact additional legislation embodying socalled technical corrections amendments in succeeding years to correct problems arising from this bill. Instead of rushing to pass this measure in the closing days of the 99th Congress, it would have been far more responsible to take the time necessary to work on the legislation until we had perfected it and eliminated the retroactive and abrupt changes in the Tax Code. A tax reform package of this magnitude should be phased in over a period of years, providing for a smooth transition, without retroactive provisions.

The general thrust of H.R. 3838 is a tax shift of $120 billion from the individual sector to the business sector. While I am a strong supporter of the principle that everyone should pay his fair share of tax, and for that reason, support the new minimum tax, it must be noted that ultimately, it will be the individual, as a consumer, that will pay the increased taxes in the form of increased prices. As a result of those increased prices, many businesses will face more exposure to foreign competition. With more money going to the government, there will be less money for modernization, expansion, and the creation of new jobs. Another result will be that business will be forced to borrow more money, which will likely drive up interest rates. It is cruel to promise a taxpayer a $10 to $20 a month reduction in personal income taxes when that same individual will have to pay more than that as a hidden tax in the form of increased rent and higher prices for consumer goods.

CONCLUSION

I would have liked to have been able to vote for the Tax Reform Act of 1986, but despite the hard work of many people, HR. 3838 was seriously flawed. It did not measure up to its goal of fairness, growth, and simplicity. It was a good beginning, but not a satisfactory finished product. Consequently, I did not vote for it. Congress could have done better and produced a true tax reform bill. Unfortunately, the sentiment of tax reform seemed stronger than substance.

OPPOSE THE SALE OF FORT DERUSSY

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. ABERCROMBIE. Mr. Speaker, the defense, Military Construction and Treasury/Postal Service portions of the continuing resolution passed by the Senate contain provisions that would direct the Department of Defense to sell the mauka—inland—portion of Fort DeRussy, Honolulu, HI to the State or local governments. I strongly urge that the House conferees oppose this provision in conference.

As you may know, the proponents of the sale of the mauka portion of Fort DeRussy are seeking to build a convention center, and perhaps other commercial developments, on the site.

There are a number of strong arguments against this course of action, but none are stronger than the effect on the morale of the U.S. Armed Forces of such a sale. Fort DeRussy is a former coast artillery installation located on beachfront property. It now serves as a rest and recreation center for members of the armed services stationed not only in Hawaii, but throughout the world.

These facilities, which include the Hale Koa Hotel—set aside for use by military personnel and their families—are vital to the maintenance of morale in the U.S. Armed Forces. Every year they host thousands of active duty and retired military personnel and their families. The Fort DeRussy complex provides a much needed and all too rare opportunity for those who serve our Nation in uniform to relax in a pleasant, wholesome atmosphere which promotes family togetherness and stability.

During the Vietnam war it served as a haven for countless troops on rest and recreation leave from the war zones of Southeast Asia. I am informed that more than 10,000 U.S. military personnel were married and/or honeymooned there during those years. The effect on morale if we were to undermine the integrity of Fort DeRussy with a convention center or commercial development could be devastating.

There is also the question of military readiness to be considered. Contrary to common misconceptions, the mauka portion of Fort DeRussy is currently being used as an operational U.S. Army facility. It serves as the headquarters of the IX Corps of the U.S. Army Reserve. IX Corps is the only corps-level headquarters for the U.S. Army in the entire Pacific-Asia area. The contemplated sale would force the relocation of this headquarters, a move which could seriously disrupt the ability of the Army to maintain a state of readiness and accomplish its mission.

In addition, the move would cost millions of dollars. There is already vociferous local opposition to the idea of the city or the State paying for the Fort DeRussy property. Under these circumstances there is no assurance that the Federal Government would not ultimately be asked to bear the cost.

Civilian residents of the area, it should be noted, are strongly opposed to the dismemberment of Fort DeRussy. At this time, relations between the Army and local civilians are excellent. But neighborhood residents are concerned that the sale would increase traffic—already heavily congested—in the area. Development of a convention center would make it a virtual gridlock.

The area in question is used jointly by military and civilian personnel. Numerous cultural and entertainment events, attracting both military and civilian participants, are held at Fort DeRussy. Sale of the mauka portion would adverely effect the capacity of the installation to continue hosting these events. For these reasons and others, the sale of Fort DeRussy would jeopardize the military-civilian harmony which has prevailed until now.

In addition, I believe it would be advisable for Congress to defer consideration of any legislation concerning the disposition of the Fort DeRussy property until after the November elections in order allow the people of the city and county of Honolulu to express their opinion on the question. An initiative proposal is on the ballot which would amend the Honolulu City charter to require that the area remain open space, a proposal obviously at variance with the plans now under consideration. Finally, the Armed Services Committee is considering holding hearings on the issue in December. Any decision on this matter should await consideration of testimony taken at that hearing.

It should be noted, Mr. Speaker, that among those organizations, both military and civilian, opposing the sale of Fort DeRussy, are:

AFL-CIO.
Waikiki Residents' Association.
Waikiki Neighborhood Board No. 9 (Chair: Wright Hiatt).
Honolulu Downtown Neighborhood Board (Chair: Ellie Kupau).
McCully/Moilili Neighborhood Board (Chair: Kurt MItchel).
Hawaii's 1000 Friends.
The Retired Officers Associations—Hawaii (TROA).
The Association of the United States Army—Hawaii (AUSA).
The Air Force Association—Hawaii.
The Navy League—Hawaii.
The Armed Forces Committee—Hawaii Chamber of Commerce.
Veterans of Foreign Wars.
The American Legion.
Am. Vets.
Reserve Officers Association.
Ft. DeRussy Chapel Association.
Hawaii State Veterans' Council.
U.S. Coast Guard Auxiliary.
Marilyn Bornhost (Chair: Honolulu City Council).
U.S. Army Retirement Council

MARITIME DEFENSE COMMISSION

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. McKERNAN. Mr. Speaker, this country is faced with a dilemma, whether to preserve our shipbuilding industry, our merchant fleet and the maritime training institutions which represent equally important components of the U.S. merchant marine, or to let this "fourth arm of defense" continue its rapid decline.

It is crucial to understand that the United States is an island nation dependent upon the seas for defense, as well as trade; to understand that from a national security perspective, we need a strong merchant marine with the maritime manpower and mobilization base to back it up. I will not spell out the details of the frightening decline in numbers of U.S. ships and the diminishing share of the U.S. foreign trade carried on U.S.-flag vessels, nor will I dwell on specific reasons for this decline. Rather, I wish to bring to the attention of my colleagues a recent development which will help heighten the understanding of why a strong U.S. merchant marine is crucial to our national security. In particular, I refer to recent steps toward the creation of a commission to study the defense-related aspects of the merchant marine.

On October 19, 1984, the President signed legislation which established a commission to study the problems relating to the transportation of cargo for national defense purposes in time of war or national emergency and the capability of the U.S. merchant marine to provide this transportation.

Last Friday, the President forwarded to the Senate Armed Services Committee the names of those individuals nominated to be commissioners. In addition to the Secretary of the Navy and the Administrator of the Maritime Administration, who will cochair the Commission, those nominated to serve are: Adm. James Holloway, USN, retired, former Chief of Naval Operations and now president of the Council of American-Flag Operators; Shannon Wall, president of the National Maritime Union; William Haggett, president and CEO of the Bath Iron Works Corp.; Joseph Sewall, chairman of the board of trustees of the Maine Maritime Academy; and, Edward Carlson, chairman and CEO of United Airlines.

Mr. Speaker, I am very pleased that two outstanding citizens from the State of Maine are among this group. Joe Sewall, president of the James W. Sewall Co., recently retired, after 15 years from the Maine State Senate where, for 8 years, be served as president. Over the years, he has served as trustee or director of various boards and organizations and is currently the chairman of the board of trustees of the Maine Maritime Academy, the foremost maritime training institution in the country. I believe that his knowledge of maritime issues and his government and organizational experiences will prove to be an invaluable contribution to the efforts of the Commission. Bill Haggett represents the largest private employer in my State, a shipyard recognized as a leader in the technological advancement of the U.S. shipbuilding industry—a reputation for which Bill deserves much of the credit for developing. He is a business leader in the State and beyond and, as chairman of the board of the Shipbuilders Council of America, brings a unique and valuable perspective to the Commission's work.

The decline in all segments of the maritime industry is alarming. Increasing foreign competition and continued pressures on our national budget have rendered impractical many of our current maritime policies. It is imperative that we begin to address this decline and develop effective strategies to ensure that our merchant marine remains a strong vital force. It is, therefore, essential that the Commission begin its task and I ask you to join me in urging the Senate to move expeditiously in confirming the nominations submitted by the President.

SHOULD WE LIFT THE POLISH SANCTIONS?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. BEREUTER. Mr. Speaker, just as positive steps by the Government of South Africa would mitigate United States support for sanctions against South Africa, the recent release of political prisoners in Poland should be met with some measure of approval by our country. A lifting of U.S. sanctions against that country is one possible step. If the Polish-American Congress is right in saying that the Jaruzelski regime offered the amnesty because of the sanctions, then the sanctions may have served their purpose. Most importantly, as the editorial in the Lincoln Journal of October 5, 1986, points out, President Reagan is not the type of man who will shrink from need to reimpose the sanctions if necessary. While this Member is not yet convinced of the wisdom of a complete removal of sanctions, the Journal's editorial argues well for this proposal. I commend the editorial to my colleagues.

[From The Journal-Star, Oct. 5, 1986]

END THE POLISH SANCTIONS?

Before there were sanctions against South Africa, there were sanctions against Poland.

Now the question in Washington is whether the last of those sanctions should be lifted, restoring normal relations between the United States and Poland.

Several of the steps taken against the Warsaw government in 1981 after its crack down on the Solidarity trade-union movement and imposition of martial law have already been reversed in response to concessions by Poland. These include a ban on U.S. landing rights for Polish airlines and U.S. objection to Polish membership in the International Monetary Fund.

Now Poland's Communist leader, Gen. Wojciech Jaruzelski, has announced the release of 225 political prisoners. Is it time, then, to lift the ban on U.S. guaranteed credits to Poland and restore that country's most-favored-nation status in trade with the United States?

The Polish-American Congress and a number of congressional supporters of Poland say yes. Economic conditions forced the Jaruzelski government to grant the amnesty in hopes that the sanctions would be ended, they say. Their fear is that if their expectations are not fulfilled, the Communist leaders will slip back into more repressive measures.

That may, in fact, be already happening. Friday the Warsaw government declared illegal a council formed by former underground Solidarity activists and threatened them with imprisonment.

Some officials in the Reagan administration, however, caution against hasty action. In 1984, they point out, Poland rearrested 12 of 300 political prisoners who had been released. By retaining the last of the sanctions, they argue, Washington may be able to prevent another such retrogression.

Clearly, though, the United States has an interest other than the welfare of the Polish people in seeing their country alleviate its economic problems. Lifting the trade and credit restrictions would help Poland generate the foreign exchange necessary if it is to repay its $32 billion debt to Western banks. If U.S. sanctions remain, Washington could be made the scapegoat for Poland's continued economic decline.

President Reagan, as a hard-line anti-communist, is in a good position to offer a carrot to the Warsaw regime. No one could doubt that he would reimpose sanctions if Jaruzelski and company backslide.

But if Reagan wants more reassurance before acting, an opportunity is at hand. Warsaw is obviously influenced by Moscow. Let the president ask Soviet leader Mikhail Gorbachev in Iceland next weekend whether Warsaw can be counted on to act appropriately if sanctions are ended.

VIOLATIONS OF HUMAN RIGHTS

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. DioGUARDI. Mr. Speaker, I rise today to condemn the continued repression and forced assimilation of Turkish-Bulgarians by the Bulgarian Government. Once again human rights have been ignored and violated by a government behind the iron curtain.

One year ago I rose before the House and depicted the horrid conditions faced by this minority in Bulgaria. In the last year, there has been no progress toward freeing the Turkish-Bulgarians from the tight grip of tyrannical rule.

The problem at hand is not new. However, it has escalated in recent years. In 1947, minorities were allowed to preserve their culture through the teaching of their language and heritage. From that point, conditions deteriorated. By the early 1970's, the teaching of the Turkish language in Bulgarian schools had ceased. Turks protesting this decision were imprisoned immediately. In 1984, the Turks were devastated by the cold hearted tactics of the Bulgarian Government. At that time, the Bulgarian Government conducted a deplorable name changing campaign, forcing Turkish-Bulgarians to change their Turkish/Moslem names to Slavic/Christian names.

In present day Bulgaria, nearly 1 million people, 10 percent of the population, are Turkish. Nonetheless any display of Turkish culture results in arrest.

I once again call for an end to these gross violations of human rights. As the leader of the free world, it is our obligation to protect the rights of those individuals less fortunate than ourselves.

THE VOLUNTEER SERVICE PROMOTION ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. WYDEN. Mr. Speaker, today I am introducing the Volunteer Service Promotion Act of 1986. I am pleased that my colleagues PAT WILLIAMS and BILL GOODLING, from the Education and Labor Committee, are joining me as original sponsors of the bill.

Mr. Speaker, volunteering is a great American tradition. From covered wagon days to the present, the tradition of "neighbor helping neighbor" has been a cornerstone of our heritage.

Recognizing and promoting volunteer service is what this bill is all about. And it comes at a critical time. Given the cutbacks in governmental spending for many social services, the impending changes in the tax laws relating to charitable contributions and the increased incidence of poverty, there is a tremendous need for more volunteers.

Unfortunately, our society doesn't do enough to encourage volunteers. Often, they hardly even get thanked. And it's expensive to volunteer given today's high costs of transportation and insurance.

It's high time Congress did more to encourage and recognize the special contributions of volunteering Americans. And that's what this legislation would do.

Under our bill, volunteers in selected programs would be able to earn credits for their service. Any person over 65 could volunteer in exchange for a credit when they serve any other person over 65 or a low-income child. These credits could be accumulated and those earning them would have the option to use them for similar services for themselves and their families when needed.

No new Federal funds are needed to implement this bill and no new Federal bureaucracies are created. The bill requires the Administration on Aging to use existing funds to establish 5 to 15 volunteer service credit programs for elderly people under the Older Americans Act. Those programs would be operated by the State offices on aging, an established network of State agencies serving the elderly.

A particularly exciting aspect of the bill is that it would promote closer ties between the generations by allowing elderly people to earn credits by serving low-income children. For example, many communities are in desperate need of child care or tutors for disadvantaged youths and the elderly are in a unique position to be able to give these services.

Finally, the bill allows volunteers to donate their credits to others who are in greater need of the services they have earned. This will encourage capable individuals to volunteer in order that a family member or friend—as well as the person directly receiving their services—could benefit.

Mr. Speaker, volunteers—specifically elderly volunteers—are a great resource for our country. I believe the legislation we are introducing today gives us the opportunity to test a promising idea for strengthening that great resource.

I want to thank my two good friends, Mr. WILLIAMS of Montana and Mr. GOODLING of Pennsylvania, who have joined me in offering this legislation and I am looking forward to working with them toward the passage of the bill.

FURTHER INTO THE ABYSS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. GARCIA. Mr. Speaker, the downing of an airplane by the Nicaraguan army with three Americans on board is first of all a tragedy for the families of those who died, as well as the family of Eugene Hasenfus. My sincere condolences to those families.

Beyond that, however, I am deeply concerned that this incident is not the exception but the rule as to the conduct of the so-called secret war in Nicaragua. This is just the tip of the iceberg. The more money we send to the contras, the more complicated our involvement will become, and the more complicated that involvement, the more likely it is that U.S. troops may become directly involved. It is, indeed, a slippery slope.

It is in that light that I am inserting a number of articles in the RECORD on this incident. I hope my colleagues will take a moment to read and reflect on the magnitude of this incident.

[From the Washington Post, Oct. 10, 1986]

CAPTURED AMERICAN SAYS CIA RAN SUPPLY MISSIONS—PRISONER SAYS FLIGHTS COORDINATED FROM EL SALVADOR

(By Julia Preston)

MANAGUA, Nicaragua, October 9.—Eugene Hasenfus, an American prisoner of the Sandinista Government, said today he has been part of an extensive air resupply operation for the Nicaraguan rebels run from a Salvadoran Air Force base by CIA employes.

"The people I met in El Salvador, that I knew, were all company people," Hasenfus said, using a term commonly used to refer to the CIA.

"These company people were about 24 to 26 personnel," Hasenfus continued. "They consisted of flight crews, maintenance crews, drivers and two Cuban nationalized Americans that worked for the CIA that did most of the coordination of these flights and overseen [sic] all our housing projects, transportation projects and also refueling and some flight plans."

[Elliott Abrams, assistant secretary of state for inter-American affairs, said in Washington Thursday that there is "no relation at all between the CIA" and Americans aiding in resupply efforts. Abrams suggested Hasenfus' statements were a result of Nicaragua putting "pressure" on him.]

Hasenfus spoke at a press conference this morning called by the Nicaraguan military, and was accompanied by the chief of Army intelligence, Capt. Ricardo Wheelock, and a translator.

He made a slow, sparsely worded, wooden statement that seemed to have been rehearsed beforehand with his captors. Hasenfus did not stumble over his words or appear

to be giving unfamiliar information. But the prisoner did not answer questions from reporters.

In response to shouted complaints from the journalists as Hasenfus was led away from the stage, Wheelock asserted that the American prisoner had requested not to be required to answer reporters' questions.

Hasenfus gave the names of two alleged CIA employes who conducted the Salvadoran operation as "Ramon Medina" and "Max Gomez."

Wheelock said Hasenfus has told Sandinista Army officers that "he is a worker for the CIA. He use the word 'worker,' rather than 'employe.' "

Two Americans, William Cooper and Wallace Blaine Sawyer, and an unidentified Latin American were killed when their C123K cargo plane was shot down Sunday in southern Nicaragua. Hasenfus was the only survivor.

Hasenfus said Cooper contacted him in June 1986 about a job as an air freight handler to fly over Central America. He said he was hired by a company called Corporate Air Services, based out of Southern Air Transport, an air cargo firm in Miami reported to have had extensive links to the CIA in the past.

The captive said he flew 10 flights into Nicaragua, in DHC4 Caribous and C123Ks.

Six flights originated at the Ilopango base of the Salvadoran Air Force on the outskirts of San Salvador. The routes of these missions, he said, took them down the western coast of Nicaragua over Pacific waters, then east across the northernmost part of Costa Rica and north into Nicaragua.

Four flights began at Aguacate, a Honduran military air facility in central Honduras, Hasenfus said. He said the missions carried small arms and ammunition. "These were dropped to the contras," Hasenfus added, referring to the Nicaraguan rebels.

Wheelock said Hasenfus had "co-operated" with his interrogators.

Sandinista officials have suggested Hasenfus could face trial here. His public comments could affect the Nicaraguan government's decision to prosecute him.

Most of the information given at the press conference could not be independently verified from Managua in the time available today.

However, contra and Salvadoran sources confirmed the presence of at least one man of Cuban origin living and working at the Ilopango base who they believed to be linked to an American intelligence agency. The man was said to have been coordinating air resupply and other aspects of the contra operation in El Salvador for some time.

Wheelock displayed a pile of logbooks and documents he said were recovered from the plane's shattered wreckage. The documents included two small red flight logbooks with pilot Sawyer's name handwritten in the front. One bore the name and address of Southern Air Transport on the front leaf. They covered flights piloted by Sawyer from April 1985 to September 1986.

Another document was what appeared to be a flight log bearing the marking 824, apparently a registry number for the crashed aircraft.

Sandinista intelligence officers provided a list of 34 American-sounding names cited in Sawyer's logs as crew members on his flights.

Wheelock said Sandinista intelligence had learned from Hasenfus and from documents found in the wreckage that Medina and Gomez, the alleged CIA employees, did not fly on any resupply missions but controlled all operations from their headquarters at the Ilopango base. Reporters were not shown documents backing up Wheelock's allegations on this point.

Hasenfus said he was paid $3,000 a month for his work as a "kicker," pushing cargo out of the planes over Nicaragua. Wheelock quoted Hasenfus as saying the money was deposited directly to his bank account in Marinette, Wis.

The remains of the two American crash victims were turned over to U.S. officials at midafternoon in a raucous melee among journalists at the embassy gate.

A U.S. official said the Nicaraguan government had agreed to drive a truck with the two coffins through the gate. Instead, government employes carried the coffins from almost two blocks away and left them on the street outside, attracting a swarm of press.

Nicaraguan authorities cremated the remains without advising the embassy, a U.S. official said. A statement issued late tonight said the embassy "abhors the ghoulish behavior" of Nicaragua in the incident.

The embassy noted that no U.S. official has been allowed to talk with Hasenfus despite repeated requests. "This raises serious questions about other rights of Mr. Hasenfus that may have been violated," Alberto Fernandez, the embassy spokesman, said.

[Abrams said in Washington, "There is no prediction when we will get access" to Hasenfus. "The question is why, [and] the obvious answer is to maintain pressure on him." Abrams added: "I haven't the slightest doubt they're telling him if he says the right thing he'll be out soon and if not he'll be in jail . . . . This is an outrageous violation of international law and we will continue to insist on our rights."]

[From the New York Times, Oct. 10, 1986]

U.S. PRISONER IN NICARAGUA SAYS C.I.A. RAN CONTRA SUPPLY FLIGHTS

(By James LeMoyne)

MANAGUA, NICARAGUA, October 9.—An American captured when a plane delivering supplies to rebels was shot down here said today that the supply flights were directly supervised by members of the Central Intelligence Agency in El Salvador.

"Two Cuban naturalized Americans that work for the C.I.A. did most of the coordination for the flights and oversaw all of our housing, transportation, also refueling and some flight plans," the prisoner, Eugene Hasenfus, said at a news conference here with Nicaraguan officials seated beside him.

Mr. Hasenfus then named the two reported C.I.A. officials and gave the most detailed account so far of rebel supply operations out of El Salvador and Honduras. His statements are being treated as a major political victory by the Nicaraguan Government.

PLANE IN "STING" OPERATION

"I was told we were working out of the El Salvador Air Force base at Ilopango," Mr. Hasenfus said. "We would be flying into Honduras to an air base called Aguacate and there we would load up small arms and ammunition and fly into Nicaragua. There it would be dropped to the contra."

The American prisoner looked healthy and Nicaraguan officials said he had been well treated. But reporters could not verify the conditions under which he has been held and questioned, and Mr. Hasenfus's future treatment could depend on the statements he is willing to make here.

[The Drug Enforcement Administration said the plane that was shot down was earlier involved in a United States "sting" operation against the Nicaraguan Government. And Senator Dave Durenberger, the chairman of the Senate Select Committee on Intelligence, challenged the White House to acknowledge what he said was its role in the plane's flight.

A SENSITIVE MOMENT

The incident comes at a sensitive moment when Congress is about to release $100 million in aid to the rebels. If the C.I.A. was involved in the supply effort, as Mr. Hasenfus says, it would appear to violate Congressional restrictions and directly contradict repeated statements by Reagan Administration officials that the downed plane was part of a purely private effort by American supporters of the Nicaraguan guerrillas.

If, on the other hand, the rebel supply effort was run by a private American organization, as the Administration says, the group appears to have had impressive resources that allowed it to hire former C.I.A. personnel, maintain dozens of Americans in El Salvador, warehouse tons of equipment, buy military transports and fly repeatedly in and out of El Salvador, Honduras and the United States.

Mr. Hasenfus, who is 45 years old, said Nicaraguan rebel supply flights from the main military air base at Ilopango in El Salvador and rebel bases in Honduras were not only supervised by the C.I.A., but were supported also by more than 25 employees of an American company based in El Salvador. These employees appear to have ferried more than 130,000 pounds of military equipment to rebel forces.

PRISONER APPEARS NERVOUS

The American prisoner appeared nervous and spoke slowly, staring straight ahead. Nicaraguan officials said he did not want to answer questions and Mr. Hasenfus left the stage after talking for about 10 minutes. A Nicaraguan intelligence officer said Mr. Hasenfus had spoken because he was demoralized and felt abandoned.

Officials said they still had not decided if he would be put on trial.

Mr. Hasenfus is being detained in the Ministry of the Interior and has been interrogated for two days, according to Nicaraguan officials. They added that it is uncertain when American diplomats or Mr. Hasenfus's wife, Sally, will be allowed to see him. However, the radio here said Mrs. Hasenfus had visited him.

"His situation is very difficult," said Capt. Ricardo Wheelock, head of Nicaraguan military intelligence. "He is a mercenary who has been shot down."

Several documents reportedly taken from the downed rebel plane, including logbooks, registration certificates, Salvadoran Air Force identity cards and personal papers were shown to a reporter for two hours and appeared to support key parts of Mr. Hasenfus's account.

BODIES LEFT OUTSIDE EMBASSY

But other aspects, such as his supervision by C.I.A. agents in El Salvador cannot be independently confirmed by a reporter here and are not documented in the papers captured by the Nicaraguans.

The bodies of two American crew members who died when the rebel plane crashed were taken to the American Embassy in coffins this afternoon and left on the street outside the main gate by Sandinista police in what appeared to be a propaganda ges-

ture. The bodies were later taken inside by embassy employees.

Mr. Hasenfus said the Americans all worked for a company called Corporate Air Services in El Salvador, which he said was part of the Southern Air Transport Company in Miami.

Nicaraguan officials charge that both companies work for the C.I.A., Mr. Hasenfus said Corporate Air Services is based at the Salvadoran Air Force base outside the capital of San Salvador.

Captain Wheelock said Mr. Hasenfus had told interrogators that he believed he was working for the C.I.A. when he agreed to join rebel supply flights as a specialist in freight loading. Mr. Hasenfus did not repeat that reported statement at the news conference today.

But he did describe working for eight years for a C.I.A.-operated airline in Southeast Asia, Air America, which he said also once employed the American chief pilot of the downed rebel plane. The pilot died, along with the American co-pilot, when a Sandinista rocket hit the plane over southern Nicaragua on Sunday.

Mr. Hasenfus added that he was approached five months ago by the former Air America pilot, William J. Cooper, with whom he worked flying supplies to C.I.A. agents at remote airstrips in Laos, Cambodia, Thailand and Vietnam from 1965 to 1973. From 1960 to 1965, Mr. Hasenfus said, he was in the Marine Corps.

He said he was paid $3,000 a month plus all expenses for working as a loader on rebel supply flights over Nicaragua. The money was deposited directly into his account at the Pestigo Bank in Marinette, Wis., according to Sandinista officials. It is not clear who paid the money.

The documents found on the rebel C-123 military supply plane included Salvadoran Air Force identity cards that describe the three American crew members, including Mr. Hasenfus, as United States military advisers in El Salvador.

In a statement today, the Salvadoran Army high command denied any involvement in the rebel supply flights. A spokesman at the American Embassy in El Salvador has also denied that any of the American crew members were working as United States military advisers in El Salvador.

One of the crew member's wallet carried the business card of a Robert W. Owen and listed a Washington address and telephone number. Another business card in the wallet was for a Mr. P.J. Buechler, listed as working for the State Department's Nicaraguan Humanitarian Affairs Office. The office was in charge of sending nonlethal aid to Nicaraguan rebels over the last year.

[From the Christian Science Monitor, Oct. 8, 1986]

SECRET CONTRA AID: PUBLIC OR PRIVATE?

DOWNED AIRCRAFT RAISES NEW QUESTIONS ABOUT CIA INVOLVEMENT

(George D. Moffett III)

WASHINGTON.—The downing of a transport plane over Nicaragua Monday raises new questions about US support for the anti-Sandinista contra guerrillas.

A government spokesman in Managua said Eugene Hasenfus, the survivor of the downed aircraft, which was filled with arms apparently destined for the US-backed Nicaraguan resistance, identified himself as a US military advisor based in El Salvador.

Secretary of State George Shultz, responding at a news conference yesterday, conceded the plane was chartered by Americans. But he insisted that "they had no connection with the US government at all."

Several private analysts say the crew of the downed aircraft, while probably having no official US connection, may nevertheless have been acting at the direction—or at least with the foreknowledge—of the Central Intelligence Agency (CIA).

US officials say the government has remained at arm's length from private groups that have supported the contras during the period when US funding was cut off.

But retired US Army General John Singlaub, who has spearheaded private efforts to channel arms and supplies to the contras, said Sunday on the CBS program "60 Minutes" that CIA director William Casey has "indicated approval, and he has been encouraging."

At least two Americans, members of paramilitary organizations backing the five-year contra war, have been killed inside Nicaragua in recent years.

Last August Congress approved $100 million in mostly military aid to the contras. The legislation provides for US training and arms shipments to the 20,000-man contra force. But those activities are barred until the contra aid package clears a final legislative hurdle, expected before Congress adjourns.

Under existing ground rules that accompanied the passage of $27 million in humanitarian aid to the contras last year, the CIA is denied any direct or indirect operational role in supplying or training contra forces.

A spokesman for the CIA, Sharon Foster, said yesterday there was no CIA connection with the aircraft and said the pilot "is not associated in any way with the agency."

"Congressional restrictions prohibit the agency from supporting the contras and we have not violated the law," Foster said.

But some critics of the Reagan administration's Central America policy say they're not convinced.

"The Reagan administration has a long record of ignoring the Congress on Nicaragua," says Laurence Birns, director of the Council on Hemisphere Affairs. "The leitmotif of US policy has been with or without permission we won't abandon support for the contras."

Critics point out that the US has long been eager to create a viable southern front, based in Costa Rica, to complement the main contra strength now concentrated on the Honduran border. They speculate that the aircraft shot down over Nicaragua may well have been contracted at the behest of US officials, or at least with their knowledge, for the purpose of delivering supplies and trainers to a covert Costa Rican base camp or directly to contra forces operating inside Nicaragua.

"There's no question that the US is involved in strengthening the second front since that's been a long-term strategic desire within the Pentagon," says another Washington-based Nicaragua expert.

Intelligence gathering missions over Nicaragua are legal. But military experts point out that it's unlikely the US would use such old and slow-moving aircraft for such purposes.

Nicaraguan authorities say the C-123 was shot down by Sandinista forces using Soviet-supplied, portable anti-aircraft rockets. They said the plane was crewed by four American military personnel including Hasenfus, the one survivor.

The Nicaraguans have so far produced no evidence of their claims, noting that bad weather has so far prevented military officers from escorting newsmen to the crash site.

Spokesmen for the Sandinista government say the aircraft was loaded with 50,000 rounds of ammunition plus Soviet-made assault rifles and grenades. One source familiar with CIA operations says it is a common practice for the agency to supply Soviet-made weapons purchased on the international arms market to allow plausible deniability in just such cases.

Congressional sources say even if Nicaragua was to prove Hasenfus was a US military advisor, it's unlikely that Congress would reverse itself on contra aid in an election year.

"It's not likely that anything, including this, will throw contra aid off track now," says one congressional aide.

But if administration denials are proved false, Congress could eventually act to tighten the restrictions that accompany new US aid to the contra forces. US military personnel would be barred from operating within 20 miles of the Nicaraguan border, though non-American advisors working under contract could accompany the contras inside Nicaragua.

[From the Washington Post, Oct. 10, 1986]

FLIERS' NETWORK SHARES OLD CIA LINKS

(By Joanne Omang and Joe Pichirallo)

The cargo plane shot down Sunday in Nicaragua with three Americans and a load of weapons aboard was part of a shadowy worldwide network of private contract airlines and independent pilots who share past links to the Central Intelligence Agency and continuing taste for adventure.

People now or previously involved in the network suggested in interviews yesterday that an informal brotherhood of Vietnam war veterans of covert action operations has been reactivated in Central America to transport goods to Nicaraguan rebels, known as contras, who are trying to overthrow the leftist Sandinista government. They agreed that the CIA, while it may not be directly involved, keeps an eye on the proceedings.

"There is a large group of unemployed or underemployed pilots who have airplanes, who are vying with one another, bidding for the flying jobs that exist in Central America," retired major general John K. Singlaub said at a news conference. "Some of them haul fresh vegetables from Guatemala to the United States. The same airplane that last week was hauling cantaloupes . . . next week may be hauling bullets."

Singlaub, who has boasted in the past of buying arms in other countries for the contras, vehemently denied published reports that he had been behind the fight of a Fairchild C123K cargo plane in which pilot William J. Cooper of Reno, Nev., copilot Wallace B. Sawyer Jr., of Magnolia, Ark., and an unidentified Latin American were killed.

Singlaub said he believed CIA denials of links to the flight, although the flight's sole, survivor, Eugene Hasenfus, of Marinette, Wis., told reporters in Nicaragua yesterday that he was "a worker" for the CIA.

"In the past people have sincerely believed they were working for the CIA when they were not," Singlaub said. "If you're working for the CIA there would be an air rescue effort standing by" as the plane enters enemy territory, Singlaub continued. "There would be all sorts of electronic surveillance" to warn of possible attack. "Obviously this one had none of that," he said.

Elliott Abrams, assistant secretary of state for inter-American affairs, said in an interview that it is "predictable and logical" that "there is a small circle of people who fly into hostile territory carrying military supplies." They "are ex-Vietnam, ex-CIA, ex-Air America," the CIA's Vietnam-era cover airline, and have worked in Africa and elsewhere.

There is "no relation at all between the CIA and these people," Abrams said. However, "the CIA is asked to report on events in Central America, and among things they report on to us is some of this activity . . . but they do not direct it, directly or indirectly, wink or nod, or steer people. It's illegal," Abrams said.

Under a 1984 law that barred CIA aid to the contras, the agency may still do "intelligence sharing" with them but may not train, arm, equip, advise or otherwise direct any contra activity. That restriction will be lifted under the $100 million U.S. contra aid package awaiting final approval in Congress.

State Department officials said yesterday that the restriction may be technically lifted already under the terms of the temporary omnibus spending bill in effect through today. "We view it as not lifted and are acting as though it is not; some people would get angry if we did otherwise," Abrams said.

Nevertheless, the House Judiciary subcommittee on criminal justice said yesterday that it will investigate possible violations of law in the plane crash incident, joining probes already under way by the Senate Select Committee on Intelligence and Foreign Relations Committee.

Senate Majority Leader Robert J. Dole (R-Kan.) complained that the facts of the case "just don't, shouldn't anyway, add up to banner headlines or lead stories." Hasenfus, "being paraded from pillar to post by some Sandinista goons just so the press can get a good camera angle, becomes the symbol of all kinds of imagined evil," Dole said. "If you stick to the facts, it isn't much of a story."

A report in the Long Island newspaper Newsday cited defense sources as saying funds for the flight, an estimated $250,000, were provided by Saudi Arabian officials, but Saudi spokesmen denied any government links. The report cited Senate intelligence committee staff sources as saying that the officials may have acted on their own, possibly through retired Air Force major general Richard Secord, a former adviser to Defense Secretary Caspar W. Weinberger on Mideast arms.

Secord, was unavailable for comment, but other sources close to the Saudis said his links with them virtually ended in 1983 when he left the Defense Department.

William M. Leary, a history professor at the University of Georgia and author of a history of CIA covert operations in Southeast Asia, said the dead pilot Cooper, like Hasenfus, once worked for Air America.

Leary said he met Cooper in Reno, Nev., while doing research for a new book on Air America. Cooper had been a Navy pilot in the Pacific during World War II and showed Leary a commendation letter from the late Adm. William F. Halsey, Leary said.

Cooper flew jets for the Navy in the Korean war and later was the chief pilot for Air America's C123 cargo planes, flying rice and guns from the Udorn air base to CIA-backed hill tribes in Laos.

"Sure, he was in it for the money and the adventure, but he was also a patriot," Leary said. "The Sandinistas couldn't have given him enough money to get him to work for them." Nearly 60, Cooper "was looking for a job" when Leary last saw him a year ago. "I guess he found it." Leary said.

"The network wouldn't really be possible unless the American government took a benevolent attitude toward the whole thing," he said. "There's no U.S. money or personnel, but . . . you don't get across to Salvadoran military bases on your own."

Intelligence officials told members of Congress Wednesday that the downed plane had flown to Nicaragua out of Ilopango air base in El Salvador, a tightly guarded military facility. Knowledgeable sources who recently traveled to El Salvador said yesterday that a four-member American flight crew apparently lives in a barracks at Ilopango, maintaining contra airplanes parked there and contract airline planes that come in periodically, an account that tallies with Hasenfus' remarks.

Leary said Southern Air Transport Inc., which employed copilot Sawyer until last year, had a Latin American division and an Asian division when it was owned by the CIA between 1960 and 1973. When the CIA sold all its proprietary lines in 1973, "it retained friendly relations" with the airline, he said.

Southern Air was purchased to provide support to two other CIA-owned airlines operating in the Far East—Air America and Air Asia—according to Lawrence R. Houston, general counsel to the CIA who retired in 1973.

"This was sort of a family of companies working closely together," Houston recalled in a telephone interview yesterday. He said Southern Air helped with legitimate commercial work, although some of its crew members "from time to time might have been assigned to Air America."

When Southern Air was a CIA front, Houston said, two of its stockholders and directors were Percival Flack Brundage and E. Perkins McGuire, respectively director of the old Bureau of the Budget and an assistant secretary of defense during the Eisenhower administration. Both are now dead.

The third director and stockholder was Stanley G. Williams, and when the CIA sold the company, Williams bought it, Houston said. But Williams is no longer listed in Florida state corporate records, and a secretary yesterday said he is no longer with the company.

The company's current chairman is James H. Bastian, a former Washington, D.C., lawyer, the records show. Bastian did legal work for Southern Air when it was owned by the CIA and also was a lawyer for Air America, according to Houston and published reports.

Efforts to reach Bastian and other Southern Air officials have been unsuccessful.

According to a 1976 report by the Senate Select Committee on Intelligence, the CIA decided to sell Southern Air because "the political realities and future operational requirements in the postwar era of Southeast Asia . . . did not call for such a transport operation."

Houston said that, after the firm was sold, "so far as I know we [the CIA] had no further dealings with it."

Houston said he doubted that the plane downed in Nicaragua was linked to the CIA because it would be "rather ridiculous" to use a firm already publicly linked to the agency.

In a Wednesday statement, Southern Air spokesman William Kress said the company did not own or operate the downed aircraft. He said in published interviews that Southern Air did maintenance work on the plane, but would not say who contracted for the work.

Records of the Dade County Aviation Department show that a C123 with registration identical to the downed craft was parked for servicing at Southern Air from July 29 through Aug. 4.

LET'S PROTECT SSDI RECIPIENTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. FRANK. Mr. Speaker, yesterday, along with more than 20 of my House colleagues, I introduced a concurrent resolution to express the sense of Congress regarding continued adherence to the vital reforms mandated by the Social Security Disability Benefits Reform Act of 1984—an identical resolution was filed in the other body by Senator KERRY. We introduced this resolution because of our concern that the important reforms contained in that law, and the positive steps that have been made in improving the SSDI System since its enactment, are being threatened by recent Social Security Administration proposals calling for increased SSDI workloads and speeded up processing of both continuing disability reviews and new applications. We think it is essential that Congress send a message now, before any decisions about increased workloads become final, that we will not tolerate any administration actions which frustrate the intent of the 1984 law or return the SSDI program to the chaos which existed before the bill was passed.

Those of us who were serving in this body in the 97th and 98th Congress will no doubt recall the flood of phone calls and letters which came into our offices during that period from disabled people who had been unjustly removed from the SSDI rolls. In fact, it was largely because of the extraordinary public outcry from around the country that Congress became aware of the overly zealous manner in which the Reagan administration was conducting the continuing reviews of SSDI recipients' eligibility, and ultimately approved the 1984 reform legislation.

That legislation—which became law under the strong leadership of the gentleman from Texas [Mr. PICKLE], who at that time chaired the Subcommittee on Social Security—required a series of reforms which were designed to ensure that all SSDI recipients and applicants would receive the fair treatment to which they are entitled. But, above all, the legislation made it clear that Congress would no longer tolerate the kind of wholesale removal from the SSDI rolls which had occurred between 1981 and 1983.

I think it is an especially apt tribute to the care and thoroughness with which Congressman PICKLE drafted the bill to note that it was approved in the House with only one dissenting vote, and in the Senate unanimously. Though we all knew that enactment of this legislation was only a first step, I think we

were also confident that the reforms it contained would put the SSDI Program back on the right track. And, we have seen significant improvements in the management of the program over the last 2 years. I know that the complaints my office has received have dwindled to almost nothing, and the same thing has been true for most other Members of Congress. In addition, the allowance rates for new applicants have been increasing, and the number of cases being appealed to the administrative law judge level have been declining.

But, a recent directive from SSA requiring the adoption of certain "simplification initiatives" may make it more difficult for applicants to present their cases and to understand why they have been denied eligibility. These proposals, when coupled with the freeze on the hiring of new examiners and the plan to resume continuing disability reviews, could spell the end of the improving trend we have witnessed in the SSDI Program. In fact, according to SSA's own statistics, the workloads for some States could increase by as much as 50 percent.

Mr. Speaker, there is no reason now, just when the program is getting back to normal, to undertake a drastic, new expansion of the program. Let's give the 1984 reforms time to work, and proceed at a more reasonable pace. Passage of this resolution will send that message to the administration and the thousands of people around the country who depend on SSDI benefits. I am pleased that Congressman PICKLE has signed on as one of the original cosponsors of this resolution, and I urge my colleagues to join us as cosponsors.

I am submitting for the RECORD a copy of the resolution and a recent Washington Post article on this issue:

H. CON. RES. —

Concurrent resolution to express the sense of Congress regarding efficient and compassionate management of the Social Security Disability Insurance SSDI Program

Whereas Congress established the Social Security Disability Insurance [SSDI] program in 1956 to improve the quality of life for disabled Americans;

Whereas the decisions of the Social Security Administration to require an increased caseload for SDI examiners and expand the continuing disability review process caused several hundred thousand recipients to be removed improperly from the SSDI rolls during the period of 1981 through 1983;

Whereas the widespread termination and denial of benefits for eligible disabled Americans during such period created undue hardship for countless deserving individuals;

Whereas more than 60 percent of the recipients who appealed a decision to terminate or deny benefits were ultimately successful in reversing the decision;

Whereas the substantial increase in the number of appealed cases drained millions of dollars from the Social Security Trust Fund;

Whereas Congress passed (with only one dissenting vote) the Social Security Disability Benefits Reform Act of 1984 in order to end the inconsistent and frequently arbitrary manner in which the Social Security Administration was applying disability standards, as well as to restore public faith and confidence in the SSDI Program;

Whereas since enactment of such Act, there has been, as intended by Congress, a marked improvement in the SSDI review process and the beginning of a restoration of public confidence in the program; and

Whereas recent budget proposals by the Social Security Administration for the fiscal year 1987 indicate that there will be an increase in the SSDI workload for many States, thus threatening a return to the chaos that existed prior to the 1984 act: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring) That it is the sense of Congress that—

(1) the Social Security administration should not—

(A) reduce the staff of State Disability Determination Services or increase the workload of SSDI examiners to levels that would prevent adequate case development in accordance with the standards estabilised in the Social Security Disability Benefits Reform Act of 1984, or

(B) initiate any other action that would impair the ability of examiners to determine eligibility for benefits in accordance with the requirements of such Act; and

(2) the Social Security Administration should place higher priority on assisting States in both complying with the 1984 reforms and improving the accuracy with which SSDI eligibility is determined.

[From the Washington Post, Sept. 13, 1986]

STATES ASKED TO INCREASE DISABILITY CASELOADS

HILL CRITICS FEAR MOVE WILL THREATEN CHANGES

(By Spencer Rich)

The Social Security Administration has asked state agencies that handle federal Social Security disability claims to boost employe workloads by about 20 percent in fiscal 1987, bringing protests from some officials that the effort will undermine procedural changes approved by Congress two years ago.

Social Security Commissioner Dorcas Hardy, in a statement issued through her office, said the increased caseloads "are not a national speedup" but just an attempt to improve efficiency. She said the goals were set after consultation with several states and are fair and reasonable.

But David MacCabe, deputy director of the Texas disability determination office, said, "They are asking us to speed up determinations without enough resources. . . . We haven't really implemented what Congress wanted us to do."

In 1984, Congress made it harder for the government to remove people from the disability rolls, after a speedup in reviews that started in 1981 forced 495,000 off the lists and prompted charges of unfairness and shoddy procedures. About 214,000 were restored on appeal.

The Social Security Administration pays state agencies to make initial eligibility rulings when people apply for Social Security and Supplemental Security Income disability benefits, and also to review people already on the rolls to see if they are still too disabled to work.

Federal payments to the agencies in 1987 will be about $741 million, about the same as this year's; Social Security disability benefits in 1985 totaled nearly $19 billion.

According to the Social Security Administration, in the first 11 months of fiscal 1986 the average annual caseload rate per employee in the state agencies was 165. SSA has set a goal of 195 as the national average for fiscal 1987, an 18 percent increase. While nearly all states will be required to increase their caseloads, those far below 195 will not be required to reach it in one jump.

Kasper M. Goshgarian, deputy commissioner of disability determination services in Massachusetts, said he feared that if enough pressure is exerted for bigger caseloads, the problems of 1981–82 would recur.

A letter drafted by Rep. Barney Frank (D-Mass.) and signed by his state's House members and senators warned Hardy that "a drastic speedup in case processing at this point" could severely damage the program and "threaten a return to the situation we faced in 1981."

Goshgarian said that "if you overwhelm" employes with cases, they will not be getting enough evidence on applicants' medical conditions and "not aggressively making all the telephone calls to get information" needed to rule fairly.

Social Security spokesman Jim Brown said that under Hardy's goals nearly all states will be asked to increase their caseloads per employe in 1987, including many that already are at or higher than 195. He said 22 states already exceed that figure.

Hardy, responding to Goshgarian, said Massachusetts ranks 46th in productivity, with an average annual caseload per employe of 121 for the first nine months of fiscal 1986. This had risen to about 138 in the third quarter of the year. Brown said Massachusetts is expected to reach at least 158 in fiscal 1987.

In mid-1986, the District of Columbia's average annual rate of cases handled per employe was 109, according to Brown; the 1987 requirement is 128. In Maryland, the mid-1986 rate was 128; next year's is 171, he said. Virginia is expected to raise its rate from 178 to 188.

HOMECARE QUALITY ASSURANCE ACT OF 1986

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. ROYBAL. Mr. Speaker, I rise today, as Chairman of the House Select Committee on Aging, to introduce the "Homecare Quality Assurance Act of 1986" [HCQA]. HCQA is an important first step for Congress in ensuring the quality of care received by all persons in their homes whether it is provided under Medicare, Medicaid, the Social Security block grant, or the Older Americans Act.

The need for this legislation became apparent in the findings of the American Bar Association's [ABA] study of home care quality, "The Black Box of Home Care Quality," which was released at the committee's July 29th home care hearing. The ABA report outlines the disturbing lack of knowledge about the quality of care provided in the home setting, the alarming potential for quality problems, and the inadequacy of our current quality assurance system when it comes to home care. The findings of their report make it clear that we need to develop standards and monitoring mechanisms which will ensure that home care services are reliable and of the highest quality possible.

"The Homecare Quality Assurance Act," for which I am asking your support, addresses the

deficiencies the ABA report cites in our current quality assurance system. The act covers all home care services provided under Medicare, Medicaid, the Social Security block grant, and the Older Americans Act and includes the following provisions: establishes a home care consumer bill of rights; sets home care quality standards; creates quality assurance monitoring mechanisms through PRO's and the states; expands the State Ombudsman Program to include home care services; calls for a strong consumer role in monitoring activities; requires that agencies have plan of care and care coordination policies; requires that sanctions and penalties be available to ensure compliance; provides for training and certification of all home care providers; and calls for research and demonstration projects and the collection of data on the use and quality of home care services.

While home care services generally enjoy a good reputation, we are deeply concerned by the potential for quality problems in light of the rapid growth in home care services in recent years, the increased financial pressures on home care providers under cost containment, the absence of adequate Federal and State quality assurance systems for home care, the lack of training for home care personnel, and, most importantly, the vulnerability of the elderly and disabled home care consumer.

Clearly, home care plays a vital role in permitting older persons to continue living independently or with families in the community. Yet, providing care in the home carries the risk of poor care, unreliable services, and outright neglect, abuse and exploitation. It is therefore imperative that we have in place a means of ensuring the quality of home care services if we are to be successful in providing elderly and disabled persons with the opportunity for a meaningful, healthful and independent life.

In this spirit, I urge you to join me in demonstrating that congressional concern for quality care does not stop at the hospital or nursing home door—but extends into what is potentially the most vulnerable care environment of all, the home.

Mr. Speaker, I include the summary of the "Homecare Quality Assurance Act of 1986" in the RECORD:

THE HOME CARE QUALITY ASSURANCE ACT OF 1986 (HCQA), H.R. 5680

A Bill to Establish a Quality Assurance System For Home Care Services

PURPOSE

H.R. 5680, "The Homecare Quality Assurance Act of 1986" (HCQA), is designed to promote the health, safety and well-being of individuals receiving health and social services in their homes under Medicare, Medicaid, the Social Services Block Grant and the Older Americans Act by establishing: a federal bill of rights for home care consumers; home care quality assurance standards; monitoring and sanctioning mechanisms for home care; quality assurance research and demonstration projects; and data gathering requirements.

THE BILL

H.R. 5680, "The Homecare Quality Assurance Act of 1986" (HCQA), is a first step toward ensuring the quality of care provided to persons in their home under Medicare, Medicaid, the Social Services Block Grant, and the Older Americans Act. HCQA is based largely on the findings of the American Bar Association's report, "The Black Box of Home Care Quality" which reports serious deficiencies in our current quality assurance system when it comes to home care. Bill Provisions include the following.

Establishes a federal bill of rights for home care consumers under Medicare, Medicaid, the Social Services Block Grant and the Older Americans Act.

Sets home care quality assurance standards and requires compliance as a condition of participation under Medicare, Medicaid, the Social Security Block Grant, and the Older Americans Act.

Requires that home care agencies have plan of care policies which identify services to be provided, provide a means for identifying additional client needs and include coordination mechanisms with other service agencies.

Requires that home care agencies have appropriate administrative policies including governance structures, fiscal and personnel management, and client records.

Requires that PROs provide quality assurance monitoring of all health agencies funded under Medicare or Medicaid, expending at least as many resources on quality assurance as on cost containment.

Requires that states have a quality assurance monitoring mechanism for home help services funded under Medicaid, the Social Services Block Grant Program and the Older Americans Act.

Requires that states establish a Consumer Advisory Board (CAB) which conducts oversight activities, provides input into the award and evaluation of the PRO and home help monitoring mechanisms and receives input from home care beneficiaries.

Requires that PROs, state home care monitoring mechanisms and Ombudsman Programs have toll-free hot-lines to receive questions and complaints from beneficiaries, providers and others concerning home care quality issues.

Requires that sanctions, including civil penalties, be available to ensure compliance with quality assurance standards.

Requires that DHHS establish training requirements for all individual delivering home care services and fund training programs for personnel and caregivers, and requires that states develop certification requirements for homemakers, home health aides and personal care attendants.

Requires that DHHS establish guidelines and provide funding for home care quality assurance studies and demonstration projects.

Amends the Older Americans Act to include a Nursing Home Facilities and Home Care Ombudsman Program to investigate and resolve nursing home and home care service complaints and to provide information on nursing home and home care services.

BACKGROUND

Growing Need: With the rapid increase in the number of older persons and the availability of funding (albeit limited) to support services, home care has mushroomed over the past two decades, but with virtually no provisions to ensure the quality of care delivered. While four percent of the population of the United States was 65 or over in 1900, that age group is now 12 percent. In 1900, some three million persons were sixty-five and older compared to twenty-eight million in 1984. That number of older persons is expected to increase even more dramatically over the next several decades, reaching over sixty-four million by the year 2030. More importantly, the greatest percentage of growth is in the number of persons in the 85 and older category. While the rest of the population increased by 9.1 percent over the past ten years, the 85+ population grew by 56.6 percent. It is this group of individuals who have the greatest need for home care and other long term care services, as they are at the greatest risk of chronic illnesses and limitations in functional abilities. An estimated 31.6 percent of those 85 years and over need assistance with personal care.

Rapid Growth in Services: Concurrently, there has been a rapid growth and expansion in the home care market. Between 1966 and 1986, the number of certified home health agencies grew from 1,275 to 6,005. Since 1982, certified home health agencies have increased by 55 percent. Although home health care consumes only three percent of the Medicare budget, it is the fastest growing segment of that budget. From 1974–83, Medicare expenditures for home health increased at an annual rate of 25 percent. Investor-owned agencies increased by 300 percent between 1982 and 1984. Proprietary home health care agencies now make up more than 30 percent of Medicare certified agencies, up from six percent in 1979. In addition, there are many home care agencies providing only support services or a mix of support and health services. While no accurate figure exists documenting the number of agencies or programs which provide these services, the American Bar Association estimates that they may number 10,000.

Inadequacy of Current Quality Assurance System: Despite this dramatic growth in home care, little is known about the quality of care provided. As such, home care quality remains a "black box"—a virtual unknown. There is a lack of data about who is providing these services, how many people are being served and how many public and private dollars are going into home care. Most importantly, little objective data are available on the quality of home care. The data that do exist are primarily anecdotal and range from statements of "excellent services" to "horror stories." Of particular concern is the in-home location of services that makes the actual delivery of care virtually invisible and, therefore, largely beyond the easy reach of public or professional scrutiny.

Quality standards for home care are, at best, inadequate. Further, what monitoring occurs at the federal level focuses largely on reimbursement fraud and abuse. Although Medicare conditions of participation provide standards for the delivery of home health care, these standards have been criticized as only providing "paper" compliance. Further, federal quality assurance standards and monitoring systems for home help services, i.e., home care services other than home health services, are virtually nonexistent. The quality assurance standards and monitoring systems that are available for home help services are provided by the states or local units of government. The American Bar Association reports that thirty-four states and the District of Columbia have some regulation of home care. In the majority of these cases, regulations mimic the Medicare conditions of participation and focus on home health care rather than the broad array of home care services.

IN BRIEF—WHY H.R. 5680

Vulnerable consumers

Certified home health agencies grew from 1,275 in 1966 to 6,005 in 1986. Between 1982 and 1984 alone, they increased by more than 50%.

The total number of home care agencies, including both Medicare and non-Medicare, is estimated to be as high as 10,000—over a 50% increase from 1982.

Investor-owned agencies increased by 300% between 1982 and 1984. Propietary home health care agencies are more than 30% of Medicare certified agencies, up from 6% in 1979. Investor-owned hospital and nursing home chains operated 145 home health facilities in 1985, up by 96% from 1984.

The major growth areas in home care have been in high technology services and paraprofessional services such as homemakers. These are the areas in which there has been the least oversight and regulation for quality assurance.

Home health care is the fastest growing portion of Medicare. Between 1974 and 1983, Medicare reimbursement of home health providers grew 25% annually.

1980 Title XX expenditures for community based care were over $2 billion. Older Americans Act expenditures were over $724 million.

In 1982, the disabled elderly spent $2 billion out of pocket for home based care and durable medical equipment and supplies.

Inadequate quality assurance system

The location of home care services makes their actual delivery essentially invisible and beyond the easy reach of public or professional scrutiny.

Medicare Conditions of Participation stop at "paper" compliance. Standards do not stipulate the amount of training required by home health aides nor are clients routinely interviewed to determine the quality of care provided.

There are few sanctions for inadequate or poor quality home health care outside of decertification for Medicare certified home health agencies. Federal quality assurance systems for home help services are virtually non-existent.

DHHS reports that, since 1981, only 23 providers have been "involuntarily terminated" from the Medicare program for failure to comply with required standards. Yet, 40% of 60 certified providers in one state with an active quality monitoring system were deficient in "coordination of patient services and 70% were deficient on "conformance with physicians orders."

Quality of homemaker/personal care and home health aide services were reported to be a major problem by a majority of the case managers interviewed in the National Long Term Care Channeling Demonstrations.

Sixty-five percent of over 1,000 home care professionals recently surveyed indicated that quality of care in community based services was a key issue of concern.

While 34 states and DC have home care regulations, most simply cite the Medicare home health regulations and do not regulate the non-health component of home care. Virtually none provides for consumer rights or grievance procedures.

PRESIDENTS CONTROL FOREIGN POLICY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. SOLOMON. Mr. Speaker, I wish to bring to the attention of this body a timely editorial which appeared this morning in a hometown newspaper, the Schenectady Gazette.

This editorial clearly expresses a truth that is imbedded deeply in our Constitution—that our foreign policy is in the hands of the President, and not in the hands of 535 little Secretaries of State at this end of Pennsylvania Avenue.

Mr. Speaker, incalculable harm has been done to our foreign policy by congressional interference since the Vietnam war. And now that the President is about to meet with Secretary Gorbachev in Iceland, we would do well to heed the advice of this editorial.

"And Congress," it states, "should not try to impose a nuclear test ban against presidential wishes."

It concludes by saying that "Congress should exert its authority over spending and leave negotiations to the executive."

With that reminder, Mr. Speaker, I'm sure other Members of this body join me in wishing President Reagan success in these important preliminary talks.

ARMS CONTROL AND THE BUDGET

President Reagan departed for the nonsummit summit in Iceland with a final blast at a congressional effort to guide arms control. House leaders responded by nothing that the president had rejected conciliatory offers and indicating they would hang tough. Much of the bluster on both sides is empty rhetoric, but the House does have some important weapons limits in its proposed spending bill and should leave them there.

The president went on the radio last Saturday to ask Congress not to hinder his summit talks by imposing arms control provisions that would make the Soviets less inclined to negotiate. But the president is not going to Iceland to negotiate an arms treaty. Even he says that the purpose of the meeting is to prepare for another meeting. Congress should be not a bit concerned about how the proposed bill would affect the Iceland tete-a-tete.

Lawmakers should be concerned, though, about what happens at the arms reduction talks in Geneva, and—especially in a budget measure—on the economic effect of the arms race in this country.

The president is right to insist that he, and not Congress, should control arms talks. But he is wrong to twist that into an argument for a blank check from Congress. The president should propose weapons development plans in accordance with defense needs and possible negotiations. But he must sell Congress on the need for them because lawmakers determine spending levels.

Some of the arms control provisions included in the House "continuing resolution," which authorizes 1987 spending, are inappropriate. Specifically, Congress should not tell the president to abide by the unratified SALT II treaty. Compliance with this agreement is voluntary and a matter of negotiation with the Soviets. The White House has the right to decide this issue.

And Congress should not try to impose a nuclear test ban against presidential wishes. A test ban would be a highly desirable element of a weapons treaty, but the administration must negotiate it.

On the other hand, the House is within its rights to freeze funding for the so-called Star Wars missile defense system, and block production of a new generation of chemical weapons. Congress controls the purse strings on such programs and can properly set conditions on spending. A final proposal to bar testing of antisatellite weapons is therefore also justified because it defines what type of antisatellite program Congress is funding—a research program. Testing would bring the project into a development phase, and by barring testing Congress is blocking development.

The squabble between Reagan and Congress involves important principles that are only obscured by talk of tied hands, summit meetings and continuing resolutions. Both sides should abandon the rhetoric, Congress should exert its authority over spending and leave negotiations to the executive.

WHAT PRICE SANCTUARY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. DREIER of California. Mr. Speaker, during our debate on comprehensive immigration reform, we have all heard many facts and figures depicting the critical nature of the crisis. For the record I would like to submit the following assessment of the effects of illegal immigration on Los Angeles. Despite its brevity, its author, Los Angeles County Supervisor Peter F. Schabarum, presents a comprehensive picture of the economic and social strain millions of undocumented aliens are putting on the Los Angeles community. I recommend this report to any of my colleagues who are in doubt as to the need to regain control over our borders:

WHAT PRICE SANCTUARY?

(By Peter F. Schabaram)

Politicians and citizens of all backgrounds are divided, sometimes bitterly, over the issues of illegal immigration and political refugees. But America is a nation of immigrants and there is deep compassion for those who come here in search of a better life. Emma Lazarus captured that spirit with her inscription on the State of Liberty:

"Give me your tired, your poor,
Your huddled masses, yearning to breathe free . . ."

My own grandparents were examples of the American immigrant dream. My grandfather, a German engineer, migrated to Mexico where he met and married my Mexican grandmother. They eventually immigrated legally to California with their children and became U.S. citizens. There were no welfare programs then and they and all the other immigrants worked hard to pay for food, clothing and shelter.

Today, those programs and more are available to immigrants, both legal and illegal, and Los Angeles County is staggering under the burden of caring for all those who come to our shores.

By the chance of geography, according to the U.S. Census in 1980, 49.8 percent of all

undocumented aliens in the U.S. were in California, 64.3 percent of those settled in Los Angeles County.

Let me share with you some more eye-opening statistics:

Los Angeles County is home to an estimated 1 million undocumented aliens,

Los Angeles County has more undocumented aliens than all other states combined, with the exception of New York, Texas and the entire state of California,

It costs local taxpayers more than $200 million each year to provide health, justice and social services for this population;

The County Department of Health Services will spend $115 million this year on health care for the more than 600 illegal aliens who daily occupy beds in the five County hospitals—none of which is reimbursed by the State or Federal government;

Approximately 70 percent (or 18,000) of the babies born in County hospitals are to undocumented alien women. These babies are automatically American citizens and are eligible for the welfare rolls and all other benefits available to U.S. citizens;

48,000 children per month whose mothers are undocumented aliens receive benefits costing county taxpayers a monthly $8 million;

If congress passes one of the several immigration reform bils before it, the county will be saddled with a staggering $300 million cost per year to provide health and welfare for these newly legalized residents; and

62,500 political refugees are already on the county's welfare rolls as the result of previous congressional decisions.

The Board of Supervisors has no quarrel with the humanitarian aspect of providing public services to refugees and illegal immigrants. There are strong moral and public health reasons which dictate that public services be made available to these people. We are concerned, however, with the question of who has ultimate responsibility for paying for those services. We believe that obligation belongs to the federal government. After all, they have sole responsibility for controlling immigration into the United States and that responsibility includes providing for an orderly process of entry to the United States. As it is, our treasured "melting pot" is in danger of overflowing and putting out the flame.

Despite the above facts and contrary to federal law, the Mayor and a City Council majority, have by proclaiming Los Angeles a sanctuary, touched off a storm of protest. And, the public has a right to be angry.

Who will take care of these people? Not the Mayor or the Los Angeles City Council.

The burden will fall squarely on the taxpayers of Los Angeles County. I think this is morally and financially unacceptable.

IMMIGRATION REFORM

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. KLECZKA. Mr. Speaker, I believe that immigration reform is desperately needed, and I support many of the bill's provisions. Specifically, I support employer sanctions and legalization for undocumented workers who have established roots in this country.

However, I voted against the rule and the bill because it contained the Schumer legalization plan. I do not believe that the House should have considered this legislation under a rule which prohibited, the bill's most controversial component, the Schumer proposal, from being voted on or amendment.

Certainly, the modified Schumer plan for farmworkers is less onerous than his earlier proposal. However, it still allows illegal immigrants who have briefly worked in agriculture to gain temporary resident status and subsequently to become citizens. It also permits additional farmworkers to enter this country as residents and later to beome citizens. This legalization plan goes too far and would not serve the interests of the country as a whole.

The cost of the Schumer proposal is more than we can bear during this time of budget crisis; if 250,000 workers were granted resident status, the public assistance costs associated with legalizing these workers is estimated to be $900 million by 1991.

In addition, unemployment in the United States remains very high, and there is little doubt that the large numbers of newly admitted workers would compete for jobs with workers already in this country.

I think that this legislation will help to reduce the flow of undocumented workers in this country. However, I fear that the U.S. taxpayer and the average worker may have to bear an unfairly heavy burden to accomplish this goal.

A TRIBUTE TO HULDA CROOKS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. LEWIS of California. Mr. Speaker, it is with great pleasure and admiration that I bring to your attention a most remarkable lady, Mrs. Hulda Crooks of Loma Linda, CA. Two months ago today, I joined Mrs. Crooks as she attempted her 23d ascent of Mount Whitney, the highest mountain in the continental United States at 14,494 feet. This achievement alone stands as a remarkable testimony to her dedication and determination. Most remarkable, however, is that Mrs. Crooks still climbs mountains at the young age of 90.

Mrs. Crooks was born on a farm in Saskatchewan, Canada, on May 19, 1896. Married to Dr. Samuel Crooks of Loma Linda, Mrs. Crooks pursued hiking and later mountain climbing with encouragement from her husband prior to his death in 1950. Since that time, Mrs. Crooks has scaled 97 different mountain peaks, each one represented by a colorful patch on her well-traveled backpack.

As a result of less healthier days some years ago, Mrs. Crooks is today an ardent promoter of healthful living. She began her physical regimen by walking and later pursued more vigorous exercise by jogging. An active member of the Loma Linda Lopers, a 400-member health and fitness group, she presently holds eight world records for women over the age of 80. In addition, she recently wrote a book, "Trails, Trials and Triumphs," proclaiming that life really begins after 60. Speaking on health and physical fitness up to a dozen times each month and having devoted many years to hospital work in dietetics and research, Mrs. Crooks still works as a medical literature researcher and walks up to 100 miles each month to stay in shape.

In 1962, at the age of 66, Mrs. Crooks made her first ascent of Mount Whitney. She has been going back to her mountain each year, making the difficult climb 22 times and being turned back only three times because of bad weather. Her greatest desire is helping others, especially young people, realize the value of good health and how to achieve it. "If I can influence young people," she says, "I feel I have done something worthwhile." She demonstrates to people of all ages that one is never too old to pursue a healthier lifestyle. "Older people tend to feel their lives are over when they reach 65," she says. "They think they are all done. But there is a lot of good living after 65 if you have an interest in life."

Above all else, Mr. Speaker, Mrs. Crooks exudes hope and enthusiasm. "You must always have hope for the future," she reminded her friends on the trail with her recently. And, most importantly, Mrs. Crooks is a woman of deep devotion who fervently believes our lives should be a reflection of God's will and that we live by God's grace. Clearly, the example and inspiration she provides for men and women, both young and old, is simply remarkable. Please join me today in recognizing this most outstanding and deserving lady, adoringly known by her many friends as "Grandma Whitney."

IRINA RATUSHINSKAYA IS RELEASED FROM PRISON IN KIEV

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mrs. SCHROEDER. Mr. Speaker, I am pleased to inform my colleagues that Irina Ratushinskaya, Soviet poet and human rights activist, was released last night from the K.B.G. prison in Kiev.

In 1983, Ms. Ratushinskaya was arrested and sentenced to 7 years hard labor for her activities in the human rights movement. She became active in the movement after she and her husband were refused permission to emigrate several times. Last summer, Ms. Ratushinskaya was moved from a labor camp in Mordavia to the K.B.G. prison in Kiev.

Ms. Ratushinskaya was released unconditionally Thursday night. She plans to apply to go to Great Britain for medical treatment. While she was in prison, reports indicated her health was bad and she was suffering from a number of ailments without receiving adequate medical treatment.

When we speak of the spirit of Iceland, this is what we mean. I applaud the Soviets for this initial humanitarian gesture and hope that they will release other human rights cases that we have all been following for years.

CLARIFICATION OF H.R. 5445: CIVIL RICO REFORM

HON. GEORGE W. GEKAS

OF PENNSLYVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. GEKAS. Mr. Speaker, since the battle to reform civil RICO began almost 1½ years ago, I have strongly supported those who sought a effective change in the law that would eliminate the widespread misuse of the statute.

As ranking minority member of the Criminal Justice Subcommittee, which ultimately reported H.R. 5445, I joined with the gentleman from Virginia [Mr. BOUCHER] in pressing for the adoption of a prior-criminal-conviction requirement. Despite the overwhelming support that the prior-criminal-conviction requirement had garnered in the subcommittee, the Judiciary Committee, and the House itself, we agreed to compromise in order to see to it that Congress provided substantial relief to the victims of civil RICO this year. I note that the Criminal Justice Subcommittee would not have reported out the language that was embodied in H.R. 5445 without the support of the minority members.

We have agreed to support the further compromise embodied in the amendment to H.R. 5445 in order to facilitate our ultimate goal of ending as immediately as possible the misuse and abuse of civil RICO. Our support was premised on certain elements of the compromise.

First, H.R. 5445 provides for the immediate detrebling of damages in the vast majority of civil RICO actions. Automatic treble damges remain only if the suit is for injury to a government entity or if the plaintiff is seeking to collect treble damages from a defendant who first has been convicted of certain criminal acts. In the latter cases, treble damages can be collected only from the defendant who has been convicted.

All other plaintiffs, with one narrow exception, will be able to collect only actual damages plus attorney's fees. In particular, if the plaintiff's claim is based on behavior that falls within the coverage of State or Federal securites laws, then he cannot use civil RICO to collect anything beyond actual damages plus attorney's fees. Because one of our major concerns has been with the abuse of civil RICO to evade the standards and limitations of the securities laws, recovery under section 1964(c)(2)(B)(ii) would not be available to those plaintiffs who can collect on a securities law remedy.

But, moreover, recovery of punitive damages would not be available to a plaintiff when the alleged behavior of the defendant is remediable under securities laws. I must emphasize this focus on behavior and not on the ability to recover of a specific plaintiff. For it may be that the securities laws do not give that individual plaintiff standing to press the particular claim or he may have done something, or failed to do something, that renders an otherwise valid securities claim invalid. If the plaintiff is complaining of conduct that falls within the realm of the securities laws, so that those laws provide some sort of remedy, a plaintiff can no longer use civil RICO to create a multiple damage Federal remedy.

Second, this detrebling is to be effective immediately in virtually every case in which there has not yet been a jury verdict or judgment assessing liability against the defendant. We have provided one limited exception to that rule. It may be that, in the rare case, some peculiar circumstances will exist that justify resurrecting a plaintiff's ability to collect treble damages. The only instance that I can think of now would be where the plaintiff decided not to bring another valid treble-damage claim because he thought he had a RICO claim, and it is now too late to bring the other cause of action.

Simply because the plaintiff has pressed his case to a certain point, or does not have another treble damage remedy, will not be an adequate ground to let him seek treble damages. The bill explicitly makes the time cutoff the entry of judgment or a jury verdict; if the case has not gone that far, we have decided to remove the treble damages. Nor can there possibly be anything "unfair" about a plaintiff only being able to collect actual damages and attorney's fees simply because he has no other way to collect multiple damages. Actual damages is what a prevailing plaintiff normally recovers in Federal cases; even under this bill a plaintiff will have the unusual benefit of recovering his attorney's fees if he wins. Thus, the unfairness necessary to preserve the right to recover treble damages must be extraordinary and manifest.

Third, the statute of limitations is tied, in most cases, to the accrual of the plaintiff's cause of action or to the end of the injury to him, not to the last act in the alleged "pattern of illicit activity." In order to end the misuse of the statute, we had to eliminate the open-ended liability that exists under the current statute, which allows a plaintiff to revive claims for old injuries simply by linking them to a recent act in the alleged "pattern" of most recent vintage. H.R. 5445 eliminates that potential for this open-ended liability.

Fourth, we want to make sure the courts understand that the "pattern" requirement is intended to limit civil RICO to cases where there is persistent criminality as reflected in a series of criminal transactions or episodes, not just a single unlawful episode that includes several acts. The specific minimum requirements that we impose are necessary, but not necessarily sufficient, to the allegation of a "pattern" and not intended to limit further development of the law in the wake of the discussion in footnote 14 of the Sedima decision.

I have not touched upon all the elements of the compromise proposal. I reiterate the points I made during floor consideration of this bill concerning my hope for its further development consistent with the position I have supported from the beginning of the 99th Congress.

TRIBUTE TO MRS. MARIA RUSSO VALLUZZI

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. TORRICELLI. Mr. Speaker, I rise in honor of Mrs. Maria Russo Valluzzi of Hasbrouck Heights, NJ, on the occasion of her 100th birthday.

Mrs. Valluzzi reached the age of 100 on October 8, 1986. She was born in New York City, the child of Italian immigrants. Her husband, John Valluzzi was employed by the law enforcement agencies of Bergen County for 43 years.

Mrs. Valluzzi has lived from the age of gaslights and horse-drawn carriages to witness an American presence on the Moon and the atomic generator. Hers has been a full life enriched by 5 children, 11 grandchildren, 18 great grandchildren, and 6 great, great grandchildren.

We do her honor as she celebrates this significant milestone in her life. May she enjoy continued good health as she lives out her years with her loving family.

CHILD ADVOCACY UNIT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. FOGLIETTA. Mr. Speaker, next year this Nation will celebrate the 200th anniversary of our Constitution. A major focal point of this celebration will be in Philadelphia, our first capital. Philadelphia is a city of many firsts.

One of our firsts is in the area of juvenile protection. Ten years ago, in 1976, the Child Advocacy Unit of the Defender Association of Philadelphia was established by Alice Tuohy O'Shea, Esq. It was the first court-approved federally funded effort to integrate the juvenile system with groups responsible for protecting the interests of dependent children.

Public Defenders are mandated to provide legal representation for the criminally indigent: children as well as adults. The child advocacy unit was approved by then chief defender Vincent Zaccardi out of concern that many children were going through the juvenile process without legal representation.

The child advocacy unit soon attracted supporters from throughout the judicial system by showing that it could be an effective tool for the prevention of juvenile delinquency at its first surfacing. These children were not perpetrating crimes but were high risk predelinquents who were innocent victims of societal or parental problems.

The child advocacy unit became fully operative in July 1976 under a Federal LEAA grant. The unit's original goal under judicial act was the protection of a child who was abused or neglected or deprived, and the representation of a child going through family court on involuntary commitments under the Mental Health and Mental Retardation Act of 1966.

As the new and intriguing legal concept took hold, an informal standard was developed by which judges could be guided in the appointment of child advocates in family court in Philadelphia. That standard was: "Where there is a divergence of interest between parent and child, the child should have independent legal representation." As judges rotated through Family Court to Adoptions, Women's Division, Domestic Relations, and Adult Court, those judges took the "divergence of interest" standard with them. They began appointing child advocates in areas of the law never anticipated by the defenders. The judges began appointing child advocates in:

First. Divorce Court, where the child had become a pawn between embittered and battling parents;

Second. Adoptions, where the mother had withdrawn consent after the child had been placed with the adoptive parents;

Third. Paternity suits where the mother was refusing visitation because the father was allegedly not the natural father, or was refusing to pay support for the child; and

Fourth. Legal assistance to minor patient donors at Children's Hospital in Philadelphia.

All of these formalized procedures were legal breakthroughs on problems which had not been previously recognized in the law.

This is the Tenth Anniversary of the Child Advocacy Unit. In this decade, a body of lawyers and social workers realized three major accomplishments. They are:

First. Preventing juvenile delinquency: Children with problems which could lead to juvenile delinquency are being discovered before it is too late to assist them.

Second. Preventing continuing child abuse: Providing constant monitoring and assurances of mandated social services, medical care and educational progress for parents and children.

Third. Stabilizing family units: Getting at the root of societal and parental problems which are the cause of child abuse and which in turn are acted out by child victims who do not have the tools of judgment nor the life experience to make life directing decisions themselves.

This pioneering effort and its expertise and experience is available to other States and jurisdictions by the simple task of asking.

On this tenth anniversary of the Defender Child Advocacy Unit of Philadelphia, I ask my esteemed colleagues of the House of Representatives to join in acknowledging this dedicated group of lawyers, social workers and supportive staff who in their decade of service have legally represented tens of thousands of Philadelphia children.

Mr. Speaker, for this record I salute:

Attorneys, Alice Tuohy O'Shea, Esq. founder of Child Advocacy Unit, William Norvel, Esq. chief, Child Advocacy Unit, Mary Cole, Esq., Sarah Nerken, Esq., Valerie Jones, Esq., David Mullins, Esq., Gwendolyn Bright, Esq., Agnes Wilson, Esq., Julius Jackson, Esq., Shawn Lacy, Esq., Douglas Dick, Esq.

Social workers, Dr. Najma Davis, DSW, Michael Lewis, BSW, Charles McKinney, MSW, Thomas Curran, MSW, Claire Rosenstein, MSW, Samia Cherry, MSW, Ann Park, MSW, Jacqueline Robbins, BSW, James Bembrey, MSW, Michael Connery, BSW, MPsy, J.D., Esq.

Administrative staff, Jennifer Willis, Katherine Easton, Gerry Bussy, Jeanne McDevitt, Renee Evans, Debra Kessler.

Investigations, Robert Reed, Gloria Richardson.

And the many social service graduate and undergraduate students, and law students who had the opportunity of doing their practicums with the Defender Child Advocacy Unit and who contributed greatly to the growth and development of child advocacy in Philadelphia.

TAXATION OF MUTUAL LIFE INSURANCE COMPANIES

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. GEPHARDT. Mr. Speaker, I would like to call the House's attention to a problem that has arisen concerning the taxation of mutual life insurance companies under the provisions of the Deficit Reduction Act of 1984 (DEFRA). I am certain that the Congress intended to treat all segments of the life insurance industry fairly, but there is one provision of the 1984 legislation that has unintentionally caused considerable inequity in the taxation of small- to mid-sized mutual companies. This is not a situation where any company or group of companies is at fault; it is the law itself that creates these inequities. I also understand that the Treasury Department is unhappy with this key provision of the law which has proved very difficult to administer.

I am referring to section 809 of the Internal Revenue Code. In essence, this section establishes a special add-on tax for mutual companies only. The tax is calculated by assuming that all of the mutual companies—some 125 companies in all—are one big company. The problem with this approach is that there are tremendous disparities in the size of these mutual companies. If one of the huge companies has poor earnings, everyone else in the mutual segment experiences a tax increase, regardless of their own economic performance.

This is precisely what happened in 1984. Two of the large mutuals reported smaller than expected earnings, which caused every other company's taxes to be considerably higher than expected. Moreover, there is nothing a smaller company can do about this increased liability, and no way to anticipate it in their business planning. In short, this "socialization" of the mutual tax burden has created enormous problems for the great majority of mutual companies.

Section 809 was supposed to resolve the difficult question of how to divide the tax burden of the industry between stock and mutual segments. it is my hope that Congress, working with the Treasury Department and the insurance industry, can examine this issue next year to ensure that all segments of the mutual life insurance industry are treated equitably.

PJETER IVEZAJ IS COMING HOME

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. BIAGGI. Mr. Speaker, I am delighted by the announcement that after several days of strong protest from this body and others, the Yugoslavian Government has decided to release Pjeter Ivezaj, an American citizen who was arrested in July while visiting his relatives in Yugoslavia.

I want to commend United States diplomats in Yugoslavia for negotiating the release of Mr. Ivezaj, and I want to extend special praise to the distinguished gentleman from Michigan, Mr. BROOMFIELD, for the leadership role he has played in bringing about this very positive development. In addition, I want to recognize the significant contribution the Albanian community in this country made to the successful resolution of this important case. It was largely through their vocal expression that we were informed of this human rights tragedy and we were moved to action. That was particularly true of the large Albanian community in my home area of New York City and Westchester County, where concerned members of the Albanian community, such as Peter Camaj and so many others, kept vigil over the plight of Pjeter Ivezaj and even traveled to Washington to ensure a strong U.S. Government response.

A strong U.S. response did occur and for good reason. Pjeter Ivezaj, who had emigrated to the United States in 1972 from Yugoslavia, became a United States citizen and works as a high school teacher in Sterling Heights, MI. As an ethnic Albanian, with a great love of life and basic freedoms, Mr. Ivezaj took part in protests in the United States against the ill treatment of Albanians in Yugoslavia. That was in 1981, and was typical of millions of other freedom loving Americans from all ethnic backgrounds who enjoy the fundamental right of freedom of expression. Mr. Ivezaj broke no U.S. law. In fact, his outspokenness about the ill treatment of his fellow man is encouraged and rewarded in this great country of ours.

However, the Communist Government of Yugoslavia had another view, and when Mr. Ivezaj traveled to Yugoslavia in July to visit his family there, he was promptly arrested for anti-Yugoslav activities associated with his protests here in America. That was a human rights violation of the highest order, but the situation only grew worse 2 days ago when Mr. Ivezaj was sentenced to 7 years in prison for his activities.

Fortunately, the Yugoslavian Government was persuaded to see the grave injustice they committed and they took corrective action. However, it seems likely that this happy ending to such a tragic story would never have happened if Pjeter Ivezaj was not an American citizen, with all our power at his disposal. But, what about the millions of other freedom lovers in Yugoslavia and other captive nations around the world? They are denied the freedom of expression, and when

they do dare to speak out in protest of their repressive treatment, they are often imprisoned or otherwise persecuted. Until the day comes when the treatment of Pjeter Ivezaj is never repeated, not threatened, we, as leaders of the free world, cannot rest in our pursuit of basic human rights for all people.

Welcome back to freedom Pjeter Ivezaj and long live the freedom loving spirit of Albanians everywhere.

UNFAIR APPROACH TO GENERAL REVENUE SHARING FUNDING

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. LIGHTFOOT. Mr. Speaker, I am very disappointed by action taken by the Rules Committee with regard to funding for general revenue sharing in the continuing resolution, the omnibus appropriations bill for fiscal year 1987. As reported by the Appropriations Committee, this bill contained funding for general revenue sharing at a level equal to three-fourths of last year's level. The Appropriations Committee achieved this by making a small across-the-board cut in other funding in the bill. The bill was on its way to the floor of the House when members of the Rules Committee took it upon themselves to delete this funding from the bill without allowing Members an opportunity to offer an amendment to restore any of these funds or change the way in which they are allocated.

I recognize the tremendous pressure we are under to make significant reductions in the Federal deficit, which this year reached its all-time high. As my record clearly indicates, I have been a strong supporter of efforts to reduce the Federal deficit through reductions in Federal spending. However, in doing so I have tried very hard to maintain a standard of fairness. In voting for cuts in spending I have tried to ensure that no single sector of society would bear an unfair share of the burden of deficit reduction—whether it be education, senior programs, nutrition, or programs supported by general revenue sharing.

It is this basic standard of fairness that I believe is violated by the Rules Committee's action to delete all general revenue sharing funds from the fiscal year 1987 appropriations bill. This is particularly unfortunate in view of the fact that there are more constructive ways we could have approached the general revenue sharing dilemma. We could have reduced expenditures under the program by targeting the funds to the most needy communities. At the very least, we could have phased out the program over a number of years to give communities that rely heavily on general revenue sharing time to adjust. Almost every Federal program is taking a cut this year, but few are getting the rug completely pulled out from underneath them.

Last year the Government Operations Subcommittee on Intergovernmental Relations held a hearing at Council Bluffs, IA, which is located in my district. As a result of testimony presented at that hearing and others held by the subcommittee, as well as input from hundreds of my constituents, I acquired an appreciation for the importance of general revenue sharing to rural communities, particularly those located in the Farm Belt. One of the most attractive characteristics of the program is that it comes with few strings attached, letting the community, not the Washington bureaucracy, decide how the funds can best be used.

Earlier this year the Government Operations Committee, of which I am a member, passed a bill, H.R. 1400, to reauthorize general revenue sharing for an additional 3 years. Although I supported cuts in the program that I thought were fair, I voted for final passage of the bill in hopes of keeping the program alive in some form. I was looking forward to the fate of this program being determined by thorough debate on the floor of the House, not by a snap decision made by a few Members in a small committee room.

Mr. Speaker, at this time we do not appear to have an opportunity to restore funds for general revenue sharing. However, I remain committed to fair treatment of this program and I look forward to an opportunity to address this matter in that regard. I urge my colleagues on the Rules Committee to reverse their decision and allow general revenue sharing to come before the full House for debate.

INTRODUCTION OF OLDER AMERICANS SERVICE CREDIT DEMONSTRATION PROGRAM ACT OF 1986

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. GOODLING. Mr. Speaker, I am pleased to join the gentleman from Oregon [Mr. WYDEN] as an original co-sponsor of the Older Americans Service Credit Demonstration Program Act of 1986.

This measure would amend title IV of the Older Americans Act of 1965 and authorize the Commissioner on Aging to award grants to the States for demonstration projects designed to provide senior citizens with services in return for certain volunteer services provided by these seniors to other individuals.

I believe that the general concept underlying this proposal has merit and deserves careful consideration by the Committee on Education and Labor, on which I am privileged to serve, when it considers legislation to reauthorize the Older Americans Act. Clearly, the reauthorization of the Older Americans Act will be a top-priority item on the committee's agenda for the 100th Congress.

While I do have reservations regarding some provisions now incorporated in the bill, I am co-sponsoring this measure today so that it will be readily available to all interested parties for their review, comment, and recommendations.

TAIWAN'S MARTIAL LAW

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. SOLARZ. Mr. Speaker, Chiang Ching-kuo, the preeminent leader of Taiwan and head of the Nationalist Party, announced on Wednesday his intention to end martial law. The announcement itself is a significant step: With varying degrees of severity, martial law has been in effect since 1949. Yet friends of Taiwan and friends of democracy will also be watching with hope and expectation to see how the declared intention is transformed into reality.

The announcement that martial law will be lifted holds out the promise of a fully democratic political system. Whether this potential for pluralism will be fulfilled will be seen in the weeks and months ahead. It is my personal hope that the termination of martial law will result in guarantees of freedom of the press, freedom of expression, and freedom of assembly, in the legalization of the newly proclaimed Progressive Democratic Party and other parties which may be formed, and an increase in the number of elected officials in central representative and executive bodies.

At this juncture, however, I wish to pay tribute to President Chiang for taking this significant step. Partly as a result of his past efforts in the economic, social, and political field, the people on Taiwan have readied themselves to participate broadly in the political process. I am sure that they wait expectantly for the opportunity to do so.

THE SOVIET UNION AND THE HELSINKI FINAL ACT—PROBLEMS IN SOVIET OBSERVANCE OF PROVISIONS FOR THE FREE FLOW OF INFORMATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. LANTOS. Mr. Speaker, today I rise to call the attention of my colleagues to a coordinated initiative being undertaken by myself and other members of the International Parliamentary Group for Human Rights in the Soviet Union [IPG]. My IPG colleagues in the parliaments of many other Western countries will be addressing common themes regarding human rights in the Soviet Union in the coming weeks in their own home parliaments.

Today, Mr. Speaker, I would like to address an aspect of human rights which has become, in the wake of recent events, an even more important issue in Soviet human rights than was thought before—the free flow of information.

Nicholas Daniloff was freed last week, but not until after his basic human rights had been obstructed for 30 days and his liberties, as promised him through the Soviet agreement to the Helsinki Final Act, were denied. On November 4, 1986, the Vienna Review Confer-

ence of the Conference on Security and Cooperation in Europe will convene. The Vienna conference will be the latest in a series of review conferences which periodically convene to review compliance among the 35 signatory states with all aspects of the Helsinki Final Act and to consider possible new commitments which the signatory states may wish to undertake.

According to Basket III of the Helsinki Final Act, the Soviet Union and the other 34 signatories pledged to:

Facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State.

While the Soviet Union signed this document indicating its acceptance of these ideals over 15 years ago, in reality, the Soviet Union has attempted to control and restrict all facets of information flowing into and out of the country.

The Soviet Union restricts the free flow of information in three central areas: First, the broadcast and reception of international radio programs within the Soviet Union; second, the dissemination of Western information including newspapers, periodicals, and television; and third, working conditions of journalists within the Soviet Union.

To facilitate the freer and wider dissemination of information of all kinds:

First, in the area of broadcasting, the Soviets restrict the flow of information by jamming the incoming radio signal from foreign broadcasts. This is done by putting deliberate interference on the same frequency as the incoming signal so that listening to the broadcasts becomes exceedingly difficult.

Between 1975 and 1979, the Soviets ended jamming of Western broadcasts such as the BBC, Deutsche Welle, and the Voice of America. Since 1980, however, the Soviets have increased the scope and intensity of their jamming of such broadcasts by building additional jamming stations. To further discourage listening, the Soviets have made it illegal to disseminate false information based on foreign broadcasts.

To encourage cooperation in the field of information and the exchange of information with other countries:

Second, the Soviets restrict access to Western publications and strictly control the dissemination of all other forms of information entering the country. Western publications are often kept in closed stacks at public or university libraries and subscriptions by Soviet citizens is prohibited. There are very few Western television programs in the Soviet Union, and those which are shown have been edited according to strict ideological standards.

To improve the conditions under which journalists from one participating state exercise their profession in another participating state:

Finally, this area, Mr. Speaker, is one which, in the wake of the very recent arrest and detention of U.S. News and World Report journalist Nicholas Daniloff, the Soviet Union can obviously be held in tremendous violation of international standards. The case of Mr. Daniloff, while a glaring example of a horrible violation of this specific part of the Helsinki final act, must not be veiwed as an isolated one. Just 2 weeks ago, another journalist, this time Canadian, was detained in Moscow. Other journalists suffer constant harassment and are regularly threatened by the KGB with prosecution on baseless charges. Equally, Soviet journalists experience severe repression, including confinement in psychiatric hospitals, for writing any articles critical of the Soviet regime.

My colleagues and I in IPG believe that the free flow of information, as well as other issues in Soviet human rights performance, must remain squarely on the agenda at the Vienna Review Conference. We also believe that, as President Reagan and Secretary Gorbachev move toward a second summit and meet again in Iceland this week, that the issue of human rights must be placed on the forefront of the agenda. For it is only with agreement and adherence to such documents as the Helsinki final act, where human rights maintain a high profile, that we can go on to thinking about agreements in other areas of discord between our two countries. We must agree to treat our own people fairly and with respect to their fundamental rights as human beings, before we can negotiate about other matters of conflict.

Mr. Speaker, the democratic signatories of the Helsinki Final Act must strengthen their support for human rights in the Soviet Union. The democracies must insist that there be balanced progress in all areas of the final act if East-West relations are to improve. Thus, any new agreements in the areas of military, security, and economic relations reached in Vienna must be accompanied by similar accords in human rights and by guarantees of performance under existing agreements.

MS. JESALYNN WASHINGTON: BLIND WORKER OF THE YEAR

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. LAFALCE. Mr. Speaker, I rise today to give proud recognition to a young woman who has been chosen this year's Peter J. Salmon Blind Worker of the Year. Ms. Jesalynn Washington was recently selected by National Industries for the Blind in cooperation with the General Council of Workshops for the Blind as the outstanding blind worker participating in the Javits-Wagner-O'Day Act Program. The Blind Worker of the Year Award was named after the late Dr. Peter J. Salmon, one of the Nation's leading contributors in the field of blindness and instrumental in the late 1930's in the passage of the Wagner-O'Day Act (now the Javits-Wagner-O'Day Act). The Javits-Wagner-O'Day Act provides meaningful and remunerative employment to thousands of blind Americans nationally.

Ms. Washington was born with congenital cataracts and, by the age of 16, her vision was reduced to light perception and shadows. She finds great determination from a sense of healthy competition. An example of this can be seen in her past accomplishments in swimming and running. She is active in her church by participating in both the choir and the church council.

For the past 11 years, Ms. Washington has been employed by the Blind Association of Western New York in Buffalo, NY. Although her vision is limited to light perception, she is proficient.

NATIONAL FORUM PROJECT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. MILLER of California. Mr. Speaker, student leaders across America have embarked on an ambitious and laudatory project to educate themselves about nuclear arms. The resolution I am introducing today, with my colleague Mr. LEACH of Iowa, expresses the support of Congress for their efforts.

Begun by students at the Milton Academy in Milton, MA, the signature of every high school student in America on a petition requesting a nationally televised educational forum on nuclear arms, with President Reagan as a participant.

The forum will be educational and nonpartisan, presenting a full discussion of all opinions and viewpoints. There will be speeches by four nationally known experts, who will then be questioned by a panel of high school students.

The project has already received support from the National Convention of Student Council Presidents, the National Education Association, and the National Association of Secondary School Principals, which gave the project address labels for the 22,000 high schools in America. Volunteers have raised funds to mail the petitions, and have already met with executives at NBC, ABC, and CBS, who have expressed interest in the project.

This is a very ambitious undertaking which will obviously require the cooperative efforts of millions of youth. It is their way of trying to help themselves get more involved, to better understand what every American President since 1945 has agreed is the critical challenge of our age—nuclear arms.

We must support their desire for understanding of these complex questions. The "National Forum" project is not about telling them what to think. It is about giving them the information necessary to think for themselve.

It is, after all, soon going to be their world, and these will be their decisions. We should be proud of their desire to know, to involve each other in a broad-based young citizens, movement. It represents the best kind of student activism.

I am submitting this straightforward concurrent resolution in support of the "National Forum Project" for the RECORD.

H. CON. RES. 409

Concurrent resolution expressing the support of Congress for the petition drive of the National Forum requesting a televised educational forum on nuclear arms issues

Whereas high school students must be able to make informed decisions about the future of our country;

Whereas educating high school students regarding nuclear arms issues will help students make vital decisions on such issues;

Whereas free and open discussion is an important hallmark of American democracy; and

Whereas the National Forum is uniting high school students through a petition drive requesting the major television networks to hold a televised educational forum on nuclear arms issues: Now therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the National Forum in its effort to unite high school students through a petition drive requesting the major television networks to hold a televised educational forum on nuclear arms issues.

JOHNSTOWN LODGE OF ITALIAN SONS AND DAUGHTERS OF AMERICA HONORS STATE SENATOR MARK SINGEL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. MURTHA. Mr. Speaker, it is a pleasure to join with the Johnstown Lodge of the ISDA on October 25 in honoring State Senator Mark Singel.

A member of the Pennsylvania State Senate since 1980, Mark is particularly proud of his work on a low-interest loan program to help unemployed homeowners facing mortgage foreclosure. Mark is presently the Democratic Party's nominee for Lieutenant Governor, a position from which he would head the Governor's Energy Council and be able to give an additional boost to our coal efforts.

It has been a distinct pleasure over recent years to work with Mark on a number of projects for our area including road revitalization, employment opportunities, coal development, and community assistance.

Mark has brought to the State senate and to the present campaign an enthusiasm, dedication, and integrity that has been the hallmark of his public service career.

One of the keys to Mark's attitude was recently mentioned when he said he was tired of seeing people write off the manufacturing industry. Mark said we need to make an effort to try and do everything you can to help heavy industry, not just give it up for lost. That's the kind of "can do" philosophy that has symbolized Mark's career.

It's a pleasure to recognize his efforts and to look forward to working with Mark Singel for many more years to come.

LOUISVILLE TEAM TAKES NATIONAL TENNIS CHAMPIONSHIPS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the athletic achievements of a group of my friends from home who recently "brought home the gold" by winning the USTA/Volvo Tennis League National Championships at Seabrook Island Resort, Charleston, SC.

The league championships culminate a nationwide competition of adult tennis teams. On the road to the championship, the Louisville team took on all comers at the local, State, regional, and national levels. The Louisville team emerged as the only team with an unblemished record.

The Louisville area enjoys a strong local tradition of tennis excellence and, as a community, has hosted numerous national tournament events. Recently, Louisville was considered as the site of this year's Davis Cup finals because of its rich tennis tradition. This national championship will add to this tradition.

On another note, the Louisville contingent humbled much younger opponents in their march to the national title. The average age of the Louisville team is over 55 years "young"— the "youngest" is my friend, Sonny Bass, who is 65. For those like myself, who are in their fifth decade, this is sweet revenge on the baby boomer generation.

I am proud to be able to share with my colleagues the remarkable feat achieved by this group of athletes from my hometown, who have distinguished themselves, their city, and the sport of tennis.

At this point, I would like to recognize the members of the team who contributed their considerable talents to this championship season: Gary Tucker, coach/captain; Lewis "Sonny" Bass; Jerry Fangman; Tom Faszold; Charles Francke; Ted Hartmann; Cliff Johnson; Irv Kupper; Richard Schreck; Bill Spaulding; Rich Stuedle; and last, but certainly not least, my friend and fellow Notre Dame alumnus, Bill Welch.

TRIBUTE TO TOM LOEFFLER

SPEECH OF

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1986

Mr. DE LA GARZA. Mr. Speaker, because I had a conference committee meeting which I could not leave, I did not have the opportunity to say "adios" to my coworker from the United States-Mexico border TOM LOEFFLER. In his years in Washington, TOMMY's made his mark. He's always kept his border beginnings in mind knowing whence he came.

His years in the Congress were made more productive by virtue of his splendid background of association with former President Ford as well as with former fellow Texan and U.S. Senator John Tower. As TOMMY LOEFFLER leaves us we can only say vaya con dios.

ED MARKEY DID NOT SABOTAGE THE PRICE-ANDERSON BILL

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. SWIFT. Mr. Speaker, today's Washington Post carried an article that describes the unsuccessful efforts to increase the nuclear industry's liability limits in the Price-Anderson Act. Three House committees, including the Energy and Commerce Committee on which I serve, have devoted substantial attention to this matter over the past year. It is disappointing to all of us that we will not be able to resolve the issue this year, and will have to start over again in the 100th Congress.

In the Post article, Ed Davis, a spokesman for the nuclear industry, charged that Ed Markey, chairman of the Energy Conservation and Power Subcommittee, was responsible for "sabotaging a compromise piece of legislation." I know Mr. Davis, and think highly of him; however, his statement in the Post is simply inaccurate. Ed Markey, along with many other members of the Energy and Commerce Committee, including Chairman DINGELL, RON WYDEN, DENNIS ECKART, and myself, sought a rule that would allow certain amendments to the floor vehicle. This was not an effort to sabotage a compromise bill. We were merely seeking to obtain the procedure we all understood would be followed when the compromise bill was drafted.

When our committee marked up H.R. 3653, the Price-Anderson bill, in July, we added several provisions that strengthened the legislation. Here is a brief description of the key strengthening amendments adopted by the Energy and Commerce Committee: the Markey amendment to automatically adjust Price-Anderson's liability limits so as to keep up with inflation; the Eckart amendment to apply Price-Anderson to nuclear accidents involving diverted materials; the Wyden amendment to require full compensation for victims of accidents at Federal nuclear reactors; and the Swift amendment to require automatic payment of compensation to victims of nuclear waste accidents.

As we negotiate a floor vehicle with our sister committees—Interior and Science and Technology—they were unwilling to accept any of our key amendments. Nevertheless, because we wanted to move the legislation along, we agreed to a floor vehicle without these key provisions, but with the understanding that we could offer amendments on the floor.

What happened after that was not sabotage of legislation. Rather, committee leaders continued to try to work out a bill that everyone, including the Energy and Commerce Committee, could unite behind on the floor. We all knew that negotiations with the other body would be tough, and that if we could work out our differences before going to the floor we would have a stronger hand. As it turned out, however, we were unable to agree upon a bill that we all could support. Unfortunately, by that time it was so late in the session that

many members feared that amendments on the floor would disrupt the dynamics of the bill and prevent agreement with the other body.

No Members acted in bad faith. No one is to "blame." The so-called compromise bill was negotiated last August under one set of assumptions. By the time we got to the Rules Committee earlier this week, we were operating under entirely different circumstances.

When we take up Price-Anderson next year, I hope that we can do so without any misperceptions about what caused its demise this year. We had legitimate disagreements that simply could not get resolved before the calendar ran out. But to charge "sabotage" is neither accurate nor helpful to the process.

THE CENTENNIAL OF THE BAKERY, CONFECTIONERY AND TOBACCO WORKERS UNION, LOCAL 6

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. BORSKI. Mr. Speaker, I rise to recognize the outstanding contributions and dedication the members of the Bakery, Confectionery and Tobacco Workers Union, Local 6 of Philadelphia. The union will celebrate 100 years of service to its members and the city of Philadelphia on October 25. I ask my colleagues to join me as I salute this important group.

Founded in Philadelphia in 1886, local 6 began as a small group of German bakers who struggled for industry recognition and better working conditions. The journeymen bakers faced fierce opposition by the industry, and the union remained small until the passage of the National Industrial Recovery Act which was replaced by the National Labor Relations Act in 1935.

In 1942, the Bakery and Confectionery International Union conferred jurisdiction over the candy workers upon local 6. By 1978, the tobacco workers merged with the B&C to form the modern Bakery, Confectionery and Tobacco Workers Union.

Over the years, the union has faced and surmounted the challenges of increased automation of the industry and has been in the forefront of the fight for equal opportunity employment for minorities and women. Local 6 has also fought to improve the quality of life for its members outside the shop. For example, the union had conducted an outstanding drug counseling and rehabilitation program for its members and their families. Further, it has actively contributed to the Philadelphia community through its involvement with such charitable groups as the United Way.

Mr. Speaker, I would like to commend both the members and leaders of this important union for their dedication to fairness, equality, and an improved environment in the workplace. Clearly, the undying contribution of the forefathers of the union and the continued involvement of subsequent leaders has played an important role in the establishment of fair and adequate working conditions for individuals all over the city of Philadelphia. I rise to commend these individuals and I ask my colleagues to join me as I salute them on the 100th anniversary of their years of service to Philadelphia.

HAWKINS INDEPENDENT SCHOOL - DISTRICT INITIATES DRUG TESTING

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. HALL of Texas. Mr. Speaker, I rise today in tribute to a great group of students and a dedicated school superintendent and faculty—backed up by concerned parents and students in the Hawkins, TX, Independent School District—a part of my Fourth Congressional District in northeast Texas.

There is no way to express the pride I feel to Superintendent Coleman Stanfield, to John Chadwell, president of the District Health Committee, to Student Body President Deanna Jackson, and to C.A. Trent, president of the Hawkins Independent School Board, and members Glenn Jackson, Hugh Rutherford, Frank Rucker, Buddy Holmes, Gary Bowles, and Dennis Wright.

To reinforce House passed legislation to combat drug abuse, the Hawkins Independent School District has initiated a drug testing program for all junior and senior high school students who wish to participate in extracurricular activities. I commend this fine body of students and administrators for taking the steps to eliminate drug use in their community and in our Nation.

Public opinion polls show that Americans find the drug problem one of the most serious facing the Nation today and the Hawkins Independent School District echoed this by approving funds for a drug testing program.

Students will be tested for the use of 19 drugs including amphetamines, cocaine, marijuana, barbiturates, and steroids. Students who fail the test will be retested immediately. If students fail a second time, they will be suspended from participating in extracurricular activities for 90 days, but will not be suspended from school.

Two other Texas school districts have followed the precedent and have introduced drug testing for their athletes, but Hawkins is the first to extend it to all extracurricular activities.

I applaud this community's efforts to control a nationwide problem and hope that other school districts are quick to follow suit. The Wood County Community Health Risk Reduction Committee, and Project Director Mary Gunn, have helped to provide a noble pattern for others to follow.

Again—Mr. Speaker—and Members—I congratulate this great cooperative and productive program—and I am very lucky to represent and to associate with the citizens of Hawkins and Wood Counties—for they have evidenced the character to care and the ability to achieve.

SPRINGTIME IN FREMANTEL, AUSTRALIA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. HUNTER. Mr. Speaker, it's springtime in Fremantel, Australia. The breezes are light and the water is calm, but there's something happening in the land Down Under. I doubt the Australians are happy about it. The team from New Zealand is tied for first place—with an American team. Not just any American Yachting team but the Stars and Stripes from my home, San Diego.

With a record of 4-0 in the first series, the Stars and Stripes is well on its way to bringing the Victorian trophy back to America to a new home on the golden shores of San Diego.

I realize, as you do, that we are only at the beginning of a three-round series of eliminations. Having defeated two Italian teams, the Italia and Azura, Newport Beach's Eagle, and Great Britain's White Crusader, we have to meet all 13 of the entries again in two more rounds. But since the Stars and Stripes is handling the light spring breezes better than many had expected, I'm confident that they will fare just as well when summer's 25-knot gusts arrive. With traditional American confidence, we look forward to seeing Dennis Conner and his outstanding crew sailing to victory in January.

After having the prize on the east coast for 132 years and in Australia for the last 4, we look forward to welcoming the cup to its new home in San Diego. However, we don't want the Aussies to be distraught over their loss. I'm positive they'll see the cup again; San Diego is beautiful year round, and they have my personal invitation to visit as often as they like.

HONORING JOHN FITZGIBBONS ON HIS RETIREMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 10, 1986

Mr. CONTE. Mr. Speaker, I rise today to mark the retirement of John Fitzgibbons, longtime educator in the Westfield public schools.

Jack Fitzgibbons began his long and impressive career as a teacher at the Granville Elementary School in 1957 before moving to the Westfield public school system.

During the next 23 years, Jack faithfully remained at the Abner Gibbs School and the Westfield Middle School, where he affected the lives of thousands of young students. However, I would like to point out that his efforts did not stop there. Along with his commitments to the above-mentioned schools, Jack accepted additional responsibilities as the Director of the Head Start Program and as a driver education instructor at the Westfield High School.

It is infrequent in this age to find a person who has demonstrated the strong sense of

commitment it requires to serve the same system for such a long period of time. The people of Westfield can take pride in the fact that faithful and consistent work of someone such as Jack Fitzgibbons is responsible for the success of our Nation's youth.

I salute Mr. Fitzgibbons for a successful career as an educator, a citizen, and as a truly outstanding human being. However, as much as I am glad to have been given this opportunity to speak on his behalf, the pleasure is diluted in the knowledge that Jack Fitzgibbons will leave a void in the public school system of Westfield that will not easily be filled.

SENATE—*Tuesday, October 14, 1986*

The Senate met at 10 a.m., and was called to order by the Honorable MALCOLM WALLOP, a Senator from the State of Wyoming.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God that made the world and all things therein, seeing that He is Lord of heaven and earth, dwelleth not in temples made with hands; neither is worshipped with men's hands, as though He needed anything, seeing He giveth to all life and breath and all things. * * *—Acts 17:24-25.

God of creation, in whom we live and move and have our being, You know the mixed emotions present in hearts and minds as the Senate begins its second overtime. May we remember that You are the author of all things—life and breath and time and energy. May this profound reality relax tension, reduce pressure within, and bring peace and quiet and confidence to our hearts. Fill this Chamber with Your presence. Work Your will in our midst. In spite of contrary feelings, transform this week into one of surprising achievement and blessing. For the glory of Your name, and the benefit of all who labor here. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 14, 1986.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MALCOLM WALLOP, a Senator from the State of Wyoming, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. WALLOP thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator WALLOP, of Wyoming.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, and then we have routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will turn to any of the following items: The reconciliation conference report; which is not available. So we will not turn to that one. The continuing resolution conference report; which is not available. So we cannot turn to that one. The debt limit conference report; which is not available. So we cannot turn to that one. The House message to accompany the drug bill; we do have a cloture motion filed on that. That vote will occur tomorrow unless, and hopefully, today we can negotiate.

There are negotiations under way to see if we might avoid a cloture vote. I hope we can resolve that today. I know we still have the tax bill. That is still here. The tax reform package is still here because the chairman of the Finance Committee wanted to pass the concurrent resolution to accompany the conference report on the tax bill. And I am hoping that he might be willing to start the discussion on the concurrent resolution at 11 o'clock this morning.

I think I indicated last Friday that there would not be any votes before 2 or 3 o'clock. I think we can work that out either way—either 2 or 3.

We are also trying to arrange a meeting of all Senators with Secretary Shultz to discuss the meetings in Iceland, and to answer any questions.

We are trying to find a suitable time. As soon as we can get a couple of options, I will be in touch with the minority leader to see if we can agree on a time. Room 207 is available at 3 o'clock. Prior to that time, we would need to go to room 407. I am not certain whether the distinguished minority leader is having a policy luncheon or not. We will work it out.

In any event, we would like to turn to the Executive Calendar to bring up the Malone nomination. I know there is some opposition to that nomination. I am not certain how strong it is. We are trying to work with Members on our side who have holds on other nominations—not on the other side but on our side.

One way to help that process is to bring up the Malone nomination. I understand from Senator HELMS that if we can agree to vote on the Malone

NOTICE

Another issue of the Congressional Record for the Ninety-ninth Congress, second session, will be printed 2 weeks after the last adjournment before the November elections. Members may submit manuscript for printing to the Official Reporters of Debate no later than 14 days after adjournment.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date Congress officially adjourned.

No provision herein shall be construed to supersede the two-page limitation rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debate, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m.

Members of Congress desiring to purchase reprints of material submitted for Record printing during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. That office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLES McC. MATHIAS, JR., *Chairman.*

nomination, he would also withdraw his opposition to Mr. Corr, who has been on the calendar—how long?

Mr. BYRD. Too long.

Mr. DOLE. Too long. That is right—for 1 year. He will be retired before we act if we do not hurry. [Laughter.]

So we hope to do those things.

Mr. BYRD. Mr. President, before the majority leader goes to another subject, if he will yield, as I listened to the outline of the program by the majority leader, the question comes to my mind as to whether or not the Senate and the House can indeed adjourn sine die by close of tomorrow, Wednesday. I think it is impossible. Would the majority leader agree with that?

Mr. DOLE. It seems to me that we are not going to be able to do it. I know many Members would like to do it. We at least ought to be able to finish the CR. Otherwise, we have to pass another extension, or the Government will shut down Thursday morning.

I am also advised on this side that there will be some—I do not know how lengthy—discussion on the debt limit extension.

There will be an effort to either amend Gramm-Rudman or send it back for a 6-month extension rather than 1 year. So they have an opportunity to amend it sometime in the spring. So that could take some time. I am not certain. There may be separate votes on the continuing resolution, also.

Mr. BYRD. Does the majority leader feel that with this schedule he has outlined we would expect to adjourn sine die before Friday?

Mr. DOLE. I would hope so.

I was heartened to read somewhere—I cannot remember where—but it was heartening to read that the majority leader in the House, Congressman WRIGHT, had hoped to conclude business by Wednesday. That is what he hoped to do.

Mr. BYRD. Hope springs eternal. [Laughter.]

Let me ask one other question while I am interrupting the distinguished majority leader.

On the nominations, I would hope that the administration would not make any recess appointments. We have had some discussion with the administration on this point before. The distinguished majority leader and I have taken the same position as being opposed to that. This then brings me to the further thought that if we are going to get these nominations up, I would hope the leader would move to take them up. I do not want to see any recess appointments.

Mr. DOLE. I would rather not see any. In fact, I have already indicated to the White House liaison that if in fact there is some extraordinary circumstance, they should be notifying us.

There could be exceptions. But it would be appreciated if we had some advance notice.

Mr. BYRD. Yes. If there is an exception, it would seem to me it should only fall in the category of something such as a vacancy that is not foreseen at this time while the Congress is in session because if there is any great need that is foreseen at this time, we ought to try to deal with it.

Mr. DOLE. I know of one case where the nomination is being held up, and has not been sent to the Senate because of the health of the spouse. It is an ambassadorial post where they have indicated that—in this case the husband is the nominee—the wife has just undergone cancer surgery. That has been held up. She is recovering very nicely but that has delayed that nomination. In a case like that, perhaps we can discuss it with the minority leader.

Mr. BYRD. I am encouraged to know that the distinguished majority leader shares my feeling on the matter, and that he has taken a position with the White House that there should not be any recess appointments.

□ 1010

Does the majority leader know of anything that can be foreseen at this time?

Mr. DOLE. That was why I referred to the nominees this morning. It might break the logjam.

Mr. BYRD. I thank the majority leader.

AL ULLMAN, FORMER CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE

Mr. DOLE. Mr. President, last Saturday a friend and former colleague, Al Ullman, died after an 11-year struggle with cancer.

Al and I served in the House together. But it was as a member of the Finance Committee that I really became acquainted with Al Ullman.

While he may not have been as colorful, or combative, as some of his Ways and Means chairman predecessors, Al Ullman carved out his own piece of legislative history. Under his leadership, the House passed several major tax reform bills in the late 1970's, as well as dozens of measures dealing with health, welfare, and Social Security issues.

Al was not a confrontational legislator—he believed in quiet negotiations and compromise. Having served on the Ways and Means Committee for 14 years before he became chairman, he was well equipped to be a very effective proponent of the House's position. And he was.

Because of the prominence of the Ways and Means chairmanship, many people forget that Al was one of the first advocates of budget reform. He was instrumental in crafting the 1974 Budget Act, and served as the first chairman of the House Budget Committee.

Throughout his 24-year House career, Al Ullman provided sincere, honest and enlightened leadership. It is a record of public service his family should be justly proud of.

I know my colleagues will join me in extending our condolences to the entire Ullman family, and his many friends in Oregon and here in Washington.

THE POST-REYKJAVIK SITUATION

Mr. DOLE. Mr. President, I think we all listened to the President. I must say that I have not been surprised but pleased that there has not been an outburst of partisan reaction to what happened in Iceland. I think the President, as I view it, did precisely what we would expect him to do.

Last night he outlined in context what really happened. Two things emerge most clearly from the President's speech.

First, it was Gorbachev, and Gorbachev alone, who bears the responsibility for scuttling the most promising arms control negotiations in history. Nearly a year ago, at the Geneva summit, the Soviet leader had agreed that progress on INF and long-range missiles was possible independent—and I say independent—of negotiations over star wars. That appeared to be the message of the initial, hopeful talks in Reykjavik, too.

By all accounts, the President and Gorbachev had achieved near final and unconditional agreement, on the total elimination of medium-range missiles in Europe, and a 5-year, 50-percent reduction in long-range missiles—an astounding arms reduction accomplishment. Yet, at the last minute, Gorbachev sunk that apparent accord under the weight of a new, unacceptable and irrational demand—that the President essentially give up any realistic possibility of determining the feasibility, and functions, of a strategic defense system. In effect, Gorbachev issued an ultimatum—give us what we want on star wars or there is no deal, period.

There is no way this President is going to give in to that kind of blackmail. And no reason that he should. Instead, the President offered a counterproposal.

Many said he would not do it. Some would probably disagree with him for doing it. But he offered a counterproposal addressing Gorbachev's obvious concerns about SDI.

The President went the extra mile, to determine if Gorbachev really was interested in the kind of comprehensive agreement that seemed possible earlier in the talks. But Gorbachev gave his answer to that proposal, too—a resounding "nyet."

Yet, despite all that, the President sent a second, clear message last night—that he remains as determined as ever to achieve the kind of real nuclear arms reductions that, for a time, appeared in prospect in Reykjavik. The President reiterated that the invitation to a U.S. summit is still open, if Gorbachev will only accept it; that our proposals are still on the table, if Gorbachev will only give them serious consideration; that progress on arms control, and the other issues on the table in Geneva, is still there to be made. If Gorbachev will only seize the opportunity.

The President has done his part. I hope the Congress will do its part, too—by standing with the President; by supporting the policies, and programs, which have brought us so far, and so close to real nuclear arms reductions; and by denying to Gorbachev, through our actions, the prize he gambled on, and lost, through his grandstand play in Reykjavik.

If we do what we should, then Reykjavik, in retrospect, can be a decisive turn on the road toward greater security for our country and peace for the world.

Mr. President, I ask unanimous consent that following my statement, the President's speech to the American people last night be included as part of the RECORD.

There being no objection, the remarks of the President were ordered to be printed in the RECORD, as follows:

TEXT OF THE PRESIDENT'S SPEECH

Good evening. As most of you know, I have just returned from meetings in Iceland with the leader of the Soviet Union, General Secretary [Mikhail] Gorbachev. As I did last year when I returned from the summit conference in Geneva, I want to take a few moments tonight to share with you what took place in these discussions.

The implications of these talks are enormous and only just beginning to be understood. We proposed the most sweeping and generous arms-control proposal in history. We offered the complete elimination of all ballistic missiles—Soviet and American—from the face of the Earth by 1996. While we parted company with this American offer still on the table, we are closer than ever before to agreements that could lead to a safer world without nuclear weapons.

But first, let me tell you that, from the start of my meetings with Mr. Gorbachev, I have always regarded you, the American people, as full participants. Believe me, without your support, none of these talks could have been held, nor could the ultimate aims of American foreign policy—world peace and freedom—be pursued. And it is for these aims I went the extra mile to Iceland.

Before I report on our talks though, allow me to set the stage by explaining two things that were very much a part of our talks, one a treaty and the other a defense against nuclear missiles which we are trying to develop. You've heard their titles a thousand times—the ABM treaty and SDI. Those letters stand for Anti-Ballistic Missile and Strategic Defense Initiative.

Some years ago, the U.S. and the Soviet Union agreed to limit any defense against nuclear missile attacks to the emplacement in one location in each country of a small number of missiles capable of intercepting and shooting down incoming nuclear missiles—thus leaving our real defense a policy called Mutual Assured Destruction, meaning if one side launched a nuclear attack, the other could retaliate. This mutual threat of destruction was believed to be a deterrent against either side striking first.

So here we sit with thousands of nuclear warheads targeted on each other and capable of wiping out both our countries. The Soviets deployed the few anti-ballistic missiles around Moscow as the treaty permitted. Our country didn't bother deploying because the threat of nationwide annihilation made such limited defense seem useless.

For some years now, we have been aware that the Soviets may be developing a nationwide defense. They have installed a large modern radar at Krasnoyarsk, which we believe is a critical part of a radar system designed to provide radar guidance for anti-ballistic missiles protecting the entire nation. This is a violation of the ABM treaty.

Believing that a policy of mutual destruction and slaughter of their citizens and ours was uncivilized, I asked our military a few years ago to study and see if there was a practical way to destroy nuclear missiles after their launch but before they can reach their targets, rather than to just destroy people.

This is the goal for what we call SDI, and our scientists researching such a system are convinced it is practical and that, several years down the road, we can have such a system ready to deploy. Incidentally, we are not violating the ABM treaty, which permits such research. If and when we deployed SDI, the treaty also allows withdrawal from the ABM treaty upon six months' notice. SDI, let me make it clear, is a nonnuclear defense.

THF AGENDA AT ICELAND

So here we are at Iceland for our second such meeting. In the first, and in the months in between, we have discussed ways to reduce and in fact eliminate nuclear weapons entirely. We and the Soviets have had teams of negotiators in Geneva trying to work out a mutual agreement on how we could reduce or eliminate nuclear weapons. So far, no success.

On Saturday and Sunday, General Secretary Gorbachev and his Foreign Minister [Eduard] Shevardnadze and Secretary of State George Shultz and I met for nearly 10 hours. We didn't limit ourselves to just arms reductions. We discussed what we call violation of human rights on the part of the Soviets, refusal to let people emigrate from Russia so they can practice their religion without being persecuted, letting people go to rejoin their families, husbands and wives separated by national borders being allowed to reunite.

In much of this, the Soviet Union is violating another agreement—the Helsinki Accords they had signed in 1975. Yuri Orlov, whose freedom we just obtained, was imprisoned for pointing out to his government its violations of the pact, its refusal to let citizens leave their country or return.

We also discussed regional matters such as Afghanistan, Angola, Nicaragua and Cambodia. But by their choice, the main subject was arms control.

We discussed the emplacement of intermediate-range missiles in Europe and Asia and seemed to be in agreement they could be drastically reduced. Both sides seemed willing to find a way to reduce even to zero the strategic ballistic missiles we have aimed at each other. This then brought up the subject of SDI.

I offered a proposal that we continue our present research, and if and when we reached the stage of final testing, we would sign now a treaty that would permit Soviet observation of such tests. And if the program was practical, we would both eliminate our offensive missiles and then we would share the benefits of advanced defenses. I explained that, even though we would have done away with our offensive ballistic missiles, having the defense would protect against cheating or the possibility of a madman sometime deciding to create nuclear missiles. After all, the world now knows how to make them. I likened it to our keeping our gas masks even though the nations of the world had outlawed poison gas after World War I.

We seemed to be making progress on reducing weaponry, although the general secretary was registering opposition to SDI and proposing a pledge to observe ABM for a number of years as the day was ending.

Secretary Shultz suggested we turn over the notes our note-takers had been making of everything we'd said to our respective teams and let them work through the night to put them together and find just where we were in agreement and what differences separated us. With respect and gratitude, I can inform you they worked through the night till 6:30 a.m.

Yesterday, Sunday morning, Mr. Gorbachev and I, with our foreign ministers, came together again and took up the report of our two teams. It was most promising. The Soviets had asked for a 10-year delay in the deployment of SDI programs.

In an effort to see how we could satisfy their concerns while protecting our principles and security, we proposed a 10-year period in which we began with the reduction of all strategic nuclear arms, bombers, air-launched cruise missiles, intercontinental ballistic missiles, submarine-lanuched ballistic missiles and the weapons they carry. They would be reduced 50 percent in the first five years. During the next five years, we would continue by eliminating all remaining offensive ballistic missiles, of all ranges. During that time, we would proceed with research, development and testing of SDI—all done in conformity with ABM provisions. At the 10-year point, with all ballistic missiles eliminated, we could proceed to deploy advanced defenses, at the same time permitting the Soviets to do likewise.

THE DEBATE ON SDI

Here the debate began. The general secretary wanted wording that in effect would have kept us from developing the SDI for the entire 10 years. In effect, he was killing SDI and, unless I agreed, all that work toward eliminating nuclear weapons would go down the drain—canceled.

I told him I had pledged to the American people that I would not trade away SDI—there was no way I could tell our people their government would not protect them

against nuclear destruction. I went to Reykjavik determined that everything was negotiable except two things, our freedom and our future.

I am still optimistic that a way will be found. The door is open, and the opportunity to begin eliminating the nuclear threat is within reach.

So you can see, we made progress in Iceland. And we will continue to make progress if we pursue a prudent, deliberate, and, above all, realistic approach with the Soviets. From the earliest days of our administration, this has been our policy. We made it clear we had no illusions about the Soviets or their ultimate intentions. We were publicly candid about the critical moral distinctions between totalitarianism and democracy. We declared the principal objective of American foreign policy to be not just the prevention of war but the extension of freedom. And, we stressed our commitment to the growth of democratic government and democratic institutions around the world.

That is why we assisted freedom fighters who are resisting the imposition of totalitarian rule in Afghanistan, Nicaragua, Angola, Cambodia and elsewhere. And, finally, we began work on what I believe most spurred the Soviets to negotiate seriously—rebuilding our military strength, reconstructing our strategic deterrence, and, above all, beginning work on the Strategic Defense Initiative.

And yet at the same time we set out these foreign policy goals and began working toward them, we pursued another of our major objectives: that of seeking means to lessen tensions with the Soviets and ways to prevent war and keep the peace.

This policy is now paying dividends. One sign of this in Iceland was the progress on the issue of arms control. For the first time in a long while, Soviet-American negotiations in the area of arms reductions are moving and moving in the right direction: not just toward arms control but toward arms reduction.

PROGRESS ON OTHER ISSUES

But for all the progress we made on arms reductions, we must remember there were other issues on the table in Iceland, issues that are fundamental.

As I mentioned, one such issue is human rights. As President [John F.] Kennedy once said, "And, is not peace, in the last analysis, basically a matter of human rights?"

I made it plain that the United States would not seek to exploit improvement in these matters for purposes of propaganda. But I also made it plain, once again, that an improvement of the human condition within the Soviet Union is indispensable for an improvement in bilateral relations with the United States. For a government that will break faith with its own people cannot be trusted to keep faith with foreign powers. So I told Mr. Gorbachev, again in Reykjavik as I had in Geneva, we Americans place far less weight upon the words that are spoken at meetings such as these than upon the deeds that follow. When it comes to human rights and judging Soviet intentions, we are all from Missouri: You have got to show us.

Another subject area we took up in Iceland also lies at the heart of the differences between the Soviet Union and America. This is the issue of regional conflicts. Summit meetings cannot make the American people forget what Soviet actions have meant for the peoples of Afghanistan, Central America, Africa and Southeast Asia. Until Soviet policies change, we will make sure that our friends in these areas, those who fight for freedom and independence, will have the support they need.

Finally, there was a fourth item. This area was that of bilateral relations, people-to-people contacts. In Geneva last year, we welcomed several cultural-exchange accords; in Iceland, we saw indications of more movement in these areas. But let me say now the United States remains committed to people-to-people programs that could lead to exchanges between not just a few elite but thousands of everyday citizens from both our countries.

So I think then you can see that we did make progress in Iceland on a broad range of topics. We reaffirmed our four-point agenda; we discovered major new grounds of agreement; we probed again some old areas of disagreement.

IN DEFENSE OF SDI

And let me return again to the SDI issue. I realize some Americans may be asking tonight: Why not accept Mr. Gorbachev's demand? Why not give up SDI for this agreement?

The answer, my friends, is simple. SDI is America's insurance policy that the Soviet Union would keep commitments made at Reykjavik. SDI is America's security guarantee if the Soviets should, as they have done too often in the past, fail to comply with their solemn commitments. SDI is what brought the Soviets back to arms-control talks at Geneva and Iceland. SDI is the key to a world without nuclear weapons.

The Soviets understand this. They have devoted far more resources for a lot longer time than we, to their own SDI. The world's only operational missile defense today surrounds Moscow, the capital of the Soviet Union.

What Mr. Gorbachev was demanding at Reykjavik was that the United States agree to a new version of a 14-year-old ABM treaty that the Soviet Union has already violated. I told him we don't make those kinds of deals in the United States.

And the American people should reflect on these critical questions: How does a defense of the United States threaten the Soviet Union or anyone else? Why are the Soviets so adamant that America remain forever vulnerable to Soviet rocket attack? As of today, all free nations are utterly defenseless against Soviet missiles, fired either by accident or design. Why does the Soviet Union insist that we remain so, forever?

So, my fellow Americans, I cannot promise, nor can any president promise, that the talks in Iceland or any future discussions with Mr. Gorbachev will lead inevitably to great breakthroughs or momentous treaty signings.

We will not abandon the guiding principle we took to Reykjavik. We prefer no agreement than to bring home a bad agreement to the United States.

LIKELIHOOD OF SUMMIT IN U.S.

And on this point, I know you are also interested in the question of whether there will be another summit. There was no indication by Mr. Gorbachev as to when or whether he plans to travel to the United States, as we agreed he would last year in Geneva. I repeat tonight that our invitation stands and that we continue to believe additional meetings would be useful. But that's a decision the Soviets must make.

But whatever the immediate prospects, I can tell you that I am ultimately hopeful about the prospects for progress at the summit and for world peace and freedom. You see, the current summit process is very different from that of previous decades. It is different because the world is different, and the world is different because of the hard work and sacrifice of the American people during the past 5½ years. Your energy has restored and expanded our economic might; your support has restored our military strength. Your courage and sense of national unity in times of crisis have given pause to our adversaries, heartened our friends and inspired the world.

The western democracies and the NATO [North Atlantic Treaty Organization] alliance are revitalized and, all across the world, nations are turning to democratic ideas and the principles of the free market. So because the American people stood guard at the critical hour, freedom has gathered its forces, regained its strength and is on the march.

So, if there is one impression I carry away with me from these October talks, it is that, unlike the past, we are dealing now from a position of strength, and for that reason we have it within our grasp to move speedily with the Soviets toward even more breakthroughs.

Our ideas are out there on the table. They won't go away. We are ready to pick up where we left off. Our negotiators are heading back to Geneva, and we are prepared to go forward whenever and wherever the Soviets are ready. So, there is reason, good reason, for hope.

I saw evidence of this in the progress we made in the talks with Mr. Gorbachev. And I saw evidence of it when we left Iceland yesterday, and I spoke to our young men and women at our naval installation at Keflavik, a critically important base far closer to Soviet naval bases than to our own coastline.

As always, I was proud to spend a few moments with them and thank them for their sacrifice and devotion to country. They represent America at her finest: committed to defend not only our own freedom but the freedom of others who would be living in a far more frightening world were it not for the strength and resolve of the United States.

"Whenever the standard of freedom and independence has been . . . unfurled, there will be America's heart, her benedictions and her prayers," John Qunicy Adams once said. He spoke well of our destiny as a nation. My fellow Americans, we are honored by history, entrusted by destiny with the oldest dream of humanity—the dream of lasting peace and human freedom.

Another president, Harry Truman, noted that our century had seen two of the most frightful wars in history. And that "the supreme need of our time is for man to learn to live together in peace and harmony."

It is in pursuit of that ideal I went to Geneva a year ago and to Iceland last week. And it is in pursuit of that ideal that I thank you now for all the support you have given me, and I again ask for your help and your prayers as we continue our journey toward a world where peace reigns and freedom is enshrined.

Mr. DOLE. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point an article appearing in the Washington Post, written by George F. Will and entitled "The President's Finest Hour," and an additional article from

the New York Daily News entitled "Echoes From Iceland: Reagan Stood Firm."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 14, 1986]

THE PRESIDENT'S FINEST HOUR

(By George F. Will)

It was the president's finest hour.

In an odd place, at an unauspicious moment, he gave a watching world the most important moment of presidential decisiveness since President Truman picked up Stalin's gauntlet and committed the nation to the policy of containment. And he gave the nation a clinic in leadership: with his mind on future generations, not the next election, he spurned the short-term applause that comes automatically to any president who signs any arms-control agreement.

Iceland, where surveys reveal that 55 percent of the population believes in elves, was a suitable place for a summit clamored for by people who believe in arms control as the key to taming the Soviet Union. The Iceland summit was the most successful U.S. summit. Although the air is thick with lamentations from arms-control enthusiasts, the president may almost have made the arms-control "process" palatable to people who are skeptical about its utility and even its safety.

He did this by demonstrating something that there were abundant reasons for doubting: he demonstrated that a president can go to a summit and dare to return without an agreement.

Summitry is a part of the arms-control "process." Summits have come to be regarded as events where arms-control agreements are consummated. A dangerous asymmetry in this process is that Western public opinion is the only public opinion that matters in this process, and Western publics have never met an arms-control agreement they did not like. (Never mind that they have never met an arms-control agreement that seriously controlled arms.)

It may be the case that, by venturing to Iceland for that fast-food summit, the president strode into what the Soviet side fancied was a clever trap—a heads-we-win, tails-you-lose situation. They would either kill the Strategic Defense Initiative or vilify it as the only impediment to arms reductions so comprehensive as to constitute the termination of the Cold War.

However, it is almost certainly wrong to think, as many even in the administration may think, that important agreements really were within reach regarding intermediate-range and strategic missiles. It is probable that the Soviet offers and expressions of interest were designed in large measure to contribute to the orchestrated euphoria, the collapse of which was counted on to deepen resentment of SDI. And if the president had, to the Soviet's surprise, killed SDI to get Soviet agreement to cuts, it is probable that many of the cuts would have been vitiated in years of negotiations about details, in cheating, and in deployments of new weapons not covered by any Iceland agreements.

One reason for believing that the Iceland outcome was the one the Soviet side aimed for is that their crucial demand was an act of brazen overreaching. They sought a revision of the ABM treaty—a "strengthening" of the treaty that would have suffocated SDI by confining research to the laboratory. The Soviets could not seriously have expected the president to eviscreate his presidency by suddenly scrapping a program that he has advocated with the most intense moral and prudential arguments.

But, then, brazenness is not in short supply in the Soviet regime that speaks of "strengthening" an ABM treaty it is flagrantly violating, a regime that stigmatizes SDI as highly imprudent and immoral, yet has spent far more on defensive systems than has the United States.

Certainly the Iceland outcome will enable Gorbachev to fan the flames of anti-Americanism among the European left. But it is equally certain that no president can make policy hostage to the hopeless and squalid project of trying to dampen Europe's appeasement reflex.

In the networks' rush to judgment on Iceland, the editorializing was as clear as it was unconscious. The outcome was called a "collapse" of the summit, a collapse that dashed hopes of "progress" and knocked U.S.-Soviet relations "off the rails." The word "collapse" implies calamity; the word "progress" is defined exclusively in terms of the achievement of agreements. And what is one to make of the "rails" metaphor? What rails were the relationship on before Iceland?

"Collapse" implies disorder. The Iceland outcome was an orderly result of an orderly assessment. That is progress of the highest sort—progress toward realism.

Perhaps the Iceland outcome will confer the ancillary blessing of putting an end to the nonsense about the president and the first lady being mesmerized by arms-control agreements as guarantors of his "place in history." Both he and she know that every president since the onset of the U.S.-Soviet arms-control process 17 years ago has achieved an "arms-control agreement" (counting, as one should, the Ford-Brezhnev agreement at Vladivostok). Mr. and Mrs. Reagan know that it is nonsense on stilts to say that arms-control agreements sealed for Nixon, Ford and Carter enviable "places in history."

The arms-control "process" has indeed now given this president the high place in history that was waiting for the first president who would show that it is possible to "just say no."

[From the New York Daily News, Oct. 14, 1986]

ECHOES FROM ICELAND: REAGAN STOOD FIRM

Cut through all the other arguments and one thing is clear about the iced-over meeting in Iceland: Mikhail Gorbachev came for a single reason: To get a hard freeze of the U.S. Strategic Defense Initiative—SDI, long ridiculed by its critics as Star Wars. President Reagan said no. Gorbachev went home.

No deal. No Russian or American made a dime.

Hold on a minute. Isn't SDI—at least to the people who call it Star Wars—a technically impossible, strategically hopeless fantasy plan?

Not to Mikhail Gorbachev. Not with the entire Soviet military, intelligence and planning capacity at his fingertips. Not in Iceland, where he played a one-hand game with his eye on that single chip.

Reagan was right to stand firm.

There can be no more important challenge in modern history than reducing the danger of obliterating life on this planet. No sane, even faintly informed, person can deny that danger is real, and great.

But, maddening as it sometimes is to people, one truth must prevail: The preservation of nuclear *deterrence* is the element of stability without which all others would fail.

There are tens of thousands of nuclear weapons in the arsenals of the U.S., USSR, Britain, France, China and, most probably, a half-dozen less advanced military powers. The numbers are increasing. It would be grossly irresponsible to bet the Earth's life on the hope that human decency will prevent their use.

That is where SDI's value lies. Its purpose is to produce a system of vehicles in space that would knock out nuclear missiles after they were launched and before they reached their targets. Its technical development is moving along faster than its supporters expected.

SDI's harshest critics dismiss it on the contention that it could never knock out *all* launched weapons. That's specious: The idea is that even if SDI crippled half, only a quarter of the missiles launched in an all-out Soviet strike, it would radically change the expectations of Soviet success. *That* is what deterrence is all about.

Gorbachev realizes that—his entire Iceland escapade demonstrates that. He also recognizes that bargaining down missiles or warheads over a long schedule invites reneging and other manipulation. And that nothing now known would more surely keep the Soviets from such manipulation as would SDI.

If the U.S.—led by Reagan or one of his successors—can bargain the Soviets and ultimately others into an enforceable, accountable reduction of nuclear arms and their overall threat—well, wonderful. But to have given up a major element of U.S. deterrent capacity for a symbolic reduction of weapons would have been an error of global proportion.

It is SDI itself that emerges from the Iceland experience strengthened in importance and in international credibility. Members of Congress who are tempted to undercut Reagan should take that lesson most seriously.

. . . AGAINST FLASHIER FOOTWORK

At the most superficial level, Gorbachev went into a no-lose situation. The non-summit summit was *his* idea. Without any of the customary preparatory lower-level negotiation, he and Reagan would face each other and history. If they managed something that looked good, both sides would gain—but as the initiator, Gorbachev would gain more than Reagan. If everything broke down, the U.S. would be blamed for not "responding."

And so it went.

Lots of people, many Americans, are blaming Reagan for the "failure." Yet it was Gorbachev who asked for it, set its agenda, drew one line in the dirt and told Reagan to come across it or go home.

Reagan went home. With right on his side. If he made a mistake, it was accepting Gorbachev's invitation in the first place. In putting unrealistic faith behind the hope for an acceptable, balanced, responsible reduction of nuclear weapons and perhaps more accords.

There will be other opportunities. Reagan's got two years more to fashion history. Gorbachev's got to play for the long run, and he has pressures from all sides—especially from domestic economic disarray and poverty. The lesson for the U.S. is one of

the importance of both preparation and control.

Mr. DOLE. Mr. President, I reserve the time of the distinguished minority leader.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each.

Mr. PROXMIRE. Mr. President, first, I would like to congratulate the Acting President pro tempore on his excellent appearance on television yesterday. He did a fine job.

WHY THE ICELAND SUMMIT COULD ONLY FAIL

Mr. PROXMIRE. Mr. President, many Americans may have the impression that the two superpowers came within an eyelash of a genuine arms control achievement in Iceland over the weekend. President Reagan called the tentative agreement that got away the most sweeping and generous arms control agreement in history. A leading Democractic critic of the President called it a tragedy that the two armed-to-the-teeth superpowers came so close to an agreement and then failed. This Senator sees it entirely differently. Both Secretary Gorbachev and President Reagan were wrong. And so was the Democratic critic who complained that this country's intransigence over the strategic defense initiative killed a great potential arms control advance.

Let us suppose Secretary Gorbachev had ignored the alleged "threat" of star wars and had bought the whole package. Would this have stopped the arms race? Would it represent a significant step toward the nonnuclear world that Secretary Gorbachev and President Reagan talk about? No way. Let us be specific. The tentative agreement had three major parts. First, the virtual elimination of so-called medium nuclear warheads of either superpower in Europe. The Soviets would retire these SS-20's and SS-4's with their roughly 1,400 warheads to Asiatic Russia. The United States would bring its European based Pershing and Cruise missiles home to the United States. What effect would this have had? European countries would be spared the embarrassment of permitting foreign-owned and operated nuclear weapons on their soil. But that is it. European cities would be just as vulnerable to the massive Soviet strategic arsenal as they are now. Soviet cities would be vulnerable to nuclear weapons based in the United States or in American submarines or bombers. They would also be vulnerable to the considerable and growing nuclear arsenals of the United Kingdom and France.

The second major part of the tentative agreement was a vague pledge to reduce nuclear testing. It was phrased as "starting with verification of existing treaties and working toward an ultimate reduction of tests." Obviously, the significance of this agreement depends on how deep a reduction of tests and how soon the timetable would begin. At best it might be a 50-percent reduction in the number of tests since it was expected to dovetail with the proposed reduction in strategic nuclear warheads. Would such a reduction have any real significance? Answer: very little. Each side would be able to select their highest priority and most promising new nuclear weapon developments for testing. The technological nuclear arms race would still speed ahead. The pace would be a little slower, but not much.

Finally, how about the third part of the agreement, the big enchilada, the reported agreement by both sides to "a 50-percent cut in bombers and missile warheads and in the number of missile launchers." If this means a global cut on both sides of 50 percent of their strategic arsenal, and that is certainly the most generous interpretation, where would it leave the two superpowers? It would mean both arsenals would decline from about 10,000 nuclear warheads to 5,000. Now keep in mind that the American Academy of Science has found that if 100 Soviet strategic nuclear warheads—not 5,000 or 2,000 or even 1,000—but if 100 Soviet nuclear warheads struck American cities we would instantly have between 35 million and 55 million dead Americans. This country would be finished as an organized society. So what does a reduction in warheads to 5,000 mean? Virtually nothing.

In aggregate the superpowers with this three-part agreement in force would still be locked in a massive technological nuclear arms race. They would both still be armed to the nuclear teeth. Ah, but would not this reduction have begun a process? If the super nuclear powers agree to go down to 5,000 strategic warheads why can we not expect them to keep their intention avowed by President Reagan and Secretary Gorbachev to abolish all nuclear weapons on both sides? Can this agreement become the basis for the end of nuclear weapons everywhere? Mr. President, anyone who believes this is dwelling in fairyland. He is living a fantasy. He is expecting something that never was and never will be. Does any sane and sober person really believe that the Soviet Union will surrender its superpower status, ever? Regardless of the honeyed words of Mikhail Gorbachev this is nonsense. And he knows it. The Soviet nuclear arsenal is its ticket to superpower status. It is the force, the one and only force, that gives Secretary Gorbachev one of the two seats at whatever summit takes place as long as he retains power in the Soviet Union.

What is more, suppose this Senator is wrong? Suppose both sides do abolish nuclear weapons? And suppose France and China and the United Kingdom, plus Pakistan and Israel, Argentina and South Africa and the other potential nuclear powers also join in. What does that do? No. 1, it makes the world safe for a superpower conventional war. And how long would it be after such a war began before the country that felt it was losing and found its very survival was at stake would fabricate, deploy and use the ultimate nuclear weapon? Thousands of scientists living in scores of countries throughout the world know how to construct a nuclear bomb. The necessary materials are available everywhere.

Mr. President, it is time we grow up. It is time to recognize that as long as mankind dwells on this planet nuclear weapons will be a sad and grim reality, but a reality nevertheless. Arms control must recognize that we must accept that grim fact and build on it. We must use arms control to make our nuclear arsenal and that of our adversary as stable as possible so that both superpowers know that a superpower war—nuclear or conventional—can never be won, that there would be nothing but losers—total dead losers on both sides. And therefore, it must never be fought. The challenge is not to abolish nuclear weapons. It is to use this astounding nuclear power to keep the peace and prevent a general war.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, my myth of the day is that tax reform and reduction legislation over the past decade has resulted in the lowering of the share of national income going to taxes. Given the recent headlines concerning the major tax reform bill now awaiting the President's signature it is easy to conclude that the tax burden has been and will continue to decline. Nothing could be further from the truth.

Between 1975 and 1986 GNP and national income in current dollars increased 150 percent. During that same period Federal taxes increased 173 percent, and State and local taxes 157 percent. In other words, the share of our national income going to pay for Government programs has increased over the past decade.

Even more frightening is the fact that because Federal spending grows much more quickly than tax receipts the Federal deficits and the national debt exploded to record levels. It took

our Nation more than two centuries to reach the $1 trillion mark for the national debt. Only 5 years later, early in 1986 we achieved the dubious record of a $2 trillion national debt.

Federal income taxes are the largest single resource of revenues, but account for only 28 percent of all taxes collected at all levels of government. Close behind, at 26 percent of all taxes collected, are Federal Social Security taxes. Many low- and middle-income Americans now actually pay more in Social Security taxes than they do in income taxes. When the effects of the new income tax reform legislation are combined with the scheduled increases in Social Security taxes, a majority of Americans will fall into this category.

Tax reform is a great idea, but we will be able to lower the proportion of our incomes going for taxes only when we substantially reduce the rate of growth in government spending.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. BOREN. Mr. President, the close of the 99th Congress this week marks the retirement from this body of Senator PAUL LAXALT of Nevada. His contributions as a Senator will be missed by all of us who have been privileged to serve with him.

PAUL LAXALT has immense strength of character and conviction. He has been diligent in working for what he believes is the right direction for this country. At the same time he has overcome partisan politics without compromising his beliefs.

Senator LAXALT is a close, personal friend of President Ronald Reagan, but he has never been one to take advantage of this position. He has, rather, chosen to work quietly and diligently in pursuit of his goals rather than seeking the limelight of national acclaim.

PAUL LAXALT has been steadfast in his loyalty to the State of Nevada. He founded the Senate's bipartisan Western Coalition which has worked consistently for the needs of States in the Western part of our country.

Senator LAXALT began his career in public service as Lieutenant Governor of Nevada from 1963–66, later serving as Governor of Nevada from 1966 to 1970. He was first elected to the U.S. Senate in 1974, serving as a member of the Senate Appropriations and Judiciary committees.

He has consistently advocated a policy of fiscal responsibility for our Nation, including immediate balancing of the Federal budget. Senator LAXALT also believes in the importance of deregulating industry and has supported the decontrol of oil in order to promote U.S. energy independence.

As the son of an immigrant sheepherder from the Basque Hill country of France, PAUL LAXALT has combined his father's independent nature and his mother's strength of will to become the outstanding Senator that he is today.

As the oldest son in a family of six and the father of seven children, Senator LAXALT is a staunch advocate for the American family. His concern for the importance of education for our children is inherent in his concern for the future of our Nation.

Senator LAXALT, I join all my colleagues in this Chamber in wishing you and your family the very best as you depart from the U.S. Senate. We thank you for the contributions you have made to your State, to our Nation, and to the U.S. Senate.

TRIBUTE TO SENATOR CHARLES McC. MATHIAS

Mr. BOREN. Mr. President, this year marks the final chapter in the U.S. Senate career of a man who has served as a Member of Congress through two of the most dynamic and important decades in our Nation's history. Senator CHARLES MCC. MATHIAS retires at the end of the 99th session of Congress with an outstanding record of accomplishment.

Senator MATHIAS possesses the sincerity of conviction that often forces hard choices along the way. His willingness to stand by his beliefs has distinguished CHARLES MATHIAS as a man for the people of Maryland, not the politics of Washington.

His impressive list of legislative accomplishments has not been easily won, but Senator MATHIAS is not a man to back down from an issue in which he believes. As a member of the Senate Judiciary Committee and a strong proponent of civil rights legislation in the 1960's, Senator MATHIAS carried forth a family tradition that began during the administration of Abraham Lincoln by working for racial equality.

As an adviser to the Kissinger Commission on Central America and a member of the Senate Foreign Relations Committee, Senator MATHIAS has diligently worked to formulate a cohesive policy for Central America that would be suitable to both parties, as well as the President. His unflagging efforts in undertaking this task provide testimony to his strength of character and his dedication to the Senate and to his country.

Senator MATHIAS has repeatedly spoken out in favor of arms control and the importance of enforceable arms control treaties.

His chairmanship of the Senate Rules Committee has allowed Senator MATHIAS to continue his work as a reformer of our Nation's election laws. He was a principal sponsor of the Federal Election Campaign Act of 1971 which required the first disclosure of campaign expenditures and contributions. I have had the pleasure of working with him as we have both attempted in the 99th Congress to reform our Nation's campaign finance laws, and I compliment his cooperation as my legislation in this area moved through the Senate Rules Committee.

Senator MATHIAS has also been a leader in civil service reform, home rule for the District of Columbia, and for safe disposition of nuclear wastes.

Senator MATHIAS' main concern throughout the years, however, has been in serving the needs of his home State. From the environment to municipal reform, Senator MATHIAS has served as an inspirational leader in the growth of the State of Maryland.

A native of Frederick, MD, Senator MATHIAS first began his years of public service as an assistant attorney general for the State of Maryland in 1953, later serving Frederick as city attorney from 1954–59. He served in the Maryland House of Delegates in 1959–60 and won election to the U.S. House of Representatives from the Sixth District of Maryland in 1960, serving four terms in that body before being elected to the U.S. Senate in 1969. He also served our country in the U.S. Navy from 1942–46.

Senator MATHIAS, I join with my other colleagues in this body in wishing you and your family the very best as you leave the U.S. Senate. Thank you for your public service to your community, your State, and to your country throughout the years.

SENATOR PAUL LAXALT

Mr. HATFIELD. Mr. President, in a few days several Senators will be leaving the Senate. I know that one Senator, PAUL LAXALT, will be missed sorely by myself and others in the months and years ahead.

I have had the pleasure of working with Senator LAXALT on many issues in his years of Senate service. Without exception, he has been willing to work together on these matters, and his knowledge and expertise always have been invaluable, particulary in his service on the Appropriations Committee. As chairman of the Subcommittee on Criminal Law, PAUL LAXALT was most eager to help me in my efforts to initiate some severely needed reforms in our Nation's prison system.

In all of his endeavors, PAUL LAXALT distinguished himself as a gentleman, statesman, and as an individual aware of institutional considerations. At a time when the Senate, as an institution, is struggling in near paralysis, Senator LAXALT fought to hold things together. He cared about tradition and the responsibilities of senior Senators, and he served the State of Nevada and the country well.

One of PAUL's most important achievements was his role earlier this

year as President Reagan's personal ambassador during the Philippine revolution. It is widely known that Senator LAXALT's diplomatic skills were one of the most important factors in avoiding large scale bloodshed during that crisis. I am certain that the President took great comfort in knowing that he could rely on PAUL during this particularly distressing time.

While I look forward to the convening of the next Congress, I know that Senator LAXALT's absence will be a void that will not be filled easily. I am pleased that I had the opportunity to serve with PAUL LAXALT in the Senate and wish him well.

RETIRING SENATORS

Mr. BENTSEN. Mr. President, I want to join in paying tribute to distinguished colleagues who are voluntarily retiring from the Senator at the end of this Congress. We shall miss their wise counsel and good fellowship.

My comments are necessarily brief, but my respect and friendship for these colleagues are deep-seated and longstanding. Though they differ in personality and philosophy, each has been a truly distinguished Senator, each a valued colleague.

RUSSELL LONG, my chairman and my friend, exemplifies the highest traditions of public service. He brought his keen intellect and ready wit to the complexities of tax policy. We have all learned much from him; we respect this skill; and we shall regret his absence time and again in the years ahead. My admiration is exceeded only by my affection for him.

TOM EAGLETON approaches public service with the same qualities that he approaches life: passion, courage, intelligence, and good humor. When he fights for a cause, his very forcefulness recruits allies. When he pokes fun at something, as he often does, his laughter is contagious.

MAC MATHIAS has been a steady voice of reason, sometimes a lonely voice against the passions and pressures of the moment. A man of dignity and principle, he has brought a national and even international perspective to the responsibility we all have of representing our States.

BARRY GOLDWATER is a historical figure to our Nation and a warm, earthy human being to those of us who serve with him. His interests and life experiences are as varied as the geological layers in the Grand Canyon. But throughout his long life of public service, he has remained a patriot, a man of conscience and principle and candor.

Mr. President, these Senators can each be proud of their service in this body and of their individual records of accomplishment. They have freely chosen to leave this body, to turn their lives to different pursuits. If they have some regrets at leaving, those are nothing compared with our regret at their departure. And I am sure we all have at least a twinge of envy of the less hectic life they now can lead.

We honor them as colleagues. We shall miss them as friends.

RECOGNITION OF STAFF OF THE SPECIAL COMMITTEE ON IMPEACHMENT

Mr. MATHIAS. Mr. President, the Senate recently completed an extraordinary proceeding, carried out by an unprecedented method. The proceeding, of course, was the impeachment trial of Harry E. Claiborne. For the first time in half a century, the Senate was called upon to decide whether or not to remove a Federal judge from the bench. A key element of the process of making the decision was the establishment, for the first time in the history of the Senate, of a special committee to receive the evidence relevant to the impeachment trial. The role of the Senate Impeachment Trial Committee established by Senate Resolution 481 has been the subject of a great deal of debate during the Senate's consideration of the Claiborne impeachment. That debate will no doubt continue, particularly when the Senate is next called upon to try an impeachment and looks to the Claiborne precedent. As chairman of this special committee, I speak now, not to enter that debate, but simply to offer my thanks to the many people whose conscientious work and thoughtful counsel enabled the special committee to discharge the duty assigned to it by the Senate.

Of course, the 11 Senators who served with me on the committee deserve recognition. Each of them took this unusual assignment seriously; each one made an important contribution to the committee's work. I know that the vice chairman of the committee, Senator SARBANES, joins me in thanking them for their efforts and for their consistent attendance.

But every member of the impeachment committee would acknowledge that we could not have performed our assignment without the hard work of the committee's staff. When the committee was established, no special provision was made for staff support. It was thus necessary to seek staff from other assignments. Thus, every member of the special committee's staff was called upon to perform double duty, a burden made even heavier by the fact that the committee's busiest period coincided with the hectic concluding weeks of the 99th Congress.

The committee could not possibly have carried out its responsibilities without the advice and assistance of Michael Davidson, the Senate Legal Counsel. Mike's daily responsibilities are quite daunting by themselves. He and his small staff are the Senate's lawyers, responsible for representing this Chamber's interests in a burgeoning docket of actual and threatened litigation before the Federal courts. In the closing hours of the impeachment proceeding, Mike played his accustomed role, defending the Senate against an application by Judge Claiborne for a temporary restraining order enjoining a vote on the Articles of Impeachment.

But much earlier in the process, even before the establishment of the special committee, Mike Davidson had put his incisive legal mind to the task of advising the Senate on its discharge of this constitutional duty. After he was appointed as counsel to the special committee, he devoted long hours to framing the legal issues presented, advising the chairman on evidentiary and other rulings, and maintaining cordial and effective lines of communication with all parties. His skill and judgment were invaluable resources of which the committee frequently availed itself as it sought to navigate through the uncharted waters of this unprecedented proceeding. When the matter moved to the full Senate for the trial phase, Mike Davidson was on hand to advise the Presiding Officer. He acquitted himself throughout with distinction, and the entire Senate owes him its thanks.

To the staff of the Committee on Rules and Administration fell the task of making all the logistical arrangements necessary for the committee to do its job. Under the direction of John Childers, staff director of the special committee, staffers prepared the venues for the committee meetings and hearings and the Senate trial; docketed and distributed mountains of pleadings, memorandums, and other documents; cataloged exhibits; maintained security; informed the press; and took care of a myriad of other essential details. In addition, Anthony L. Harvey, the committee's chief clerk, worked with Parliamentarian Emeritus Floyd M. Riddick, a pro bono consultant to the committee, on a compilation of the relevant Senate rules and precedents; and, with his assistant, Byron Hoover, coordinated with W.A. Dowless and with Joseph P. Patterson of the Government Printing Office the speedy preparation of four volumes of transcript and other materials for the use of the Senate. John Rixey, the deputy staff director; Gerald Gereau, the security coordinator; and Ann Pincus and Randy Dove, press officers, also made valuable contributions, as did Carole Blessington, Kimberley Autin, and Gail Martin of the Rules Committee staff.

Finally, each member of the committee designated staffers to assist in preparing for the hearings and analyzing

the testimony received. I ask unanimous consent that a list of the Members' staff representatives be printed in the RECORD as this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MEMBERS' STAFF REPRESENTATIVES

Senator Mathias, Chairman, Steve Metalitz, Matthew Gerson, and Eileen Mayer.
Senator Hatch, Randall Rader, Michael Chadwick, and Dee Benson.
Senator Warner, Jean Barrett.
Senator Rudman, Paul Barbadoro, and Wilson Abney.
Senator Pressler, Bob Samors.
Senator McConnell, Bill Short, and Larry Harman.
Senator Sarbanes, Vice Chairman, Marty Gruenberg, and Marvin Moss.
Senator Heflin, Karen Kremer, and Tom Young.
Senator DeConcini, Bob Feidler and Doug Drury.
Senator Pryor, David Smith and Jeff Trinca.
Senator Gore, Goody Marshall and Peter Sage Knight.
Senator Bingaman, Faith Roessel and Edwin Jayne.

Mr. MATHIAS. Mr. President, all of these men and women contributed to the work of the Senate Impeachment Trial Committee on the impeachment of Harry E. Claiborne. Their competent work, under stringent time pressures, enabled the committee to carry out the difficult and unprecedented task assigned to it by the Senate. I know that every member of the committee joins me in thanking them for their dedication to this task.

COMMISSION ON MERCHANT MARINE AND DEFENSE

Mr. COHEN. Mr. President, last week, the President signed legislation that represented the final step in the creation of the Commission on Merchant Marine and Defense. The idea for this Commission was conceived by Representative CHARLIE BENNETT of Florida, the distinguished chairman of the House Seapower Subcommittee, and was supported by both the House of Representatives and the Senate. The Commission has as its function to assess the defense-related aspects of the U.S. maritime industries and to report to Congress its findings and recommendations. Although the establishment of the Commission was originally approved by the Congress several years ago, we have had to approve several other measures since then to clarify the authority for expenditure of funds for the Commission as well as the status of the Commissioners themselves.

Now that these matters have been resolved, the Commission will finally be able to begin its work. Last week, the President forwarded to the Senate the names of those individuals nominated to be Commissioners. In addition to the Secretary of the Navy and the Administrator of the Maritime Administration, who will cochair the Commission, those nominated to serve are: Adm. Jim Holloway, USN (retired), former Chief of Naval Operations and now president of the Council of American-Flag Ship Operators; Shannon Wall, president of the National Maritime Union; William E. Haggett, chairman and CEO of Bath Iron Works; Joe Sewall, president of the board of trustees of the Maine Maritime Academy; and Ed Carlson, chairman and CEO of United Airlines.

Mr. President, I am very pleased that two outstanding citizens from the State of Maine are among this group. Joe Sewall has been a distinguished political and business figure in the State of Maine for many years, having served as president of the Maine Senate and now as head of his own engineering company. He currently serves as chairman of the board of trustees of the Maine State Maritime Academy and thus can make an invaluable contribution to the efforts of the Commission. Bill Haggett, as chairman and CEO of the largest private employer in my State, has been a very effective spokesman for the business community with the Maine State Legislature and local governments. Bath Iron Works is recognized as a leader in the technological advancement of the U.S. shipbuilding industry, and Bill Haggett brings a unique and valuable perspective to the Commission's work. I have had the pleasure of meeting and working with other nominees for the Commission and I believe these are some of the best minds available for the task of the Commission.

The importance of the U.S. shipbuilding and maritime industries to our national security is unquestioned. Our shipyards—labor and management alike—have risen to the challenge to build the 600-ship Navy at the most competitive prices possible. They have demonstrated that efficiency, productivity and pride are more than ever a part of America's shipbuilding industry. Ship operators and seagoing personnel have also risen to the task of providing more efficient U.S.-flag shipping in support of our economy and our Nation's defense.

The 1980's, however, have seen a decline in all segments of the maritime industry. Increasing pressure from foreign competition that is Government-subsidized to varying degrees and continued pressure on our national budget have rendered impractical some of the maritime policies of the past. It is, therefore, essential that the Commission begin immediately to assess the defense requirements of the maritime industry and the capability of the industry to meet these requirements.

Mr. President, I hope that the Senate Armed Services Committee, on which I serve, will move immediately to approve these nominees, and that the full Senate will also give its approval as quickly as possible. I pledge my full support to the Commission as it proceeds with its task, and I look forward to receiving its input as we work together to resolve this important national security issue.

□ 1020

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1040

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 11:30 A.M.

Mr. GRASSLEY. Mr. President, I have been asked to announce that the two leaders are at the White House and they will be there until approximately 11:30 a.m. At 11:30 a.m., it is the intention of the majority leader to go into executive session to begin consideration of the Malone nomination. Therefore, I ask unanimous consent that the Senate stand in recess until 11:30 a.m.

There being no objection, the Senate, at 10:45 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HELMS].

□ 1130

(Mrs. KASSEBAUM assumed the chair.)

THE MEETING IN ICELAND

Mr. WILSON. Madam President, the President and the United States team that accompanied him are now back from Iceland. The air is filled with cries of, "Oh, what might have been." There are any number of doom brokers saying that we have lost the opportunity of a century.

To the contrary, what the President of the United States has proved, once again, is the value of firmness and patience. What really happened in Iceland, I think, is well described by Dr. Brzezinski, President Carter's former National Security Adviser, when he said that we went in response to an invitation for an allegedly informal meeting and, of course, when we arrived, found that the Soviets were tabling a series of proposals, and that they then made an offer which we could not in wisdom and in good faith accept.

Then, of course, even before the meeting was over, Viktor Karpov and others were quickly at their business of attempting to manipulate Western opinion and blaming the President of the United States for having cast away an opportunity.

The fact is that they came intending to set up an impossible choice: either we would give away SDI, which would have the practical effect of relegating it to laboratory-only research, or they would blame us for not going forward with serious arms control. This is an old game of the Soviets; it is not a new one. But for those who seem to think it new, for those who are now raising the cry that, having failed in their tactic, the Soviets will forever eschew the arms control process, let me suggest that they once again are making the error ascribed to so many by Santayana. They need to consult history, and very recent history. They need look back only to 1984 to find that, once again, the Soviets, after laying down a condition, much as they did in Iceland, stomped out of negotiations, vowing never to return unless the United States agreed not to go forward with deployment of U.S. GLCM and Pershing II missiles capable of reaching the Soviet Union from their European bases.

Of course, we know that the President and our allies did go forward with that deployment, despite the outrageous campaign of Soviet propaganda, intimidation, and even ham-handed interference in European elections, just as the President has again, in Iceland, had the wisdom and the courage, calmly but resolutely, to reject Soviet pressure tactics and Soviet demands and to insist on going forward with deployment of the strategic defense initiative.

He should have done so, Madam President, because even as we work toward those reductions which he proposed, it will be necessary to hedge with a safeguard against cheating, against accidental launch, and against attack by a third party, perhaps a Qadhafi, capable of delivering a ballistic missile to the United States or to some other unsuspecting part of the world.

What we need to understand is that, as it matures, the strategic defense initiative will provide the United States with ever-increasing leverage in negotiations with the Soviets. I do not think we have seen the last of them in Geneva or at the bargaining tables elsewhere. It will provide leverage even beyond that, which it has clearly provided already, as both our own capability increases and as the Soviet appreciation of it increases, in no small measure from their own longstanding and vigorous activity in ABM defenses, which we seem dangerously to have lost sight of.

What the episode in Iceland really proves is the absolute necessity for U.S. firmness and patience of the kind that Ronald Reagan's leadership provided in great abundance. We do not achieve real arms control breakthroughs overnight. We achieve them at Geneva through detailed negotiations, but only when the policymaker at the top has decided that we will not be rushed, that we will not listen to the strident cries from friend or foe, demanding that he yield to every importuning, to the temptation to secure a place in history as the bringer of peace.

The President was firm, clear, and patient. He made good-faith efforts to bring about real arms control. The Soviets have rejected these, but I think they will be back at the table. In the meantime, not only the people of America but also the people of the free world—certainly, the people in this Congress—need to rally support and unite in thanks to him for his leadership and for providing that example of clear vision, of courage, of firmness and patience, without which we will not achieve the kind of arms reduction and the kind of safety which the world needs and which we can bring to it.

The PRESIDING OFFICER. Is there further morning business?

Mr. MELCHER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1140

Mr. MELCHER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator from Montana desiring to speak in morning business?

Mr. MELCHER. Yes, Madam President, I desire to speak in morning business.

THE ECONOMY

Mr. MELCHER. Madam President, the situation that Americans face here at home is pretty grim for a lot of them. They want some attention paid to the economy of this country.

Reykjavik is history now. The evaluations are proper but those evaluations must be in perspective and in proportion to the times. The country's economic times are not good and, therefore, both President Reagan and Congress must come down to Earth.

□ 1150

Whether one calls it star wars or strategic defense initiative, the people hold on to their pocket book and remind us here in Congress and also they remind the administration, if anyone listens to them that it is a pretty slim pocketbook they hold and they are not about to write a blank check.

Rather, the people are practical. They have some major concerns about the American economy and they want an accounting. What is happening to America's farmers and ranchers and to the basic industries in this country, such as agriculture, energy mining, forest products? Why should we permit, they query, foreign trade to leave America and Americans last, with Japan, Europe, and other trading partners coming out first? I do not think Americans have got over the notion of that slogan, "America First."

In the case of trade policy, that is an oversimplification and the people know it. We know we have to have reciprocal agreements with our trading partners. What they are really asking is, what is going on here? How come this trade imbalance, this red ink in world trade, is a $170 billion imbalance this year?

You know there is a broad array of imports and exports that make up that $170 billion in red ink. And what it means to Americans is how does it affect them, what has it done to their livelihoods? Has it wiped out a job for them or made their time and pay on the job less?

And, of course, I believe the American farmers understand that part of the reason they are hurting so much is because of the trade imbalance. It is very discouraging to them, as well it should be to all Americans, to see agricultural exports dwindle since 1981 from some $40 billion in trade surplus—selling more agricultural commodities than what we imported in this country—5 years ago it was some $40 billion in agriculture surplus leaving this country. It is very sad to see that dwindle down to last year's $31 billion and what looks like will be $25 billion this year. In the past few months, we even imported more agricultural goods than we exported.

Well, while we want to change that, we say we do here in the Congress, the administration also says they want to change that and gives reason to believe it is going to change it, the truth of the matter is we are not doing very much about it.

A few days ago here in the Senate on the continuing resolution, that massive appropriation bill, we attached an amendment that I offered that is just a very modest step to show that we want, not only want to reverse it, we just gave the direction to the Department of Agriculture and the Department of State: "Here is what you should do in the next few months to start that reversal."

There was an editorial in last Friday's Washington Post dealing with the amendment which now sits in the conference committee between the conferees representing the Senate and

those conferees representing the House, and its fate there is unknown. But I call attention to this editorial. I think it is a well-balanced editorial by the Post editorial writers because it gives both sides. It gives the administration's objections to the amendment and then it points out some of the pluses of it.

I would like to very briefly refer to the administration's objections. Here they are: The administration says that since the amendment deals with providing the opportunity for some of our surplus commodities to go to some countries abroad, friendly countries abroad, that it would, one, further depress world agricultural markets and cost United States and other farmers badly needed sales.

I would like to rebut that, Madam President, by simply stating that nothing, nothing at all can succeed in driving commodity prices lower than having huge commodity surpluses sitting in our bins or on the ground in some cases—stored, mind you, in bins or elevators or on the ground—nothing can further depress quicker the price of those commodities than to have those huge mounting surpluses just sitting there. That is price depressing of those commodities in the extreme. And the fact is that what is in commodity storage now—owned by the Federal Government, our Federal Government—is going to continue to mount and mount and mount unless we take steps to reduce those surpluses.

That, Madam President, is the principal reason for the amendment. There are other reasons, but that is No. 1—looking out after us, taking America's point of view first, reducing the surpluses so we can have some stock, some leveling out of the continual decline of commodity prices.

Second, the Post reported in this editorial as an objection of the administration that the amendment—that is disposal of the surpluses—would undercut and discourage food production in receiving countries thereby keeping them dependent.

The amendment provides that the country, to receive the commodity, must apply for it. It is that simple. There is nothing strange about that. They must apply for it.

In their best judgment, they see the need for the food commodities exceeding the danger that is mentioned here. That is the only answer to that type of complaint or criticism by the administration.

Third, the third objection of the administration is that it tends to become a cumbersome substitute for cash foreign aid. Cash foreign aid? Where do we have the cash? We have heard Secretary Shultz and many others state that foreign aid will be very limited beause of our shortage of cash, because of our budget deficit. We have the food. It is in storage. The amount of food that would be moved under that amendment would reduce the Federal cost for paying for that storage by roughly $100 million.

Now that, again, goes to the point: Whose interests are we looking out for? And I have to tell you that the purpose of the amendment, while it has other purposes, first of all looks out for America's interests.

The Post goes on, in the reporting of the administration's objections, to say that even the distribution of surplus food incurs costs.

□ 1200

Indeed it does. That is why the amendment requires the recipient country to pay for the transportation, distribution, and processing costs. That is looking out for our interests.

The other purpose of the amendment is simply this: There are a great number of people in these countries named and in other countries around the world that today are hungry, that today are malnourished, that today really do not have the vim and the vigor to start the economic recovery in their own countries that is so vital.

In addition, there can be no economic recovery for a country that is depressed from lack of food until there is a sufficient supply of food. So the amendment has our interests, and the recipient countries' interests. And, might I say, Mr. President, that the food surplus that we have in such abundance need not be treated as a stepchild but should be used as an asset. But sitting idle in Federal storage does not make it a productive asset.

The amendment that I presented, is now approved by the Senate, and now sitting in conference committee is only a first step. But it is an important step.

Of all the things that we can do to make our economic plight worse in the United States, the No. 1 thing that will make it worse is to do nothing, just to sit idly by, and just to refuse to do something. In agricultural exports this amendment is proper, and it is vitally needed primarily because the administration is not doing anything.

We passed an amendment as part of another bill, and it went down to the White House. It would require that we subsidize grain sales to the Soviet Union. It was limited in time to September 30 which is well past. That move was undertaken, and the offer was made to the Soviets to discount the price of American surplus grain commodities. They did not take it up as could have been easily predicted since they would prefer to purchase from other countries first rather than purchase from us. The supplies of other countries in grain commodities is still more than they need. They have surpluses also.

But we sat idly by here in the United States refusing to participate in some of the programs that were called for in the farm bill that was passed in 1985. Either the State Department or the Department of Agriculture, one or the other, can find some reason not to move on a variety of those export expansion programs of America's surplus commodities.

We have a responsibility in this Congress when the executive branch refuses to do the practical—to take the commonsense approach to agricultural surplus commodities—to do something ourselves. I hope my colleagues here in the Senate will continue to believe, as we believed a few days ago when we passed this amendment, that it is a vital step necessary now before we adjourn.

If we adjourn this Congress without bringing about a reversal of the agricultural export policy of this administration, we will indeed be falling down on the duty and obligation we have to the people of this country. All of agriculture, including agribusiness, believes it is necessary to move a portion of these surplus commodities through the various types of programs that we have: Food for Peace, all the various amendments, and the 1985 export enhancement sections of the farm bill. These are all essential and should be utilized if we are truly going to do the right thing for the people of this country, and particularly those in the agricultural sector.

Mr. President, I yield the floor. Before doing so, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1240

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COCAINE USE CONTINUES TO CLIMB

Mrs. HAWKINS. Mr. President, I wish to report to our colleagues that the use of cocaine is down in our society. Much to my regret, I cannot do that. On the contrary, cocaine use in the United States is up. The number of coke users climbed to 5,800,000 last year, compared with 4,200,000 in 1982. This is frightening. It is a one-fourth increase in the number of cocaine consumers over a 4-year period.

The figures are contained in the National Household Survey on Drug Abuse released by the Alcohol, Drug Abuse, and Mental Health Administration, one of the lead Federal agencies concerned with the drug problem. The

Administrator of that agency is Dr. Ian MacDonald of St. Petersburg, FL. I visited with him and he said the main reason for the rise in cocaine popularity is new forms of the drug can be found. Cocaine normally is a powder and is snorted by its users. But it can be processed into freebase and crack, which is smoked. Younger people, it seems, are attracted to the smokeable forms.

The survey discloses that 44 percent of American youth between the ages of 12 and 17 have used cocaine and have freebased cocaine. At the same time, the survey showed that the dangers of cocaine use are widely recognized; 92 percent of the people questioned said they regarded cocaine as a great risk.

There was some good news in the Adam-Ha study. The use of marijuana, LSD and PCP is down markedly. The number of marijuana users dropped nearly 2 million between 1982 and 1985. This is very encouraging.

Once again, the status of marijuana as a "gateway drug" is confirmed. Cocaine users most always start their drug careers with marijuana. This survey revealed that many people use both marijuana and cocaine, and it showed that marijuana users are 12 times more likely to be cocaine users than those who do not use marijuana at all.

Statistics found in the national survey are enough to make one worry about whether we are moving toward a drug culture. For example, 36.8 million Americans—19 percent of our population over 12—have tried marijuana, cocaine, or other illegal drugs at least once in the past year. Think about that: Nearly 20 percent of all American teenagers, young people and adults, used some illegal drug in 1985.

Mr. President, the disturbing news that cocaine use is on the increase is bound to have other ramifications. Fatalities from cocaine have quadrupled since 1980. Admissions to emergency rooms that are cocaine related have climbed more than 300 percent in the past 5 years. It is a safe assumption that there will be even more deaths, accidents, and hospital incidents attributable to the drug.

Tests after tests have shown that cocaine is the most addictive drug known to man. The addiction potential was amply demonstrated in one test which showed that laboratory animals are willing to forgo food and water to obtain cocaine, even to the point of death. We are dealing with a powerful destructive force. I sincerely hope that the educational and rehabilitation programs that stem from our new drug bill will turn the tide against cocaine.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1250

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it is still my hope that we can take care of all the nominations on the calendar today. I am going to propose a unanimous-consent request later that would, in effect, wipe the slate clean. I have given a copy of that to Senator BYRD's staff and hopefully during the policy luncheon the Democrats would have an opportunity to look at it and I will run it by Republicans during our policy luncheon, which is in progress.

THE ICELAND SUMMIT

Mr. DOLE. Mr. President, let me indicate that we have had a very good bipartisan meeting this morning with the President concerning what happend in Reykjavik, Iceland, over the weekend. I think there is some confusion, but I believe it was the consensus, and I will let others speak for themselves—the Speaker was there; the distinguished minority leader was there; Congressman MICHEL, the Republican leader in the House was there; a number of Republicans and Democrats—I believe the consensus was that considerable progress was made in Iceland and that we all hope that it will continue. The President said the door is open. Contrary to some earlier reports which indicated the talks would collapse, we had failure in Iceland and the door had been slammed, that does not seem to be the case at all.

So there have been agreements in a number of areas that the President outlined this morning. One sticking point is with reference to SDI. And the President outlined his reasons for not surrendering that because of his concern for the American people, because of the need for some leverage to encourage the Russians to in fact destroy intermediate range missiles and intercontinental missiles after the agreement is signed, and to protect us from some third country who might have capabilities 10 years from now. So it is an insurance policy as far as the President is concerned.

□ 1300

But I would suggest now that the meeting with the President and Mr. Gorbachev was successful. It was not a lost opportunity nor is it the last opportunity. It is the hope I think of everyone who was there this morning—and I know it is the hope of the President—that we can continue down the road for progress, and that we will reach an arms agreement that will eliminate all nuclear weapons.

That is the hope of the President. That is the offer he made to the Secretay General, Mr. Gorbachev. And I know there is a press conference at 2 o'clock Washington time by Mr. Gorbachev. I know that the Soviets will be listening to those who left the meeting at the White House, Republicans and Democrats, to determine whether or not there is unity among all of us in support of the President's position. Even though some may disagree on the value of SDI I do believe that everyone who left the meeting—the President was applauded when he came in. I did not detect any partisan criticism during the questioning nor did I after the meeting. I do not believe there will be any when Members of the House and Members of the Senate address the public and the news media.

I also understand there is an SDI proposal, and that there is a two-page summary of it in the report authored by the Presiding Officers, Senator COHEN, and Senator NUNN. That has been called to our attention.

So, Mr. President, I believe we have made progress.

RECESS UNTIL 2:15 P.M.

Mr. DOLE. I know the distinguished Senator from Minnesota will be happy to hear me make the unanimous-consent request that we now stand in recess until the hour of 2:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 1:02 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHAFEE).

□ 1410

The PRESIDING OFFICER. The Senate is in morning business.

Mr. ZORINSKY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Does the Senator wish to proceed as if in morning business?

Mr. RIEGLE. Yes.

The PRESIDING OFFICER. The Senator may proceed.

The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

STAR WARS AND THE ARMS TALKS

Mr. RIEGLE. Mr. President, I think all Americans are disappointed and distressed at the collapse of the arms talks in Iceland over the weekend. I know that is the feeling of this Senator. I think it was a serious mistake to let star wars destroy the chance for real arms control now.

The overwhelming majority of U.S. scientists tell us that the star wars system is unworkable, that it is dangerous, and it is a trillion-dollar waste of money if we go ahead with it. And so there is enormous reluctance about star wars here in the Congress and throughout the citizenry of the United States, and I think it is true on a bipartisan basis. Yet that issue is the one which caused these arms discussions over the weekend to collapse.

Now, we have serious financial problems in this country. We see it with a Federal budget deficit; we see it with a balance-of-payments deficit; we also have serious sectorial problems; we have oil and gas problems down in the area of the Senator from Louisiana; we have problems in the manufacturing base; we have problems in the savings and loan and banking industries that we are reading about more and more all the time; we have grave problems in the agricultural sector.

I do not think this country can afford an expensive new surge in the arms race, especially when it is not going to make us any safer. To commit ourselves to a course of action with star wars that could cause us to spend an additional trillion dollars on defense—and perhaps even more than that—is something that I think would bring additional strain to our financial condition and put us in a position of even greater financial jeopardy.

As a member of the Senate Banking Committee and Budget Committee and Commerce Committee, I have the opportunity to talk with a number of the top financial people in the country, because they come in to discuss the economic conditions facing the United States. The one hope that they have expressed to me over and over again is that there would be a breakthrough in the arms race that could start to lower the level of defense spending so that we could start to reduce the Federal deficits and get our financial house in order.

That has been one of the great hopes that has preceded the meetings over the weekend in Iceland. And then, when it looked as if we might get a breakthrough on arms control, there was a moment of great hope and expectation and a feeling that perhaps we were on the verge of changing direction, getting the arms race under control, a slowing down of the massive expenditure of money that is being directed off into the development of nuclear weapons and other strategic weapons. Then the news came that the talks had collapsed and that the opportunity had gotten away from us, and with the clear impression that we now stand on the verge of an acceleration in the arms race; that we are going to move ahead or we are going to be given the recommendation and the strong urging by the administration to provide unlimited funding for the star wars program in the future. Of course, we know that if we start down that road, the Soviets likewise will be prepared to spend whatever they have to spend, and then we will have to match their spending, just as they match our spending, and we can both spend ourselves into a status where we are in terrible financial and economic difficulty.

Frankly, the United States is there now. We do not have any extra money to waste on things that are not going to make us safer. That is why arms control agreements, if they can be achieved, make great sense in reducing the risk and possibility of nuclear war and easing the tremendous financial pressure on our Government at the present time.

We have just finished this fiscal year, at the end of September, and the final numbers are not in; but it appears that the Federal budget deficit will be about $230 billion. It was only supposed to be $172 billion under Gramm-Rudman, but we are coming in nearly $60 billion over that total.

So those immediate operating results, in terms of the continued growth of the Federal deficit, tell us that there is every reason for us to press for some sort of safe, intelligent, rational, and balanced arms control agreement. So I do not think we can afford to let this opportunity slip away.

I also am concerned about the fact that the military-industrial complex in this country will always have expensive new systems for us to buy. President Eisenhower—and former General Eisenhower—probably understood that problem as well as anybody in our history. When he left public service, his farewell comments to the American people were to warn us about the consequences and the dangers of the military-industrial complex; that, in fact, we had to exercise great care that we not just go forward with every single idea that comes out of that sector of our economy, to continue to pile up arms in many cases that we do not need and cannot use and ultimately cannot afford.

I think Ike was right, and I think the star wars plan as has been put forward is a perfect illustration of what he was warning about. That is why I say the overwhelming majority of scientists across the United States have come forward to oppose the star wars program, because it does not make sense. They do not view it as workable. They view it as destabilizing, and therefore even more dangerous with respect to the arms race in the future.

Finally, they talk about its horrendous expense—at least $1 trillion. Some estimates go as high as $2 trillion, if we were to go forward over the next decade or two and put this whole system up there in outer space. I hope we would not do that and that the administration would reconsider its thinking on this issue.

It seems to me that it would be well for us not to let the arms talks collapse at the point at which they ended in Iceland but, instead, to see if we can continue these discussions in a serious way, to leave these issues open and to have the negotiators continue to see if a way can be found to achieve agreement. I hope our Government would reassess its thinking with respect to star wars. The administration, I think, is not on sound ground in this area, and, as I say, the bulk of scientific opinion supports that view.

We had a situation the other day in the Senate on South African sanctions. One might say, "What do South African sanctions and the President's veto and the veto override have to do with what we are now seeing with respect to star wars causing the arms talks to collapse?" I think there is a parallel; and in the case of the South African sanctions, the administration had a blind spot. They were not able to see clearly what was happening in South Africa and to respond to it in a forceful and appropriate manner. As a result, Congress, on both sides of the aisle—Democrats and Republicans alike—joined, in the House and in the Senate, to override the President's veto on South African sanctions, because they saw the administration as having taken the wrong position and that Congress, in its judgment, and supported by the American people, felt that it was essential that we take an appropriate step to try to bring a change with respect to what is happening today in South Africa, with reference to apartheid.

I think the parallel is this: I think the administration is painting itself into a corner on the star wars issue. It is not something that the American people think makes sense. I believe there is great skepticism about it in the countryside, and there certainly is in Congress, on both sides of the aisle.

So let us not let the whole future hinge on this one issue. If we can have meaningful arms control that can reduce the risk of nuclear war and enable us to start to spend less money on defense, so the taxpayers can have some relief and so that those resources can be used for other, more constructive purposes—cancer research, education, senior citizens, highways, housing, or whatever—we should do so. Those are constructive purposes for

which that $1 trillion of star wars money can be put to work. That is where it ought to go.

So I hope the administration would reconsider its view and not go off in a direction that is contrary to what common sense tells us and which Congress and the American people together feel is an unsound and unwise course.

If we can bring the arms race under control and bring down defense spending, we can relieve our financial pressures as a nation, and I think we can have a real economic surge. On the other hand, if the effort to make a breakthrough on the arms race fails and stalls at this point, what we are going to see is an acceleration of the arms race; we are going to see more money being spent, money we do not have, money that we have to go into debt to provide, money we have to borrow from foreigners.

We are now the No. 1 debtor nation in the world, and we are going deeper into international debt, at the rate of a billion dollars every 2½ days. Should we go out and borrow another trillion dollars from foreigners in order to invest in star wars? I think not. We cannot afford that kind of arms race into the future, and I do not think the Russians can, either. I think it is bad for us and bad for them.

Frankly, I think that some of the nations today that have the big trade surpluses with the United States—some, our traditional allies—probably feel that as long as we spend all these billions and trillions of dollars on national defense, presumably for ourselves and for them, and they do not have to make those expenditures, they are free to do exactly what they are doing, and that is to take our best jobs in this country, run up huge trade surpluses with the United States, to become stronger economically as we become weaker economically, so that we end up with the fiction that we have massive power with this enormous nuclear arsenal; but, at the same time, because we have weakened ourselves financially, we are in a situation where we are not strong at all.

The other day, the Wall Street Journal published a special supplement on the largest businesses in the world today, the top 100. I was struck by the fact that of the first 13 largest and most successful businesses in the world today, private companies, 7 are Japanese, only 5 are American, and 1 is—well, that is Royal Dutch Petroleum, another foreign company.

To me, it is a stark measure of how our economic fortunes have changed within the context of the world economy. One of the reasons is that we are draining ourselves dry with excessive defense spending. Every time the weapons manufacturers in this country walk through the door with a new scheme—now it is star wars—only $1 trillion, maybe $2 trillion, we say, "Let's go ahead with it." I think the time has come when we have to say no to that.

□ 1440

So we have to do a better job of managing our own resources and I think we can do it. I think if we engage in discussions that lead to mutual reduction in nuclear arms verifiable, and that has to be verifiable but to let those discussions go forward, then I think we can avoid having to have an enormous new surge in defense spending which can only have the effect of weakening our economy and I think further impoverishing the American taxpayer.

I would just conclude by saying in behalf of the people that I represent in Michigan that I hope that the administration will reconsider and think about carrying these arms discussions forward, leave the issue of star wars open, leave it open, do not close the door on that issue, leave it open and let us see if we cannot find a basis——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. RIEGLE. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair and thank the majority leader.

I think that we ought to leave the door open; we ought to continue the discussions in a serious way. I would hope that the administration would adjust its thinking on star wars, not make this an all-or-nothing proposition, but let us see if we can find a position that is good for the United States, which is acceptable as well to the Soviet system and as well as to the rest of the world as a whole, because the rest of the world is held hostage to these decisions anyway. I think the basis may be there, but star wars is not the answer for us for the furture. Everything we see tells us that it is not.

So let us see if we can find a workable basis for a negotiated reduction to the arms race and let us see if we can find it now.

I am hopeful that we can, and if we can, I think there will be bipartisan support here to carry forward with that strategy.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

SUMMIT MEETING IN REYKJAVIK, ICELAND

Mr. KENNEDY. Mr. President, like many Americans, I am disappointed and frustrated by the recent failure of President Reagan and Soviet General Secretary Gorbachev to reach agreements that would have dramatically reduced the threat to the American people from Soviet missiles.

The agreements framed in 2 days of talks in Reykjavik have correctly been described as "breathtaking." The two sides had agreed to eliminate medium-range missiles in Europe, cut back Soviet missiles in Asia from over 170 to about 30, and cut each side's force of strategic nuclear warheads almost in half—from current totals of 10,000 to about 6,000.

Included in this reduction would have been the most destabilizing weapons of all—the Soviet heavy missiles. An agreement further limiting the numbers and explosive power of nuclear tests and moving us closer to the goal of a Comprehensive Test Ban Treaty also appeared to be on track.

But it all came unraveled when the two leaders could not agree on how to limit strategic defenses. President Reagan was willing only to defer deployment of a star wars system for 10 years, with virtually no restraints on development and testing of antimissile systems and components in the meantime. The Soviet proposal permitted only research and development that could be conducted in the laboratory or by fixed, ground-based interceptors.

The fact that SDI was the issue which ultimately caused the collapse of the summit should surprise no one. Since his star wars speech in March 1983, protecting this multibillion-dollar program has become the President's highest priority, even if it means the end of arms control.

In Reykjavik, the President refused to consider a middle ground between the United States and Soviet positions that could have preserved the integrity of the SDI Program while allowing the dramatic reductions drawn up by the two leaders to be implemented. As a result of the summit, SDI has now assumed a symbolic importance far in excess of its technical realities and limitations. As the President's own chief of staff, Donald Regan, stated, the Soviets made virtually all of the concessions at Reykjavik on offensive forces. When the President was called upon to make concessions on SDI, he refused—and the summit fell apart.

But it will be an even greater tragedy if this temporary setback leads to further intransigence and a hardening of negotiating positions on both sides. Opponents of arms control on both sides would like nothing better than for this failure to stalemate arms talks indefinitely. This must not be permitted to occur. The administration has only itself to blame for a summit that was hastily agreed to and poorly prepared. Now it must take responsibility for getting the arms control process back on track.

To begin with, the President and his advisers should reassess their funda-

mental negotiating strategy and objectives.

Our primary goal is to reduce the Soviet threat. In Reykajvik, the President had the opportunity to eliminate 4,000 Soviet ballistic missile warheads, 800 strategic missiles and bombers and 1,400 medium-range missile warheads. Such reductions are a vastly cheaper and more effective way of enhancing our national security than depending on the uncertain promise of a star wars system that many scientists believe will never work.

Another key objective of the United States is to enhance stability and reduce the risk of nuclear war as we move to lower levels of nuclear warheads. Star wars is a major barrier to such progress, because the deployment of star wars at lower levels of strategic offensive forces could actually increase the incentive for preemptive Soviet attack during a crisis. This reality was the original justification for the ABM Treaty of 1972, which sharply limited defenses against ballistic missiles. As each side moves to lower and lower levels of offensive forces, we must retain confidence that our remaining retaliatory forces can still get through—and thus continue to act as a deterrent to the other side.

We must continue to probe for flexibility in the Soviet position on SDI as we reconsider our own position. General Abrahamson, the SDI's Program manager, admits that a decision on beginning engineering development of star wars is 7 to 8 years away and that deployment could not begin for several years thereafter. In agreeing to defer deployment for 10 years, the President would have given away nothing; he was simply confirming a fact apparent to those who oversee the SDI Program.

The heart of the dispute between the United States and the Soviet Union—and what caused the breakdown in Reykjavik—is over what restrictions in SDI are acceptable. The President and his advisers insisted that the Soviet proposal would have limited SDI research so drastically that the program would be "killed." Yet, the administration insisted on being permitted to develop and test laser weapons and other space-based components over the next 10 years in a way that would have nullified our obligations under the ABM Treaty.

The obvious compromise, which does not appear to have been explored in Reykjavik, is for the administration to commit itself to adhere to the ABM Treaty, which flatly bans the development and testing of space-based ABM systems or components, for a period of 5 to 10 years, while offensive reductions proceed. This commitment would still permit considerable activity both within and outside the laboratory, short of testing prohibited types of ABM components in the field. It would permit the administration to explore the promise of these technological advances.

A commitment to adhere to the ABM Treaty during the first phase of nuclear arms reductions would cost the SDI Program nothing. Most of the significant experimental work on lasers, particle beams, and electromagnetic guns, to name a few, is taking place inside laboratories in any case.

The administration acknowledged in its report to Congress earlier this year that the SDI Program and its test activities are designed to adhere to the traditional interpretation of the ABM Treaty at least through the early 1990's. Former Secretary of Defense Harold Brown has argued persuasively that SDI can be structured to adhere to this interpretation "while permitting rapid development and even preliminary testing of technology" until at least 1995.

Last February, during my meetings with General Secretary Gorbachev in Moscow, he informed me that he would be willing to "delink" an agreement on intermediate-range nuclear forces or a test ban from progress on strategic offensive and defensive forces. He has restated this commitment several times since then and has also indicated that an agreement in either area would be sufficient to bring him to Washington for another summit.

We must not lose sight of the need to resolve the central strategic issues. But while each side reevaluates its own position on strategic defense, the completion of agreements on INF and on nuclear testing could rebuild confidence and get things moving again. Whatever the future of SDI, we should not squander the breakthroughs that were achieved at Reykjavik in these other two important areas. It is not clear that the Soviets will now stand by their commitment to delink INF and nuclear testing from SDI, but these are two matters that should now have high priority at Geneva.

The failed summit must not be permitted to become the epitaph of the Reagan administration's commitment to arms control. As the posturing and propaganda of the past 3 days recedes, I hope that both sides will pick up the pieces and reassess their differences, so that the progress so nearly made in Reykjavik will be carried forward in Geneva.

We can forgive a temporary failure. But we cannot forgive a permanent impasse when there is still so much progress that can be made.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EUGENE HASENFUS DOWNING AND U.S. INVOLVEMENT

Mr. HARKIN. Mr. President, when resigning from his post with the State Department last week, Mr. Bernard Kalb made the plea that "faith in America's word is the pulse beat of our democracy."

As the story of the flight of Eugene Hasenfus over Nicaraguan territory continues to unravel, it is becoming apparent that the administration's word inspires little faith. In fact, the administration's effort to distance itself from Eugene Hasenfus and the C-123 cargo plane downed over Nicaragua defies credibility. It reminds this Senator of Watergate and President Nixon's ill-fated attempts of deniability of his role in that affair.

Mr. President, before beginning the fourth of this series of questions, on the Hasenfus flight, which I will continue to undertake every day that the Senate is in session, let me briefly review the facts—and the denials—that have been issued to date.

First, Hasenfus, William Cooper, and Wallace Sawyer landed at a Salvadoran airbase at Ilopango before flying with their cargo of weapons destined for the Contras inside Nicaragua.

That base, though controlled by the Salvadoran Air Force, is totally financed by the United States Government. Americans can enter Ilopango only if they have identity cards, identifying them and approved by U.S. officials.

Yet, according to administration officials, these three Americans had nothing to do with any official U.S. enterprise.

Furthermore, the Salvadoran Government—from its President Duarte to the commander of its air force—deny that Ilopango is even used to supply Contra military operations.

Second, the C-123 flown by Hasenfus, Mr. Cooper, and Mr. Sawyer, was connected to Southern Air Transport, a charter airline owned by the CIA from 1960 to 1973. In 1984, that same aircraft was used in a United States Government "sting" operation to catch Nicaraguan officials at drug smuggling.

Yet, administration officials deny ownership or any association with this airplane.

Now, recent news reports connect Max Gomez with Donald Gregg, na-

tional security adviser to Vice President GEORGE BUSH. Well, first of all, who is Max Gomez? Gomez was identified by Hasenfus as one of two Cuban-Americans who provided logistical and flight support for the C-123 downed over Nicaragua and for other Contra support missions that had been conducted previously.

Mr. Gomez, it turns out, is a veteran of the Central Intelligence Agency who had flown for the Agency's covert Air America flying service during the Vietnam war. According to news sources, Mr. Gomez worked not for the CIA, as Hasenfus asserted at last week's press conference, but that Gomez worked for the Salvadoran Air Force.

□ 1500

According to the Washington Post of October 11, Mr. Gregg—again, Mr. Gregg is the national security adviser to Vice President GEORGE BUSH, who in turn sits on the National Security Council—provided a recommendation that introduced Gomez to Gen. Juan Rafael Bustillo, the Chief of Staff of El Savador's Air Force. Many of the Contra supply flights, such as the Hasenfus mission, ran out of the Salvadoran Air Force's base at Ilopango. So Gregg and Gomez are thought to have known each other from the Vietnam era. Gregg, who had served for the CIA during Vietnam, was station chief in Korea during the 1970's and was on the staff of the National Security Council during the Carter administration.

That same Washington Post article connected not just Gregg but the Vice President himself with the Hasenfus operation. According to reports, Gomez reported to the Vice President on several occasions detailing his work on the Contra supply system.

So here we have two individuals, Mr. Gomez who used to work for the Central Intelligence Agency, who, according to news reports, was introduced to the head of the El Salvadoran Air Force by Donald Gregg, who is the national security adviser to Vice President BUSH. Both of these individuals, Gregg and Gomez, have had previous connections in previous years working for the CIA.

The Vice President has come forward to counter these charges. Let me quote what the Vice President said.

I know what he was doing in El Salvador and I strongly support it—that is, Max Gomez—as does the President of El Salvador Napoleon Duarte, and as does the chief of the armed forces in El Salvador, because this man, an expert in counterinsurgency, was down there helping them put down a Communist-led revolution.

That is a quote from the Washington Post of October 14. Mr. President, I ask unanimous consent that the entire text of this article be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALVADORAN GENERAL DISPUTES BUSH ON ROLE OF U.S. ADVISER

(By Edward Cody)

SAN SALVADOR, Oct. 13—The Salvadoran chief of staff, indirectly contradicting Vice President Bush, said today that no U.S. national could work for the Salvadoran military without the High Command's approval, and to his knowledge none has been given.

Gen. Adolfo Blandon, who made the statement to U.S. reporters, was addressing a declaration by Bush Saturday that a Cuban American—identified as leader of a secret supply program here for anti-Sandinista rebels—was a counterinsurgency specialist helping the Salvadoran government put down "a communist-led revolution" in their own country.

Salvadoran military leaders have denied their facilities were being used to move rebel supplies into Nicaragua or that their personnel were involved.

Bush has said a U.S. counterinsurgency adviser outside the regular U.S. military assistance program—and identified as chief of the anti-Sandinista resupply effort—was working directly with the Salvadoran government.

Bush, while in Charleston, S.C., said of the adviser, identified as Max Gomez: "I know what he was doing in El Salvador, and I strongly support it, as does the president of El Salvador, Mr. Napoleon Duarte, and as does the chief of the armed forces in El Salvador, because this man, an expert in counterinsurgency, was down there helping them put down a communist-led revolution."

Blandon, interviewed at the High Command, said this is impossible without his approval, which he said he has not given. "This intrigues me," he said of Bush's comments. It would have to be authorized not only by the joint chiefs of staff but also by the government."

Vice President Rodolfo Castillo Claramount said he knew nothing about the situation or the adviser, variously identified as Gomez or as Felix Rodriguez. President Jose Napoleon Duarte, in response to a number of reports from volunteer organizations and rebel officials over the past three years, has denied that Ilopongo Airport is being used to intervene in Nicaragua. He said Friday he knows nothing of Gomez's activities.

U.S. Ambassador Edwin Corr also said today that he does not know about the work allegedly being done by Gomez, to which Bush referred Saturday. A team of regular U.S. military advisers, including counterinsurgency specialists, has long operated in El Salvador out of the embassy headed by Corr.

A report in the Los Angeles Times said Gomez was attached to the Salvadoran Air Force on a private basis. Other reports said his ostensible job was to help train Salvadoran pilots for what is called the "Lightning Team." This group uses U.S.-supplied Hughes 500 light gunship helicopters to flush out leftist guerrillas in the Salvadoran hills for subsequent attack by infantry or heavier copter gunships.

But Lt. Col. Domingo Vargas, a commander in Morazan province who helped the Salvadoran Army develop its air-mobile counterinsurgency tactics, said he never heard of Gomez, Rodriguez or any other U.S. adviser to the helicopter squadron.

Blandon said Gomez would not be necessary for this work anyway, since "our pilots are among the best in Latin America." He said he would investigate further into what, if anything, Gomez was doing in El Salvador as described by Bush and into the reports linking him to a resupply operation for anti-Sandinista rebels, known as contras.

Bush's press secretary, Marlin Fitzwater, said yesterday that Gomez was steered to the Salvadoran government by an aide to Bush, Donald Gregg, who knew Gomez from the days when both worked for the CIA.

Eugene Hasenfus, who was captured in Nicaragua last week after the downing of a C123 cargo plane in which he said he was flying a contra supply run, identified Gomez as a CIA employe who headed a resupply program using as a major jump-off point the Salvadoran Air Force base at Ilopongo Airport on the outskirts of San Salvador.

Hasenfus said his job was to kick bundles out of the plane over the drop site in Nicaragua. This was reported to have been his job during earlier work for Air America during the Vietnam war, when the airline was a CIA cover. The two Americans in the plane who died, the pilot and copilot, also reportedly were associated with the CIA during the Vietnam war and Hasenfus said he thought they still were.

The Reagan administration repeatedly has denied the supply operation has anything to do with the U.S. government, including the CIA. It has declined to reveal what it knows about the operation, however, including what the Salvadoran military may have done to provide cover for it and what role Gomez played in it.

Mr. HARKIN. So the Vice President says, OK, I know what Gomez was doing in El Salvador. I support it. Not only do I support it, but the President of El Salvador supports it, and the chief of the armed forces in El Salvador supports it because Mr. Gomez, an expert in counterintelligence, was down there helping them, the El Salvadorans, put down a Communist revolution. Yet we are now told, by Hosenfus and by reporters in the United States that Mr. Gomez is at Ilopango running the supply forces for the Contras in Nicaragua, not in El Salvador.

Furthermore, the Salvadoran chief of staff, Gen. Adolfo Blandon, who I would think would know about such operations, has said he did not authorize the Gomez mission. President Duarte has said he knows nothing about Gomez' activities. Neither does our United States Ambassador in San Salvador, Ambassador Corr. They all say they know nothing of Gomez or his activities. The question just comes down to who is Mr. Max Gomez, and who should we believe about his activities?

No one appears to claim responsibility for Mr. Gomez, just as no one claims ownership for the C-123 downed in Nicaragua, and just as no one is claiming any responsibility for the Hasenfus mission. And no one is claiming responsibility. I might add sadly enough for Mr. Hasenfus himself.

What was Mr. Gomez' role in El Salvador? Under whose authority did he operate and does he continue to operate? Did he manage the Contra supply operations run from Ilopango as Mr. Hasenfus and numerous press stories allege? Did the Vice President know of Mr. Gomez' role in these operations? And did Mr. BUSH or his national security adviser, Mr. Gregg, provide adviser assistance to Max Gomez and those operations?

Mr. President, current law, section 105 of Public Law 99-169, states that funds available to the CIA, Department of Defense or National Security Council may be used to assist the Contras to support military or paramilitary operations in Nicaragua only for intelligence sharing. I repeat, "only for intelligence sharing." Does the performing of ground maintenance on a Contra supply flight qualify as intelligence sharing? Does loading the plane with arms qualify as intelligence sharing? Making out flight plans, making out payrolls, maybe even paying individuals—does this qualify as intelligence sharing? Who pays Mr. Gomez?

Well, some in the administration have claimed that he is paid by the Salvadoran Air Force. The Salvadoran Air Force says he does not work for them. Mr. Hasenfus says that he had his checks deposited in his bank account in Wisconsin. The least we could do is to find out on whom were those checks drawn? Who paid Mr. Hasenfus? Where did the money come from? Did Mr. Gregg in his capacity as an adviser to Vice President BUSH and as a representative of the National Security Council violate the law by providing advice or support of any kind to the Hasenfus flight—and thus I repeat "violate the law"?

Mr. President, these questions, involving charges of impropriety and illegal activity traced directly to the White House and the National Security Council, deserve a complete arising by the Congress? Yes. There is a smoking gun. And that smoking gun points directly at the National Security Council, at Mr. Gregg, and the Vice President of the United States. The least we can do, Mr. President, before running to go home to the upcoming elections, is to demand a full and complete accounting of all advice, logistical support or any other assistance provided by the U.S. Government personnel to the Hasenfus mission.

We must have a clear answer to this question before allowing the President and this administration to plunge deeper into the jungles of Central America. We must have a clear answer to this question before allowing any of the money that was passed, authorized, and now pending in the continuing resolution to be given to the contras to continue their proxy war against Nicaragua.

Nothing less than the authority of Congress, which has written the laws, and the credibility of this administration, which is supposed to obey those laws, are at stake. We have written the laws. We have enacted the laws. Yet, it looks as though this administration has done an end run around the laws, and may have violated the laws.

So we do need a clear accounting before we move ahead any further with any more money or any other funding or support for the contras. We should not tolerate this dirty little war being waged behind the backs of Congress, behind th backs of the American people, and in violation of the laws passed by the U.S. Congress.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. DOLE. Mr. President, is morning business closed?

The PRESIDING OFFICER (Mr. ARMSTRONG). Is there further morning business? If not, morning business is closed.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

The question recurs on the further amendment, as modified, to the House amendment of the Senate amendment to H.R. 5484, the Antidrug Abuse Act of 1986.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, let me indicate this and I will yield the floor: I think the Senator from Michigan, Senator LEVIN, wished to discuss certain provisions in the drug bill. We are waiting for Senator HATCH and Senator THURMOND because I think we want to have some dialog and some colloquy. So we would like to do that for about the next hour or hour and a half, and then I will move later on to go into executive session to consider the nomination of James L. Malone.

Let me also indicate there is some hope now that we might have reconciliation before us by 6 or 7 o'clock this evening. If that is the case we will conclude action on that this evening.

It seems to me there are four major items that are just sort of out there. You cannot get a handle on them. There is the debt limit extension. There is a continuing resolution, reconciliation, and the drug bill.

Those are the four major items we must complete before we leave here. I think the drug bill, hopefully we can dispose of that. If we can do reconciliation I think that would start a little momentum around here that we have not had much of the last few days.

Mr. LEVIN. Mr. President, if the leader will yield a moment while on the floor, there are many provisions in the drug bill other than the one relative to capital punishment which are of interest to a number of Members.

There are also many Members who are interested in this particular death penalty because of the way it is framed, its narrow limits, some of its unique features, and so forth.

The Senate has never debated a death penalty like this one before. It is worthy of some debate.

I want to inform the leader that we should, at least in my opinion, take the time to debate this provision if we cannot find a way out of this impasse, prior to cloture. This hour will be helpful, but I think we are going to need more than that because there are many speakers on this particular provision, many people who feel strongly about it as well as other provisions in your perfecting amendment of your substitute which are of interest to a number of Members of the Senate.

I hope the leader will factor in a time period in addition to this hour prior to that cloture vote tomorrow and give us some idea as to when reasonable debate on these provisions could occur prior to cloture.

Mr. DOLE. What I would hope, maybe we will do more of that later this evening, but if in fact this is our last week, I am not going to make any predictions at this point because I find everybody wanting to offer amendments, and I sort of had the feeling that it is really the first week in March around here instead of the third week in October.

We had at our policy luncheon all kinds of ideas on how to amend this or that. I thought people wanted to go home. If they do not, it is perfectly all right with me.

I would hope we can conclude our business by Friday of this week. There is some indication on the House side they may try to complete their work by tomorrow at midnight and obviously that would be very helpful because many of the things we are waiting on we are awaiting House action and if that would happen, then I think it would probably speed up the process on this side.

But we will try to work out some additional time for debate on that and other issues.

□ 1550

Mr. LEVIN. I have just been speaking with my friend, Senator THURMOND, and have gone over a number of questions that I wanted to ask him at this point relative to the amendment which is before us. These are the questions: The first question is whether or not he is able to tell us at this point how many drug-related deaths are of users of drugs and how many drug-re-

lated deaths which would be covered by this provision are of drug pushers, drug dealers, drug czars, and so forth? Whether there are any statistics available on that because we surely do not want to turn this into a drug dealer protection act.

Mr. THURMOND. Mr. President, in response to the question, I would say that we will have to tabulate and supply that for the RECORD.

Mr. LEVIN. I thank my friend.

Second, can the Senator tell us whether or not there were any hearings in the Senate Judiciary Committee on this specific provision relating to drug-related deaths?

Mr. THURMOND. We have had hearings in the Judiciary Committee on the death penalty. In fact, we passed a death penalty amendment through the Senate I believe 3 years ago, it went to the House, and the House never did act on it. Now, on this particular form of death penalty, the drug-related death penalty, there have not been hearings on this specific charge.

Mr. LEVIN. I thank my friend on that.

Do we know whether or not there were any hearings in the House on this specific provision?

Mr. THURMOND. I do not know whether the House held any or not.

Mr. LEVIN. My next question relates to prior bills which have come to the floor and which have been passed by the Senate. Has this specific provision relating to drug-related deaths been part of any prior death penalty bill which——

Mr. HATCH. Will the Senator yield on that last question? Since I am with our chairman today, I might mention, I am not sure we need hearings on this because basically the language says, "if an individual intentionally engages in conduct during the course of the continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section," and then the procedures are outlined.

Now, as the distinguished Senator knows, our youth in this country are being destroyed by drugs, they are being destroyed by people who want to make monetary gain from drugs and who are making huge profits. These people could care less about whether people die or whether they lose their mental sanity or whether families are broken up, whether children are lost or not. Frankly, until we get really tough with those who are pushing drugs in our society, knowing that they might cause the death of others, I do not think you are going to see any real erosion in their ability to do so. And so the reason for putting this provision into the bill is to get tough against the most vicious people in our society, who literally are causing deaths all over our country and know they are causing deaths and could care less because they are getting wealthy, and they use the wealth from that criminal enterprise to go out and do other criminal things with it. So that is the reason why it is here.

I am not sure having any type of hearings is going to add anything to what I have said with regard to how many people would be lost; that would vary from year to year; it would vary from community to community. It would be still a very difficult thing to prove, but by putting it in here, you are serving notice on this whole criminal drug pushing community that we have had enough; we are not going to put up with it any more, and our children have had enough, and this country is not going to put up with it any more. So that is the reason for the provision, and I am not just sure hearings would help in any way, shape, or form.

Mr. LEVIN. I think hearings are very useful.

Mr. HATCH. They could be, but I am saying I do not think anybody thinks that they are crucial to understanding what we are really trying to do here because literally, literally what these people are doing is destroying America, and they are destroying the youth of America as well as others.

Mr. LEVIN. I can assure my friend from Utah that nobody exceeds this particular Senator in understanding the plague of drugs. I happen to live in a city which has been plagued by drugs for a long time. This has been a vicious thing going on for a long time.

Mr. HATCH. It is.

Mr. LEVIN. A very long time, and yet this provision on drug-related deaths has never been in a death penalty bill, ever.

Mr. HATCH. That does not mean——

Mr. LEVIN. I happen to agree with my friend from Utah, this is about as vicious an offense as I can consider also. I do not know of too many more vicious offenses than selling drugs. The problem with this is I believe—and the statistics my friend from South Carolina is going to try to provide—I believe that most of the people who are guilty of drug-related murder are drug pushers.

Mr. HATCH. Some of them are.

Mr. LEVIN. They are drug dealers, drug czars. Those are the people that I do not particulary want to protect. I do not want to turn this into a drug dealer protection act and for those——

Mr. HATCH. Of the Senator——

Mr. LEVIN. If I could just finish the sentence. For those who take the position that the death penalty deters, I believe in most cases what you will be deterring is not the sale of a drug to a young person, to a user. That is what we want to deter. That is why I added the mandatory sentence in this particular drug bill a week ago—to make sure that anybody who sells a quantity of drugs to a young person goes to prison. That was not in this bill before we added it on the floor. That is what it is going to deter. But most of the murders that occur, I believe—and we will get the statistics from my friend from South Carolina—most of the murders that occur in this area are the pushers, the czars, and these are the people, frankly, I am not particularly interested in protecting.

Mr. HATCH. If the Senator will yield on that, if you are not interested in those people——

Mr. LEVIN. I am interested in justice. I am interested in justice.

Mr. HATCH. So am I. Now, let me just say this. I do not agree with the statement that they are the people who are likely to die from the overuse of drugs. I have seen 10-, 12-, 14-, 16-year-old children who have died from the misuse of drugs. We saw Lenny Bias die from the misuse of drugs. I do not believe anybody believes he was a pusher or within the syndicate.

Mr. LEVIN. I could not agree more with the Senator.

Mr. HATCH. You can talk about drug-related deaths by people, caused by these criminals and criminal enterprises that know that it is likely to cause death.

Let me just say, we did not say, "likely to cause death." We said, "If an individual intentionally engages in conduct during the course of a continuing criminal enterprise"—it cannot be a one-shot deal, but a continuing criminal enterprise—"and thereby knowingly"—we do not say willfully or wrongfully, we say knowingly, so that is even a more stringent test—"causes the death of any other individual, the individual so engaging shall be subject * * *" It does not mean he or she has to be, but shall be subject to the death penalty.

Now, it is our contention that not only does the death penalty deter—of course, there is a huge debate on both sides of that issue. We know one thing, it deters that person who suffers the death penalty from ever doing criminal conduct again.

Mr. LEVIN. If I could go back to my questions.

Mr. HATCH. Sure.

Mr. LEVIN. I think my friend from Utah would agree with the Senator from South Carolina in any event; we do not know whether the great proportion of drug-related deaths are the drug addict, the user, or the drug pusher and the czar, we do not have those figures—we will get that from the Senator from South Carolina, but if I can just finish, we do know that this provision has never been the subject of hearings before the Judiciary

Committee. This is a vicious crime, indeed, but that the Judiciary Committee has never sought prior to today to propose this particular provision in the death penalty statute. We know that. There have been no hearings. We do not know if there have been hearings——

Mr. THURMOND. If the Senator will yield——

Mr. LEVIN. If I could just finish the summary. We do not know if there have been hearings in the House, as I understand from the Senator from South Carolina. We do know, if I understand Senator THURMOND correctly, that in all the death penalty bills which has come before us, this provision has never been included. Is that correct?

Mr. THURMOND. Mr. President, I might say that a few years ago when I grew up, for instance, the drug business was not the massive business it is today. Not as many people used drugs, not as many older people used drugs, and the drug problem really was not the serious problem it is today. But because now it is such a serious problem and thousands of lives are being destroyed by it, it has caused the public to feel that steps must be taken to slow down and possibly terminate the use of so many drugs; and as time passes, you have to pass laws to devise new crimes. So this is a new crime so far as the drug business is concerned.

□ 1530

Mr. LEVN. Where I come from, this is not a new crime. Drugs have plagued our communities for a long time, and I agree that we are acting on it in some appropriate ways.

My question is this: If it is correct that in all the bills that have come from the Judiciary Committee to this floor, which we have either passed or considered, never before was this provision added to a bill? Is that a fair statement?

Mr. THURMOND. Heretofore, the death penalty, from the Judiciary Committee, prescribed murder, it prescribed treason, it prescribed espionage, and it prescribed attempts to kill a President. It did not contain a provision similar to this. But since the drug business has gotten worse in the last 3 years, if we had a bill today, the probability is that the Judiciary Committee would include this facet of the death penalty in the bill.

Mr. LEVIN. My last question is this: There is a provision here, as the Senator from Utah indicated, that the individual must knowingly cause the death of another individual. My question is this: The fifth mitigating factor is that the defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense resulting in death for which the defendant was convicted would cause or would create a grave risk of causing death to any person.

My question of either Senator is the following: Can a defendant be convicted of knowingly causing the death of another person if that person could not reasonably have foreseen that his conduct in the course of the commission of the offense resulting in death for which the defendant was convicted would cause or would create a grave risk of causing death to any person?

Mr. HATCH. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I yield.

Mr. HATCH. The statutory language is interesting. It says:

> If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.

You have the two factors: One is the intentional engaging in criminal conduct—in other words, drug pushing in this case—and knowing that it will cause the death of another person.

Knowing means that he knows of the likelihood of death. It does not necessarily mean that death has to be certain.

If a person fires a gun at another person, he does not have to know that the bullet will hit its mark. It is sufficient that he knows he is endangering that other person's life by his act. This means that there could be an aspect of uncertainty. The drug pusher could be pushing a drug which is likely to cause death onto the market. This uncertainty is a factor of aggravation to be considered in the overall context after knowing—after the knowing conviction was in that person's mind. So it is not clearcut, but it is pretty darn clear.

Mr. LEVIN. Maybe I can rephrase my question.

If the defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense that resulted in death for which he is convicted would cause or would create a grave risk of causing death to any person, can that defendant, who could not have reasonably foreseen that, still be given the death penalty?

Mr. HATCH. That would be a mitigating circumstance.

Mr. LEVIN. But could that person still be given the death penalty?

Mr. HATCH. It would be a mitigating circumstance. There is a potential that a jury could believe that that person knowingly pushed that drug that would cause the death of another person.

Mr. LEVIN. So that I can get a clear record on this: It is possible that even though the defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense that resulted in death for which he was convicted would cause or would create a grave risk of causing death, that person still could be given the death penalty?

Mr. HATCH. If that person reasonably could not have foreseen, I do not believe that person would be subject to the death penalty. That person would have to know.

As I say, there is an uncertainty, because he may not know whether this particular person is going to die. But if death does occur and he knows that the drug can cause death to that particular person, then he or she will be subject to the death penalty.

Mr. LEVIN. Would it not be correct to say that instead of this being a mitigating factor, it is, in fact, a required element of the offense, that the defendant should reasonably have foreseen that his conduct would cause or would create a grave risk of causing the death of some person?

Mr. HATCH. I think it could be, under some circumstances, an aspect of knowing. Therefore, the person could be held responsible. But if there was no way that person could reasonably have known that the pushing of this drug would cause death, it would not be knowing, and I think this language would exclude that person from the death penalty.

Mr. LEVIN. This, then, should properly be an element of the offense rather than one mitigating factor.

Mr. HATCH. That is right.

Mr. LEVIN. I thank my friend.

Mr. THURMOND. That is listed here as No. 5, under "mitigating factors." In other words, a judge would take into consideration that as a mitigating factor.

If you want to move to strike out No. 5, I think we could agree to that.

Mr. LEVIN. I point out that there has been no hearing on this provision. It has never been in a death bill before; and now, coming to the floor for the first time, we have a suggestion with respect to the death penalty that it is a mitigating factor. It simply goes to the point that that is what hearings are all about.

Mr. THURMOND. Mr. President, people who deal in drugs, as some of these kingpins do, causing death of people, and having caused the deaths of hundreds of people, you are bound to put them in a category of a person who kills others. When he does it knowingly and sells these drugs and participates in such a way that it is intentional, why should not the death penalty be allowed there, as in these other matters that are required by law?

The PRESIDING OFFICER. The question is on concurring in the House amendment with an amendment. Is there further debate?

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1650

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, in just a few moments, I will ask unanimous consent that we go to a nomination. I think there will be an objection to that. Then I will move to go to the nomination and there will be a rollcall vote on that.

But I wanted to indicate precisely where we are, if we are anywhere. We are still here. That is the first mistake.

But, we are still waiting. We thought we might have the immigration conference report. The conferees have completed action on the immigration bill. The House will not act until tomorrow morning.

There is still an outside chance we can have reconciliation later tonight. There is no chance that we can have the continuing resolution; apparently no chance that the debt limit extension will be available tonight. There will be a cloture vote on the anti drug bill tomorrow.

So we have the big four, now the big five, because immigration has been added. We would like to dispose of all those major pieces of legislation.

In addition, there are a number of other items maybe of not the same priority but of great priority to some Members on each side. We are in the process, with staff, of working out a number of those less substantial pieces of legislation.

THE ICELAND SUMMIT

Mr. DOLE. Mr. President, we have just completed an hour and 15 minute session with Secretary Shultz, the Secretary of State. Again, he briefed Members, Republicans and Democrats, on the Iceland meeting, what happened there. He was present during all the discussions with the President and Mr. Gorbachev and he tried to clarify questions that Members had on each side. He again indicated, as far as he was concerned, that we made substantial progress in Reykjavik. The President having said that this morning, and this afternoon the Secretary of State, there is no doubt in my mind the administration feels that they have made a big step in the right direction. The door is still open.

I did not hear Mr. Gorbachev's press conference but, as I understand, he gave some indication that the door was still slightly ajar. So, in any event, that has taken up a lot of time this afternoon.

There was some debate on the death penalty.

There is still some opportunity on reconciliation. I understand there may be a meeting between the chairman of the Finance Committee and the chairman of the Ways and Means Committee. If not, we will just try to pull out that part of the reconcilation package. In the long run, it may save more money, because there are a number of new spenders in that little package.

Mr. DOMENICI. Mr. President, I wonder if the distinguished majority leader might engage in a colloquy with me about Iceland. I was not here when you addressed the Senate with reference to the briefings that the Secretary of State just gave us, but I understand that you were optimistic in terms of your assessment; is that correct, as far as the future?

□ 1700

Mr. DOLE. I think optimistic in a couple of senses. First of all, there has been no—with rare exception any effort—effort to sort of politicize what happened in Iceland either by Republicans or Democrats. Second, from what I have heard the President say, and what I have heard Secretary Shultz say, there is some reason for optimism.

Mr. DOMENICI. Mr. Majority Leader, I concur in that. In fact, I think it is such a historic event that we ought not be talking about winners and losers. I do not think anyone won, or anyone lost at Iceland. If anything, there is a real chance that the whole world will win in the not too distant future.

When you look back at the last 15 or 20 years of arms limitation negotiations, and you see where we were, where SALT I was, where SALT II was, and where we are now, and what occurred there between those leaders, one of the Soviet Union and one of the free world, and you see how far they went, obviously they did not reach an agreement but who would have believed that we could be here today talking about negotiations that went as far as those negotiations went.

Actually, it appears to this Senator that we ought to all be very proud of the President of the United States. For those who wondered whether he was sincere, I just cannot believe you could have found a more dramatic set of proposals, and they are all open in public. This is not one person talking about it. Everyone agrees that while these were private sessions they made proposals that are now before this whole world, and that we are aware of them. That is a gigantic accomplishment for the President of the United States and the leader of the Soviet Union. I have nothing but compliments for the President of the United States.

And on SDI, it is pretty hard for us to figure in our minds what the Soviet Union is talking about and thinking about. But one thing is certain. They would not have been in Iceland but for SDI in my opinion. They would not have been there but for the military buildup that has occurred in the last 6 years. I do not believe they would have been there but for the change of attitude of the free world that has occurred in the last 6 years. I think all of those things contributed to the leaders of the Soviet Union saying it is time that we sit down and talk about these things, and that we enter into some real bona fide limitation agreements on nuclear armament.

Who would have thought they could have even been talking about 10 years from now zero nuclear ballistic missiles in the arsenals of the two superpowers?

So I compliment the distinguished majority leader for his optimism, and the way he has reacted. And the Senate in my opinion with few exceptions has reacted rather upbeat, optimistically, and clearly in a manner that is calculated to let this preliminary set of discussions continue on complemented by solid, optimistic, intelligent discussions, and not criticism.

RECONCILIATION

Mr. DOMENICI. Mr. President, having said that, I would say to the leader the reconciliation bill but for the Ways and Means and Finance Committee portion is finished. I am just beginning to review it in detail. I do want to say to the distinguished majority leader there are significant quantities of material in this reconciliation aside from Ways and Means and Finance that is extraneous in the technical sense. I am just beginning to look at them to see whether the leadership ought to have some unified policy or whether I should suggest some with reference to the extraneous material that is in the bill.

I yield the floor and thank the majority leader.

SUPERFUND

Mr. LAUTENBERG. Mr. President, will the majority leader yield for a question of a scheduling nature if this is an opportune time to do so?

Mr. DOLE. I am happy to.

Mr. LAUTENBERG. I want to ask the majority leader about whether or not he had any indication from the White House about whether or not the President is going to sign or veto Superfund? As you know, 55 of our colleagues joined me and the senior Senator from California in a letter to

the majority leader requesting a pro forma session with a specific date for a return, if necessary to deal with a Superfund veto.

I learned today that Majority Leader WRIGHT in the House has proposed that the House stay in session long enough to deal with the veto. The House reportedly will stay in session long enough both to avoid a pocket veto, and to override a veto. I was curious as to whether or not the majority leader had any plans for us to deal with the veto possibility.

Mr. DOLE. I would say at the rate we are going we will probably be here a week from Wednesday. With the amount of progress we have made today, we came in at 10 o'clock and have not done one thing. We are trying to get one vote here. I would like to have people who want to object, if they could, to come to the floor. It would make it easier. I would like to proceed with something today.

As far as whether or not the President will sign the Superfund, I think the President is concerned about the rather substantial increases it places on business. I think he would prefer that the programmatic changes be dealt with—in other words, the 5-year programmatic changes be dealt with—and that the money that is fenced in the HUD bill, $1.5 billion, plus the normal funding be used in the first year of Superfund to give Congress an additional year to determine how we are going to finance the program. That, as I understand it, is the way the President would like to deal with it.

Failing that, there might be a possibility the President would sign the bill if in fact he had some assurance from a number of Senators in this body that we are not going to raise taxes again next year or the next year because once this is in place, once we start raising taxes on a lot of companies around the country, it would be easy to come back and say well we need another $1 billion this year.

So I believe they are looking at those options plus obviously there have been some who recommend a veto. But I cannot be more certain.

Mr. LAUTENBERG. I assume that the majority leader is not ascribing the lack of progress today about my inquiry about Superfund.

Mr. DOLE. No.

Mr. LAUTENBERG. But the fact of the matter is whatever action the President takes, taking such action before we adjourn would permit us to vote to override a veto, should one be forthcoming. I ask, therefore, whether the majority leader be willing to commit to ensuring a response by this body? With regard to the majority leader's discussion of White House concerns over future Superfund tax increases, I cannot give any assurance as to the further taxing intentions of the Senate. I am not on the Finance Committee as the majority leader knows. That matter would have to be discussed, I assume, by those Members and those of the House Ways and Means Committee, as well as the conferees who came to an agreement on the tax provisions of the conference report on H.R. 2005.

So absent any ability to make a contribution there, I would once again ask the majority leader whether or not it would be his intention to ensure that the Senate could address the Superfund veto if one occurs.

Mr. DOLE. I would hope we are out of here by Friday evening. I have no plans to stay another 4 or 5 days or longer if we can avoid it. There are a number of Members who would like to see this Congress adjourn. Some are running; some are not running. So I do not have anything else at this point.

I would like to move to the nomination if we can do that.

Mr. LAUTENBERG. One final observation I would make is that the House's intention to stay in session both to prevent a pocket veto and to override a veto would prevent the Senate from adjourning sine die. I welcome this news from the leadership in the House, and believe that this decision will ensure that Congress can override a Superfund veto. I am committed to seeing the Superfund reauthorization enacted. I thank the majority leader.

Mr. BYRD. Mr. President, I do not want to delay the distinguished majority leader, but I also share a concern here. I hope we could get some assurance from the White House that there would be no veto of the Superfund if we go out. I would not want to see us out of session next Tuesday, I guess that is the 21st, when the 10 days, I believe, will run its course, and the President would be able to pocket veto the Superfund legislation.

So I would like to discuss the matter with the distinguished majority leader privately later to see if there is a possibility we could get some assurance from the White House that it would not be pocket vetoed and make some arrangements if we could to be around in the event it is vetoed.

Mr. DOLE. Mr. President, in response to the distinguished minority leader, I do not really know what the White House intentions are. The President has been occupied over the weekend. I think they probably did discuss Superfund in Iceland. But it is an important piece of legislation. He is back. I am certain he will focus on that, and may have already done it today. I cannot say for certain. I have indicated to the White House liaison that certainly there is a great deal of interest in it here.

□ 1710

I think we ought to wait and see what materializes before we get into a position where the President cannot do anything but veto it. I would hope he would sign it.

Mr. BYRD. Yes; I would hope he would. But there was a reference to discussing it in Iceland. I would want to discuss the matter further with the distinguished majority leader.

Mr. DOLE. I think one of the concerns the President has might be one of the concerns of the distinguished minority leader, how much tax these companies can afford to pay. It is great to have $8 or $9 billion. But there is a big problem out there. We are hearing from a lot of companies—oil, chemical, and others—who feel they have about reached the limit in their capacity to pay taxes. I would be happy to discuss that with the minority leader.

Mr. BYRD. I thank the majority leader.

EXECUTIVE SESSION

(NOMINATION OF JAMES L. MALONE, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE)

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of James L. Malone to be Ambassador to Belize.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there objection?

Mr. ZORINSKY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I now move that the Senate proceed to executive session in order to consider the nomination of James L. Malone.

Mr. ZORINSKY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas [Mr. DOLE]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. LEAHY], and the Senator

from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 42, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—47

Abdnor	Grassley	Murkowski
Armstrong	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Chafee	Hawkins	Pressler
Cochran	Hecht	Quayle
Cohen	Heflin	Roth
D'Amato	Heinz	Rudman
Danforth	Helms	Simpson
Denton	Humphrey	Stafford
Dole	Kassebaum	Thurmond
Domenici	Kasten	Trible
Durenberger	Lugar	Wallop
Evans	Mathias	Warner
Goldwater	Mattingly	Weicker
Gorton	McClure	Wilson
Gramm	McConnell	

NAYS—42

Baucus	Ford	Melcher
Bentsen	Glenn	Metzenbaum
Bingaman	Gore	Mitchell
Boren	Harkin	Moynihan
Bradley	Hart	Nunn
Bumpers	Hollings	Pell
Burdick	Inouye	Proxmire
Byrd	Johnston	Pryor
Chiles	Kennedy	Riegle
Cranston	Kerry	Rockefeller
DeConcini	Lautenberg	Sarbanes
Dixon	Levin	Sasser
Eagleton	Long	Simon
Exon	Matsunaga	Zorinsky

NOT VOTING—11

Andrews	Garn	Stennis
Biden	Laxalt	Stevens
Broyhill	Leahy	Symms
Dodd	Specter	

So the motion to proceed to executive session was agreed to.

□ 1730

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JAMES L. MALONE, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of James L. Malone, of Virginia, to be Ambassador to Belize.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

The Senator may proceed.

Mr. HELMS. Mr. President, I suggest to the Chair that the Senate still is not in order.

The PRESIDING OFFICER. The Senators in the aisles will please retire to the cloakroom.

The Senate is now in order. The Senator may proceed.

Mr. HELMS. I thank the Chair.

Mr. President, what we have just witnessed is a bottom of the ninth inning attempt at a political assassination. What we have here, in the nomination of James L. Malone, is simply a case of the harassing of a nominee of the President of the United States because the nominee did an excellent job in carrying out the President's policy.

Time and time again, it has been shown that various allegations made against Mr. Malone are absolutely baseless, and yet this harassment has persisted for the better part of a year and a half. There are those among his opponents—not all of them, but some of them—who were eager proponents of the negotiations for the proposed Law of the Sea Treaty. When the Reagan administration came in, the President, Ronald Reagan, insisted that the U.S. national interests be fully protected, and his conclusion was that U.S. interests would not be protected by the treaty draft.

We all know that it was excellent staff work by Mr. Malone that raised the issues and attempted to guarantee the protection of our national interests. For that reason, he has been the object of a campaign of vindictive vengeance by some—not all, but most—and this vote confirms it in spades.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. HELMS. No, I will not.

The charges raised against Mr. Malone have been answered, as I say, time and time again, and I believe that any objective persons would admit that there has been no impropriety whatsoever on Mr. Malone's part.

Let us look back at the history of this nomination, Mr. President. When Mr. Malone's nomination came up for a vote before the Foreign Relations Committee, a letter was circulated by some of our colleagues raising all these charges once more. But it was shown that the letter contained demonstrable errors; and, as I recall, some of Mr. Malone's opponents reluctantly agreed that the accusations were in fact wrong.

First, the letter said that Mr. Malone continued to represent clients while on the President's transition team and dealing with nonproliferation matters. So what? There is no impropriety here whatsoever. Service on the transition team was entirely voluntary.

Second, the letter said that as Assistant Secretary of State for OES, Mr. Malone involved himself in a matter where a former client had a direct financial interest. The truth is that the party in question, Taiwan Power, was a client of Mr. Malone's law firm but not Mr. Malone's personal client.

Third, the letter said that Mr. Malone was "found" to have violated certain written commitments to the committee with respect to recusing himself for matters involving former clients. There was no such finding, Mr. President. There was an unproved allegation raised by a certain member of the committee.

□ 1740

Anyone can raise whatever allegations they desire, but that does not constitute a finding of the committee.

Fourth, there was a reference to violation of certain written commitments, and again that was nothing more than a baseless allegation. The fact is that the written commitment signed by Mr. Malone, approved by the committee, only extended to recusal in matters where he had been directly involved. There were some who sought to broaden that recusal agreement to cover any action in any country where his law firm had ever done any business whatsoever. But the committee did not require the broader demand, and quite properly one. Moreover, there was a finding by the legal advisor for the State Department that Mr. Malone's actions in the recusal were proper.

Fifth, in the matter involving Taiwan Power, it should be noted that Taiwan Power was not—and I repeat for emphasis, was not—Mr. Malone's client in the firm. The only thing he ever had to do with Taiwan Power was to contribute to a monthly bulletin, which went to several clients, detailing certain legal deadlines and events. That was it. That was the sum total of it, and there is no evidence whatsoever to the contrary. Moreover, the actions in which Mr. Malone was involved at OES did not involve the financial interests of Taiwan Power, so there was no need to recuse himself even if Taiwan Power had been his client. As a matter of fact, Mr. Malone did recuse himself on other issues where Taiwan Power did have a financial interest.

Sixth, it has been said that Mr. Malone falsely testified to the committee that he had sought permission from his superiors at the State Department before violating his written pledge to the committee; and later in writing admitted this was untrue. Well, first of all, he did not testify falsely. He testified in good faith, and he answered truthfully. As I recall, the then chairman of the Foreign Relations Committee, Mr. Percy, had asked Mr. Malone whether he had discussed the matter with Dick Kennedy, then the ambassador for nuclear affairs. Mr. Malone said that he had. But there was room in this for misinterpretation. Mr. Malone thought the context was the general issue of Exim-

Bank funding. After all, there was no need to discuss the recusal issue as such since Ambassador Kennedy was already fully aware of the recusal agreement. So, Mr. Malone, on his own initiative, clarified this in a letter to the Foreign Relations Committee. There was, of course, no admission of false testimony because there had been no false testimony to begin with.

Finally, there was never any such report of the inspector general as was supposedly quoted in the letter. What was quoted was a draft that had been drawn up by some of Mr. Malone's State Department opponents, on the Law of the Sea Treaty—a draft, mind you, Mr. President, a draft that was never approved, a draft that was never issued. We do not even know who wrote it. We tried to find out. The draft was stolen from the State Department but it was yet presented by some of my colleagues and others as some kind of judgment.

Mr. President, it may seem stale to drag up old charges that have been made against Mr. Malone and refute them, but the record needs to be made clear that the charges simply are without foundation. So today, obviously, to look at the rollcall vote that was just taken, the opposition is purely political.

The only reason for opposition to Mr. Malone is the fact that he was a solid supporter of President Reagan and President Reagan's policies. He helped President Reagan carry out his policies, and those who do not like President Reagan's policies are attempting to punish Mr. Malone for his success in carrying out those policies.

Mr. President, it is perfectly obvious what is going on here. I would think that those who oppose Mr. Malone for whatever reason would certainly be willing to let the Senate decide on this, particularly since the majority leader is willing to offer a unanimous-consent agreement where all of the State Department nominees can be acted upon, including one or two that I do not care for.

Now, if I am willing to forego my objections to, and my opposition to nominees, it seems to me that the other side would be willing to forego politics for just a little bit and let all of these nominees be confirmed and promoted, as is the case with one, and proceed with our business.

But, no, I understand that there is going to be a filibuster on this nomination and, if that is true, the Senator or Senators who participate in it will be in their rights. But I do not want to hear any more talk about who is holding up nominations because the Senator from North Carolina is perfectly willing to let a whole gaggle of nominations go through, some of which he does not particularly like and in fact has objected to. My objective is to let the Senate vote on all the nominations, without exception.

So let the shoe be on the right foot now from this point on and we will see who is holding up the entire list of State Department nominations. It will not be a Senator from North Carolina.

Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, today the Senate is being asked to consider the nomination of James L. Malone to the position of Ambassador to Belize. I believe that Members of the Senate should be made aware of the long history of this nomination before deciding whether it is appropriate to support this nomination. Regrettably, in my view, the evidence overwhelmingly dictates that the Senate reject this nomination.

We on the Foreign Relations Committee are quite familiar with Mr. Malone. He has appeared before the committee on a number of occasions and those appearances have not left a particularly good impression of him. On May 5, 1981, the committee acted on Mr. Malone's nomination as Assistant Secretary of State for the Bureau of Oceans, Environmental and Scientific Affairs [OES], deciding by a vote of 10 to 5, to report his nomination favorably to the Senate. His nomination was subsequently acted upon by the full Senate on May 21 of that year.

Even in his first appearance before the committee in connection with the OES nomination, Mr. Malone generated considerable controversy. The committee's consideration of his nomination entailed weeks of negotiations between the committee, Mr. Malone, and the State Department's Legal Advisor's Office. Those 6 weeks of negotiations culminated in an agreement on an appropriate standard to guide Mr. Malone so that the committee could be confident that he would avoid problems of the appearances of conflicts of interest, or other improprieties in the course of his duties at OES. These standards were essential, in my view, given the questions which had been raised, by Senator GLENN, who was then a member of the committee, and others, as to whether Mr. Malone could carry out his nuclear-related duties at OES, in a fair and impartial manner, after having provided legal services, while in private law practice, to a number of nuclear utilities, including Taiwan Power Co.

These standards, which Mr. Malone pledged to adhere to in a May 4, 1981 letter to Senator Percy then the chairman of the committee, included a commitment that he would, "disqualify myself from particular matters which because of involvement or interests of my prior firm, colleagues or clients, my participation would give rise to an actual or apparent conflict or appearance of impropriety." These standards were even more detailed when it came to specific actions which Mr. Malone might be expected to take in carrying out those duties as Assistant Secretary which would have a direct effect on Taiwan Power Co. or one of the other nuclear utilities which he had represented:

> I will disqualify myself from ruling on export licenses and reprocessing requests for Taiwan Power Company . . . and from ruling on all substantially related matters involving any of (those) firms. . . .

Because of these assurances by Mr. Malone, I was prepared to give him the benefit of the doubt, and therefore, I supported his confirmation as Assistant Secretary of OES. I was confident, after having gone through such a long and difficult process, where at times it appeared that Mr. Malone would not be confirmed, that he had been sufficiently sensitized to the conflict of interest problem.

Therefore, it came as a great surprise to me when Mr. Malone appeared before the committee on May 13, 1982 in connection with his nomination to the position of Ambassador-at-Large for the Law of Sea, to find that he had been right in the thick of Government deliberations concerning the terms and size of a direct loan to Taiwan Power Co. from the U.S. Export-Import [Ex-Im] Bank for the purpose of building a nuclear power facility.

□ 1750

I questioned Mr. Malone at great length to try to ascertain how he could have personally lobbied the president of Ex-Im Bank on behalf of Taiwan Power Co., given the commitments he had made to the committee. That questioning was no easy process because Mr. Malone was not a very forthcoming witness. He often attempted to mislead members of the committee, in my view, by answering in a manner which, while technically correct, would have left the wrong impression if not pursued further. An example of such an incident was during my questioning of his relationship to Taiwan Power Co., while at the law firm of Doub and Muntzing. Mr. Malone seems to have a rather narrow definition of what consitutes an attorney/client relationship—according to him, unless he personally bills the company, he does not consider it his client. When asked whether the firm had billed Taiwan Power for the services that he had performed, he said that he did not know, although he did admit after much discussion that he had submitted time sheets for the work he performed for Taiwan Power Co. I don't know of any law firm in town which provides free services for work done by its attorneys, thus it is fair to assume that Taiwan Power Co.

had paid for legal services provided by Mr. Malone.

If Mr. Malone had had any doubt as to whether the committee would consider his activities on behalf of Taiwan Power to be a breach of his agreement with this committee, he should have consulted with members to ascertain their views, or at the very least, discussed this matter with his superiors. He did none of these. In fact, he told the committee, under questioning by Senator Percy, that he had consulted with Under Secretary Richard Kennedy as to the propriety of his involvement in the Taiwan Power matter. In a subsequent letter to Senator Percy on May 21, 1982, he was forced to retract this statement. "I did not discuss the propriety of my involvement in this matter with Under Secretary Kennedy or other senior officials."

After that letter was received, it became painfully clear that there were insufficient votes on the committee to report the nomination to the full Senate. On July 27, 1982, the President withdrew Mr. Malone's nomination from consideration by the Senate.

Unfortunately, Mr. Malone remained in his first position as Assistant Secretary of OES after this nomination was withdrawn, until July of last year. At that time, Ambassador John Negroponte took that position—a welcome change in my view. That left Mr. Malone without a position. So, once again the President has decided to send forward the name of James Malone to the Senate for consideration to yet another position—at this time as U.S. Ambassador to Belize. Mind you, at no time in the ensuing period have any of the matters which clouded the consideration of the earlier nominations of Mr. Malone been resolved.

Mr. Malone was questioned at some length by Senator KERRY on February 19 when the committee held a hearing on this nomination. In addition, extensive written questions were submitted to Mr. Malone by Senator ZORINSKY in an honest attempt to afford him ample opportunity to remove the doubts concerning the suitability of Mr. Malone for this position which many of us had come to hold. Unfortunately, Mr. Malone did not succeed in clearing the air, but rather, added to the list of doubts already in existence.

On April 10, 1986 the Committee on Foreign Relations refused to report this nomination to the full Senate either favorably or unfavorably by votes of 7 to 9 and 8 to 9, respectively. In the view of the minority members of the committee the matter was closed as no member sought reconsideration of either vote on that day, or in the ensuing 2 days, as provided by rule 13 of the Standing Rules of the Senate.

In a last-ditch attempt to move the nomination of Mr. Malone, the majority members of the committee reported this nomination favorably on September 30 by a vote of 9 to 0. Minority members of the committee did not participate in that meeting, because we felt that the committee had already acted definitively on the matter and that only by unanimous consent would it be in order for the committee to reconsider either vote. We strongly believe that the majority members of the committee acted in a manner inconsistent with the Standing Rules of the Senate and the committee's own rules in reporting this nomination to the full Senate. This is a most unfortunate action in my view. Rules are established to protect the rights of every Member of the Senate—to ignore them under any circumstances, and particularly in this situation where the evidence is clear that Mr. Malone is unworthy of the position to which he has been nominated, does damage to the very legislative framework created to ensure that the Senate functions effectively.

In conclusion, in my view, the Senate has a right to expect that individuals nominated to hold public office will hold themselves to a high personal standard in keeping with their public trust. In Mr. Malone's case, the Foreign Relations Committee made it easy for him by providing specific guidelines for him to follow. He ignored the spirit, if not the letter of that standard, despite the pledges he had made. Furthermore, he attempted to mislead members of the committee about the actions he had taken, as well as being inaccurate about seeking permission from his superiors prior to his involvement. For all of these reasons, I will not be able to support Mr. Malone's nomination. I am sorry that Mr. Malone failed to live up to the trust that I and other members of the committee placed in him. I do not believe that the Senate should support the nomination of James Malone to the position of Ambassador to Belize.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. ZORINSKY. Thank you, Mr. President.

Mr. President, I think, possibly to give a more in-depth background to the opposition that I and some of my colleagues have on the Senate Foreign Relations Committee with regard to the confirmation of the nomination of James L. Malone, in order to give depth to our views, I think it would be appropriate for me to read from the committee report the additional views of the minority members. So I would like to begin by doing that.

We strongly oppose the nomination of James L. Malone to the position of Ambassador to Belize. We believe that he is unsuited to serve as a U.S. Ambassador in light of his poor performance as Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs (OES) and his lack of candor in his appearances before the Committee on Foreign Relations.

Many of the problems and questions which arose during Mr. Malone's previous appearances before the Foreign Relations Committee in connection with his nominations to other positions within the State Department re-emerged during his confirmation hearing of February 19th. Mr. Malone's responses to extensive questioning by members of the committee during hearings and to written questions for the record did not allay our concerns.

Our concerns were shared by a majority of the members of the committee on April 10th, when this nomination was considered by the committee at its business meeting. At that time the committee refused to report the nomination either favorably or unfavorably by votes of 7-9, with one voting present, and 8-9, respectively. In our view this closed the matter.

In addition to our objections to this nomination on substantive grounds which we have outlined below, we also must lodge a strong objection to the manner in which this nomination was handled by the Majority members of the committee. We believe that the Majority members of the committee acted without regard for the rules of the committee and in a manner inconsistent with the Standing Rules of the Senate—and this has established a most unfortunate precedent. We seriously question why such action was taken on Mr. Malone's nomination when the evidence clearly suggests that U.S. foreign policy interests will not be served by his confirmation.

The committee considered the nomination on April 10th. In our view, since no member sought to reconsider either vote on that day, or on the 2 days immediately following such vote as specified by Senate Rule XIII, this matter had been definitively disposed of by the committee. When we were notified that the chairman of the committee intended to place the Malone nomination before the committee in September, we informed the chairman of the committee by letter on September 15th of the concerns this raised in our minds. We informed him that we would be unable to participate in any reconsideration of this nomination.

□ 1800

That letter is also appended in the report of the nomination of James L. Malone, which I also would like to read into the RECORD. It is addressed to RICHARD G. LUGAR, chairman of the Committee on Foreign Relations.

DEAR MR. CHAIRMAN: We were quite surprised to receive a notice of your intention to ask the Committee to reconsider the nomination of James L. Malone to the position of U.S. Ambassador to Belize. It is our view that the action of the Committee on April 10 rejecting motions to report that nomination favorably or unfavorably by votes of 7-9 and 8-9, respectively, has fully disposed of this nomination.

For those people who are not familiar with the process that takes place in the Foreign Relations Committee, I might point out that this was the first time in the history of the U.S. Government where a Presidential Ambassador nomination has been voted down,

not only voted down but voted not even to send it forward to the full Senate without the recommendation from the Foreign Relations Committee.

Mr. Malone has been nominated to three different positions within the Committee's jurisdiction since 1981. The President was forced to withdraw his name from consideration as Ambassador at Large for the Law of the Sea Negotiations when it became clear that the Committee would not support his nomination.

I might point out at this point the view that it really is not in the best interest of this Nation for Mr. Malone at this point in history to be appointed Ambassador. I have talked to some people in Belize, average people, citizens who are familiar with some of the actions that have occurred in the Foreign Relations Committee, and they think that they are receiving the booby prize from the U.S. Senate now—one who was voted down in committee, one who 4 months ago did not pass the muster test in committee, and due to the fact that there has been a recent switch of vote of a member of the committee now this reconsideration comes about. And I know if I were a citizen of Belize, I would feel a little shortchanged and shorthanded by the Government of the United States of America and its citizens to send me an Ambasssador to represent this Nation that they thought so much of 4 months ago that he became the first Ambassador ever to be voted down for an ambassadorship.

To me, if I was a member of the constituency of Belize, I would not think very highly of a country that sent me an ambassador of that caliber. And I think that is why at this point in history to resurrect a lost nomination through a switch of an individual member of the Foreign Relations Committee who has changed his vote to reconsider and then obviously the name of James L. Malone was sent to the floor, the full floor of the Senate. That is how we reached this point today.

This year, Mr. Malone personally sought and received a vote on his nomination to the position of Ambassador of Belize, despite the fact that he was told that there were insufficient votes to support his nomination.

He knew this ahead of time. And he still wanted a vote. Of course, we gave him a vote. And he lost.

We believe, as a matter of principle, that when the committee has acted with respect to an individual on several occasions as definitively as in the case of Mr. Malone, the matter should be considered resolved.

If this sets a precedent, go back 2 years ago and find an Ambassador maybe who had been nominated by one vote, where reconsideration was asked for, switch a vote, and recall an Ambassador based on this precedent.

To break with precedent and reopen a vote months later raises serious questions about the validity of this Committee's decisionmaking process and the credibility of our ambassadorial representation aboard.

Of course, it does not surprise me. Since I have been in this body, all kinds of mysterious things can happen even after you think you have won a vote, or even lost a vote. The credibility of our ambassadorial representation abroad has been impaired.

We cannot imagine that Mr. Malone could be a welcome or effective amabassador for the United States to Belize given the history of the Committee's deliberations.

For these reasons we cannot participate in a business meeting at which the nomination of James Malone is to be reconsidered. We recognize that this is an important decision, and it is one which we have made with great reluctance. We sincerely hope that we can reach agreement with you that this nomination will not be raised again in order to maintain our customary bipartisan cooperation in the expeditious disposition of pending Committee business.

(Mr. HUMPHREY assumed the chair.)

Mr. President, this letter was sent to the chairman of the Foreign Relations Committee on September 15 signed by myself, Senator PELL, Senator SARBANES, Senator DODD, Senator KERRY, Senator BIDEN, Senator CRANSTON, and Senator EAGLETON.

I might just take a moment at this point to review how we came to this position at 10 minutes after 6 on an evening when the Senate and the House are rushing headlong for adjournment before having conferences and meetings as a critique on the summit conference that took place recently.

And many farmers are gathering out in the midlands wondering why they have not heard the word "agriculture" used yet for anything that happened at the summit meeting when numerous requests were made of the administration to mention something to the Soviet Union, and Mikhail Gorbachev about agriculture and farming. But here we are, nevertheless, at 10 after 6.

Prior to my seeking the floor, the manager of the bill on the majority side indicated now we are going to find out who is holding up nominations. I do not think I have much of a reputation around this Chamber for holding up much of anything except at this particular time it is quite obvious that I am going to do what I can to hold up this nomination as long as God lets me stand on the floor here and continue to speak.

I do not think I am a fiend. I do not think I am the originator of taking hostage of Ambassadors that the administration wants to appoint during this administration. In fact, I might have learned it from my learned colleague as to how to do this.

But just for the record, let me say that there was a fair fight in the committee. That is what committees are for. That is why they have jurisdiction in particular areas. In the Foreign Relations Committee, James Malone got a fair shot. He got a fair vote. There was no arm twisting. There was no coercion, and he lost.

□ 1810

I have every bit of respect for my colleagues that voted opposite the way I did, as I would hope they have for me voting the way I did. But that is democracy. That is what our country is all about and that is what our Government is all about.

Unfortunately, around this place when you lost through the democratic process sometimes you can win through the parliamentary-constructed process. So that sort of gives us democracy on one hand and taking away majority rule on the other hand. I guess all these checks and balances are good because one can reflect and it slows up some legislation sometimes that might be faulty, that might be bad.

But I think in this instance the best interest of the country was served by the rejection of the nomination of Mr. Malone to be Ambassador to Belize, and so did a Member of the majority side, Senator MATHIAS. He agreed with us. Of course, there are eight Democrats and nine Republicans, and although we speak of our committee very courageously as being bipartisan, even on some occasions I have heard the chairman of the committee say we are not partisan but that we all act in unison, Senator MATHIAS was the only defection that allowed us, with our eight Democrats and there being nine Republicans, to not go forward with the nomination. It was the first time in history of the Foreign Relations Committee that a nomination had been denied in that manner.

If I recollect, I think Senator EVANS voted present at that time. So the nomination did not have enough votes to ratify its continuance to the full Senate.

Three or four months went by. It was all over. I had heard that my esteemed colleague, for whom I have a great deal of respect, and who is managing this for the majority side, had a hold on some ambassadorships. This was the first time I had heard that Senator HELMS had a hold on some ambassadorships. In fact, I have heard from the State Department that as a rule of thumb, generally Senator HELMS does have at any given time some ambassadorships that he is objecting to in order to get a hold taken off through our parliamentary procedure, for a minority group to succeed eventually in overcoming the objections of the majority.

This I accept. Those are the rules of the game around this place. I again respect Senator HELMS for that. He does a good job at it. He has won many bat-

tles and he has lost some, as we all do around here. You win some and you lose some.

But I do not think this nomination is a test on who takes hostages of Ambassadors or who holds up Ambassador appointments. I think we can all lay claim at one time or another in this body to doing a little bit of that. I have no objection to that happening if Senator HELMS has no objection to that happening. But evidently he does. I would concur with him, we should not take any hostages of ambassadorships and appointments. I think the State Department would even agree with that. I am sure it would make life for the administration a lot more simple.

But, again, here we are at a quarter after 6 and still talking about ambassadorships. After 3 or 4 months when we voted down the Malone confirmation, Senator MATHIAS comes to me and he says, "Senator, I hope you do not mind, but I am going to change my vote on the Malone nomination."

I said, "Well, certainly you are entitled to do that if you want."

He said, and I think the exact words he used were, "I have gone to the flesh market."

I said I had not heard that terminology. When he said he went to the flesh market, I said, "What does that mean?"

He said, "Well, that means that I traded the release of an ambassadorship that Senator HELMS has a hold on in order to change my vote so that the Malone nomination could go forward so Senator HELMS could take his hold off my nominee that I want to see as an Ambassador. That is called going to the flesh market, where you change one humanoid for another humanoid who happens to be up for an ambassadorship."

So 3 months after the fact, all of a sudden we are opening up the Malone nomination again, and sure enough, Senator MATHIAS switches his vote. Then it becomes 9 to 8 the other way and the Malone nomination is sent to the floor of the Senate. That is why it is here right now, for no other reason. It was not because ED ZORINSKY tried months ago to take ambassadorships hostage. I did not even know how you did it. I did not know why you did it. And I did not care why you did it. But I am finding out now that if you do it, you do not get what you want around this place.

So I guess what I am doing now is proper because I have seen everybody else in this place do this. Sometimes you are successful and sometimes you are not. But I certainly want to assure the American people that a Senator from Nebraska did not get elected to come back here on the 14th of October 1986 at a quarter after 6 when all normal people are home eating dinner standing up here talking about ambassadorship nominations and who took who and who is guilty or liable for ambassadorships being held up.

I thought we had decided this in committee. Actually, we had. We had a vote on it 3 months ago. Everybody forgot about it until somebody went to a flesh market and switched votes because they got a hostage released, an ambassadorship, so that brought me out of the bushes to come up here and try to put Malone back in the box, which is hard to do sometimes, and deny the confirmation of this nomination.

That is a brief explanation of who is doing what and why and how we got to where we are right now, and probably why it was pretty much along the lines of a partisan vote taken a few moments ago when I asked for the rollcall, the yeas and nays, on proceeding to consider the Malone nomination. We on our side felt that this had already been decided. On that side of the aisle, obviously, it is a Presidential nomination and certainly the party of the President has to stick up for the President and his nominations.

If you take this Senator's record on voting in support of nominations that the President sent here, I am sure you will find that, even though a Democrat and being on this side of the aisle, I have supported the President on numerous controversial nominations that he has made, as a matter of fact, Republican in nature, conservative in nature, but, nevertheless, I have supported his nominations on numerous occasions when some of my fellow colleagues on this side of the aisle may not have supported them.

I try to evaluate the individual, the character of an individual who is going to represent this country. I think we all take our term of advise and consent realistically and seriously.

□ 1820

I know I do. I just do not feel that Mr. Malone is fit to be confirmed as Ambassador to Belize. Nor do I think anyone in his right mind in the country of Belize, with the understanding that Mr. Malone has already been rejected by the United States Senate Foreign Relations Committee as being qualified to represent this country to Belize—I do not think they want him as an Ambassador down there. I think just reading the transcript of what I am saying right now might injure his acceptance in Belize and might cause further questions to my office with regard to what problems we have had with Mr. Malone, which I am about to go into for the rest of the evening.

Let me continue. Despite Senate rule 13, the majority members of the committee voted to report the nomination of James Malone more than 5 months after the committee voted against him, thereby acting contrary to Senate rule 26, which enjoins committees to conduct their business in a manner not inconsistent with the rules of the Senate.

In addition to acting in a manner inconsistent with the standing rules of the Senate, the majority members of the committee also ignored rule 4(b) of the rules of the Committee on Foreign Relations. Rule 4(b) specifically requires the presence of a member from each party for the transaction of business other than reporting such as the reconsideration of a vote taken earlier by the committee. It is argued that in this case, reconsideration was a necessary step prior to a vote to report, although I assume the chairman of the committee did not agree with this because Senator MATHIAS was allowed to switch his vote; then, by a vote of 9 to zero at a meeting that we did not attend, that was actually boycotted, the name was forwarded to the full Senate.

We do not accept the argument that the majority of the committee can do whatever it wishes whenever it wishes regardless of rules duly adopted by the committee and the Senate. The rules have been established and agreed to in order to protect the interests of each Member. The spirit and letter of these rules, in our view, should be observed. Unfortunately, that view is apparently not shared by the majority members of the committee—at least not in this particular case.

We think it is important to provide some background concerning the history of James Malone's earlier appearances before the committee and his performance as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs in order that it will be clear that our actions on this matter were in no way based upon partisan concerns but were governed by our firm belief that U.S. interests would be ill served should Mr. Malone be confirmed as a U.S. Ambassador. Let me point out that Mr. Malone's earlier committee appearances were controversial.

James Malone's nomination to the position of Ambassador to Belize is his third nomination to positions within the jurisdiction of the Committee on Foreign Relations. Before being nominated to this most recent position, he was nominated to two other positions within the Department of State, first as Assistant Secretary of State to the Bureau of Oceans and International Environmental and Scientific Affairs in the spring of 1981, and again, in May 1982, to the position of Ambassador at Large in connection with his designation as the President's special representative to the Law of the Sea Conference.

Both nominations proved controversial. In the case of the latter, the President withdrew the nomination on July 27, 1982, after it became clear

that there were insufficient votes in committee to report the nomination of Mr. Malone favorably.

Mr. Malone remained as Assistant Secretary of OIES after his second nomination was withdrawn until he was replaced by John Negroponte in July 1985. In a effort to conciliate Mr. Negroponte's confirmation, the administration reportedly assured Senator HELMS that Mr. Malone would be given another position within the Department of State. However, it was not until December 13 that his nomination to a position as Ambassador to Belize was transmitted to the Senate.

Currently, he is a consultant to the State Department, awaiting the outcome of his nomination. The areas of controversy are as follows:

The following six issues arose during the committee's consideration of Mr. Malone's earlier nominations: insensitivity. This is not me inventing this and this is not a group of Democrats or Republicans or any specific group getting in a room together and plotting to assassinate someone's character, but strictly from observation of an individual, these are the issues that arose based on Mr. Malone's actions.

Insensitivity with respect to a potential conflict of interest and/or appearance of impropriety which might arise in carrying out his duties at OIES, particularly nuclear nonproliferation duties, in light of his representation of certain foreign nuclear utilities while in private law practice.

Violations of certain written commitments made to the Foreign Relations Committee as a condition of his first confirmation was another issue raised.

Mismanagement of the OIES Bureau as reported by the Inspector General's Office of the State Department. I do not know if the IG of the State Department is a Republican or Democrat and I do not care, but he is the one who raised the issue of mismanagement of the OIES Bureau. The Inspector General's Office of the State Department is the one that raised that issue.

Inadequate diplomatic preparation in connection with handling of the law-of-the-sea negotiations. I was not there to make that judgment either. Obviously, this became an issue during one of the confirmations also, which led to unsuccessful efforts to negotiate a successful Law of the Sea Treaty.

□ 1830

Questionable judgment and impropriety in conjunction with several consulting contracts and contract procedures, which in one case cost the U.S. Government almost $200,000 to pay for the services of a private consultant who served as Mr. Malone's personal assistant for law of the sea matters.

Now, if it cost the U.S. Government $200,000 to pay for the services of a private consultant, who had served as Mr. Malone's personal assistant, I would assume most people in this body would raise that issue.

Also, another issue raised is false statements under questioning by the Foreign Relations Committee in connection with his nomination to the position of Ambassador at Large, as the President's representative to the Law of the Sea Conference.

Mr. Malone first encountered difficulties in connection with his nomination as Assistant Secretary of OES. At that time concerns were raised about Mr. Malone's ability to carry out his nuclear nonproliferation duties, which would include ruling on specific export licenses and other matters related to foreign nuclear utilities in an impartial manner. In light of his representation of certain foreign nuclear utilities; Taiwan Power Co., the Kansai Electric Co., and Tokyo Electric Power Co., while in private law practice, and the ongoing representation of these clients by his former law firm, Doub and Muntzing, Mr. Malone's difficulties were compounded by his insensitivity to these concerns and his unwillingness to agree definitely to recusing himself from any involvement in matters which might arise at the Department of State in conjunction with them.

The following additional views of four members of the committee—Senators GLENN, SARBANES, ZORINSKY, and CRANSTON—were expressed at the time of this nomination outlining those difficulties, and these views are also contained in the printed report on the nomination of James L. Malone.

We regret that we cannot join in recommending the confirmation of James L. Malone as Assistant Secretary of State for Oceans and International Environment and Scientific Affairs.

In this position, Mr. Malone would be the senior Administration official with day-to-day responsibility for implementing United States nonproliferation policy, a subject of deep concern to the Committee and of profound importance to the national security.

As an attorney, Mr. Malone represented a number of foreign nuclear utilities and was a registered foreign agent for one of them.

I guess as a matter of public knowledge when you register as a foreign agent—and Mr. Malone obviously did represent a number of foreign utilities inasmuch as he was a registered foreign agent for one of them—it certainly takes the volition of an individual to register himself so obviously this is a factual statement.

He was associated with the firm of Doub and Muntzing, which represents a variety of foreign nuclear interests. Because Mr. Malone would be in a position to rule on U.S. nonproliferation policy in general, and on specific export licenses and other approvals affecting former clients, it is essential that he be committed to adhere scrupulously to requirements that attorneys in public service avoid any conflicts of interest, as well as appearances of impropriety.

I have heard that comment used with regard to members in the United States Senate.

In our view, Mr. Malone had failed, despite Committee efforts, to demonstrate this commitment.

Mr. Malone has acknowledged personally representing three foreign nuclear utility clients: Taiwan Power Company, a wholly owned subsidiary of the Taiwan Government; Tokyo Electric Power Company (TEPCO), a major Japanese electric utility; and Kansai Electric Power Company (Kansai) a second Japanese electric utility. From January 10, 1979, until December 2, 1980, Mr. Malone also served as a registered foreign agent for Taiwan Power Company. Each of these entities has in the past been the focus of major U.S. nonproliferation policy initiatives.

In November and December 1980, while still employed at Doub and Muntzing and representing the three clients mentioned above, Mr. Malone co-chaired the Reagan Transition Team on Nuclear Non-Proliferation Policy. The report of the transition team, dated December 18, 1980, contained the following specific policy recommendations:

There should be no concern about those industrialized nations with substantial and expanding commitments to nuclear power, e.g., Japan and the Federal Republic of Germany.

Requests for retransfer for reprocessing in the United Kingdom and France will be approved without linkage to other issues (i.e., without reference to criteria used by the Carter Administration which required a foreign utility to show, for example, that it was suffering from spent fuel congestion or that its reprocessing contract had been signed before the announcement of the new U.S. policy aimed at discouraging this activity.)

TEPCO and Kansai would be major beneficiaries of these proposed changes in U.S. policy.

Clearly, to avoid the appearance of professional impropriety, Mr. Malone should not have dealt with issues of concern to his clients on behalf of the incoming Administration. His demonstrated insensitivity to this problem leads some Members to conclude that it would be particularly important that this nominee be clear and precise as to how he would avoid future conflicts of interest and appearance of impropriety.

□ 1840

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ZORINSKY. Mr. President, under the precedents of the Senate, I will be happy to yield to the Senator from Arizona, provided that I am accorded unanimous consent to be recognized, first, to resume when this question is again before the Senate—today, tomorrow, or any other day—and that the continuation of my remarks at that time will be viewed as an extension of my first speech and not as a second speech under the two-speech rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GOLDWATER. I thank the Senator.

DEPARTMENT OF DEFENSE

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 1102, the nomination of James F. McGovern, of Virginia, to be Under Secretary of the Air Force.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nomination will be stated.

The assistant legislative clerk read the nomination of James F. McGovern, of Virginia, to be Under Secretary of the Air Force.

The PRESIDING OFFICER. Is there debate on the nomination? If not, the nomination is considered and confirmed.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. ZORINSKY. Mr. President, I yield, under the previous unanimous-consent terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the Senator from Nebraska.

Mr. President, I want to congratulate the Senator form Arizona for having this nomination approved.

The nominee is an outstanding young man, and we all know that he will do good work for all of us.

CONGRATULATING ELIE WIESEL ON BEING CHOSEN 1986 RECIPIENT OF THE NOBEL PEACE PRIZE

Mr. DOLE. Mr. President, I have discussed with the distinguished minority leader a resolution which he and I will sponsor, along with other cosponsors, congratulating Elie Wiesel on being chosen the 1986 recipient of the Nobel Peace Prize. He was nominated for that award by myself and the distinguished minority leader months ago. Today, the Nobel Peace Prize Committee announced that he will be awarded its 1986 Peace Prize.

In recognition of this great honor being bestowed upon an American citizen, a man who deserves the recognition of the world for his contribution to mankind, I send the resolution to the desk, on behalf of myself, Senator BYRD, and other cosponsors, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 508) congratulating human rights activist Elie Wiesel on being chosen the 1986 recipient of the Nobel Peace Prize.

S. RES. 508

Whereas, Elie Wiesel lived through the horrors of the Nazi Holocaust, witnessing the persecution and death of family and friends; and

Whereas, having survived this despicable manifestation of man's inhumanity against man, he dedicated his life to insuring that no such travesty ever occur again by calling on men and women the world over "to never forget"; and

Whereas, through his writing, teaching, and activism, Elie Wiesel has fought relentlessly for the human rights of all individuals—regardless of their heritage or their beliefs, and

Whereas, Elie Wiesel, an American citizen, has been recognized for his work in advancing human rights, his contributions to literature and his leadership of the Holocaust Memorial Council by this country with the Congressional Medal of Achievement; and

Whereas, the Nobel Committee has selected Mr. Wiesel as its 1986 Peace Prize Winner, noting that he "has emerged as one of the most important spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world;

Therefore, be it resolved, that the Senate offer sincerest approval of the Nobel Committee's choice which will allow the entire world to know of Elie Wiesel's contributions to an enduring peace and transmit to Mr. Wiesel its heartfelt congratulations for this historic and much deserved achievement.

The cosponsors of the resolution are Senators DOLE, BYRD, SIMON, D'AMATO, HAWKINS, METZENBAUM, BOSCHWITZ, GRAMM, HEINZ, HELMS, HUMPHREY, LAUTENBERG, MITCHELL, MOYNIHAN, PELL, QUAYLE, SARBANES, SASSER, and ZORINSKY.

Mr. DOLE. Mr. President, I am proud and happy to say that Mr. WIESEL, who is one of the world's most eloquent and forceful advocates of human rights, was nominated for this award by myself and the distinguished minority leader, Senator BYRD.

I have had the privilege of knowing and working with Elie for a number of years, on human rights issues, and as a member of the Holocaust Memorial Council. It is impossible to be with Elie for more than a few moments without recognizing his commitment to his fellow man—his total dedication to making this world more humane, more decent.

His own experience during the Nazi Holocaust was the catalyst for his crusade to force the world to remember its iniquities. Because, Wiesel believes, that our own humanity, our decency is always hanging in the balance, threatened by evils from within and from outside. And if we let down our guard, if we refrain from lending a helping hand to men and women the world over who simply seek the right to be free, then we could confront another, if different, Holocaust ourselves.

In its citation, the Nobel Committee said,

Elie Wiesel has emerged as one of the most important spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world.

Mr. Wiesel is a messenger to mankind: his message is one of peace, atonement and human dignity. His belief that the forces fighting evil in the world can be victorious is a hard won belief.

But we cannot yet claim victory. And no one knows that better than Elie Wiesel. Receiving the Nobel Peace Prize will only spur him to continue his crusade to guarantee basic human rights and peace for men and women, whatever their race, color, or religion, wherever they may live.

I want to offer Elie my personal congratulations. I am proud to say I know him, and even prouder to call him my friend.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for allowing me to be a cosponsor of this resolution commending human rights activist Elie Wiesel on being chosen the 1986 recipient of the Nobel Peace Prize. I think this is a very worthy choice.

I commend the Nobel Committee on its having made this selection. I think it is a selection that will meet with worldwide acclaim.

Mrs. HAWKINS. Mr. President, as a cosponsor, I rise to support the resolution now before the Senate commending Elie Wiesel for earning the Nobel Peace Prize. This is an award Mr. Wiesel clearly deserves. I know of no individual who is more a man of peace than Elie Wiesel. He knows firsthand the effects of man's inhumanity to his fellow man. As a holocaust survivor, he has gone on to remind all the people of the world that evil will prevail if good men do nothing. It is his single-minded determination to see that the world does not forget the horrors of the holocaust that makes him a man of peace. It is his eloquence that moves other people to share his vision of peace, a vision of peace with dignity for the individual. It is his faith that encourages us to continue to work for a truly humane world.

In my career in public service, I have rarely known a person of greater dedication or skill in advancing the cause of peace and human rights. Some have questioned the role of Elie Wiesel and those of us who urge the world not to forget the consequences of the Holocaust. They say let us forget these terrible days, and allow our wounds to heal. But we cannot, we must not forget, and no one has made this case with greater force than Elie Wiesel. Let us hear what Elie has to say about this in his own words:

Like it or not, the Event must and will dominate future events. Its centrality in the

creative endeavors of our contemporaries remains undisputed. Philosophers and social scientists, psychologists and moralists, theologians and artists: all have termed it a watershed in the annals of mankind. What was comprehensible before Treblinka is comprehensible no longer. After Treblinka, man's ability to cope with his condition was shattered; he was pushed to his limits and beyond. Whatever has happened since must therefore be judged in the light of Treblinka. Forgetfulness is no solution.

Treblinka and Auschwitz, Majdanek and Belzec, Buchenwald and Ponar, these and other capitals of the Holocaust kingdom must therefore be remembered, and for several reasons.

First, we cannot grant the killers a posthumous victory. Not only did they humiliate and assassinate their victims, they wanted also to destroy their memory. They killed them twice, reducing them to ashes and then denying their deed. Not to remember the dead now would mean to become accomplices to their murderers.

Second, we cannot deny the victims the fulfillment of their last wish; their idée fixe to bear witness. What the merchant from Saloniki, the child from Lodz, the rabbi from Radzimin, the carpenter from Warsaw and the scribe from Vilna had in common was the passion, the compulsion to tell the tale—or to enable someone else to do so. Every ghetto had its historians, every deathcamp its chroniclers. Young and old, learned and unlearned, everybody kept diaries, wrote journals, composed poems and prayers. They wanted to remember and to be remembered. They wanted to defeat the enemy's conspiracy of silence, to communicate a spark of the fire that nearly consumed their generation, and, above all, to serve as warning to future generations. Instead of looking with contempt upon mankind that betrayed them, the victims dreamed of redeeming it with their own charred souls. Instead of despairing of man and his possible salvation, they put their faith in him. Defying all logic, all reason, they opted for humanity and chose to try, by means of their testimony, to save it from indifference that might result in the ultimate catastrophe, the nuclear one.

Third, we must remember for our own sake, for the sake of our own humanity. Indifference to the victims would result, inevitably, in indifference to ourselves, an indifference that would ultimately no longer be sin but, in the words of our Commissioner Bayard Rustin, "a terrifying curse" and its own punishment.

The most vital lesson to be drawn from the Holocaust era is that Auschwitz was possible because the enemy of the Jewish people and of mankind—and it is always the same enemy—succeeded in dividing, in separating, in splitting human society, nation against nation, Christian against Jew, young against old. And not enough people cared. In Germany and other occupied countries, most spectators chose not to interfere with the killers; in other lands, too, many persons chose to remain neutral. As a result, the killers killed, the victims died, and the world remained world.

I believe that each of us owes Elie Wiesel a debt of gratitude for his struggle to keep the memory of the holocaust alive. He is fighting for each of us and for our children so that we can live in a world free of the fear of such cruelty and inhumanity. We should not be lulled into thinking that it cannot happen again.

The Nobel Prize is a great achievement, but I can think of no one more qualified to receive it. My only regret, Mr. President, is that Elie had to wait so long to receive it.

Mr. D'AMATO. Mr. President, I rise in strong support for the resolution offered by my good friend, the distinguished majority leader, congratulating Dr. Elie Wiesel as recipient of this year's Nobel Peace Prize. For the past 5 years it has been my pleasure to nominate Dr. Wiesel for this most esteemed award in recognition of his important work in the advancement of peace. Elie Wiesel is a respected scholar, lecturer, and writer who has dedicated his life to the pursuit of peace. As the citation issued by the Norwegian Nobel Committee said,

Wiesel is a messenger to mankind. His message is one of peace, atonement, and human dignity. His belief that the forces fighting evil in the world can be victorious is a hard-won belief.

The statement continued,

Wiesel's commitment, which originated in the sufferings of the Jewish people, has been widened to embrace all repressed peoples and races.

In "Night," Wiesel's chronicle of the Holocaust, he reinforces our belief that genocide is the most heinous crime against humanity. Dr. Wiesel continually draws upon his personal experience, having survived Hitler's death camps. Wiesel and his family, along with the rest of the Jews in his city, were shipped off to Auschwitz. His mother and youngest sister perished there.

Through his writings, Wiesel has captured the brutality which nearly wiped out the Jews. His work is not a historical narrative, but conveys a powerful message for us today. As the Nobel Committee recognized,

Elie Wiesel has emerged as one of the most important spiritual leaders and guides in an age when violence, repression, and racism continue to characterize the world.

Mr. President, I applaud the selection of Dr. Elie Wiesel to receive the 1986 Nobel Peace Prize and congratulate this true champion of peace and human rights. I commend the majority leader for submitting this resolution, and I urge my colleagues to join me as a cosponsor.

THE AWARDING OF THE NOBEL PEACE PRIZE TO ELIE WIESEL

● Mr. MOYNIHAN. Mr. President, the Nobel Peace Prize was awarded today to Elie Wiesel, an American, a New Yorker too, but truly a citizen of the world. The Nobel Committee said "Wiesel was a messenger to mankind; his message is one of peace, atonement, and human dignity."

As the survivor of Auschwitz and Buchenwald, Elie Wiesel translated his own personal confrontation with horror into a lifelong chronicle of man's violence against man, whether it was visited upon the Biafrans, Cambodians, or the Miskito Indians. He brought witness wherever human decency required it.

The Nobel Committee said:

Wiesel's commitment, which originated in the sufferings of the Jewish people, has been widened to embrace all repressed peoples and races.

So it has. Elie Wiesel was described once as the spiritual archivist of the Holocaust. Today in Oslo he was recognized a peacemaker for all the world. Mr. President, I ask that the Nobel Committee's citation honoring Elie Wiesel be printed in the RECORD:

The citation follows:

NOBEL COMMITTEE CITATION

The Norwegian Nobel Committee has resolved that the Nobel Peace Prize for 1986 should be awarded to the author, Elie Wiesel. It is the Committee's opinion that Elie Wiesel has emerged as one of the most important spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world.

Wiesel is a messenger to mankind; his message is one of peace, atonement and human dignity. His belief that the forces fighting evil in the world can be victorious is a hard won belief. His message is based on his own personal experience of total humiliation and of the utter contempt for humanity shown in Hitler's death camps. The message is in the form of a testimony, repeated and deepened through the works of a great author.

Wiesel's commitment, which originated in the sufferings of the Jewish people, has been widened to embrace all repressed peoples and races.

The Norwegian Nobel Committee believes that Elie Wiesel, with his message and through his practical work in the cause of peace, is a convincing spokesman for the view of mankind and for the unlimited humanitarianism which are at all times necessary for a lasting and just peace.●

ELIE WIESEL RECEIVES THE NOBEL PEACE PRIZE

Mr. BOSCHWITZ. Mr. President, I rise today to join in honoring Elie Wiesel, winner of the Nobel Peace Prize.

Elie Wiesel has dedicated his life to telling a story too awful to tell, a story that words cannot describe, because man's vocabulary does not include words as cruel and inhumane as man's actions. His works, both writings and lectures, attempt to explain the meaning of an abyss of fear and lost hope. As difficult as it is to tell, Elie Wiesel has made a gift of the holocaust story to mankind: to the survivors, to help them find a path away from this hell and celebrate the triumph of survival; to the rest of us, to keep the memory of the holocaust alive, so that mankind is not condemned to repeat its heinous past.

Elie Wiesel was born on September 30, 1928 in Sighet, Romania. He was a child of 12 when Romania was first occupied by the Nazis, but his days were then still filled with study of the

Talmud and his family. It was not until April 1944 that the 10,000 Jews were deported from this Romanian town. Foreign Jews had been expelled from Sighet much earlier during the war. But, when one of them returned, Moche the Beadle, to tell a tale of digging their own graves and being slaughtered, with babies being thrown into the air and shot for target practice, the unanimous judgment of Elie Wiesel's community was that Moche had gone mad. No one heeded Moche the Beadle's warnings.

In spite of their disbelief of Nazi atrocities, the Jews of Sighet were sent to Auschwitz. On the train ride to Auschwitz, 80 people in a cattle car with no room to sit, scarcely room to breathe, a woman who had been separated from her family screamed each night of a fire no others could see. But on the fifth night her warnings, thought to be the ravings of a madwoman, became a reality and they all saw the flames and smelled the burning flesh of Auschwitz.

As soon as Elie Wiesel jumped from the cattle car, he was separated from his mother and his three sisters. But, he stayed by his father's side through months of hard labor at Auschwitz, on the "death march" of 42 miles to the train to Buchenwald, through the many selections where the decisions as to who would live and who would die were made savagely and arbitrarily. Elie Wiesel's father died of dysentery less than 3 months before Buchenwald was liberated. Father and son had given each other the courage and strength to endure. Theirs is a story of love and loyalty, in the face of a reality where love, courage, and loyalty meant nothing.

Elie Wiesel did not tell his story for 10 years after being liberated from Buchenwald. He studied at Sorbonne in Paris from 1947 until 1950. In 1956, he came to the United States. His writing is greatly influenced not only by religious writers but, also, the French influence is evident in his writings, particularly the existentialists. His writing demands that we go on living in the face of the absurdity of life. Elie Wiesel faced the human experience that is the most compelling evidence of the absurdity of life—the Holocaust, and yet he continues to go on living and telling his story.

Elie Wiesel has written 25 books on the Holocaust, religious themes, and moral responsibilities in today's world. He is the Andrew Mellon professor of the humanities at Boston University, he is the chairman of the U.S. Holocaust Memorial Council, the body that will create a national museum of the holocaust in Washington, DC. He continues to remind us, through his writing, teaching, and lectures, of the Holocaust to ensure that the story of millions of deaths is perpetuated. Already, some scholars are alleging that the Holocaust never occurred, or, if it did, it was greatly exaggerated. We do not want to believe that what we call civilization is just a thin veneer over a savage and barbaric nature. Elie Wiesel continues to tell his story, like Moche the Beadle and the "madwoman" on the train, in spite of the disbelief of his audiences, and the great pain and horrible memories it brings to him and others who know first hand the truth of his stories. He continues his fervent and solemn telling of this tale so that mankind is not condemned to repeat these inhumanities to man.

Mr. Wiesel has been the voice of our conscience, not only on the holocaust, but on the Beirut massacre, the starvation in Biafra, and the massacres in Cambodia and the Sudan, and the dangers of a nuclear holocaust.

I am a member of the U.S. Holocaust Commission which Elie Wiesel chairs, so I can personally attest to his dedication and courage in serving mankind and the brotherhood of nations by serving as a witness and testifying to the atrocities that were the holocaust.

For those of us who lost our families, and for mankind which lost humanity and dignity, conferring the Nobel Peace Prize on Elie Wiesel is a sign that we have learned the terrible lesson of the holocaust through his message: We must be eternally vigilant in preserving our morality or 6 million lives were lost in vain. Man has the capacity to destroy mankind. We must learn from our mistakes, and honor those willing to teach us.

I am very pleased the Nobel Committee has chosen to bestow this very fitting honor on Elie Wiesel.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SCHEDULE

Mr. DOLE. Mr. President, I have been asked about the program for the balance of the evening.

I think we may have had it, so far as any votes are concerned. I do not anticipate any votes. If there should be a vote, we will try to give Members advance notice of 30 or 40 minutes.

About 7 o'clock, we would like to bring up a noncontroversial bill, the Energy Appliance Efficiency Standards Act. I assume there will be an amendment offered to that measure by Senators GRAMM and NICKLES. That will be discussed at some length, and I understand that it might be withdrawn at that time.

If that is satisfactory to the Senator from Nebraska, we will then return to the nomination of Mr. Malone.

Mr. ZORINSKY. Would part of the unanimous-consent agreement be to return to the Malone nomination tomorrow, no sooner than 10 a.m.?

□ 1850

Mr. DOLE. Let me check that before making judgment on that.

Mr. ZORINSKY. I do not intend to be difficult, but if I am going to accommodate the body——

Mr. DOLE. I thought I would give the Senator a chance to get a bite to eat.

Mr. BYRD. If the distinguished majority leader will yield, we on our side are running the clearance on the bill which is alluded to. I think we have one more Senator to clear this with. As soon as we are able to do that if we could perhaps get to the measure so that Senators would know whether or not there is going to be a rollcall vote and if there is they can then go on home.

Mr. DOLE. I would not anticipate a rollcall vote on that measure. As far as I know there will be no rollcall vote demanded. I indicated we prefer not to have one on that particular legislation if we can avoid it.

Mr. BYRD. Can we say, then, if I may ask the majority leader, that there will be no more rollcall votes today?

Mr. DOLE. Unless we should suddenly come to some resolution to the Malone matter, I do not anticipate any more votes today. I regret to say that in a way because it means another day is gone and we still have the big five pieces of legislation not before us. We cannot fault anyone. They are not here.

Yes, there will be no more votes today.

Mr. BYRD. I thank the majority leader.

Mr. PELL. Mr. President, will the Senator yield?

Mr. ZORINSKY. Mr. President, under the precedents of the Senate, I am happy to yield to the Senator from Rhode Island, providing that as the previous unanimous-consent request was made I not lose my right to the floor nor would it be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I thank my colleague and friend from Nebraska.

THE ICELAND SUMMIT

Mr. PELL. Mr. President, in the several days since the Reykjavik summit, leaders on both sides have gone to some lengths to see cause for optimism.

I hope very much that the summit was not the failure it first appeared. Indeed, if it can give new purpose and direction to the talks in Geneva, then the final judgment should be positive.

Nonetheless, I deeply regret that the leaders failed to achieve an agreement when it seemed in grasp. As I said 3 years ago, after talks with our leaders and the Soviet leadership, agreement was necessary to control the strategic defense initiative if we were to have agreement to reduce strategic nuclear arms. The summit reinforces that judgment. We would be far wiser to keep the bird in hand—significant reductions in offensive strategic arms—in lieu of an ill-advised quest for two in the bush—SDI—which remains a most dubious proposition.

The question now is where to go from here. If the President is serious, he must decide how much he will give up on SDI. Is he willing, for instance, to stop insisting on the right to deploy SDI defenses and to accept controls on SDI during a mutually agreed period of adherence to the 1972 Anti-Ballistic Missile Treaty? If so, a deal should be possible.

Are the two leaders actually willing and able to force their bureaucracies to agree to reduce the strategic arsenals by about a half and move on subsequently toward elimination of weapons? If so, a deal should be possible.

After much talk, it seems that sharp reductions of nuclear weapons in Europe are possible in a way acceptable to our allies.

Finally, the door could be open to a new agreement on nuclear testing verification and strict controls on testing leading to a complete ban.

For all this to happen, the two sides must stop their public posturing. They must give clear instructions to their delegations in Geneva to get moving in a way that will put both the administration and the Soviets to the test. These negotiations are not new. Some of the talks date back to 1980. It is time for results.

Mr. President, it is foolish to talk about who blinked at the summit. The unanswered question is who was wearing blinders. The simple challenge is to put such thoughts behind us, take a fresh look at the possibilities, and move finally, but unswervingly, toward achievements which will matter to our generation and those who will follow.

I yield the floor.

NOMINATION OF JAMES L. MALONE TO BE AMBASSADOR TO BELIZE

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Thank you, Mr. President.

Let me go back—since it appears I have adequate time left—and repeat the comments that Mr. Malone made. Going back to:

Unfortunately, in his appearances before the communications with this Committee, Mr. Malone has been less than forthcoming and has increased, rather than lessened, concerns. In his March 13 response to the standard Committee questionnaire, Mr. Malone stated:

"In keeping with the ethical standards applicable to Government officials and to the legal profession, I will disqualify myself from participating as a Government official in any aspect of a particular matter in which I have been personally involved in private practice on behalf of a client, as well as any substantially related matter involving or affecting such clients, or in which my prior firm, colleagues, or clients could appear to receive preferential treatment. I will also disqualify myself from all particular matters in which a major prior client has a direct financial interest. I anticipate that there will be very few, if any, instances which I will need to disqualify myself."

This is a statement made by Mr. Malone:

However, at his March 16 hearing, Mr. Malone was less precise in his assurances. He acknowledged his representation of three foreign clients. Mr. Malone was then asked by Senator Glenn whether he intended to disqualify himself from making recommendations to approve reprocessing by Japan and Taiwan. Although he agreed to disqualify himself "to the extent that there was any conflict in any way," Mr. Malone suggested that since he had not actively lobbied on behalf of these foreign clients, he would not have to disqualify himself from making decisions which directly affected them.

Now, this is in direct opposition to the statement he made previously to the Senate Foreign Relations Committee. Now he is not quite so sure that he should disqualify himself, and I would assume as any good businessman, and I felt I was a good businessman for 40 years, when there is a chance to make a profit, when there is a chance to make money for services rendered and it is legal, you do it, and I assume that—I do not know what amount of money was involved, but I am sure there was some economic relationship between the law office or his colleagues and these electric companies that generated some type of economic benefit to them, which must have indeed changed his enthusiasm for wanting to divorce himself from these types of matters.

Seeking a definitive clarification, Senator Glenn pursued this matter in a question for the record. Mr. Malone replied on March 23 as follows:

I have terminated all relationship with my former law firm and retain no interest of any kind with the firm or the companies mentioned in the answer to question 1. My functions with the firm in relation to these companies was only in a reporting capacity; however, as I have terminated my relationship with the firm there could not be any conflict or interest with respect to my participation in my future State Department activities.

The clear impression created by this answer was that because Mr. Malone had terminated his relationship with his firm, he had no intention of recusing himself from any matter affecting any of his former clients. But in the March 13 statement, Mr. Malone had appeared to state that he was indeed prepared to disqualify himself from a variety of matters affecting his former clients.

Faced with three apparently different answers on the issue of disqualification, Senator Glenn requested, in a March 31 letter to Mr. Malone, an unambiguous statement from him and an explanation of the inconsistencies. In his April 1st reply, Mr. Malone reiterated that he had terminated all relationship with his former law firm and went on to state:

□ 1900

Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Ohio, since I am quoting from some of his concerns, for the purpose of debate, without losing my right to the floor and without this being considered the end of a speech for the purpose of a two-speech rule, and I ask unanimous consent that I be rerecognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER (Mr. GRAMM). Without objection, it is so ordered.

Mr. GLENN. Mr. President, I thank the distinguished Senator from Nebraska very much.

Mr. President, it is not a pleasant task to rise and oppose anyone's nomination. I know what this means to the person individually, to families, and everyone concerned with it, including those who made the nomination.

But, Mr. President, I cannot, in good conscience, stand by, and so I must rise to express my opposition to the confirmation of James Malone as U.S. Ambassador to Belize. Now, as a general rule, Mr. President, I firmly believe a President is entitled to be served by officials of his own choosing. However, under our Constitution, the President, is not a prime minister with unlimited authority to do just exactly that, and under our system the Senate is given its own responsibility under our balance of powers with respect to the confirmation of Presidential nominees, and I and most Senators take that responsibility very, very seriously.

Mr. President, in considering nominees, I believe two criteria are basic. First is the nominee's qualification by background and experience to fill the post to which he or she has been nominated. Second is whether the nominee exhibits the honesty, integrity, and forthrightness necessary to do the job competently and do it well. Unfortunately, I have come to the conclusion that Mr. Malone falls short on both counts.

As the Senator from Nebraska has pointed out, this is not the first time I have opposed the nomination of Mr. Malone to a confirmable post in this administration. Clear back in 1981, as

71-059 O-87-21 (Pt. 21)

a member of the Senate Foreign Relations Committee, I participated extensively in the hearings on Mr. Malone's nomination to be Assistant Secretary of State for Oceans, International Environmental and Scientific Affairs. The reason I had a particular interest in that appointment was because, in that position, Mr. Malone would be the senior administration official with day-to-day responsibility for implementing U.S. nonproliferation, nuclear nonproliferation policy, a subject of deep concern to me and of profound importance to national security. It was a matter I dealt with since I came to the Senate, a matter that I had worked on and was instrumental in getting passed the Nuclear Nonproliferation Act of 1978. So I was very interested in Mr. Malone's background and his views on the matters of nuclear policy and how he would carry those out.

As an attorney, prior to his nomination as Assistant Secretary, Mr. Malone represented a number of foreign nuclear utilities and was a registered foreign agent for one of them. That is fine. He was associated with the firm of Doub & Muntzing, which represented a variety of foreign nuclear interests. Because Mr. Malone would be in a position to rule on U.S. nonproliferation policy in general, and on specific export licenses and other approvals affecting former clients, it was essential as I saw it, that he be committed to adhere scrupulously to requirements that attorneys in public service avoid any conflicts of interest, as well as appearances of impropriety. These requirements were contained in the Department of State's own "Guidance to Attorneys Nominated to Positions Requiring the Advice and Consent of the Senate." That guidance states, and I quote,

> You should clearly disqualify yourself, for example, from participating in any aspect of a particular matter in which you have been personally involved in private practice on behalf of a client, as well as any substantially related matter involving or affecting such clients.

Without going into all the details, which are contained in the additional views section of the Foreign Relations Committee's report, which the distinguished Senator from Nebraska was quoting from, I believe, let me just say that Mr. Malone failed, despite repeated committee efforts, to demonstrate this commitment.

In 1981, I was deeply troubled by several aspects of the Malone nomination to be Assistant Secretary of State. I was concerned by the fact that he had made nonproliferation policy recommendations to an incoming administration favorable to foreign clients he was representing at the time. I was concerned by the fact that Mr. Malone's former practice and that of his firm was concentrated so heavily in serving foreign nuclear clients affected by Mr. Malone's prospective decisionmaking. I was concerned about his inconsistent statements as to the matters from which he would disqualify himself, despite repeated attempts by me and by the committee to clarify the matter. And finally I was concerned by the failure of the State Department to obtain the list of clients necessary to help ensure that potential problems did not arise.

Mr. President, beyond that, I believe that subsequent events proved these concerns to have been well founded. In May 1981, during confirmation hearings on Mr. Malone's nomination to be Ambassador at Large as the President's special representative to the Law of the Sea Conference, it was revealed that, despite assurances to recuse himself concerning matters related to his former clients, Mr. Malone actively lobbied the President of the U.S. Export-Import Bank to provide more favorable export credit terms to Taiwan Power, a former client, in connection with its purchase of a nuclear reactor from a U.S. company. To compound the problem, Mr. Malone told the Foreign Relations Committee that he had discussed specifically the matter of whether or not it was proper for him to make these contracts on behalf of Taiwan Power with Under Secretary Richard Kennedy. In a subsequent letter, he was forced to admit that he "did not discuss the propriety of my involvement in this matter with Under Secretary Kennedy or other senior officials."

That was under some pressure he made that admission.

Mr. President, I raise these issues and this amount of detail because I believe they apply directly to the honesty, integrity, and the forthrightness criteria I mentioned which I believe must be applied to all nominees.

In addition, I think the State Department's own evaluation of Mr. Malone is very important. In fact, this may be the most important part of the whole opposition to Mr. Malone, because he has been over there for a number of years, been over there for some time.

So, in addition, with respect to the first criteria of basic ability, it should be noted by the Senate that the Office of the Inspector General of the State Department, their own internal investigating source, their own inspector general that has independence to go any place in the Department and find out whatever they want, its inspector general issued a report highly critical of Mr. Malone's performance as Assistant Secretary from July 1981 to March 1982. In the State Department's own report, they questioned Mr. Malone's management, judgment, and diplomatic skills. Those are not my words, those are words from the State Department IG report.

Now turn that around. What qualifications should an ambassador have if not good management ability, good judgment, and good diplomatic skills?

For all these reasons I urge my colleagues to refuse to confirm the nomination of James Malone to be our Ambassador to Belize.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska controls the floor under a unanimous consent request.

The Senator from Nebraska is recognized.

Mr. ZORINSKY. Thank you, Mr. President.

Mr. President, to continue with some of the background concerning previous appointments, I would like to continue reading from the committee report.

> Faced with three apparently different answers on the issue of disqualification, Senator Glenn requested, in a March 31 letter to Mr. Malone, an unambiguous statement from him and an explanation of the inconsistencies. In his April 1st reply, Mr. Malone reiterated that he had terminated all relationship with his former law firm and went to state:
>
> I would expect to seek official guidance in any case which might be seen as falling within the general disqualification policy provided. For example, I may determine that it is appropriate to disqualify myself from ruling on export licenses and reprocessing requests, as well as requests for permission to transfer U.S. origin spent fuel from Japan to the U.K. or France, for the above three companies for a period of time, as you suggest.
>
> Mr. Malone's continued unwillingness to be precise and categorical raises still further questions as to his intentions.
>
> Significantly, Mr. Malone's April 1 statement was at odds with the State Department's guidance to attorneys in Mr. Malone's situation. The State Department guidance states that:
>
> You should clearly disqualify yourself, for example, from participating in any aspect of a particular matter in which you have been personally involved in private practice on behalf of a client, as well as any substantially related matter involving or affecting such clients. You should also disqualify yourself from all particular matters in which, because of the involvement or interests of your prior firm, colleagues or clients, your participation would give rise to an actual or apparent conflict of appearance of impropriety. Examples of such matters include those in which a major prior client has a direct financial interest as well as those in which your prior firm or colleagues could appear to receive preferential treatment.

I realize all of my colleagues are aware of these type of occurrences. We have gone through numerous situations as to implied wrongdoings. Members of this body are frequently painted with a broad brush. If one, for example, is found to be questionable, all are found to be questionable. And for that very reason the State Department's guidance also states that examples of such matters include those that the clients or colleagues could appear to receive preferential treat-

ment. It uses the words "could appear"; not necessarily that they would receive those preferential treatments.

As of April 1, it appeared that Mr. Malone was still holding open the possibility that he would rule on export licenses and reprocessing requests involving his former clients even though, in the words of the State Department guidelines, these would be matters that were "substantially related" to those in which he formerly gave advice to these clients and in which these clients would most definitely have a "direct financial interest." These uncertainties led the Committee to seek further clarification before voting on Mr. Malone's nomination.

In an April 2 letter to Chairman Percy—

Who was the chairman of the Foreign Relations Committee at that time—

Mr. Malone repeated his response to the Committee questionnaire. However, this statement still varied from State Department guidance, particularly with regard to Mr. Malone's disqualification from matters in which the appearance of preferential treatment for his former firm or colleagues might arise. At a Committee meeting that afternoon, State Department attorneys were unable to give a clear answer to the question of whether Mr. Malone would or should disqualify himself from matters involving his prior clients in Taiwan and Japan as well as other clients of his former firm.

On April 3, Mr. Malone wrote Senator Glenn still another letter which finally provided clarification as to his intended actions concerning those clients to whom he had formerly rendered services:

"I will disqualify myself from ruling on export licenses and reprocessing requests for Taiwan Power Company, Tokyo Electric Power Company, and Kansai Electric Power Company and from ruling on all substantially related matters involving such clients (at the very least, such substantially related matters would include the transfer of U.S.-origin spent fuel from Japan to the U.K. and France)."

However, as the State Department guidelines make clear, any foreign nuclear client of his former firm could present Malone with a potential appearance of impropriety in his official duties. Nonetheless, Mr. Malone has declined to supply the Committee, or even the Legal Advisor of the State Department, with any listing of those foreign nuclear clients of his former firm known to him. Thus, the State Department's standards on appearance of impropriety will necessarily be self-policing, since without the client listing, the Department cannot ensure that Mr. Malone complies with the terms of this official guidance.

On May 4, Mr. Malone sent a final letter to the Committee restating his pledge to adhere to the State Department guidance and offering specific assurances.

□ 1920

Evidently, now it is becoming a matter of degrees as to his volition in complying with the instructions and guidelines laid down by the State Department.

It is instructive to compare Mr. Malone's earlier statements with his final position. In his April 1 letter Mr. Malone stated only that, "I may determine that it is appropriate to disqualify myself from ruling on export licenses and reprocessing requests, as well as requests for permission to transfer U.S.-origin spent fuel from Japan to the U.K. or France, for the above three companies for a period of time. . . ." In his letter of April 2, moreover, he stated, "In summary, I believe that there is no legal bar to my handling almost all matters which will be under my cognizance as a government official. . . ." In contrast, Mr. Malone now recognizes that the guidance requires much more and has agreed expressly to disqualify himself from ruling on:

Export licenses and reprocessing requests for Japan's two principal nuclear utilities, TEPCO and Kansai;

Export licenses and reprocessing requests for Taiwan's national utility, Taiwan Power Company;

Export licenses and reprocessing requests for General Atomic Company, the principal United States exporter of research reactors and fuel. As of March 31, General Atomic's export licenses were pending for reactor or fuel exports to Mexico, Taiwan, Bangladesh, Malaysia, Morocco, Indonesia and Rumania. (Except in the case of Taiwan and Mexico, General Atomic exports comprise virtually all U.S. nuclear exports to these countries.)

A major policy issue involving Japan, i.e., generic U.S. policy on approving transfer of spent U.S.-origin nuclear fuel from that country to the U.K. or France; and

Any other policy decision whose resolution, in effect, would determine the outcome of a licensing or reprocessing approval decision from which he had disqualified himself.

These clarifications resolve many issues; however, unless the department has the names of the foreign nuclear clients of Mr. Malone's former firm (other than those Mr. Malone personally represented), it would be impossible to verify Mr. Malone's compliance with the Department's stated standards.

Acting Legal Advisor James Michel states in his May 4 letter to Chairman Percy that such information has never been requested of any nominee and that there is "no reason why such a precedent setting condition should be imposed on Mr. Malone." However, State Department requirements for nominees in Mr. Malone's position do necessitate the disclosure of the names of at least some prior clients—certainly those for whom he rendered services personally. Such disclosures are necessary in order to comply with Ethics in Government act filing requirements. Experts differ—as they did in this case—on the degree to which the lawyers' Code of Professional Responsibility restricts disclosures of client identities. Significantly, Mr. Malone in all his correspondence has never suggested that disclosure of Doub and Muntzing's foreign nuclear clients would be violation of professional ethics and he has never shown any reluctance to divulge the names of his own clients, even though they remain clients with his former firm.

In conclusion, we remain deeply troubled by several aspects of Mr. Malone's nomination:

His having made non-proliferation policy recommendations to an incoming Administration favorable to foreign clients he was representing at the time;

The fact that Mr. Malone's former practice and that of his firm was concentrated so heavily in serving foreign nuclear clients affected by Mr. Malone's prospective decision-making, highlighting the possibility or appearance of preferential treatment;

His inconsistent statements as to the matters from which he would disqualify himself, despite repeated attempts by the Committee to clarify the matter; and

The failure of the State Department to obtain the list of clients necessary to help ensure that potential problems do not arise.

Given the record of inconsistencies, remaining doubts, and the prospects for future controversy, we regret that we cannot support the nomination of James Malone for Assistant Secretary of State.

That was signed by JOHN GLENN, PAUL S. SARBANES, EDWARD ZORINSKY, and ALAN CRANSTON.

I concur with the views expressed by Senator GLENN and other members of the minority.

This is taken from Senator ALAN CRANSTON'S additional views.

I concur with the views expressed by Senator Glenn and other members of the minority.

My concern about this particular nomination goes beyond these points, though, I believe that Mr. Malone has already demonstrated his insensitivity to conflict of interest issues by his performance during the Reagan Administration transition. At this time, he authorized the transition team report calling for the gutting of nonproliferation restriction on exports to foreign countries and foreign utilities on whose payroll he remained.

I believe this was a serious impropriety which, in itself, should disqualify Mr. Malone from consideration for this post.

I am further troubled by the prospect of having an individual who has represented foreign commercial interests professionally placed in the key position for weighing crucial U.S. security interests against these same foreign commercial interests. Inevitably these foreign interests will be viewed with considerable sympathy in Mr. Malone's development and execution of general nonproliferation policy, even if the nominee is barred from participating in specific license applications of former foreign clients. Thus I would conclude that for any genuine assurance that conflicts of interest will not arise, Mr. Malone would have to be barred from participation in any nonproliferation policymaking. The only way to accomplish this end, short of removal of nonproliferation responsibilities from the Oceans, International Environment and Scientific Affairs Bureau, is to oppose Mr. Malone's confirmation.

□ 1930

Ultimately Mr. Malone provided written promises to the committee that convinced a majority of the members to support the nomination. (Malone was reported favorably by a vote of 10-5; Senators Biden, Glenn, Sarbanes, Zorinsky, and Cranston voted in the negative.) In a May 4, 1981 letter to the chairman, Mr. Malone assured the committee that he would:

"Accept without qualification the obligation not to participate in any particular matter which might result in, or given the appearance of, a conflict of interest, giving preferential treatment to any person, a loss of independence or impartiality, or which would otherwise adversely affect the confidence of the public in the integrity of the government;"

And that he would:

"Disqualify myself from all particular matters in which, because of the involve-

ment or interests of my prior firm, colleagues or clients, my participation would give rise to an actual or apparent conflict. . . . Examples of such matters include those in which a major prior client has a direct financial interest. . . ."

In addition to these general commitments, Mr. Malone made additional specific commitments in this letter concerning the above named utility companies. The full text of that letter follows:

DEPARTMENT OF STATE,
Washington, DC, May 4, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Washington, DC.

DEAR SENATOR PERCY: I wish to take this occasion to reiterate my intent to comply fully with all applicable laws, regulations and State Department guidelines concerning my disqualification, due to my prior private practice of law, from considering matters as a government official.

Specifically, I accept without qualification the obligations not to participate in any particular matter which might result in, or give the appearance of, a conflict of interest, giving preferential treatment to any person, a loss of independence or impartiality, or which would otherwise adversely affect the confidence of the public in the integrity of the government.

I will disqualify myself, for example, from participating in any aspect of a particular matter in which I have been personally involved in private practice on behalf of a client, as well as any substantially related matter involving or affecting such clients. I will also disqualify myself from all particular matters in which, because of the involvement or interests of my prior firm, colleagues or clients, my participation would give rise to an actual or apparent conflict or appearance of impropriety. Examples of such matters include those in which a major prior client has a direct financial interest, as well as those in which my prior firm or colleagues could appear to receive preferential treatment.

I will also be subject to the ethical standards of the professional Code of Ethics of the bar association or associations of which I am a member, which provide additional guidance for attorneys entering the Government from private practice.

Because of certain questions which have arisen as to the interpretation of the Departmental guidance with respect to avoiding even the appearance of impropriety, I am further prepared to elaborate upon these standards by making the following specific assurances to the Committee:

(1) I will disqualify myself from ruling on export licenses and reprocessing requests for Taiwan Power Company, Tokyo Electric Power Company, Kansai Electric Power Company, and General Atomic Company, and from ruling on all substantially related matters involving any of those firms (including such substantially related matters as the transfer of U.S.-origin spent fuel from Japan to the U.K. and France);

(2) I will disqualify myself from participating in any other specific decisions which would be tantamount to ruling upon the particular matters from which I have agreed to disqualify myself. This does not necessarily mean that I would not participate in the development of country by country policy.

By disqualification I mean that I will not consider the matter and will instead, in writing, disclose pertinent facts to the appropriate official within the Department and instruct, in writing, my Deputy or other senior subordinate to prepare the necessary materials for decision without advising me anything about the case or seeking my advice or decision. This will be a matter of record in the Department of State.

Sincerely,

JAMES L. MALONE,
Assistant Secretary of State for Oceans, International Environmental and Scientific Affairs-Designate.

The following deals with the nominations to the position of Ambassador at Large, which was withdrawn.

NOMINATION TO THE POSITION OF AMBASSADOR AT LARGE WITHDRAWN

In the course of his May 13, 1981 confirmation hearing to the position of Ambassador at Large as the President's Special Representative to Law of the Sea Conference it was revealed that, despite assurances to recuse himself concerning matters related to his former clients, including Taiwan Power Company, Mr. Malone had actively lobbied the President of the U.S. Export Import Bank to provide more favorable export credit terms to Taiwan Power in connection with its purchase of a nuclear reactor from a U.S. company.

I personally, as an individual who supports nuclear power generating capacity, applaud the fact that someone was concerned about financing some purchases of nuclear power generators and reactors from a U.S. company. Better a United States company than a French company or a competitive company from another country. But Mr. Malone should not be the one to have done that because of his past and implied association with those firms.

Mr. Malone's veracity was called into question when under questioning he attempted to justify his involvement in the Taiwan issue, stating that he had consulted with his superior, Under Secretary of State Richard Kennedy, who had approved his involvement in this matter despite Mr. Malone's past relationship with the utility and his commitments to the committee. In a May 21, 1982 letter to the chairman, Mr. Malone subsequently admitted that he had never discussed the propriety of his involvement with Under Secretary Kennedy: "I did not discuss the propriety of my involvement in this matter with Under Secretary Kennedy or other senior officials." Below are the excerpts from the relevant portion of the May 13th transcript of the hearing, and Mr. Malone's "clarifying" letter.

The CHAIRMAN. Did you consult with anyone at a higher level than yourself at the State Department on it, seek counsel or advice on it?

Mr. MALONE. I certainly discussed it with other people in the State Department who were responsible for nuclear and nonproliferation matters that were senior to me, yes.

The CHAIRMAN. As to whether or not it was proper for you to make the contacts that you did about Taiwan Power?

Mr. MALONE. Yes. There was no question raised with me that the contacts that I made, as to the propriety.

The CHAIRMAN. Who were the individuals that you consulted with?

Mr. MALONE. Well, I certainly discussed this with Secretary Kennedy.

The CHAIRMAN. You did, with the Secretary?

Mr. MALONE. Yes, and he has been involved in this, as I believe you are aware, as well.

The CHAIRMAN. He told you to go right ahead, that it presented no problem? He knew the background, did he? Was he familiar with the background?

Mr. MALONE. Yes.

Obviously indicating that he knew the background and he was familiar with the background and told him to go right ahead.

Now, the following is a letter to Charles H. Percy, the chairman of the Senate Foreign Relations Committee, from the Department of State, Bureau of Oceans and International Developmental and Scientific Affairs, dated Washington, DC., May 21, 1982.

DEAR MR. CHAIRMAN. I appreciated very much the opportunity to testify before your Committee on May 13. After reviewing the transcript, I would like to offer the following to assure that the record is clear.

First, in an exchange with you regarding my role in the Taiwan Power Co. Ex-Im Bank issue, I answered a question by saying I consulted with other senior officials in the State Department, including Under Secretary Kennedy, on my involvement in the export financing question relating to the possible U.S. reactor sales to the utility. I wish to make clear that these discussions involved the substantive issues concerning non-proliferation policy, the U.S. non-proliferation and trade interests in obtaining the contract, and the relevance of the financing terms to these policy interests. I did not discuss the propriety of my involvement in this matter with Under Secretary Kennedy or other senior officials. I had provided written notice to officials of the Department setting forth my undertakings to the Committee regarding the specifics of my disqualifications. A copy of that memorandum is enclosed. It was also my understanding that a number of officials involved in non-proliferation matters were generally familiar with the scope of my disqualification undertakings that were developed in the confirmation process in 1981.

Second, when I became involved in the inter-agency effort to secure more favorable Ex-Im Bank financing terms to support U.S. non-proliferation policy, the Office of the Legal Adviser indicated to me that I should consider my May 4 letter to the Committee. They indicated that this was a matter for my judgment. Subsequently, the Office of the Legal Adviser advised me that there was a reasonable basis for me to have concluded that my involvement in these efforts to advance U.S. non-proliferation policy did not violate any of the disqualification pledges in my May 4 letter to the Committee.

I would like to add a clarification for the hearing record on the question of my registration under the Foreign Agent Registration Act. I refer to your statement during my confirmation hearing last year when you pointed out for the record that your staff had verified from the Department of Justice that I had actually terminated my relationship with Taiwan Power Co. on October 1, 1979, although due to an "administrative oversight" the Justice Department did not record this until December 1980.

Also, in connection with my colloquy with Senator Pell near the end of the hearing, I have been authorized by the Department to inform the Committee that in this case no information will be withheld from the Com-

mittee because of any attorney-client privilege.

Sincerely,

JAMES L. MALONE.

Mr. Malone's flagrant disregard for his commitment to the committee not to involve himself in any matter involving a former client, coupled with his subsequent unsuccessful attempt to "clarify" his testimony concerning that involvement, resulted in the withdrawal of his nomination by the President in the face of certain defeat in the committee.

(Mr. HECHT assumed the chair.)

Mr. ZORINSKY. I thought that was pretty good judgment on behalf of the President. First, when you have a transcript of a record that says: "Who were the individuals that you consulted?" regarding the propriety of what you are doing, Mr. Malone answered, "Well, I certainly discussed this with Secretary Kennedy."

Then Chairman Percy said, "You did? With the Secretary?"

Mr. Malone said, "Yes, and he has been involved in this as I believe you are aware, as well."

□ 1950

The chairman, Mr. Percy, then said: "He told you to go right ahead, that it presented no problem? He knew the background, did he? Was he familiar with the background?"

Mr. Malone provided the answer: "Yes."

He was familiar with the background and he knew the background, and it presented no problem.

Yet, in a clarifying letter, Mr. Malone indicates: "I did not discuss the propriety of my involvement in this matter with Under Secretary Kennedy or other senior officials."

You cannot have it both ways. Either the man did or he did not. I would accept either answer, except that it does raise in my mind the problem of credibility and validity, as to whether he did or did not, inasmuch as he contradicts himself.

As we all know in this body, a lot of times it is not what you did nor did not do; it is what it appeared that you did or appeared that you did not do that makes a big difference with regard to how we are judged.

I always feel that even though we are scrutinized and we are looked at by the public, as well we should be, we represent the people who sent us here; we are an extension of the will of the people from our States equally in the U.S. Senate, which has two Senators from each State. If we went around appearing to be criminals or appearing to conduct deals behind doors or appearing to do things not in the best interests of this country, I think it would certainly be within the rights of the voters, the citizens of this Nation, to recall us, impeach us, or to vote us out of office on election day.

That is why appearance is so important to those of us who hold high office, and certainly I would classify a nomination of the President to a high office, also in the instance of James Malone to an ambassadorship.

Mr. Malone's flagrant disregard for his commitment to the committee not to involve himself in any matter involving a foreign client, coupled with his subsequent unsuccessful attempt to clarify his testimony concerning that involvement resulted in the withdrawal of this nomination, as I indicated, by the President, in the face of certain defeat in the committee.

Another issue concerning poor management of OES documented by the inspector general's report: In addition to the above issues, Mr. Malone's managerial abilities, judgment, and diplomatic skills were called into question by a highly critical report. This was not a partisan report, to the best of my knowledge. It was just a report, an internal report, by the Office of the Inspector General. I do not even know the name of that individual, and I do not know his party affiliation, and I assume that he is attempting to do his job to the best of his ability, as we are trying to do our jobs to the best of our ability.

The inspector general reviewed Mr. Malone's handling of his responsibilities as head of OES from July 1981 to March 1982. The inspector general's office found that management has been inadequate and that Mr. Malone showed questionable judgment and impropriety in connection with the contract for the personal services of Lee Mortimer, who Mr. Malone brought in for less than a year as a personal assistant for LOS matters—laws of the sea matters—at a cost of nearly $200,000.

The inspector general's report also called into question Mr. Malone's diplomatic skills, noting that only perfunctory efforts were made in connection with diplomatic efforts with our allies prior to the last session of the law of the sea negotiations, which would be needed if our positions were to prosper at the LOS conference.

In conclusion, Mr. Malone has been given ample opportunity to allay the concerns we share about his actions, his abilities, and his judgment. He has failed to do so, and therefore we believe that the evidence overwhelmingly dictates that James L. Malone should not be given the honor and privilege of being confirmed as Ambassador to Belize by the U.S. Senate, and we would hope that a majority of the Members of the Senate would concur with our conclusion.

I would like to go on and cite the appendix of the report because I think it is an important part of the record. Prior to that, I would like to read into the RECORD some of the written questions that I submitted to Mr. Malone and the answers to those questions, because they were not done in public at the hearings in the Foreign Relations Committee.

This is from a letter dated February 26 from the State Department:

Dear Mr. Chairman:

Following the February 19 nomination hearing of James L. Malone to be ambassador to Belize, additional questions for the record were submitted by Senator Zorinsky. Please find enclosed the answers to those questions.

Sincerely,

JAMES W. DYER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

The first question:

In your response to a question from Senator Kerry concerning your contacts with the U.S. Export-Import Bank, concerning an Exim loan of the Taiwan Power Co., you stated that the Exim Bank loan, as I said, did involve the Taiwan Power Co. very directly. Who was to be the recipient of this loan? What was the loan to be used for? Did Taiwan Power Co. stand to benefit directly from the Exim Bank loan under discussion? Why, then, did you characterize the involvement of Taiwan Power Co. in this matter as very indirect?

My answer to Senator Kerry's question should be understood in the context in which the Eximbank issue arose.

This is the answer.

As the Assistant Secretary of State of OES, I was given major responsibility for the implementation of U.S. non-proliferation and nuclear export policies. A critical element of that policy, consistent through several administrations, has been to exert a strong non-proliferation influence on Taiwan by promoting United States, as opposed to foreign suppliers, for nuclear facilities there.

This consideration was of fundamental importance and, in my view, of direct concern to me as Assistant Secretary. From October 1981 to February 1982, I participated in Administration efforts to convince the Eximbank to offer better financial terms to Taiwan Power Company in a proposed purchase of a nuclear reactor from U.S. vendors. The directly intended effect of this effort was to further critical non-proliferation objectives of the United States and to promote the ability of the U.S. nuclear industry to compete in the international market on a fair basis with heavily subsidized foreign (in this instance, French) firms.

The benefit to Taiwan Power Co., which in any case would have been negligible given the extremely favorable terms already offered by the Government of France for the sale of a French reactor, was of no relevance to the policy questions involved. This is why I characterized the involvement of Taiwan Power Co. in this matter as "very indirect" when I should perhaps have said that the potential benefits for it were inconsequential.

Question. In response to a question by Senator Kerry concerning whether you had "engaged in lobbying" the president of Eximbank with regard to the terms of a loan under consideration by the bank for Taiwan Power Company, you stated that "I participated . . . as a member of the Administration team that was involved in this."

Did you personally discuss the question of loan terms for Taiwan Power Company with the President of Exim, either in person or by telephone? On how many occasions?

Were these contacts made on your own initiative or at the explicit directions of your superior or superiors? And please give their names.

Did you recommend that the terms of the loan be made more favorable than the terms that were then under consideration by Eximbank?

Mr. Malone's response was as follows:

Again, my response to this question should be understood in the context in which the issue arose.

From October 1981 through February 1982 I participated with other senior State Department officials, including among others, the then Under Secretary for Management and the Assistant Secretaries for East Asian and Pacific Affairs and Economic and Business Affairs, in an effort to secure favorable Eximbank financing terms for the export of a nuclear reactor to Taiwan. It was clear to us that France had *already* offered very favorable terms for the sale of a French reactor, and that unless more favorable terms were offered by the Eximbank than originally proposed, a U.S. supplier would have no chance to be awarded the contract.

To the best of my recollection, I personally spoke with Mr. Draper, the President of the Eximbank on two separate occasions on this issue. This was done on the strong recommendation of OES nuclear division senior staff and department officials concerned with non-proliferation policy.

I did, indeed, together with the Assistant Secretary for Economic and Business Affairs, recommended that the terms of the loan be made more favorable than the terms that were under consideration by the Eximbank—though not, I might add, as favorable as those originally proposed by the Assistant Secretary for East Asian and Pacific Affairs; and not nearly as favorable as the terms already offered by France. I thought it was extremely important to overall U.S. non-proliferation policy to have the reactor purchased from the United States and under U.S control. Sale of the U.S. reactor would continue the central role of the United States in the Taiwan nuclear program.

Question. You stated that you decided to send the May 21, 1982 letter to Chairman Percy concerning your appearance before the committee on May 13th after reviewing the transcript, in order to ensure that your answer had not been "misinterpreted" with respect to whether or not you had specifically discussed the propriety of your involvement in the Exim matter with then Under Secretary Kennedy.

Prior to your decision to write this letter did you seek to edit or alter the transcript of the May 13 hearing, which was sent to you by the committee, so as to alter the nature of the exchange between Senator Percy and yourself on this subject? Were you then told that this could not be done? By whom? Is this what led you to write the letter of "clarification"?

Answer. During the May 13, 1982 hearing, I did testify in good faith that I had consulted with other senior State Department officials, including Under Secretary Kennedy regarding the Taiwan Power Co. case. That testimony was, indeed, true.

However, upon reviewing the transcript—which, we were told, was *not* to be printed and was only sent to us by the Committee as a courtesy copy—I became aware of a potential ambiguity. In order to correct any misunderstanding I then wrote to Chairman Percy to make it completely clear that these discussions focused on the substantive issues in the case and not specifically on the question of my recusal.

To the best of my recollection, a colleague may have suggested that, since the hearing was not to be printed and was only an information copy, it might be appropriate to simply correct the transcript and send it to the committee for its internal use. I decided, however, that it would be more appropriate to write to the chariman directly to be absolutely sure that the committee was not misled. I regret that the chairman misinterpreted this and subsequently suggested after receiving my letter that I had intentionally misled the committee in my testimony. I certainly did not intend to do so and sincerely regret it if I gave that impression to any member of the committee.

□ 2010

Question. Do you believe that it was reasonable to expect members of the committee to assume that you would not involve yourself in any matter having to do with a former client of yours or that of your law firm's as Assistant Secretary of OES, in light of the controversy which surrounded the issue of potential conflict of interest during your confirmation.

Question. With whom did you consult before involving yourself in the Taiwan Power Company/U.S. Export-Import Bank matter, concerning the propriety of your involvement in light of your written commitments to the committee? What did this person or persons advise?

Question. Do you believe you exercised good judgment with respect to your involvement in the Taiwan Power Company/Exim Bank matter? Would you make the same decision again?

Answer. I must respectfully suggest that such a sweeping, general recusal would have rendered me incapable of fulfilling my non-proliferation responsibilities as Assistant Secretary. This is precisely why I insisted on a more appropriate and narrow recusal during my 1981 confirmation which was accepted by the majority of the committee and explained in detail in the committee report (Exec. Rept. 97-9) and Supplemental material (Exec. Rept. 97-11).

Answer. In essence, this included a specific commitment to disqualify myself from export license and reprocessing requests for Taiwan Power Company and from ruling on all substantially related matters as well as a general disqualification from "all particular matters in which, because of the involvement or interests of my prior firm, colleagues or clients, my participation would give rise to actual or apparent conflict or appearance of impropriety."

Answer. When I became involved in the inter-agency effort to secure more favorable Eximbank financing terms to support U.S. non-proliferation policy, the Office of the Legal Adviser indicated to me that I should consider my May 4 letter to the committee. They indicated that this was a matter for my judgment.

Answer. I decided that disqualification was neither necessary nor appropriate in these circumstances for the following reasons:

Taiwan Power Company was not a major prior client of my firm and was never a personal client of mine;

The specific commitments I made pertaining to Taiwan Power not address Exim financing, a subject on which my former firm had never represented Taiwan Power;

The financial interests of Taiwan Power were best served by the French offer. The effort to obtain terms for a U.S. supplier was not intended to surpass or even to match the French terms. Therefore, it was apparent that the beneficiaries of my efforts were U.S. commercial interests and non-proliferation policy;

I had not originated the preference for U.S. suppliers to Taiwan. This was established as part of U.S. non-proliferation policy long before I took office;

I might interject, departing from the transcript at this particular time, that, as I stated before in my statement, I certainly support American-manufactured reactors over French reactors over German reactors, over any foreign-manufactured reactors. I support American industry and production. Why not us make a sale rather than somebody else?

But, again, I must say it was rather unusual in this instance, for the one involved the deepest and should be taking the position of offering the least suspicion with regard to his position in office, to make this recommendation under these circumstances.

We have huge divisions and departments in Government that could certainly make offers to these companies purchasing nuclear reactors, as to longer credit terms or to better financing or to lesser price, more competitive price than competitive suppliers or nations or countries.

What I am saying, I guess, is Mr. Malone certainly could not have been the only American out of 240 million Americans in a position to try to sell American, in order to avoid Mr. Malone placing himself in a position of suspect in attempting to gain an economic motive for a former, current, present or future client or one that was dealing with former colleagues which he indicated he would not do.

Another area of concern with myself, since I have been involved in building nuclear powerplants, is the fact that he indicates that quite obviously the beneficiaries of his efforts would certainly be availed of commercial interests in nonproliferation policy not economic gain or would not stand to gain economically or monetarily from his involvement or attempt to attain or obtain this contract for that company because there is no money in it, there is no profit in it. The French were selling so cheaply that no one could make any money on this.

Well, let me say this to you: As a participant in the building of nuclear powerplants, I have found that you can bid very cheaply and lose money on your bid and then, after you get the bid, you have what are add-ons that were not presupposed in the original bidding document. In other words, all of a sudden you find out that the density of the soil upon which this

goes was not disclosed in the original bidding process and so, since this was not known and not included in the original bidding documents, this costs more money and then all of this goes to a cost-plus contract. And all of a sudden that is how a contract can escalate from a known, fixed cost to all of a sudden you think you are building an experimental project. By the time you get through, that same project will cost you 3 or 4 times as much as it did when the original bidder successfully bid on getting the project with no apparent profit in sight.

To some degree, that has become commonplace, unfortunately, in bidding processes. You really do not have to worry about how much money you are going to make on the initial sale or contract. What you are looking at is how much money you can make when that contract has to be changed by unknown preconditions of the sale of that commodity. That is where it is all at.

□ 2020

So for him to say what he said is either being very naive for a graduate attorney with a law degree, or he has never participated in nuclear sales of equipment at fixed prices and known them to hold that price at a future date. Or maybe he just does not know much about how things are done. This does not even touch in the area of kickbacks, rebates, and bribery in the foreign arena in order to get business.

I was a businessman for 40 years myself. I know how competition works. It is no different in the mom-and-pop store versus another store or a nuclear reactor sale from this country versus a nuclear reactor sale from another country, or an airplane manufacturer trying to sell an American airplane versus a foreign aircraft from a foreign country competing with that sale.

Business is business. It is dog eat dog out there. And I can assure you when somebody makes a sale out there in a knowledgeable businesslike way, if on the top they are crying and the handerkerchief is out, "I am hardly going to make any money on this sale," you can bet your bottom dollar there is more money coming from somewhere else that somebody has not thought about in conjunction with that sale and as a result of that sale.

So I really discount a great deal of the argument that Mr. Malone makes that there was no economic benefit or mode involved in this. There are big bucks in the sale of nuclear reactors, equipment, and anything dealing with nuclear manufacturing.

Again, his answer:

My participation was not as an independent actor, but as part of an Administration team whose members worked in concert in support of established policy objectives; and finally,

As head of the OES bureau, I had an official responsibility to apply my best efforts to further U.S. non-proliferation objectives.

Answer. Subsequently, the Office of the Legal Adviser advised me that there was a reasonable basis for me to have concluded that my involvement in these efforts to advance U.S. non-proliferation policy did not violate any of the disqualification pledges in my May 4 letter to the committee.

Therefore, I would maintain that my decision in all matters related to my substantive responsibility to promote U.S. non-proliferation policy was appropriate. Again, of course, I sincerely regret any misunderstanding that may have arisen.

Question. You stated, under questioning, that you were an employee of the law firm of Doub and Muntzing, and not a partner. Yet, on several filings by Doub and Muntzing with the Justice Department, in connection with the Foreign Agents Registration Act, you are referred to as a partner. What was your relationship with the firm? How was that relationship different from other individuals employed by the firm? What benefits did you receive as a partner that other employees were not receiving?

Answer. During the period of my employment at the law firm of Doub and Muntzing, I was a salaried employee, not a partner. I had no ownership interest in the firm and did not share in the firm's profits nor were financial statements made available to me. The firm was a professional corporation chartered under the laws of the District of Columbia with all of the stock owned by William O. Doub and L. Manning Muntzing.

My relationship to the firm was exactly like all other lawyers in the firm during the period I was there. Other than William O. Doub and L. Manning Muntzing; we were all salaried employees, not partners.

I received no benefits as a partner. I was not a partner. I received only those benefits made available to the salaried lawyers in the firm. The only members of the firm who received the benefits of partnership were William O. Doub and L. Manning Muntzing, the partners.

Question. You stated that an error was made in the Supplemental statement, pursuant to the Foreign Agents Registration Act, signed and submitted by you to the Department of Justice on April 10, 1979. Specifically, you stated that your response to item 5 (has any person named in item 4 rendered services directly in furtherance of the interests of any foreign principal?) which appeared as follows: "Yes, James L. Malone has rendered services directly in furtherance of the interests of Taiwan Power Co.", was inaccurate. Rather it should have read, "James Malone plans to render service. . . ."

Question. Is this still your explanation?

Question. How do you reconcile your answer to the above with the fact that the April 10, 1979 filing also indicates that you "expended small amounts for taxis" in connection with your activities on behalf of Taiwan Power Company?

Answer. During the course of my employment with Doub and Muntzing, my only duties which related to the Taiwan Power Company involved compiling periodic reports from publicly available data for wide distribution among the firm's clients, including Taiwan Power Company, interested in export license and reprocessing requests. At times it was necessary to go to various government agencies to collect such data, and I may have incurred small expenses for taxis in doing so.

Answer. I do maintain that the explanation I gave with regard to the question of my registration as a foreign agent for Taiwan Power Co. is substantially correct.

Answer. From 1979 to 1980, the law firm of Doub and Muntzing, and several individual firm lawyers including myself, were registered with the Justice Department as "foreign agents" of Taiwan Power Company.

Answer. This registration was done in anticipation of additional work for that utility that was never retained and, thus, was never performed. The language in the registration was erroneously phrased in the past tense when it should correctly have been in the future tense.

Answer. This registration was subsequently terminated retroactive to October 1, 1979, a fact noted by Chairman Percy during my 1981 hearings.

Question. On August 29, 1985 you completed your Financial Disclosure Report, pursuant to the Ethics in Government Act of 1978. On October 8, 1985 you amended that report with the inclusion of a letter from you to Mr. Knute E. Malmborg, Assistant Legal Adviser for Management, stating that you would recuse yourself from participation in any matter concerning a company in which you or members of your family have a financial interest.

□ 2030

Mr. President, I ask unanimous consent to yield the floor to the distinguished Senator from Rhode Island without my losing my right to the floor.

Mr. HELMS. Mr. President, reserving the right to object, and I regret having to do this, the Senator from Nebraska [Mr. ZORINSKY] is in the process of making a first speech. So I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. ZORINSKY. I am sure that will spur me on until the early hours of the morning in a more than ever determined manner to make sure that the Malone nomination is blocked, stays blocked, and remains blocked as long as there is life in this body.

Question. At whose initiative or suggestion did you write such a letter? Why was it believed that such a letter was necessary or desirable?

Question. Do you or members of your family have a financial interest in any company currently doing business in Belize? Do you or your family have a financial interest in any company which, to the best of your knowledge, may be planning to do business there?

Answer. The letter of recusal was written at the suggestion of Mr. Knute E. Malmborg, Assistant Legal Adviser for Management, Department of State. I was informed that it was standard practice to submit such a letter when a nominee, his spouse or a minor child, has any financial interest in any company which the Legal Adviser's Office has identified as doing business in a country to which he is being sent. I hold approximately 43 shares of Texaco common stock as custodian for my minor son under the Uniform Gifts to Minors Act. Texaco, I am advised, has some petroleum sales in Belize.

Answer. Neither I nor any member of my family have, to the best of my knowledge,

any financial interest in any company which is planning to do business in Belize, with the exception of the Texaco common stock just mentioned.

Question. You were asked about the major findings of a report prepared by the Office of the Inspector General (IG) following a review by the Office of the OES Bureau during your stewardship. In addition to your very general response to that question, please answer the following detailed questions:

Question. Did the IG's report find that management of the OES Bureau was "Inadequate"?

Question. Did that report question the judgment and propriety of a contract with the law firm of Dickstein, Shapiro and Morin to retain the services of Leigh Ratiner as your assistant? How much was Mr. Ratiner paid for those services? How long was he employed by you under contract? Did this contract violate State Department rules against personal service contracts?

Question. Did the report express surprise that more energy was not devoted to diplomatic contracts to build support for the U.S. position prior to the last negotiating session of the Law of the Sea Conference? Did it conclude that, "it was clear by early March that there was insufficient preparation to serve our policy interests (with respect to the LOS negotiations"?

Here are the answers from Mr. Malone:

Answer. As I explained in great detail during the hearing on February 19, I note with satisfaction, that OES, under my over four year tenure became a very well run and efficient organization. The Action Plan, which I initiated to upgrade and incorporate into U.S. foreign policy the views of those with experience in science and technology matters, was endorsed and supported wholeheartedly by Secretary Shultz and has successfully achieved many of its objectives.

Answer. In the final IG report in 1982, the Inspector General made a number of recommendations. Some of these recommendations were accepted as made and adopted; some were modified in accordance with mutual agreement and adopted; and others were negotiated and were finally determined not to be appropriate to pursue further. The intent of the Inspector General's report, which is an internal management document, was to improve the management of the Bureau. This was fully accomplished and both the Bureau and the Inspectors were fully satisfied with the outcome.

Answer. The Department did enter a contract with Dickstein, Shapiro and Morin on July 24, 1981 to provide specified written work products during the Law of the Sea (LOS) negotiations. The specified written work products included advice on background, personalities and history of LOS; commentaries on parts of the proposed treaty; analyses of alternative approaches; assessments of negotiability of parts of the treaty; and provision of information to elicit international reactions to possible U.S. proposals. Mr. Leigh Ratiner was the principal investigator under that contract.

Answer. The Department made payments in October 1981, totalling $80,000 in accordance with an approved contract covering the period of July 24 to September 30, 1981. At my request, the firm continued to provide specified work products after the expiration of the contract period and, in accordance with procurement practice, an equitable adjustment was made and payment of approximately $120,000 for those services was made. The contract was approved by the Department's Contracting Services Division and the Office of the Legal Adviser, which also subsequently confirmed the legality of the contract and the equitable adjustment. The contract was also reviewed by the Department's Inspector General and the Defense Contract Audit Agency.

Answer. Since it was decided that Mr. Leigh Ratiner of the firm of Dickstein, Shapiro and Morin should become directly involved in the LOS negotiations, the Legal Adviser recommended that he be appointed a special government employee. This was done on March 10, 1982 and he was paid for time actually employed at a rate of $221.12 per day, not to exceed $2,211.54 every two weeks (GA 15, step 10). His employment was terminated on April 30, 1982.

Answer. The question of preparation for the March, 1982 Law of the Sea session was addressed. My responsibilities as the President's Special Representative involved all aspects of our Law of the Sea negotiations and received a major portion of my attention. We spent a great deal of effort on preparation for the March, 1982 session. I believe we were fully prepared when negotiations began.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 12, 1986.

Hon. RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Following the February 19 nomination hearing of James Malone to be ambassador to Belize, Senator Zorinsky submitted additional questions to be answered for the record.

Please find enclosed the answers to those questions. A number of questions answered below have been asked in slightly different form before and responded to. The enclosed responses constitute further expansion on previous answers.

Sincerely,

JAMES W. DYER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

Enclosure: As stated.

Question. Did you at any time during the course of your review of the transcript of your May 13, 1982 nomination hearing seek to alter your remarks or those of Senator Percy's so as to change the nature of the exchange contained there? Yes or No? How did you change it? Were you told by officials at the State Department that this could be done by you? Yes or No? By Whom?

Answer. No, I did not in any way alter or change the transcript which was provided to me by the Committee for my information only. In order to fully clarify what I believed to be an ambiguity in that transcript, I sent a letter of clarification dated May 21 to the Chairman Percy. Other than the reference by my Deputy referred to in my answer to question two, I do not recall any discussion concerning whether it was permissible to correct such a transcript. To the best of my knowledge the transcript of that hearing was never printed.

Question. You indicated in response to my written question that colleague may have suggested that you amend the transcript to correct the record. Who was that? Did you discuss this suggestion with anyone else? Who?

Answer. My principal Deputy Assistant Secretary, a subordinate of mine suggested as a practical matter we might clarify this ambiquity by correcting the transcript. This was *only* a suggestion. We decided it was *not* the appropriate way in which to clear up the ambiguity and decided instead to send a letter to the Chairman. I do not remember discussing this suggestion with anyone else—whether or not any members of my staff did so. I simply do not know.

Question. Did you at any time following the May 13th hearing speak to Under Secretary Richard Kennedy about your testimony that he had told you that it was proper for you to involve yourself in the Eximbank/Taiwan Power issue despite your written commitment to the Committee. Yes or No? Did you ask him to corroborate that testimony in any way, either in writing or orally to any member of the Committee? Yes or No? What did he say?

Answer. Yes, I did. I do not recall specifically asking the Under Secretary to communicate with the Committee? We did discuss the content of the letter to Chairman Percy in which I sought to clarify the ambiguity in my testimony referred to in questions number one and two above. While I do not recall his exact remarks, the letter to the chairman accurately reflects our discussion.

Question. Were your contacts with the President of Exim on behalf of Taiwan Power at your own initiative or at the explicit direction of your *superior(s)*? Please provide names.

Answer. My contacts with Mr. Draper were, as I recall, urged by my own Nuclear Division staff, and were with the *concurrence*—though *not* at the *direction*—of my senior departmental colleagues.

The Under Secretary for Management, as well as the Assistant Secretary for East Asian and Pacific Affairs and the Assistant Secretary for Economic and Business Affairs, were all in agreement with the policy that some contacts should be made with the Eximbank to achieve a more favorable loan for Taiwan Power.

Question. Your involvement in the Eximbank/Taiwan Power issue has caused you a great many problems. In retrospect, do you believe that you exercised good judgment in involving yourself in this matter in light of written commitments you had made to the Foreign Relations Committee concerning former clients of yours and your firms? Yes or No? Would you make the same decision again to involve yourself in this issue or a similar one where a former client of yours or your firms has any involvement?

Answer. Yes, I believe that my decision in matters related to my substantive responsibility to promote U.S. non-proliferation policy was appropriate. While I also continue to believe that I did not violate any commitments to the committee, in retrospect, I would nevertheless conclude that the potential for misunderstanding or confusion in this instance was such that in a similar situation in the future I would turn the matter over to senior colleagues in the Department.

Question. Do you believe that it is important for a U.S. Ambassador to be an individual of sound judgment, with strong managerial and diplomatic skills?

Answer. Yes, I do.

Question. Did a report by the Office of the Inspector General (IG) on the management and operations of the OES Bureau during a portion of your stewardship find that management was "inadequate"? Yes or No? What explanation did the IG's report cite as evidence to support this conclusion? Please be specific.

Question. Did the IG's report question the judgment and propriety of a contract approved by you for the services of Leigh Ratiner? Yes or No? What justification did it contain for questioning your judgment?

Question. Did the IG's report express surprise that more energy was not devoted to diplomatic contacts to build support for the U.S. position prior to the last negotiating session of the LOS conference? Yes or No? Did it provide any explanation as to why this happened? Yes or No? What was the explanation?

Question. Did the IG's report also conclude that "it was clear by early March that there was insufficient preparation to serve our policy interests (with respect to the LOS negotiations)?" What explanation did the report provide as to why it believed such preparation was insufficient?

Answer. The IG report in 1982 made a large number of comments both positive and negative, and many recommendations. These recommendations have to be considered in the overall context and can not accurately and fairly be responded to in a simple yes or no format. Some of the recommendations made by the IG were adopted; some were modified in accordance with mutual agreement and adopted; and others were negotiated and determined not to be appropriate to pursue further. This entire internal management process was, of course, aimed toward the improvement of the management of the bureau. This I believe it accomplished. The Inspector General and the bureau were fully satisfied with the final outcome.

Answer. The fact that a contract with the firm of Dickstein, Shapiro and Morin was entered into was thoroughly considered in the IG report. Mr. Leigh Ratiner was the principal investigator under that contract as I have noted in my response to a previous question on this point. The original contract covered the period of July 24 through September 30, 1981 and called for specified written work products including advice on background, personalities and histories of LOS; commentaries on parts of the proposed treaty; analyses of alternative approaches; assessments of negotiability of parts of the treaty; and provision of information to elicit international reactions to possible U.S. proposals. At my request, the law continued to provide specified work products after the expiration of the initial contract period and in accordance with procurement practice, an equitable adjustment was made and payment made for those services. The entire contract was approved by the Department's Contracting Services Division and the Office of the Legal Adviser, which also confirmed the legality, of the contract and the equitable adjustment. The contract was also reviewed by the Department's Inspector General and the Defense Contract Audit Agency. Their conclusions did not suggest impropriety of the contract with Dickstein, Shapiro and Morin, but recommended improved procedures for reviewing work requirements under non-personal service contracts.

Answer. Again as I attempted to make clear in my response to the original written questions the preparation for the March 1982 Law of the Sea session was comprehensively covered. Although, as is virtually always the case, it may have been believed by some that additional efforts could have been made, I believe and the Senior Inter-Agency Group (SIG) responsible with me for these preparations believed that every effort on preparation for the March 1982 session was undertaken. It is our conclusion that we were fully prepared when negotiations began.

Question. Given the conclusions of this report concerning your judgment, management and diplomatic handling of LOS matters do you believe that you possess the qualities that you have indicated are necessary to be considered for a position as a U.S. Ambassador?

Answer. Yes, I do. The President of the United States has expressed his confidence in my ability to represent the United States as the Ambassador to Belize and if confirmed by the Senate, I will serve in that capacity faithfully.

Question. You have testified that despite your April 10, 1979 registration with the Justice Department which stated that "James Malone has rendered services directly in furtherance of the interest of the Taiwan Power Company" and "has had personal contracts with officials of the executive branch and Congress to protect the rights of Taiwan Power Company relating to its generation of nuclear power, particularly in relation to proposed legislation related to Taiwan" no such services were rendered.

Question. This same registration also indicated that you had expensed small amounts of taxi fares in connection with "our activities on behalf of Taiwan Power Company." Was this also in error in the filing?

Answer. No, it was not an error but was unnecessary under the Act. The activities referred to in which these taxi fares were incurred were connected with the reporting responsibilities I performed while employed by Doub & Muntzing.

Question. This same registration also indicated that Henry D. Kahn had been hired by the firm as a part time law clerk on January 15, 1979, and that he had rendered services to the registrant directly in furtherance of the interests of the foreign principal (Taiwan Power Company). Was Kahn hired as a part time law clerk? What duties did he perform on behalf of Taiwan Power? Is this another error in the filing?

Answer. Henry Kahn was hired by Doub & Muntzing as a part-time law clerk. At the time of the firm's original filing it was anticipated that he would also perform minor responsibilities in connection with work for Taiwan Power Company which would have required registration under the Act but which was never retained, and thus not performed.

Answer. Again, I must emphasize that the firm's entire registration was done in anticipation of requirements which did *not* materialize and thus was premature. The registration itself was then retroactively terminated.

Question. This registration also lists your position in the law firm as "partner." You have indicated that you were not a partner of the law firm. Why did you fill out the form indicating you were? Is this another error in the filing?

Question. On page 9 of this registration form a printed paragraph appears just above your signature. What is the substance of this paragraph? Does it state in part that "(T)he undersigned swears or affirms that he has read the information set forth in this registration statement and . . . that he is familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his knowledge and belief? Are you in the habit of signing documents which contain significant errors in them?

Answer. At no time during my association with Doub & Muntzing was I a partner of the firm in a legal or business sense. I was a salaried employee—I had no ownership interest in the firm and did not share in the firm's profits. The financial statements, client lists, and other business records were not available to me.

Answer. At times, however, as a business practice for external purposes, some lawyers employed by the firm, including myself, were referred to in various documents or conversations as "partners." It was not unusual at that firm for senior attorneys in that professional corporation to be referred to as partners, although they were not technically or legally partners.

Answer. I have tried on several occasions to explain the circumstances surrounding this registration carefully and completely. I do agree that the registration document was inadequately drafted, but the intention to comply with the law—even if in advance and, as it turned out, prematurely—was our main concern.

(Mr. EVANS assumed the chair.)

Mr. ZORINSKY. Mr. President, these were the texts of the questions I submitted after the hearings and to be answered in writing, which obviously were, and which I read in their entirety.

Now I would like to read from the transcripts of the hearing itself. It is a hearing on the nomination of James Malone, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize, dated Wednesday, February 19, 1986.

Before I begin, just let me briefly, in the best way possible that I might be able to, describe to viewers and the audience of C-SPAN who may be watching this evening what is happening in the U.S. Senate and taking place currently, for those individuals who may have just tuned in and for the benefit of people in the gallery observing, why there exists an empty Chamber and a single Senator speaking, and why the taxpayers of this country, for the probably noneloquent words I am currently speaking, are paying in excess of $500 a page just for printing costs, to be printed in something we call the CONGRESSIONAL RECORD, which is a record that we produce in the U.S. Senate. It is very voluminous and, for their edification, the paper is thin, so basically there are several hundred pages daily. Multiply that by $500 per page.

That does not at all include the costs for the official reporter who is taking down my words right now, or all the utilities.

With the advent of television, with these television lights, I would hate to be paying the electrical energy charges. Where I come from in Nebraska, the energy costs are much less, but I imagine that the Potomac Power & Electric Co., or whoever supplies the electricity for these lights, is very thankful that they are burning tonight, although I would say that the taxpayers probably are not.

In addition to that, those costs do not include the ongoing fact that the Senate is still in session, which means,

if I am not wrong, that the physicians' office is still open, and the physicians serving the Senators, in the event of any physical problem, are still on duty. The security being maintained outside the building is still taking place if we are still in session.

The majority of this group, which is the Republicans, have to provide a Presiding Officer to sit in the presiding chair while we stay in session under these circumstances. Our clerks, our Parliamentarian, the pages, and those other people are still on duty. Everything is operating normally, for only one reason, and that is to satisfy a parliamentary procedure that is available to any Senator in the U.S. Senate to bring things to a stop, to bring things to a halt.

It was my conclusion and that of other Members on my side of the aisle, the membership of the Foreign Relations Committee, 4 months ago, when we voted down this nomination legally, ethically, morally, every way possible in the Foreign Relations Committee, that we were through with this nomination. Then, 4 months later, one of the Members decided to change his mind and change his vote, which changed the outcome of this nomination being dead.

In order to emphasize and comply with the original wishes of the Foreign Relations Committee's original vote in committee, it has prompted me to stand here as long as it takes, even though there are many important items confronting this body.

We have here a voluminous bill that has been placed on the desk of each U.S. Senator that is called the drug legislation. Everybody is for it and everybody thinks it is very good legislation, but we are not discussing that tonight.

We have before us, facing us before we can leave, something called the debt limit ceiling, raising it, so that your Government can borrow more money, so it will cost you more interest next year, despite the fact that we say we are trying to balance the budget.

We have something called a reconciliation bill, where we have sold part of America in order to raise money in order to reduce the deficit in the budget. Those are one-time savings, because obviously if you sell Conrail, if you sell off or transfer from a Federal entity moneys owed by the Government to private lending sources, that can only be done on time. So, really, it is not an economically commonsense, feasible way to do it.

I would like to emphasize this because many of the citizens of this country are not aware that the fiscal year for the Federal Government and this body ends September 30, and the new year starts October 1. Therefore, in the reconciliation bill, we found a way to save, I think, $700 million or $900 million. Around this place, a couple of hundred million gets lost under the table very easily. But, that being the case, we held up Federal revenue-sharing funds by 24 hours for that month so it would kick in the $900 million outlay into the current year, which is already in deep trouble, and saving it in the following year, where the reconciliation bill is trying to meet some Gramm-Rudman targets. That means we spent it this year by sending out the payments 24 hours earlier, so that they would appear in the ledger sheet of this year's budget, and next year it is considered a saving. That is just by a 24-hour manipulation in sending out the checks.

Of course, many of my colleagues on this floor called it balancing the budget by using smoke and mirrors, and another of my colleagues stood up and said, "We created so much smoke, I don't think we can any longer see the mirrors."

□ 2110

But that is how this business is run, and I think we have a wonderful country because, despite all that we are doing to it here tonight and many other nights, it has succeeded. There are no long lines waiting to leave America. They are all waiting to get into this country. I think it speaks very well for our Constitution, for our form of democracy and for our preservation of freedom for the people of this Nation.

That having been said, the fact remains that there are many more important things we could possibly and should be doing this evening than listening to one Senator in a lonely Chamber with the ongoing overhead that taxpayers can ill afford, because every time we spend a dime right now we have to go out and borrow it because we have about a $230 billion deficit and that means when we go out to borrow money to keep this place open tonight we pay interest on the money we borrow to keep it open because we do not have the surplus in the black to keep it open. I think that is sort of fiscal irresponsibility. I think it is unfortunate we have to do business this way.

I know it is not really good for the quality of life of elected officials to have to be in a Chamber at 9 o'clock in the evening or 10 minutes past 9 here debating something like this, and it is funny every colleague that might criticize me for doing it this evening has done it better than I have on other evenings.

So, those who refuse to give me unanimous consent to do something what God had preordained that an individual must functionally do once in a while, for them to deny you the opportunity to do that, indicates that they would like to have that done to them some day when they are conducting a filibuster, and I can assure the people it will be done to them also.

This evening we are discussing the nomination of James Malone to be Ambassador to Belize, and if I were a citizen or an inhabitant of the country of Balize, I would wonder if I was getting the booby prize or something for some Ambassador that 4 months ago was turned down in committee, and tonight we are trying to resurrect his ambassadorship, and if his resurrection is successful, they get someone that I hope they read the record tonight that does go into the CONGRESSIONAL RECORD because I think it will be a sad commentary on the caliber or just the appearance of the caliber of people that we are sending as an Ambassador to that nation.

I think because of that inference it would be well to have pulled the name down and not submitted him as an Ambassador. I cannot conceive of a country that we have out of 240 million Americans that someone else would not be qualified, just as qualified, or maybe even just a little better qualified, than Mr. James Malone in continuing to debate his nomination.

But that is the way the game is played around this place and that is the way it is and, having been a former businessman for 40 years, I conclude that if I run my business the way we run the Senate back here I would have had to declare bankruptcy within 2 weeks after being in business because certainly I could not have afforded what the taxpayers can no longer afford and that is what we are doing right now in the Senate Chamber.

Belize will have a United States Ambassador. Whether it will be Mr. Malone or someone else, that is for the future to answer. But coming from a State like Nebraska, which I am very proud to represent, we have something called agriculture out there which is of big concern to us, and I know agriculture is of big concern to the country of Belize, and even though some of my colleagues in this room vote on agriculture like they never had to eat and they vote in opposition to agriculture and some of my colleagues, I think, actually vote based on the fact that they believe that the food is born in the aisles of the supermarkets, not on the farms or the plains of America where the farmer has to plant and tend and harvest and then hope that he gets more for the product than what it cost him to produce it.

I think there is a common denominator between Belize and the State of Nebraska. I think that common denominator is agriculture and its ultimate product called food and fiber.

As long as we are speaking about food and fiber and agriculture, I have even introduced in the waning days and hours a bill which I think is very

important to agriculture. It is a small bill. It is called S. 1051. It only has 150 pages and again in case eventually and hopefully when an Ambassador is assigned to Belize and the RECORD is read, and someone in Belize might read this CONGRESSIONAL RECORD, I want to make sure included in it is a bill that I have introduced that if they ever get in the same condition or situation that our agriculture is in, and we are under severe economic pressure right now—we have problems in exporting sufficient agriculture, we have problems in the cost of production being higher than what we sell the commodities for—we have overproduction, we have cost for storage of approximately $8 billion of surplus products in agriculture that we proudly hold in big bins and pay $900 million a year of the taxpayers' money to store—I certainly would not want Belize to ever have to spend $900 million a year to store excess grain that they might produce.

So I would like to take this opportunity to provide what I think is an answer. It is a bill to provide price and income protection for farmers and to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

It starts out with the words "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act, with the following table of contents may be cited as the Food and Agriculture Act of 1985.' "

PART A—COMMODITY PROGRAMS

TITLE I—WHEAT

MARKETING QUOTAS

SEC. 101. Effective only for the 1986 through 1989 crops of wheat, section 332 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"PROCLAMATIONS OF MARKETING QUOTAS

"SEC. 332. (a) Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following three marketing years, if the Secretary determines and declares in such proclamation that a three- or four-year marketing quota program is necessary to effectuate the policy of this Act. In the case of the 1986 crop, such determination and proclamation shall be made as soon as practicable after the enactment of the Food and Agriculture Act of 1985.

"(b) If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins, except that in the case of the 1986 crop, such determination and proclamation shall be made as soon as practicable after the enactment of the Food and Agriculture Act of 1985. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat that the Secretary estimates is required to meet anticipated needs during such marketing year, taking into consideration domestic requirements, export demand, emergency food aid needs, and adequate carryover stocks.

"(c) If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary determines that the national marketing quota should be terminated or increased to meet a national emergency or a material increase in the demand for wheat, the national marketing quota shall be increased or terminated by the Secretary.".

SEC. 102. Effective only for the 1986 through 1989 crops of wheat, section 334 of the Agricultural Adjustment Act is amended to read as follows:

"MARKETING QUOTA APPORTIONMENT FACTOR

"SEC. 333. (a) The Secretary shall establish a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 332 of this Act. The apportionment factor shall be determined by dividing the national marketing quota for such crop of wheat by the average of the number of bushels of wheat that the Secretary determines was produced in the United States during the crop years 1980 through 1984 adjusted to reflect the amount of wheat that would have been produced during such years except for (1) drought, flood, or other natural disaster, or other conditions beyond the control of producers and (2) participation in any acreage reduction, set-aside, or diversion programs for wheat during such crop years, as determined by the Secretary.".

SEC. 103. Effective only for the 1986 through 1989 crops of wheat, section 334 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"FARM MARKETING QUOTAS

□ 2120

Now we get to the exciting part.

"SEC. 334. (a) For each crop of wheat for which a national marketing quota has been proclaimed under section 332 of this Act, the Secretary shall establish a farm marketing quota for each farm on which wheat was produced, or considered produced, during the crop years 1980 through 1984.

"(b) The farm marketing quota shall be equal to the average number of acres of wheat produced, or considered produced, on the farm during the crop years 1980 through 1984 multiplied by (1) the average yield for wheat produced, or considered produced, on the farm during such crop years as determined by the Secretary on such basis as the Secretary determines will provide a fair and equitable yield, and (2) by the marketing quota apportionment factor.

"(c) For the purposes of this section, wheat shall be considered to have been produced on the farm in any crop year to the extent that the Secretary determines that wheat was not produced on the farm (1) because of drought, flood, or other natural disaster, or other condition beyond the control of the producer as determined by the Secretary, or (2) because the producers on the farm participated in any acreage reduction, set-aside, or diversion program for wheat during such crop years.

"(d) Farm marketing quotas shall be established by the Secretary under this section by June 1 of the calendar year preceding the marketing year for which a national marketing quota has been proclaimed under section 332 of this Act, except that in the case of the 1986 crop, such quotas shall be established as soon as practicable after the enactment of the Food and Agriculture Act of 1985.".

SEC. 104. Effective only for the 1986 through 1989 crops of wheat, section 335 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"MARKETING PENALTIES

"SEC. 335. (a) The marketing of wheat produced on a farm in excess of the farm marketing quota shall be subject to a penalty at a rate per bushel equal to 75 per centum of the national average market price for wheat during the immediately preceding marketing year.

"(b) The penalty provided for in subsection (a) shall be paid—

"(1) if such wheat is marketed by sale to a person within the United States, by the person who acquired the wheat from the producer, but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer;

"(2) if such wheat is marketed through a warehouseman or agent, by the warehouseman or agent, who may deduct an amount equivalent to the penalty from the price paid to the producer; or

"(3) if such wheat is marketed directly to any person outside the United States, by the producer.

"(c) If any producer falsely identifies or fails to certify the acreage planted to wheat for harvest or fails to account for the disposition of any wheat produced on such planted acreage in accordance with regulations issued by the Secretary, an amount of wheat equal to the farm program yield, as determined by the Secretary under section 107D(d) of the Agricultural Act of 1949, times the planted acreage, shall be deemed to have been marketed in excess of the farm marketing quota, and the penalty provided for in subsection (a) of this section on such amount of wheat shall be paid by the producer.

"(d) Wheat subject to a farm marketing quota may be carried over by the producer from one marketing year to the succeeding marketing year and may be marketed without penalty imposed by this section in the succeeding marketing year to the extent that (1) the total amount of wheat available for marketing from the farm in the marketing year from which the wheat is carried over did not exceed the farm marketing quota, or (2) the total amount of wheat available for marketing in the succeeding marketing year (that is, the sum of the amount of wheat carried over and the amount of wheat produced on the farm subject to a farm marketing quota in the succeeding marketing year) does not exceed the farm marketing quota for the succeeding marketing year.

"(e) Wheat produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

"(f) The Secretary shall require collection of the penalty provided for in this section upon a proportion of each unit of wheat marketed from the farm equal to the proportion that the wheat available for marketing from the farm in excess of the farm marketing quota is of the total amount of

wheat available for marketing from the farm if satisfactory proof is not furnished the Secretary as to the disposition to be made of the excess wheat, in accordance with regulations issued by the Secretary, prior to the marketing of any wheat from the farm. All funds collected under this section during one marketing year shall be deposited in a special account with the Treasurer of the United States until the end of the next succeeding marketing year. Upon certification of the Secretary, there shall be paid out of such special account to persons designated by the Secretary the amount by which the penalty collected exceeds that amount of penalty due upon wheat marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

"(g) Until the amount of the penalty provided by this section is paid, a lien on the wheat with respect to which such penalty is incurred, and any subsequent wheat subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.

"(h) The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon from the date the penalty becomes due until the date of payment of such penalty at a rate per annum equal to the rate of interest that was charged the Commodity Credit Corporation by the Treasurer of the United States on the date such penalty became due.

"(i) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected.".

SEC. 105. Effective only for the 1986 through 1989 crops of wheat, section 336 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"REFERENDUM

"SEC. 336. If a national marketing quota for wheat for one, two, or four marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of wheat producers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. In the case of the 1986 crop, the referendum shall be conducted as soon as practicable after the date of enactment of the Food and Agriculture Act of 1985. Any producer who produced wheat on a farm during at least one of the crop years 1980 through 1984 shall be eligible to vote in the referendum. the Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum and if the Secretary determines that 50 per centum or more of the producers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that more than one-half of the producers voting in a referendum approve marketing quotas for a period of two or four marketing years, no referendum shall be held for the subsequent year or years of such period.".

SEC. 106. Effective only for the 1986 through 1989 crops of wheat, section 338 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"TRANSFER OF FARM MARKETING QUOTAS

"SEC. 338. Farm marketing quotas shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, the farm marketing quota on a farm for any marketing year, or any portion thereof, may be voluntarily surrendered to the Secretary by the producer, and the Secretary may reallocate the amount of any farm marketing quotas so surrendered to other farms having farm marketing quotas on such basis as the Secretary may determine.".

LOAN RATES, TARGET PRICES, DISASTER PAYMENTS, WHEAT ACREAGE REDUCTION AND SETASIDE PROGRAM, AND LAND DIVERSION FOR THE 1986 THROUGH 1989 CROPS OF WHEAT

SEC. 107. Effective only for the 1986 through 1989 crops of wheat, the Agricultural Act of 1949 is amended by adding after section 107C the following new section:

"SEC. 107D. Notwithstanding any other provision of law—

"(a)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall make available to producers loans and purchases for each of the 1986 through 1989 crops of wheat at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) For any crop of wheat for which marketing quotas are in effect, the level of loans and purchases determined under paragraph (1) of this subsection shall not be less than the higher of—

"(A) 75 per centum of the national average cost of production per bushel of wheat, as determined by the Secretary taking into consideration variable expenses, general farm overhead, taxes and insurance, interest, and capital replacement costs (but excluding residual returns for management and risk); or

"(B) $3.55 per bushel.

"(3) For any crop of wheat for which marketing quotas are not in effect, the level of loans and purchases determined under paragraph (1) of this subsection shall not be less than the higher of—

"(A) 85 per centum of the simple average price received by producers of wheat, as determined by the Secretary, during the immediately preceding five marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(B) $3.30 per bushel.

"(b)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1989 crops of wheat in an amount computed as provided in this subsection. Payments for any crop of wheat shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. Payments for any crop for which marketing quotas are in effect shall not exceed an amount equal to the payment rate multiplied by the farm marketing quota. In no event may payments be made under this paragraph for any crop on a greater acreage than the acreage actually planted to wheat.

"(B) The payment rate of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(i) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(ii) the loan level determined under subsection (a) of this section for such crop.

"(C)(i) For any crop of wheat for which marketing quotas are in effect, the established price shall not be less than the higher of—

"(I) the national average cost of production per bushel of wheat as determined by the Secretary under subsection (a)(1) of this section; or

"(II) $4.65 per bushel.

"(ii) For any crop of wheat for which wheat marketing quotas are not in effect, the established price shall not be less than—

"(I) in the case of the 1986 crop, $4.38 per bushel; and

"(II) in the case of the 1987 through 1989 crops, the established price for the preceding crop adjusted by the Secretary to reflect any change in (a) the average adjusted cost of production for the two crop years immediately preceding the year for which the determinaton is made from (b) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made.

"(D) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

"(2)(A) Except as otherwise provided in subparagraph (C) of this paragraph, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage that the producers were prevented from planting to wheat or other nonconserving crop in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price for the crop.

"(B) Except as otherwise provided in subparagraph (C) of this paragraph, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat that the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a reduced yield disaster payment to the producers at a

rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

"(C) Producers on a farm shall not be eligible for disaster payments under this paragraph if crop insurance is available to them under the Federal Crop Insurance Act with respect to their wheat acreage.

"(D) Notwithstanding the provisions of subparagraph (C) of ths paragraph, the Secretary may make disaster payments to producers on a farm under this paragraph whenever the Secretary determines that—

"(i) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, producers on a farm have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crop or from reduced yields, and that such losses have created an economic emergency for the producers;

"(ii) crop insurance indemnity payments under the Federal Crop Insurance Act and other forms of assistance made availabale by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency; and

"(iii) additional assistance must be made available to such producers to alleviate the economic emergency.

The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to individual farms so as to ensure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(c)(1) For any crop of wheat for which marketing quotas are not in effect, the Secretary shall proclaim a national program acreage. The proclamation shall be made not later than August 15 of the calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1986 crop, the proclamation shall be made as soon as practicable after the enactment of the Food and Agriculture Act of 1985. The Secretary may revise the national program acreage first proclaimed for any crop for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for wheat shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be used domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of wheat for which marketing quotas are not in effect. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop, except that in no event shall the allocation factor for any crop of wheat be more than 100 per centum nor less than 80 per centum.

"(3)(A) The individual farm program acreage for each crop of wheat for which marketing quotas are not in effect shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined. The farm program acreage shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the acreage base established for the farm under subsection (e)(2) of this section by at least the percentage recommended by the Secretary in the proclamation of the national program acreage. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than the acreage base established for the farm under subsection (e)(2) of this section, but for which the reduction is insufficient to exempt the farm from the application of the allocation factor.

□ 2150

Mr. DOLE. Mr. President, I hate to interrupt the Senator. I know he is in the middle of something very exciting, but I want to take that risk. I have a letter in my hand from Mr. Malone.

Mr. ZORINSKY. Mr. President, under the precedents of the Senate, I shall be happy to yield to the majority leader if I am accorded unanimous consent to be rerecognized first to resume if this question comes back before the Senate and not to count this relinquishing against the two-speech rule.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

The majority leader.

Mr. DOLE. Mr. President, this is a letter addressed to me that I shall read for the RECORD.

PO Box 140,
McLean, VA, October 14, 1986.

Hon. ROBERT DOLE,
Senate Majority Leader, Washington, DC.

DEAR MR. MAJORITY LEADER: It is clear that my partisan critics in the Senate intend to delay the work of the Senate by continuing to debate my nomination at length.

Recognizing the pressing business of the Senate at this time, the shortness of the time remaining, and the critical importance of issues crucial to our economic and national security, I cannot in good conscience recommend that you continue to keep my nomination before the Senate, as much as I appreciate your willingness to do so.

I believe the Senate should proceed to other matters. I am deeply gratified by the support of the majority of the members of the Senate Foreign Relations Committee and of the Senate itself in voting to proceed to Executive Session to take up my nomination. Nevertheless, I recommend that my nomination be temporarily laid aside. I say this regretfully, but I can no longer allow a lengthy debate over my nomination to impede the business of the Senate and of the nation.

Sincerely,

JAMES MALONE.

Mr. President, I think that indicates that there will be no further action on this nomination this session.

I hope on that basis that we might now proceed to morning business not to extend beyond the hour of 10:15.

The PRESIDING OFFICER. We are presently in executive session.

Mr. ZORINSKY. I relinquish the floor.

LEGISLATIVE SESSION

Mr. DOLE. I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent to proceed to routine morning business.

The PRESIDING OFFICER. The Senate is now in morning business until 10:15.

Mr. DOLE. Does the Senator from Nebraska have any additional comment?

Mr. ZORINSKY. I appreciate the offer of the majority leader, but I think at this time, I have made sufficient comments for this evening.

The PRESIDING OFFICER. The Chair has enjoyed the comments for the last hour.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on October 10, 1986, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. FOLEY) has signed the following enrolled joint resolution:

H.J. Res. 751. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

Under the authority of the order of the Senate of January 3, 1985, the enrolled joint resolution was signed on October 10, 1986, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 4:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 593. An act for the relief of the Merchants National Bank of Mobile, Alabama;

S. 1124. An act to amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes;

S. 1917. An act to promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes;

H.R. 1593. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, Arizona;

H.R. 2092. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes;

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn, by the Bureau of Reclamation, for townsite purposes, to the Huntley Project Irrigation District, Ballantine, Montana;

H.R. 3168. An act to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes;

H.R. 4492. An act to permit the transfer of certain airport property in Algona, Iowa;

H.R. 4712. An act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes;

H.R. 4759. An act to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 5316. An act to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of United States trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of United States trustees in such cases, and for other purposes;

S.J. Res. 395. Joint resolution to designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year"; and

H.J. Res. 735. Joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 6:14 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills, without amendment:

S. 740. An act to promote the conservation of migratory waterfowl an to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes;

S. 1352. An act to enhance the carrying out of fish and wildlife conservation and natural resource management programs on military reservations, and for other purposes;

S. 2370. An act to authorize the French Scott Key Park Foundation, Inc. to erect a memorial in the District of Columbia; and

S. 2914. An act to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3113) providing for the coordinated operation of the Central Valley project and the State water project in California.

The message further announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

The message also announced that the House agrees to the amendments of the Senate to the following bills:

H.R. 1390. An act to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes; and

H.R. 2205. An act to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4531) to extend the Wetlands Loan Act, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message who announced that the House has passed the bill (S. 2245) to authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the joint resolution (S.J. Res. 268) to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5492. An act to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, Florida, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida;

H.R. 5540. An act to encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes;

H.R. 5546. An act to amend the Public Health Service Act to establish a National Vaccine Program for the development of new vaccines and the improvement of existing vaccines and a program to compensate the victims of vaccine-related injuries and deaths, and for other purposes;

H.R. 5674. An act to amend title 28, United States Code, with respect to the composition of, and place of holding court in, certain judicial districts; and

H.R. 5686. An act relating to certain tariff and customs matters.

MEASURES PLACED ON THE CALENDAR

The Committee on Rules and Administration was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 1145. An act to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 14, 1986, she had presented to the President of the United States the following enrolled bills and joint resolution:

S. 593. An act for the relief of the Merchants National Bank of Mobile, Alabama;

S. 816. An act to establish the Pine Ridge National Recreation Area and Soldier Creek Wilderness in the State of Nebraska, and for other purposes;

S. 1124. An act to amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes;

S. 1917. An act to promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes;

S. 2048. An act to encourage international efforts to designate the shipwreck of the R.M.S. Titanic as an international maritime memorial and to provide for reasonable research, exploration, and, if appropriate, salvage activities with respect to the shipwreck; and

S.J. Res. 395. Joint resolution to designate the period Ocober 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3847. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated October 1, 1986; pursuant to the order

of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3848. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period November 1 to December 31, 1986; to the Committee on Armed Services.

EC-3849. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, an analysis of United States portfolio investments abroad during 1985; to the Committee on Commerce, Science, and Transportation.

EC-3850. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3851. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, travel advisories for Somalia and Bolivia which have security implications for Americans traveling or residing in those countries; to the Committee on Foreign Relations.

EC-3852. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 10, 1986; to the Committee on Foreign Relations.

EC-3853. A communication from the Acting Under Secretary of Agriculture (International Affairs and Commodity Programs), transmitting, pursuant to law, the initial commodity and country allocation table for food assistance under Public Law 480 for fiscal year 1987; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3854. A communication from the Deputy Under Secretary of Defense (Trade Security Policy), transmitting, pursuant to law, a report on the program of the Department of Defense to halt the flow of sensitive technology to our adversaries and the resources necessary to support that program; to the Committee on Armed Services.

EC-3855. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1985; to the Committee on Governmental Affairs.

EC-3856. A communication from the President of the Charles Stewart Mott Foundation, transmitting, pursuant to law, the annual report of the Foundation for 1985; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-887. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION

"Whereas, The domestic oil industry is of vital importance to national security and the American economy; and

"Whereas, Changing worldwide trade practices have resulted in the destabilization of our economy with particularly dire effects on the domestic oil industry; and

"Whereas, Increasing dependence on foreign oil imports will result in the plugging of numerous domestic wells and the lessening of exploration; and

"Whereas, A secure domestic energy resource base should be a strategic part of our national security objectives; and

"Whereas, Presently the Middle East and North Africa have oil reserves of 433 billion barrels dwarfing the 27-billion-barrel reserves of the United States; and

"Whereas, Seventy-five percent of crude oil and crude oil products in the world are produced by governments, not oil companies; and

"Whereas, If OPEC members are allowed to dominate the market, both American consumers and oil producers will become their victims; and

"Whereas, Domestic oil production during the first half of 1986 was down 140,000 barrels a day compared to the same period in 1985, while at the same time, consumption increased by 515,000 barrels a day; and

"Whereas, The escalating consumption of foreign oil imports and concurrent excessive dependence on foreign oil seriously jeopardize national security by the threat of energy blackmail; and

"Whereas, The federal government should act promptly to address these national security concerns and pursue means of limiting dependence on foreign oil; now, therefore, be it

"*Resolved*, That the 69th Legislature of the State of Texas, 2nd Called Session, request the Congress of the United States to pass and send to the president an act imposing an import fee on crude oil and petroleum products imported into the United States; and, be it further

"*Resolved*, That the Texas delegation be urged to support the proposals of Senator Lloyd Bentsen requiring the federal government to take steps needed to reduce dependence on foreign oil; and, be it further

"*Resolved*, That the Texas Secretary of State forward official copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States."

POM-888. A resolution adopted by the National Federation of Republican Women supporting the President in acts of retaliation or retribution against terrorists; to the Committee on Foreign Relations.

POM-889. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Foreign Relations.

"RESOLUTIONS CALLING UPON THE PRESIDENT OF THE UNITED STATES TO URGE THE GOVERNMENT OF SOUTH AFRICA TO INDICATE ITS WILLINGNESS TO ENGAGE IN MEANINGFUL POLITICAL NEGOTIATIONS WITH THAT COUNTRY'S BLACK MAJORITY

"Whereas, since September, nineteen hundred and eight-four, a mounting unrest against racial oppression in the Republic of South Africa has led to the violent death of more than one thousand individuals, most of them black, the detention without charges of thousands more and a declared state of emergency in several areas of that country; and

"Whereas, a peaceful resolution to such violence and conflict is unlikely unless the Government of the Republic of South Africa moves to end its abhorrent system of apartheid which denies the country's black majority the right to vote, the right to own land, and the right to freedom of movement; and

"Whereas, the Government of the United States, the United Nations, and virtually every country in the world has condemned the practice of apartheid by the Government of South Africa and its enactment of the repressive measures that have led to the current violence; and

"Whereas, the Government of the United States has sought to use its influence and leverage to promote peace and peaceful change through diplomatic appeals and the imposition of limited economic sanctions; and

"Whereas, the Ninety-eighth Congress of the United States adopted the 'Mandela Freedom Resolution', calling for the unconditional release of Nelson Mandela, the black South African leader who has been imprisoned for twenty-three years and his wife Winnie Mandela, who has been a 'banned' person in South Africa for the past twenty-one years; and

"Whereas, the President of the United States has called for the South African Government to end its practice of detention without trial and lengthy imprisonment of black leaders, in addition to calling for the establishment of a government based on the consent of the governed; and

"Whereas, the Secretary of State of the United States has urged the release of Nelson Mandela and indicated the need for the South African Government to meet leaders of the black majority, including Mr. Mandela and the outlawed African National Congress; and

"Whereas, the African National Congress, which was banned in nineteen hundred and sixty, is today the oldest and most prominent of the organizations of resistance against the apartheid system of South Africa and is highly regarded by that country's black majority; and

"Whereas, representatives of the South African business community, clergy, and university student organizations have met or attempted to meet with officials of the African National Congress to establish lines of communications for future discussions on the problems of the country, and

"Whereas, Nelson Mandela, who has been in South African prisons since nineteen hundred and sixty-two and who is still considered the leader of the banned African National Congress, is regarded by many black South Africans as one of the most respected symbols of resistance against apartheid; and

"Whereas, it is evident that an end to South Africa's racial turmoil is impossible if the government of that country does not begin a meaningful dialogue with the leaders of the black majority; and

"Whereas, the continued turmoil and unrest in the Republic of South Africa threaten the peace, security, and stability of the other nations of southern Africa and has led to cross-border violence in the region; and

"Whereas, the urgent moment has arrived for the Government of South Africa to initiate bold steps to end apartheid and the current unrest and to achieve peace and peaceful change; Now, therefore be it

"*Resolved*, That the Massachusetts General Court calls upon the President of the

United States to urge the Government of the Republic of South Africa to indicate its willingness to engage in political negotiations with that country's black majority:

"(1) By immediately granting unconditional freedom to Nelson Mandela and to all South African political prisoners and detainees;

"(2) By recognizing the African National Congress as a legitimate representative for the country's black majority; and

"(3) By establishing the framework for the political talks which hopefully could lead to a negotiated settlement with the black majority; and be it further

"*Resolved,* That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the President of the United States, the Massachusetts Senators in Congress, and to the President of the Republic of South Africa."

POM-890. A resolution adopted by the National Federation of Republican Women indicating their efforts towards combating drug abuse and community service projects in drug prevention; to the Committee on the Judiciary.

POM-891. A resolution adopted by the National Federation of Republican Women favoring the adoption of a budget that meets the targets set forth in the Gramm-Rudman-Hollings deficit reduction law; ordered to lie on the table.

POM-892. A resolution adopted by the City Council of Oberlin, Ohio regarding apartheid in South Africa; ordered to lie on the table.

POM-893. A resolution adopted by the Congress of the Federated States of Micronesia; to the Committee on Appropriations:

"RESOLUTION

"Whereas, under the Trusteeship Agreement, the United States assumed an obligation to promote the political, economic, social, and educational advancement of the peoples of the Trust Territory, including what is now the Federated States of Micronesia; and

"Whereas, provision of adequate facilities for post-secondary education is an integral part of this obligation; and

"Whereas, despite the passage of many years, this obligation has never been met, although repeated funding requests for a new campus for the Community College of Micronesia have been made to the United States Congress; and

"Whereas, with the approval of the Compact of Free Association, the Trusteeship period is rapidly drawing to a close; and

"Whereas, the National Government of the Federated States of Micronesia recently submitted to the Congress of the United States a funding request of approximately $12,000,000 for the construction of a new campus for the Community College of Micronesia; and

"Whereas, anticipating that said request would meet the approval of the Congress of the United States, the Federated States of Micronesia National Government negotiated and received 301,013 square meters of land from the Pohnpei State Government to be used for the campus, said land being quitclaimed to the College of Micronesia on January 20, 1986; and

"Whereas, the existing Community College of Micronesia facilities are deteriorated and limit enrollment opportunities, as evidenced during the past 3 school years, when only 15 percent of students applying for entry to the college were admitted, due in great measure to insufficient classroom space and other facilities; and

"Whereas, it is the sense of the Congress of the Federated States of Micronesia that such a limited opportunity for enrollment into a Micronesian community college is a great setback in the area of education for the people of Micronesia; and

"Whereas, it is the further sense of the Congress of the Federated States of Micronesia that relevant and accessible opportunities for college education are vital to the attainment of Micronesia's development goals, and that the proposed new campus for the Community College of Micronesia can play a vital role in Micronesia's manpower development; Now, therefore, be it

Resolved by the Fourth Congress of the Federated States of Micronesia, third Special Session, 1986, that the Congress of the United States is respectfully urged to appropriate, and the President of the United States to approve, funding necessary for the construction of a new campus for the Community College of Micronesia in Pohnpei State, Federated States of Micronesia; and be it further

Resolved, That certified copies of this resolution be transmitted to the President of the United States; the Speaker of the United States House of Representatives; the President of the United States Senate; the majority and minority leaders of both houses of the United States Congress; the Chairmen of the United States House of Representatives Committees on Appropriations and Interior and Insular Affairs; the Chairmen of the United States Senate Committees on Approriations and Energy and Natural Resources; the Secretary of the United States Department of Interior; and the President's Personal representative for Micronesian Status Negotiations."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Milton J. Hertz, of North Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by uanimous consent, and referred as indicated:

By Mr. INOUYE (by request):

S. 2923. A bill to allow the Internal Revenue Code of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employees' annuities had not been repealed; to the Committee on Finance.

By Mr. GRAMM (for himself, Mr. ZORINSKY, Mr. PRYOR and Mr. SYMMS):

S. 2924. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefits of an institution of higher education; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 2925. A bill to amend the Department of Energy Organization Act to authorize protective force personnel who guard the Strategic Petroleum Reserve or its storage and related facilities to carry firearms while discharging their official duties and in certain instances to make arrests without warrant; to establish the offense of trespass on property of the Strategic Petroleum Reserve; and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ZORINSKY:

S. Res. 507. A resolution relating to the Small Business Administration's "opinion molder" regulation; to the Committee on Small Business.

By Mr. DOLE (for himself, Mr. BYRD, Mr. SIMON, Mr. D'AMATO, Mrs. HAWKINS, Mr. METZENBAUM, Mr. BOSCHWITZ, Mr. GRAMM, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. LAUTENBERG, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. QUAYLE, Mr. SARBANES, Mr. SASSER, Mr. ZORINSKY, Mr. PRESSLER, Mr. DURENBERGER and Mr. WILSON):

S. Res. 508. A resolution congratulating human rights activist Elie Wiesel on being chosen the 1986 recipient of the Nobel Peace Prize; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2923. A bill to allow the Internal Revenue Code of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employee's annuities has not been repealed, to the Committee on Finance.

REINSTATEMENT OF THREE-YEAR RECOVERY RULE

● Mr. INOUYE. Mr. President, I rise today to introduce legislation to correct an egregious wrong that was done by the Tax Reform Act of 1986. As we all know, the goal of tax reform was to make needed improvements to the Tax Code to enhance the fairness and simplicity with which individuals and corporations are taxed in this country. Unfortunately, in the rush to enact legislation in this area, many compromises and sacrifices were made for the sake of attracting political support. As a result, the final bill fell far short of its objectives of fairness, growth, and simplicity.

One area in which I feel the principle of fairness was most blatantly disregarded was the retroactive repeal of the 3-year basis recovery rule for employees who contribute to their own retirement plans. These retirees, most of whom are Government employees, have long contributed to their pension

plans, paying taxes all along with the expectation of receiving these already taxed contributions back during the first 3 years of their retirement. Under the Tax Reform Act, not only is this 3-year rule repealed, but it is done so retroactively. Thus workers who retired after July 1 of this year with the understanding that they would be entitled to 3 tax-free years of recovering the contributions they had made and paid taxes on throughout their careers will be told "tough luck." Through no delinquency or oversight of their own, they will find out after they retire that the rules in effect when they retired have been changed and as a result the nest egg they had been working so hard for will be denied to them. For those retirees who opted for a lump-sum payment of their benefit under the 3-year recovery rule, this will mean they may suddenly be required to make a large up-front tax payment which was not even discussed when they retired. For many Government retirees, this could result in a previously unexpected tax payment of $20,000 or more. Calling this "unfair," I feel, is a gross understatement. Treatment such as this is nothing short of criminal, and it was this provision that finally convinced me to make the difficult decision to vote against the Tax Reform Act.

The far-reaching impact of the repeal of the 3-year recovery rule will be felt by Federal, State, and local government employees all across the Nation. In my State of Hawaii, the State retirement system estimates that the change in the law will have adverse repercussions on over 80 percent of its recent retirees. Some of these retirees who had expected—and rightfully so—to pay only minimal taxes in 1986, will now find themselves taxed at rates as high as 49 percent. This, I feel, is far beyond what we should reasonably ask hard-working public servants to sacrifice for the sake of "tax reform." I sincerely hope my colleagues will join me in my effort to restore to these dedicated Americans the fair and equitable treatment they had been provided until the Tax Reform Act of 1986 was passed. Once the implications of the repeal of the 3-year rule become more clear, I feel the American public will demand that it be reinstated, and I look forward to working with my colleagues in the coming year to see that this happens.●

By Mr. McCLURE (by request):

S. 2925. A bill to amend the Department of Energy Organization Act to authorize protective force personnel who guard the strategic petroleum reserve or its storage and related facilities to carry firearms while discharging their official duties and in certain instances to make arrests without warrant; to establish the offense of trespass on property of the strategic petroleum reserve; and for other purposes.

STRATEGIC PETROLEUM RESERVE SECURITY

● Mr. McCLURE. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of Energy, I send to the desk a bill to amend the Department of Energy Organization Act to give the Department of Energy explicit authority to arm its strategic petroleum reserve [SPR] security personnel and empower them in certain instances to make arrests without warrants for violations of Federal law, and to establish the Federal offense of trespass on federally owned SPR sites.

Mr. President, this measure was submitted and recommended by the Department of Energy, and I ask unanimous consent that the bill, and the executive communication which accompanies the proposal from the General Counsel, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a new section 661 is added to the Department of Energy Organization Act after section 660 (42 U.S.C. § 7270) to read as follows:

"GUARDS FOR STRATEGIC PETROLEUM RESERVE FACILITIES

"SEC. 661. (a) Under guidelines prescribed by the Secretary and concurred with by the Attorney General, employees of the Department of Energy and employees of Department of Energy contractors while discharging their official duties of protecting the Strategic Petroleum Reserve or its storage or related facilities and protecting persons upon the Strategic Petroleum Reserve or its storage or related facilities may—

"(1) carry firearms, if designated by the Secretary and qualified for the use of firearms under the guidelines, and

"(2) arrest without warrant any person for an offense against the United States—

"(A) in the case of a felony, if the employee has reasonable grounds to believe that the person—

"(i) has committed or is committing a felony; and

"(ii) is in or is fleeing from the immediate area of the felony; and

"(B) in the case of a felony or misdemeanor, if the violation is committed in the presence of the employee.".

SEC. 2. A new section 662 is added to the Department of Energy Organization Act after section 661 added by this Act to read as follows:

"TRESPASS ON STRATEGIC PETROLEUM RESERVE FACILITIES

"SEC. 662. (a) The Secretary may issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property into or onto the Strategic Petroleum Reserve, its storage or related facilities, or real property subject to the jurisdiction, administration, or in the custody of the Secretary under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. §§ 6231-6247). The Secretary shall post conspicuously on the property subject to the regulations notification that that property is subject to the regulations.

"(b) Whoever willfully violates a regulation of the Secretary issued under subsection (a) shall be guilty of a misdemeanor and punished upon conviction by a fine of not more than $5,000, imprisonment for not more than one year, or both.".

SEC. 3. The table of contents for the Department of Energy Organization Act is amended by adding after the item relating to section 660 the following new items:

"SEC. 661. Guards for Strategic Petroleum Reserve facilities.

"SEC. 662. Trespass on Strategic Petroleum Reserve facilities.".

DEPARTMENT OF ENERGY,
Washington, DC, September 12, 1986.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation to give the Department of Energy explicit authority to arm its Strategic Petroleum Reserve (SPR) security personnel and empower them in certain instances to make arrests without warrants for violations of Federal law, and to establish the Federal offense of trespass on Federally-owned SPR sites.

PURPOSE OF THE LEGISLATION

The Department of Energy is custodian of a vast quantity of oil stored for use in an energy emergency. Experienced and professional protective force personnel are essential to maintaining the proper security level at the SPR. In order for the security personnel staff to be able to perform their duties properly, they must be armed and should have the authority to detain or arrest, without warrant if necessary, those persons who threaten site security by violating, or attempting to violate, Federal law.

The risk of terrorist activities at SPR sites, where crude oil essential to the national security is stored, or at related Government facilities used in oil transportation to and from those sites presents a real and present danger. All of the SPR sites are in relatively remote areas and subject to local law enforcement agencies. These agencies, however, have limited human and physical resources to apply to deterring acts by terrorists or other criminal groups. Moreover, while it is key to the security of the SPR that potential offenders be kept from vital SPR facilities and that there be an ability to react to apparent threats at SPR sites, SPR guards generally have authority only to make citizens' arrests for trespass under state law. Local enforcement agencies have deputized some protective force contractor personnel in order to provide them with some additional measure of authority with which to conduct their security functions.

Those deputy commissions, however, can be withdrawn by the local authorities at their sole discretion. In addition, those commissions are limited to specific jurisdictions. In Texas this limitation would not permit the interchange of personnel between many sites. Also, the commissions would be of no value if the protective force contractor personnel had to be moved across state lines to meet a significant threat posed at another site.

Protective force personnel of the Department of Energy and its contractors undergo a stringent training program to prepare

them for dealing with a myriad of confrontation situations. Their ability to react to terrorist activities against persons and property, however, may be impaired to the detriment of the public safety and national security by their lack of confidence in their authority to respond to criminal conduct and their concern over personal civil liability in the event of error. Without federal or state arrest authority, SPR guards can make only citizens' arrests. These arrests are difficult to perfect and can result in deficiencies that end in the release of a criminal. In addition, the SPR guards could be subject to civil or criminal liability for honest and reasonable mistakes in the execution of their duties. The proposed legislation, therefore, primarily is intended to accord SPR guards adequate personal protection from civil or criminal liability when they discharge a firearm or arrest individuals while responsibly executing their duties.

THE BILL

The proposed legislation would add a new section to the Department of Energy Organization Act (42 U.S.C. §§ 7101-7352) to authorize the Secretary of Energy to arm SPR protective force personnel while they are protecting the SPR or its storage and related facilities. It also would authorize them to make arrests without warrant for violation of a federal offense committed in their presence or a felony if they have reasonable ground to believe that the person to be arrested has committed or is committing the felony.

The authority sought through the new section is similar to the specific authority already vested in protective force personnel at nuclear facilities under section 161k of the Atomic Energy Act (42 U.S.C. § 2201 (k)), and in personnel of several other agencies, e.g., United States Marshals (18 U.S.C. § 3053); Secret Service inspectors and agents (18 U.S.C. § 3056); postal inspectors (18 U.S.C. § 3061); General Services Administration special policemen (40 U.S.C. § 318d); the Customs Service (26 U.S.C. § 7607); and the Drug Enforcement Administration (21 U.S.C. § 878). Moreover, as in the case of the protective force personnel at nuclear facilities, the authority sought through the new section could be granted to contractor personnel as well as federal employees of the Department of Energy. This would be consistent with the long-standing, extensive, and successful use of contractors by the Department of Energy and its predecessor agencies to carry out agency missions.

The legislation also would make trespass on SPR sites designated by the Secretary a federal crime. There is no federal law of general applicability concerning trespass on federal property. A number of federal activities, however, are protected by trespass statutes that have proven to be useful in maintaining adequate security at covered installations. The trespass provision in this proposal is modeled after section 229 of the Atomic Energy Act (42 U.S.C. § 2278a), which makes it a federal offense to trespass on Department of Energy atomic energy facilities. See *United States* v. *Thompson*, 687 F.2d 1279 (10th Cir. 1982). The Secretary would be authorized to issue regulations prohibiting unlawful entry onto the SPR, its storage or related facilities, or real property subject to the jurisdiction of the Secretary under the SPR provisions of EPCA. Those who violate these regulations could be punished by a fine of not more than $5,000, imprisonment for not more than one year, or both.

Given its importance to the security of the Nation, the SPR is a potential target of terrorists. The grave responsibility of assuring protection of the SPR falls upon and necessitates decisive action by its protective force personnel. Enactment of this legislation is necessary for the maintenance of adequate security of the SPR and its storage and related facilities so that they will continue to be available when needed.

COST AN BUDGET DATA

Enactment of this legislation will not result in a significant increase in budgetary requirements for the Department of Energy.

The Office of Management and Budget advises that from the standpoint of the President's program, there is no objection to the presentation of this legislation for the consideration of Congress.

Sincerely,

J. MICHAEL FARRELL,
General Counsel.●

ADDITIONAL COSPONSORS

S. 2651

At the request of Mr. DECONCINI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2651, a bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes.

SENATE JOINT RESOLUTION 328

At the request of Mr. RIEGLE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to designate the week beginning May 4, 1986, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE JOINT RESOLUTION 418

At the request of Mr. PACKWOOD, the names of the Senator from California [Mr. WILSON] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 408, a joint resolution designating February 4, 1987, as "National Women in Sports Day."

SENATE JOINT RESOLUTION 423

At the request of Mr. KERRY, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. GOLDWATER], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. BURDICK], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. EXON], the Senator from West Virginia [Mr. BYRD], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], the Senator from Vermont [Mr. LEAHY], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 423, a joint resolution to designate the week beginning January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, 1987, as "Shays' Rebellion Day."

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki monitoring groups.

SENATE CONCURRENT RESOLUTION 164

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Concurrent Resolution 164, a concurrent resolution expressing the sense of the Congress concerning the Soviet Union's continued interference with postal communications between the United States and the Soviet Union.

SENATE RESOLUTION 507—RELATING TO THE SMALL BUSINESS ADMINISTRATION'S "OPINION MOLDER" REGULATION

Mr. ZORINSKY submitted the following resolution; which was referred to the Committee on Small Business:

S. RES. 507

Whereas the Small Business Administration's opinion molder regulation (13 CFR 120.101-2(b)) has unjustifiably precluded an entire genre of legitimate small businesses from the Small Business Administration financial assistance since the inception of the regulation in 1953;

Whereas so-called opinion-molding small businesses arguably deserve and require greater, not less, Small Business Administration assistance than other businesses;

Whereas the opinion molder regulation has undergone so many revisions that the exceptions obfuscate the original rationale of the regulation to protect the Small Business Administration from having to carry out any kind of a censorship role;

Whereas the Federal District Court of Colorado in its ruling regarding the opinion molder regulation on December 3, 1985, raises the issue of the very constitutionality of the regulation; and

Whereas the opinion molder regulation, at a minimum, violates the spirit of the First

Amendment, regardless of court decisions on whether or not the regulation actually violates the letter of the Constitution: Now, therefore, be it

Resolved, That the Small Business Administration should amend or eliminate its opinion molder regulation to allow greater participation of legitimate small businesses in Small Business Administration financial assistance programs.

● Mr. ZORINSKY. Mr. President, I rise today to submit a resolution expressing the sense of the Senate that the Small Business Administration should amend or eliminate its "opinion molder" regulation. This regulation has unjustifiably prevented an entire genre of legitimate small businesses from receiving full benefits of the SBA, and the time is long overdue to put this practice to an end.

Specifically, the opinion molder rule precludes the SBA from granting financial assistance to any opinion molder, defined as those concerns "engaged in the creation, regulation, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions, or similar intellectual property regardless of medium, form or content." 13 CFR S120.101-2(b)

The SBA's expressed reasoning for the regulation is essentially the following: The SBA wishes to avoid lending to concerns which publish or produce or sell materials of a controversial nature which, while not illegal, may not be the public's interest to promote. Wishing to avoid a censorship role and lacking constitutional expertise, the SBA broadly exempts a huge category of businesses rather than to risk controversial content-based case by case decisions. While at first blush there would appear to be a certain logic to this line of thinking, upon further consideration it certainly would not seem to support the draconian reaction which is the opinion molder regulation.

The congressional authority for this regulation is based on the broad authorizing language of the 1953 SBA Act, which empowered the SBA to promulgate regulations for the "public good." Almost from its inception the regulation has been under attack from within and without the agency. A total of seven exceptions have been issued from the general regulation, and in the process the exceptions have swallowed the very rationale of the rule. It would seem that the SBA is in fact currently acting as a censor insofar as the SBA is forced to make content-based decisions such as differentiating between "general" bookstores that are exempted from the opinion molder rule and "specialty" bookstores which are not. In addition, in a fit of parapatatic ruling, some small businesses such as theater owners have found themselves abruptly declared ineligible for SBA loans, then eligible, and then ineligible again in a span of only a few years.

In 1980 the SBA, admitting that there was a problem with the rule, suggested a "Proposed Rulemaking," but failed to act on it. A 1982 Wall Street Journal editorial quoted SBA staff as stating that the rule was plain "silly."

In 1984 I cosponsored a bill to amend the opinion molder regulation. Unfortunately, the bill fell prey to a constitutional quagmire that has defeated congressional attempts to alter the regulation throughout the years.

On the one hand, proponents of the opinion molder regulation argue that the bill is not unconstitutionally overbroad in preventing wholly legitimate small businesses from receiving SBA financial assistance. They would claim that while the Government cannot put up obstacles to constitutionally protected speech, the Government is under no obligation to affirmatively support (through Government loans or otherwise) constitutionally protected speech. cf. *Harris* v. *McRae* 448 U.S. 297 (1980), *Regan* v. *Taxation With Representation,* 461 U.S. 540 (1983). Thus the argument is made that Government largess is simply not subject to first amendment scrutiny.

On the other hand, when opponents of the opinion molder regulation attempt to more narrowly tailor the regulation so as to allow a greater number of legitimate small businesses to be exempted from this rule, proponents suddenly become very concerned about the constitutional implications from any conceivable threat of content-based discrimination.

Significantly, it should be noted, that the opinion molder regulation was declared unconstitutional by a Federal District Court of Colorado on December 3, 1985. *Mission Trace Investments* v. *Small Business Administration,* USDC Colo, 83-C-1982, 11/12/85. In this case the court ruled that the SBA's reliance on Regan versus Taxation with Representation was misplaced. The SBA under the advise of the Justice Department has chosen to appeal the case.

Not surprisingly, the SBA has chosen to read the case in the narrowest possible fashion, and is quick to point out that a district court's ruling is not precedent setting. Nonetheless, it is significant that the very constitutionality of the opinion molder rule has been put into question for the first time by a Federal court. More important, is the fact that the regulation violates the spirit, if not the letter of the first amendment, and as such represents unacceptable public policy.

It does not make sense to preclude a whole range of legitimate small businesses from the benefits of the SBA, simply because it is administratively convenient to do so. The goals of small business and free speech are not now and never have been inimical. On the contrary, expressions such as the "free marketplace of ideas" reflect just how deeply imbedded the complementary nature of business and free speech are to the American value system.

Arguably, the SBA should be giving special consideration to promoting opinion molding small businesses, the very businesses the SBA instead precluded from financial assistance. The public interest in encouraging a multitude of competitive voices in opinion molding businesses such as newspapers would seem to be self-evident. The recent rash of mega-mergers and acquisitions in the communications field heightens the need to countervail this unhealthy business concentration with greater competition from small businesses.

Mr. President, while there is a legitimate argument to be made that the opinion molding small businesses should be given special consideration by the SBA, surely at the absolute minimum, they deserve treatment equal to that of any other legitimate small business.

It is my observation that civil liberties such as the first amendment protected right of free speech are threatened most often by acts of omission rather than commission. It is always administratively convenient to adopt the easy solution, giving short shrift to time consuming and complicated constitutional issues. To counter this tendency, I am pleased to introduce the following resolution today to encourage the SBA to amend or eliminate the opinion molder regulation. In doing so the interests of free speech and small business will be furthered.●

SENATE RESOLUTION 508—CONGRATULATING ELIE WIESEL ON BEING CHOSEN AS THE 1986 RECIPIENT OF THE NOBEL PEACE PRIZE

Mr. DOLE (for himself, Mr. BYRD, Mr. SIMON, Mr. D'AMATO, Mrs. HAWKINS, Mr. METZENBAUM, Mr. BOSCHWITZ, Mr. GRAMM, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. LAUTENBERG, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. QUAYLE, Mr. SARBANES, Mr. SASSER, Mr. ZORINSKY, Mr. PRESSLER, Mr. DURENBERGER, and Mr. WILSON) submitted the following resolution; which was considered and agreed to:

S. RES. 508

Whereas, Elie Wiesel, lived through the horrors of the Nazi Holocaust, witnessing the persecution and death of family and friends; and

Whereas, having survived this despicable manifestation of man's inhumanity against man, he dedicated his life to insuring that no such travesty ever occur again by calling on men and women the world over "to never forget"; and

Whereas, through his writing, teaching, and activism, Elie Wiesel has fought relentlessly for the human rights of all individuals—regardless of their heritage or their beliefs, and

Whereas, Elie Wiesel, an American citizen, has been recognized for his work in advancing human rights, his contributions to literature and his leadership of the Holocaust Memorial Council by this country with the Congressional Medal of Achievement; and

Whereas, the Nobel Committee has selected Mr. Wiesel as its 1986 peace prize winner, noting that he has emerged as one of the most important spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world;

Therefore, be it resolved, that the Senate offer sincerest approval of the Nobel Committee's choice which will allow the entire world to know of Elie Wiesel's contributions to an enduring peace and transmit to Mr. Wiesel its heartfelt congratulations for this historic and much deserved achievement.

AMENDMENTS SUBMITTED

ANTI-DRUG ABUSE ACT OF 1986

HATCH AMENDMENT NO. 3276

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

Assimilative Crimes Act Amendments of 1986.

SEC. 2. PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.

Section 13 of title 18, USC, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, Territory, or District, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law.

Any limitation of the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the U.S."

SEC. 3. IMPLIED CONSENT FOR CERTAIN TESTS.

(a) IN GENERAL.—Chapter 205 of title 18, USC, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

"(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense of driving while under the influence of a drug or alochol in such jurisdiction.

"(b) EFFECT OF REFUSAL.—Whoever, having consented to a testing by reason of subsection (a), refuses to submit to such a test or tests shall be denied the privilege of operating a motor vehicle in the special maritime and territorial jurisdiction of the U.S. during the period of a year commencing on the date of arrest upon which such test or tests was refused. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the U.S. in violation of this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such violation as operating such vehicle without a license to do so.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of a chapter 205 of title 18, USC, is amended at the end the following:

"3117. Implied consent for certain tests.".

MATHIAS AMENDMENT NOS. 3277 THROUGH 3279

(Ordered to lie on the table.)

Mr. MATHIAS submitted three amendments intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3277

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking out paragraph (1)(B).

AMENDMENT No. 3278

The matter before paragraph (1) of subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking "but are not exclusive".

AMENDMENT No. 3279

Subsection (p)(3) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting at the end thereof the following new clause:

"(C) the sentence is not disproportionate to other sentences imposed for similar offenses.".

COHEN AMENDMENT NOS. 3280 THROUGH 3283

(Ordered to lie on the table.)

Mr. COHEN submitted four amendments intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3280

Subsection (p)(3) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking "The court shall affirm the sentence if it determines that—" and inserting "The court shall not affirm the sentence unless it determines that—".

AMENDMENT No. 3281

By striking subtitle U, to wit, section 1951, of the Senate amendment as modified.

AMENDMENT No. 3282

Subsection (i) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) in the fourth sentence thereof by striking, "Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant," and inserting in lieu thereof, "Any other information relevant to such mitigating factor may be presented,"

(2) by inserting prior to the fourth sentence thereof, "Any information relevant to such aggravating factor may be presented only to the extent that it is admissable under the rules governing admission of evidence at criminal trials."

AMENDMENT No. 3283

Subsection (j) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended in the fourth sentence thereof by striking "or mitigating".

LONG AMENDMENT NO. 3284

(Ordered to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra as follows:

In the matter following title XV, strike out the title relating to Anti-Drug Trust Fund which proposes to add new sections 6097 and 9505 to the Internal Revenue Code.

MATHIAS AMENDMENT NO. 3285

(Ordered to lie on the table)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

In lieu of the matter inserted by Amendment Number 3275—as modified, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Compliance with Budget Act.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

Sec. 1001. Short title.
Sec. 1002. Controlled Substances Act penalties.
Sec. 1003. Other amendments to the Controlled Substances Act.
Sec. 1004. Elimination of special parole terms.
Sec. 1005. Amendment to the Comprehensive Crime Control Act of 1984.
Sec. 1006. Miscellaneous technical amendments.

Subtitle B—Drug Possession Penalty Act of 1986

Sec. 1051. Short title.
Sec. 1052. Penalty for simple possession.

Subtitle C—Juvenile Drug Trafficking Act of 1986

Sec. 1101. Short title.
Sec. 1102. Offense.
Sec. 1103. Technical amendments.
Sec. 1104. Manufacturing a controlled substance within 1,000 feet of a college.
Sec. 1105. Imprisonment.

Subtitle D—Assets Forfeiture Amendments Act of 1986

Sec. 1151. Short title.
Sec. 1152. Department of Justice Asset forfeiture fund.
Sec. 1153. Substitute assets.

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

Sec. 1201. Short title.
Sec. 1202. Treatment of Controlled Substance Analogues.
Sec. 1203. Definition.
Sec. 1204. Clerical Amendment.

Subtitle F—Continuing Drug Enterprise Act of 1986

Sec. 1251. Short title.
Sec. 1252. Increased penalties.
Sec. 1253. Continuing criminal enterprise enhanced penalties.

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

Sec. 1301. Short title.
Sec. 1302. Enhanced penalties.

Subtitle H—Money Laundering Control Act of 1986

Sec. 1351. Short title.
Sec. 1352. New offense for laundering of monetary instruments.
Sec. 1353. Amendments to the Right to Financial Privacy Act.
Sec. 1354. Structuring transactions to evade reporting requirements prohibited.
Sec. 1355. Seizure and civil forfeiture of monetary instruments and related provisions.
Sec. 1356. Compliance authority for Secretary of the Treasury and related matters.
Sec. 1357. Penalty provisions.
Sec. 1358. Monetary transaction recordkeeping and reporting amendments.
Sec. 1359. Banking regulatory agency supervision of recordkeeping systems.
Sec. 1360. Change in Bank Control Act amendments.
Sec. 1361. Change in Savings and Loan Control Act amendments.
Sec. 1362. Amendments to definitions.
Sec. 1363. International information exchange system; study of foreign branches of domestic institutions.
Sec. 1364. Effective dates.
Sec. 1365. Predicate Offenses.
Sec. 1366. Forfeiture.
Sec. 1367. Severability clause.

Subtitle I—Armed Career Criminals

Sec. 1401. Short title.
Sec. 1402. Expansion of predicate offenses for armed career criminal penalties.

Subtitle J—Authorization of Appropriations for Drug Law Enforcement

Sec. 1451. Authorization of appropriations.

Subtitle K—State and Local Narcotics Control Assistance

Sec. 1551. Short title.
Sec. 1552. Bureau of Justice Assistance drug grant programs.

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

Sec. 1601. Study required.

Subtitle M—Narcotics Traffickers Deportation Act

Sec. 1751. Amendment to the Immigration and Nationality Act.

Subtitle N—Freedom of Information Act

Sec. 1801. Short title.
Sec. 1802. Law enforcement.
Sec. 1803. Fees and Fee waivers.
Sec. 1804. Effective dates.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

Sec. 1821. Short title.
Sec. 1822. Offense.
Sec. 1823. Effective date.

Subtitle P—Manufacturing Operations

Sec. 1841. Manufacturing operation.

Subtitle Q—Controlled Substances Technical Amendments

Sec. 1861. Duties of Director of Administrative Office and authorizations.
Sec. 1862. Amendment to section 608 of the Tariff Act.
Sec. 1863. Amendments to section 616 of the Tariff Act.
Sec. 1864. Cross reference corrections.
Sec. 1865. Warrants relating to seizure.
Sec. 1866. Minor technical amendments.
Sec. 1867. Modification of cocaine definition for purposes of Schedule II.
Sec. 1868. Authority of Attorney General to enter into contracts with State and local law enforcement agencies.
Sec. 1869. Authority of Attorney General to deputize State and local law enforcement officers for controlled substances enforcement.
Sec. 1870. Clarification of isomer definition.

Subtitle R—Precursor and essential chemical review

Sec. 1901. Precursor and essential chemical review.

Subtitle S—Improved Drug Crime Reporting

Sec. 1921. Improved drug crime reporting.

Subtitle T—White House Conference on Drug Abuse and Control

Sec. 1931. Short title.
Sec. 1932. Establishment of the Conference.
Sec. 1933. Purpose.
Sec. 1934. Responsibilities of the Conference.
Sec. 1935. Conference participants.
Sec. 1936. Administrative provisions.
Sec. 1937. Final report and follow-up actions.

TITLE II—INTERNATIONAL NARCOTICS CONTROL

Sec. 2001. Short title.
Sec. 2002. Additional funding for international narcotics control assistance and regional cooperation.
Sec. 2003. Aircraft provided to foreign countries for narcotics control purposes: Retention of title and records of use.
Sec. 2004. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 2005. Restrictions on the provision of United States assistance.
Sec. 2006. Development of herbicides for aerial coca eradication.
Sec. 2007. Review of effectiveness of international narcotics control assistance program.
Sec. 2008. Extradition to the United States for narcotics-related offenses.
Sec. 2009. Foreign policy arrest actions.
Sec. 2010. Issuance of diplomatic passports for Drug Enforcement Administration Agents abroad.
Sec. 2011. Information-sharing so that visas are denied to drug traffickers.
Sec. 2012. Conditions on assistance for Bolivia.
Sec. 2013. Narcotics control efforts in Mexico.
Sec. 2014. Reports and restrictions concerning certain countries.
Sec. 2015. Combating narcoterrorism.
Sec. 2016. Interdiction procedures for vessels of foreign registry.
Sec. 2017. Information relating to illicit narcotics activities abroad.
Sec. 2018. Assessment of narcotics trafficking for Africa.
Sec. 2019. Policy toward multilateral development banks.
Sec. 2020. Multilateral development bank assistance for drug eradication and crop substitution programs.
Sec. 2021. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotics crops in Mexico.
Sec. 2022. Drugs as a national security problem.
Sec. 2023. Findings concerning greater international effort to address drug threat.
Sec. 2024. International Conference on Drug Abuse and Illicit Trafficking.
Sec. 2025. Effectiveness of international drug prevention and control system.
Sec. 2026. Narcotics control conventions.
Sec. 2027. Mexico-United States Intergovernmental Commission.
Sec. 2028. Opium production in Pakistan.
Sec. 2029. Opium production in Iran, Afghanistan, and Laos.
Sec. 2030. Increased funding for USIA Drug Education programs.
Sec. 2031. Increased funding for AID drug education programs.
Sec. 2032. Reports to Congress on drug education programs abroad.

TITLE III—INTERDICTION

Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Purposes.

Subtitle A—Department of Defense Drug Interdiction Assistance

Sec. 3051. Short title.

Sec. 3052. Authorization.
Sec. 3053. Coast Guard activities.
Sec. 3054. Reports on Department of Defense drug control activities.
Sec. 3055. Driving while impaired.
Sec. 3056. Assistance to civilian law enforcement and emergency assistance by Department of Defense personnel.
Sec. 3057. Additional Department of Defense drug law enforcement assistance.
Sec. 3058. Grade of Director of Department of Defense Task Force on Drug Enforcement.
Sec. 3059. Civil Air Patrol.

Subtitle B—Customs Enforcement

Sec. 3101. Short title.

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

Sec. 3111. Definitions.
Sec. 3112. Report of arrival of vessels, vehicles, and aircraft.
Sec. 3113. Penalties for arrival, reporting, entry, and departure violations.
Sec. 3114. Penalties for unauthorized unloading of passengers.
Sec. 3115. Reporting requirements for individuals.
Sec. 3116. Penalties for failure to declare.
Sec. 3117. Examination of books and witnesses.
Sec. 3118. False manifests; lack of manifest.
Sec. 3119. Unlawful unloading of merchandise.
Sec. 3120. Aviation smuggling.
Sec. 3121. Seizures.
Sec. 3122. Searches and seizures.
Sec. 3123. Forfeitures.
Sec. 3124. Proceeds of forfeited property.
Sec. 3125. Compensation to informers.
Sec. 3126. Foreign landing certificates.
Sec. 3127. Exchange of information with foreign agencies.
Sec. 3128. Inspections and preclearance in foreign countries.

PART 2—UNDERCOVER CUSTOMS OPERATIONS

Sec. 3131. Undercover investigative operations of the Customs Service.

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

Sec. 3141. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.
Sec. 3142. Customs forfeiture fund.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

Sec. 3151. Recreational vessels.
Sec. 3152. Assistance for customs officers.
Sec. 3153. Reports on exports and imports of monetary instruments.

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

Sec. 3161. Possession, manufacture, or distribution for purposes of unlawful importation.

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

Sec. 3201. Short title.
Sec. 3202. Improvement of Public Law 96-350.

Subtitle D—Coast Guard

Sec. 3251. Coast Guard drug interdiction enhancement.

Subtitle E—United States Bahamas Drug Interdiction Task Force

Sec. 3301. Establishment of United States Bahamas Drug Interdiction Task Force.

Subtitle F—Command, Control, Communications, and Intelligence Centers

Sec. 3351. Establishment of Command, Control, Communications, and Intelligence Centers.

Subtitle G—Transportation Safety

Sec. 3401. Air safety.
Sec. 3402. Drugs and highway safety.
Sec. 3403. Savings provision.

Subtitle H—Department of Justice funds for drug interdiction operation in Hawaii

Sec. 3451. Additional funds for the Department of Justice.

TITLE IV—DEMAND REDUCTION

Subtitle A—Prevention Initiatives and Treatment Services

Sec. 4001. Short title.

PART I—FINANCIAL ASSISTANCE TO STATES AND COMMUNITIES

Sec. 4002. Allotments to States.

PART II—AGENCY FOR SUBSTANCE ABUSE PREVENTION

Sec. 4003. Agency for Substance Abuse Prevention.

PART III—ADAMHA AND RELATED PROVISIONS

Sec. 4011. Short title, reference.
Sec. 4012. Technical revision of ADAMHA.
Sec. 4013. National Institute of Mental Health.
Sec. 4014. Advisory councils.
Sec. 4015. Public health emergencies.
Sec. 4016. Peer Review.
Sec. 4017. National Alcohol Research Center.
Sec. 4018. Research authorization.
Sec. 4019. Suicide.
Sec. 4020. Animals in research.
Sec. 4021. Block grants.
Sec. 4022. Technical amendments.
Sec. 4023. Alcoholism and alcohol abuse treatment study.

PART IV—INFANT FORMULAS

Sec. 4031. Infant formulas.

PART V—MISCELLANEOUS

Sec. 4041. Efforts of the entertainment industry and written media industry.
Sec. 4042. Sense of the Senate urging categorization of films which promote alcohol abuse and drug use.
Sec. 4043. Sense of the Senate with respect to possession or distribution of drugs under State law.
Sec. 4045. Expansion of drug abuse research.
Sec. 4046. Alkyl nitrites.
Sec. 4047. Administrator of Veterans' Affairs.

Subtitle B—Drug-Free Schools and Communities Act of 1986

Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Purpose.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

Sec. 4111. Authorization of appropriations.
Sec. 4112. Reservations and state allotments.

PART 2—STATE AND LOCAL PROGRAMS

Sec. 4121. Use of allotments by States.
Sec. 4122. State programs.
Sec. 4123. Responsibilities of state educational agencies.
Sec. 4124. Local drug abuse education and prevention programs.
Sec. 4125. Local applications.

PART 3—NATIONAL PROGRAMS

Sec. 4131. Grants to institutions of higher education.
Sec. 4132. Federal activities.
Sec. 4133. Programs for Indian youth.
Sec. 4134. Programs for Hawaiian natives.

PART 4—GENERAL PROVISIONS

Sec. 4141. Definitions.
Sec. 4142. Functions of the Secretary of Education.
Sec. 4143. Participation of children and teachers from private nonprofit schools.

Subtitle C—Indians and Alaska Natives

Sec. 4201. Short title.

PART I—GENERAL PROVISIONS

Sec. 4202. Findings.
Sec. 4203. Purpose.
Sec. 4204. Definitions.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

Sec. 4205. Inter-departmental Memorandum of Agreement.
Sec. 4206. Tribal action plans.
Sec. 4207. Departmental responsibility.
Sec. 4208. Congressional intent.
Sec. 4209. Federal facilities, property, and equipment.
Sec. 4210. Newsletter.

PART III—INDIAN YOUTH PROGRAMS

Sec. 4211. Review of programs.
Sec. 4212. Indian education programs.
Sec. 4213. Emergency shelters.
Sec. 4214. Social services reports.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

Sec. 4215. Review of programs.
Sec. 4216. Illegal narcotics traffic on the Papago Reservation: source eradication.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

Sec. 4217. Tribal courts, sentencing and fines.
Sec. 4218. Law enforcement services.
Sec. 4219. Bureau of Indian Affairs law enforcement and judicial training.
Sec. 4220. Medical assessment and treatment of juvenile offenders.
Sec. 4221. Juvenile detention centers.
Sec. 4222. Model Indian Juvenile Code.
Sec. 4223. Law enforcement and judicial report.

PART IV—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

Sec. 4224. Review of programs.
Sec. 4225. Indian Health Service responsibilities.
Sec. 4226. Indian Health Service program.
Sec. 4227. Indian Health Service youth program.
Sec. 4228. Community education and training.
Sec. 4229. Navajo alcohol rehabilitation demonstration program.
Sec. 4230. Indian Health Service reports.

Subtitle D—Miscellaneous Provisions

Sec. 4301. Action grants.
Sec. 4302. Establishment of national trust for drug-free youth.
Sec. 4303. Information on drug abuse at the workplace.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas.

Sec. 5001. Short title.

Sec. 5002. Purposes.
Sec. 5003. Annual reports to Congress.
Sec. 5004. Enforcement and administration in insular areas.
Subtitle B—National Park Service Program.
Sec. 5051. Short title.
Sec. 5052. National Park Police authorization.
TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT
Sec. 6001. Short title.
Sec. 6002. Programs to provide prevention, treatment, and rehabilitation services to Federal employees with respect to drug and alcohol abuse.
Sec. 6003. Educational program for Federal employees relating to drug and alcohol abuse.
Sec. 6004. Employee assistance programs relating to drug abuse and alcohol abuse.
Sec. 6005. Substance abuse coverage study.
Sec. 6006. Health insurance coverage for drug and alcohol treatment.
TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION
Sec. 7001. Short title.
Sec. 7002. Findings.
Sec. 7003. Submission of legislation.
TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION
Sec. 8001. Short title.
Sec. 8002. Establishment.
Sec. 8003. Duties of Commission.
Sec. 8004. Membership.
Sec. 8005. Meetings.
Sec. 8006. Director and staff; experts and consultants.
Sec. 8007. Powers of Commission.
Sec. 8008. Report.
Sec. 8009. Termination.
TITLE IX—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE DRUG SOURCE NATIONS
Sec. 9001. Short title.
Sec. 9002. Determinations regarding uncooperative drug source nations.
Sec. 9003. Tariff treatment of products of uncooperative drug source nations.
Sec. 9004. Progress reports.
Sec. 9005. Cancellation of determinations.
Sec. 9006. Definition.
Sec. 9007. Conforming amendments.
TITLE X—BALLISTIC KNIFE PROHIBITION
Sec. 10001. Short title.
Sec. 10002. Prohibition on possession, manufacture, sale, and importation of ballistic knives.
Sec. 10003. Nonmailability of ballistic knives.
TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT
Sec. 11001. Short title.
Subtitle A—Emergency Food for the Homeless
Sec. 11002. Meals served to homeless individuals.
Subtitle B—Job Training for the Homeless
Sec. 11004. Job training for the homeless.
Subtitle C—Entitlements Eligibility
Sec. 11005. Application for SSI and food stamp benefits by SSI pre-release individuals.
Sec. 11006. Delivery of veterans' benefits payments.
TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986
Sec. 12001. Short title.
Sec. 12002. Limitation on number of driver's licenses.
Sec. 12003. Notification requirements.
Sec. 12004. Employer responsibilities.
Sec. 12005. Testing of operators.
Sec. 12006. Classified driver's license.
Sec. 12007. Classified driver's license information system.
Sec. 12008. Federal disqualifications.
Sec. 12009. Requirements for State participation.
Sec. 12010. Grant program.
Sec. 12011. Withholding of highway funds for State noncompliance.
Sec. 12012. Penalties.
Sec. 12013. Waiver authority.
Sec. 12014. Review of commercial motor vehicle alcohol regulations.
Sec. 12015. Truck brake regulations.
Sec. 12016. Radar demonstration project.
Sec. 12017. Limitation on statutory construction.
Sec. 12018. Regulations.
Sec. 12019. Definitions.
TITLE XIII—ELECTRONIC COMMUNICA-TIONS PRIVACY ACT OF 1986
Sec. 13001. Short title.
Subtitle A—Interception of communications and related matters
Sec. 13011. Federal penalties for the interception of communications.
Sec. 13012. Requirements for certain disclosures.
Sec. 13013. Recovery of civil damages.
Sec. 13014. Certain approvals by Justice Department officials.
Sec. 13015. Addition of offenses to crimes for which interception is authorized.
Sec. 13016. Applications, orders, and implementation of orders.
Sec. 13017. Intelligence activities.
Sec. 13018. Mobile tracking devices.
Sec. 13019. Warning subject of surveillance.
Sec. 13020. Injunctive remedy.
Sec. 13021. Effective date.
Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access
Sec. 13031. Title 18 amendment.
Sec. 13032. Effective date.
Subtitle C—Pen Registers and Trap and Trace Devices.
Sec. 13041. Title 18 amendment.
Sec. 13042. Effective date.
Sec. 13043. Interference with the operation of a satellite.
Subtitle D—Special Rule Relating to Effect of Title.
Sec. 13061. Special Rule.
TITLE XIV—CYANIDE WRONGFUL USE
Sec. 14001. Study and Report.
TITLE XV—SENATE POLICY CONCERNING FUNDING
Sec. 15001. Statement of policy.

SEC. 3. COMPLIANCE WITH BUDGET ACT.

Notwithstanding any other provision of this Act, any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 and the term "credit authority" has the meaning provided in section 3(10) of the Congressional Budget Act of 1974.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized

in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(1) In subsection (b), paragraph (1)(D), as redesignated, is amended by—

(A) striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual";

(B) striking out "a fine of not more than $100,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual"; and

(C) inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana," the first place it appears.

(2) In subsection (b), paragraph (2) is amended by striking out "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual".

(3) In subsection (b), paragraph (3) is amended by striking out "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out "a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual".

(4) In subsection (b), paragraph (4) is amended by striking out "1(C)" and inserting "1(D)" in lieu thereof.

(5) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

"(A) the amount authorized in accordance with this section;

"(B) the amount authorized in accordance with the provisions of title 18, United States Code;

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual;

or both.".

(6) Subsection (d) is amended by striking out "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by inserting the following new paragraph after paragraph (24):

"(25) The term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) protracted and obvious disfigurement; or

"(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."; and

(2) by renumbering the following paragraphs accordingly.

SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" wherever it appears and inserting "term of supervised release" in lieu thereof.

(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"SEC. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c).".

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting ", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided, the".

(3) Subsection (c) of section 3583 of title 18, United States Code, is amended—

(A) so that the catchline reads as follows: "Modification of conditions or revocation.";

(B) in paragraph (2) by striking out "or" after the semicolon;

(C) in paragraph (3) by striking out "title," and inserting "title; or" in lieu thereof; and

(D) by inserting the following new paragraph after paragraph (3):

"(4) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of rule 32.1 of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission.".

(4) The amendments made by this subsection shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".

(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended—

(1) in subsection (f) by inserting "or II" after "I" each place it appears;

(2) by redesignating subsection (f) as subsection (f)(1); and

(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:

"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary.".

On page 28, insert the following after line 15:

SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE.

(a) Section 3553 of title 18, United States Code, is amended by adding the following at the end thereof:

"(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM.—Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.".

(b) The amendment made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code.

SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

Section 994 of title 28 of the United States Code is amended by—

(1) inserting the following after subsection (m):

"(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."; and

(2) redesignating subsections (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking out "to the extent" and all that follows through the end and inserting in lieu thereof the following: "in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code. The court's authority to lower a sentence under this subdivision includes the authority to lower such sentence to a level below that established by statute as a minimum sentence.

(b) The amendment made by this section shall take effect on the date of the taking effect of rule 35(b) of the Federal Rules of Criminal Procedure, as amended by section 215(b) of the Comprehensive Crime Control Act of 1984.

Subtitle B—Drug Possession Penalty Act of 1986

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Drug Possession Penalty Act of 1986".

SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

"PENALTY FOR SIMPLE POSSESSION

"SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this title or title III, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this title or title III, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

"(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction

for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

"(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

"(c) As used in this section, the term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this title.".

Subtitle C—Juvenile Drug Trafficking Act of 1986

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Juvenile Drug Trafficking Act of 1986".

SEC. 1102. OFFENSE.

Part D of the Controlled Substances Act is amended by adding after section 405A a new section as follows:

"EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS

"SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

"(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or

"(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title or title III by any Federal, State, or local law enforcement official.

"(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(d) Any person who violates section 405B(a) (1) or (2)

"(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

"(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

"(e) In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18, United States Code, until the individual has served the mandatory term of imprisonment required by section 401(b) as enhanced by this section.

"(f) Except as authorized by this title, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).".

SEC. 1103. TECHNICAL AMENDMENTS.

(a) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking out "or 405A" and inserting in lieu thereof ", 405A, or 405B".

(b) Section 401(c) of the Controlled Substances Act (21 U.S.C. 841(c)) is amended by striking out "405A" each place it appears and inserting in lieu thereof ", 405A, or 405B".

"405B. Employment of minors in controlled substance trafficking.".

SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF A COLLEGE.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by inserting "or manufacturing" after "distributing" wherever it appears and by striking out "a public or private elementary or secondary school" wherever it appears and inserting in lieu thereof "a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university".

(b) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by striking out "involving the same controlled substance and schedule".

(c) Section 405A(b) of the Controlled Substance Act (21 U.S.C. 845a(b)) is amended by striking out "(1) by" and all that follows through the end and inserting the following in lieu thereof:

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both, and (2) at least three times any special parole term authorized by section 401(b) of this title for a first offense.".

SEC. 1105. IMPRISONMENTS.

(a) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.".

(b) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

(c) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

Subtitle D—Assets Forfeiture Amendments Act of 1986

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

On page 37, strike out all beginning with line 14 through line 2 on page 39 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "in such amounts as may be specified in appropriations acts";

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "Such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for for-

feiture and sale authorized by law" and inserting in lieu thereof", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed, during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) in subsection (a) before paragraph (1) by striking out "in such amounts as may be specified in appropriations Acts";

(B) by amending paragraph (3) of subsetion (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

(c) FUNDS NOT COUNTED FOR PURPOSES OF ALLOCATION LIMITS IN SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974.—Notwithstanding any other provision of law or any rule of the House of Representatives or the Senate, amounts available in the Customs Forfeiture Fund or the Department of Justice Assets Forfeiture Fund shall not be counted in determining the allocation of totals under subsections (a) and (b) of section 302 of the Budget Act of 1974.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Controlled Substance Analogue Enforcement Act of 1986".

SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue all or part of which is intended for human consumption shall be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

SEC. 1203. DEFINITION.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; or

"(ii) which was specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in schedule I or II.".

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respe . to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

"For purposes of this paragraph, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle F—Continuing Drug Enterprise Act of 1986

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the Continuing Drug Enterprises Act of 1986".

SEC. 1252. INCREASED PENALTIES.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(2) by striking out "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,".

SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting the following new subsection after subsection (a);

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2)(A) the violation referred to in subsection (d)(1) involved at least 300 times the quantity of a substance described in subsection 401(b)(1)(B) of this Act, or

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(B) of this Act."

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Import and Export Penalties Enhancement Act of 1986.".

SEC. 1302. ENHANCED PENALTIES.

(a) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting the following in lieu thereof:

"(1) In the case of a violation of subsection (a) of this section involving—

"(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, imposed a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(2) In the case of a violation of subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(B) 500 grams or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated, is amended—

(1) by striking out ", except as provided in paragraph (4)";

(2) by striking out "fined not more than $50,000" and inserting in lieu thereof "fined not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual"; and

(3) by inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana,".

Subtitle H—Money Laundering Control Act of 1986

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both

"(3) Whoever conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate or facilitate a violation of section 7201 or 7206 of the Internal Revenue Code of 1954 shall be sentenced to a fine of not more than $250,000 or twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is specified in paragraph (7);

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act;

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3).

"(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments".

SEC. 1353. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS AND RELATED PROVISIONS.

(a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT BORDER.—Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.".

(b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) SUMMONS POWER.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

(2) The heading of section 5318 of title 31, United States Code, is amended to read as follows:

"§ 5318. Compliance, exemptions, and summons authority".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking out the item relating to section 5318 and inserting in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority.".

SEC. 1357. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315".

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (d) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

(f) CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY AND CRIMINAL PENALTY.—Section 5321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.".

(g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN OFFENSES.—Section 5322(b) of title 31, United States Code, is amended—

(1) by striking out "illegal activity involving transactions of" and inserting in lieu thereof "any illegal activity involving";

(2) by striking out "5 years" and inserting in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 1358. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) AMENDMENTS RELATING TO REPORTS ON EXPORTS OR IMPORTS OF MONEY:

(1) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(2) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(A) by striking out "or attempts to transport or have transported,", and

(B) by inserting ", is about to transport," after "transports".

(3) TECHNICAL AND CONFORMING AMENDMENT.—Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forefit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on September 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency, unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1361. CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom

or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1362. AMENDMENTS TO DEFINITIONS.

(a) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

(b) UNITED STATES INCLUDES CERTAIN TERRITORIES AND POSSESSIONS.—Section 5312(a)(5) of title 31, United States Code, is amended by inserting "the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands," after "Puerto Rico".

SEC. 1363. INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS.

(a) DISCUSSIONS ON INTERNATIONAL INFORMATION EXCHANGE SYSTEM.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT ON DISCUSSIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of discussions initiated pursuant to subsection (a).

(c) STUDY OF MONEY LAUNDERING THROUGH FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Attorney General and the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the extent to which foreign branches of domestic institutions are used—

(A) to facilitate illicit transfers of coins, currency, and other monetary instruments (as such term is defined in section 5312(a)(3)) of title 31, United States Code) into and out of the United States; and

(B) to evade reporting requirements with respect to any transfer of coins, currency, and other monetary instruments (as so defined) into and out of the United States;

(2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and

(3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States.

(d) REPORT ON STUDY OF FOREIGN BRANCHES REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the results of the study conducted pursuant to subsection (c).

SEC. 1364. EFFECTIVE DATES.

(a) The amendments made by sections 1354, 1358(b), and 1358(c) shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 1355(b), 1355(c), and 1357(a) shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The amendments made by section 1357 (other than subsection (a) of such section) shall apply with respect to violations committed after the date of the enactment of this Act.

(d) Any regulation prescribed under the amendments made by section 1358(a) shall apply with respect to transactions completed after the effective date of such regulation.

(e) The regulations required to be prescribed under the amendments made by section 1359 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(f) The amendments made by sections 1360 and 1361 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

SEC. 1365. PREDICATE OFFENSES.

(a) Subsection (b) of section 1952 of title 18, United States Code, is amended by striking out "or" before "(2)", and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title.".

(b) Subsection (1) of section 1961 of title 18, United States Code, is amended by inserting "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (relating to the prohibition of illegal gambling businesses),".

(c) Subsection (1) of section 2516 of title 18, United States Code, is amended in paragraph (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (prohibition of relating to business enterprises of gambling),".

SEC. 1366. FORFEITURE.

(a) Title 18 of the United States Code is amended by adding after chapter 45 a new chapter 46 as follows:

"CHAPTER 46—FORFEITURE

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

"§ 981. Civil forfeiture

"(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

"(A) Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.

"(B) Any property within the jurisdiction of the United States, which represents the proceeds of an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense or activity would be punishable by death or imprisonment for a term exceeding one year and which would be punishable by imprisonment for a term exceeding one year if such act or activity had occurred within the jurisdiction of the United States.

"(C) Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer or employee thereof."

"(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or emission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

"(b) Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by the Secretary of the Treasury, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(i) In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:

"(1) Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subchapter, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General may, in his discretion, set. Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.

"(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

"(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

"(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

"(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

"(j) For purposes of this section—

"(1) the term 'Attorney General' means the Attorney General or his delegate; and

"(2) the term 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"§ 982. Criminal forfeiture

"(a) The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.

"(b) The provisions of subsections 413 (c) and (e) through (o) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (c) and (e)—(o)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) The chapter analysis of part I of title 18, United States Code, is amended by inserting after the item for chapter 45 the following:

"46. Forfeiture ..... 981".

SEC. 1367. SEVERABILITY CLAUSE.

If any provision of this subtitle or any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.

Subtitle I—Armed Career Criminals

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.".

Subtitle J—Authorization of Appropriation for Drug Law Enforcement

SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Drug Enforcement Administration, $60,000,000; except, that notwithstanding section 1345 of title 31, United States Code, funds made available to the Department of Justice for the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

(b) The Drug Enforcement Administration of the Department of Justice is hereby authorized to plan, construct, renovate, maintain, remodel and repair buildings and purchase equipment incident thereto for an All Source Intelligence Center: "Provided, That the existing El Paso Intelligence Center shall remain in Texas.".

(c) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Federal Prison System, $124,500,000, of which $96,500,000 shall be for the construction of Federal penal and correctional institutions and $28,000,000 shall be for salaries and expenses.

(d) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Defender Services, $18,000,000.

(e) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Fees and Expenses of Jurors and Commissioners, $7,500,000.

(f) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Office of Justice Assistance, $5,000,000 to carry out a pilot prison capacity program.

(g) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for support of United States prisoners in non-Federal Institutions, $5,000,000.

(h) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Offices of the United States Attorneys, $31,000,000.

(i) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the United States Marshals Service, $17,000,000.

"(j) Authorizations of appropriations for fiscal year 1987 contained in this section are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738."

(k) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1987, the following sums are authorized to be appropriated to procure secure voice radios:

Federal Bureau of Investigation	$2,000,000
Secret Service	$1,000,000.

(l) This section may be cited as the "Drug Enforcement Enhancement Act of 1986".

Subtitle K—State and Local Narcotics Control Assistance

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1986".

SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

(a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF THE DIRECTOR

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

"SEC. 1302. The Director is authorized to make grants to States, for the use of States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.), and to—

"(1) provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons;

"(2) provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution;

"(3) provide additional personnel (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases;

"(4) provide additional public correctional resources for the detention of persons convicted of violating State and local laws relating to the production, possession, or transfer of controlled substances, and to establish and improve treatment and rehabilitative counseling provided to drug dependent persons convicted of violating State and local laws;

"(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

"(6) provide programs which identify and meet the needs of drug-dependent offenders; and

"(7) conduct demonstration programs, in conjunction with local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking to

expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1303. To request a grant under section 1302, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a statewide strategy for the enforcement of State and local laws relating to the production, possession, and transfer of controlled substances;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(5) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

Such strategy shall be prepared after consultation with State and local officials whose duty it is to enforce such laws. Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director or to the State, as the case may be, a performance report concerning the activities carried out pursuant to section 1302 of this title.

"REVIEW OF APPLICATIONS

"SEC. 1304. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1303 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1303 shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1305. (a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for section 1302 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under section 1309 of this title.

"REPORTS

"SEC. 1306. (a) Each State which receives a grant under section 1302 of this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 1303 of this title;

"(2) a summary of the activities carried out in such year with any grant received under section 1309 of this title by such State; and

"(3) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than ninety days after the end of each fiscal year for which grants are made under section 1302 of this title, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under sections 1302 and 1309 of this title to such State for such fiscal year;

"(2) the amount of such grants expended for each of the purposes specified in section 1302; and

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1307. (a) A grant made under section 1302 of this title may not be expended for more than 75 per centum of the cost of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in section 1302, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 per centum of a grant made under section 1302 of this title may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under section 1302 of this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under section 1302, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISCRETIONARY GRANTS

"SEC. 1309. The Director is authorized to make grants to public agencies and private nonprofit organizations for any purpose

specified in section 1302 of this title. The Director shall have final authority over all grants awarded under this section.

"APPLICATION REQUIREMENTS

"SEC. 1310. (a) No grant may be made under section 1309 of this title unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

"SEC. 1311. Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for section 1309 of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in section 1302 of this title. Grants under section 1309 may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.".

(b)(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Director.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Review of applications.
"Sec. 1305. Allocation and distribution of funds under formula grants.
"Sec. 1306. Reports.
"Sec. 1307. Expenditure of grants; records.
"Sec. 1308. State office.
"Sec. 1309. Discretionary grants.
"Sec. 1310. Application requirements.
"Sec. 1311. Allocation of funds for discretionary grants.
"Sec. 1312. Limitation on use of discretionary grant funds.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $350,000,000 for fiscal year 1987, $350,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title.", and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

SEC. 1601. STUDY REQUIRED.

(a) Within 90 days of the date of enactment of this Act, the Secretary of Defense shall provide to the Attorney General—

(1) a list of all sites under the jurisdiction of the Department of Defense including facilities beyond the excess and surplus property inventories whose facilities or a portion thereof could be used, or are being used, as detention facilities for felons, especially those who are a Federal responsibility such as illegal alien felons and major narcotics traffickers;

(2) a statement of fact on how such facilities could be used as detention facilities with detailed descriptions on their actual daily percentage of use; their capacities or rated capacities; the time periods they could be utilized as detention facilities; the cost of converting such facilities to detention facilities; and, the cost of maintaining them as such; and

(3) in consultation with the Attorney General, a statement showing how the Department of Defense and the Department of Justice would administer and provide staffing responsibilities to convert and maintain such detention facilities.

(b) Copies of the report and analysis required by subsection (a) shall be provided to the Congress.

Subtitle M—Narcotics Traffickers Deportation Act

SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))"; and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(c) The amendments made by this subsections (a) and (b) of this section shall apply to convictions occurring before, on, or after the date of the enactment of this section, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this section.

(d) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

(e)(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Subtitle N—Freedom of Information Act

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the "Freedom of Information Reform Act of 1986".

SEC. 1802. LAW ENFORCEMENT.

(a) EXEMPTION.—Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reason-

ably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;".

(b) EXCLUSIONS.—Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.".

SEC. 1803. FEES AND FEE WAIVERS.

Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.".

SEC. 1804. EFFECTIVE DATES.

(a) The amendments made by section 1802 shall be effective on the date of enactment of this Act, and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b)(1) The amendments made by section 1803 shall be effective 180 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 180th day.

(2) The amendments made by section 1803 shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia Control Act".

SEC. 1822. OFFENSE.

(a) It is unlawful for any person—

(1) to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale and transportation in interstate or foreign commerce drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such

as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) This subtitle shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1823. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle P—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATION.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF MANUFACTURING OPERATIONS

"SEC. 416. (a) Except as authorized by this title, it shall be unlawful to—

"(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

"(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

"(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.".

(b) Section 405A of the Controlled Substances Act is amended—

(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 416"; and

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle Q—Controlled Substances Technical Amendments

SEC. 1861. DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE AND AUTHORIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

(b) PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—(1) The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

(2) The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

(c) INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

(d) REAUTHORIZATION OF CONTRACT SERVICES.—Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof ": $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

SEC. 1862. AMENDMENT TO SECTION 608 OF THE TARIFF ACT.

(a) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$2,500" and inserting in lieu thereof "$5,000".

(b) Section 608 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1863. AMENDMENTS TO SECTION 616 OF THE TARIFF ACT.

(a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1864. CROSS REFERENCE CORRECTIONS.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 1865. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 1866. MINOR TECHNICAL AMENDMENTS.

(a) Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

(b) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "special term" and inserting "term of supervised release" in lieu thereof.

(c) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

(d) Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

(e) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

(f) The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following:

"Sec. 405A. Manufacture or distribution in or near schools.

"405B. Employment of minors in controlled substance trafficking.";

and

(2) by inserting after the item relating to section 414 the following:

"Sec. 415. Alternative fine.".

SEC. 1867. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its deriva-

tives, their salts, isomers, and salts of isomers.".

SEC. 1868. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

SEC. 1869. AUTHORITY OF ATTORNEY GENERAL TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 1870. CLARIFICATION OF ISOMER DEFINITION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

Subtitle R—Precursor and Essential Chemical Review

SEC. 1901. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this subtitle.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

Subtitle T—White House Conference for a Drug Free America

SEC. 1931. SHORT TITLE.

This subtitle may be cited as the "White House Conference for a Drug Free America".

SEC. 1932. ESTABLISHMENT OF THE CONFERENCE.

There is established a conference to be known as "The White House Conference for a Drug Free America". The members of the Conference shall be appointed by the President.

SEC. 1933. PURPOSE.

The purposes of the Conference are—

(1) to share information and experiences in order to vigorously and directly attack drug abuse at all levels, local, State, Federal, and international;

(2) to bring public attention to those approaches to drug abuse education and prevention which have been successful in curbing drug abuse and those methods of treatment which have enabled drug abusers to become drug free;

(3) to highlight the dimensions of the drug abuse crisis, to examine the progress made in dealing with such crisis, and to assist in formulating a national strategy to thwart sale and solicitation of illicit drugs and to prevent and treat drug abuse; and

(4) to examine the essential role of parents and family members in preventing the basic causes of drug abuse and in successful treatment efforts.

SEC. 1934. RESPONSIBILITIES OF THE CONFERENCE.

The Conference shall specifically review—

(1) the effectiveness of law enforcement at the local, State, and Federal levels to prevent the sale and solicitation of illicit drugs and the need to provide greater coordination among such programs;

(2) the impact of drug abuse upon American education, examining in particular—

(A) the effectiveness of drug education programs in our schools with particular attention to those schools, both public and private, which have maintained a drug free learning environment;

(B) the role of colleges and universities in discouraging the illegal use of drugs by student-athletes; and

(C) the relationship between drug abuse by student-athletes and college athletic policies, including eligibility and academic requirements, recruiting policies, athletic department financing policies, the establishment of separate campus facilities for athletes, and the demands of practice and lengthy playing seasons;

(3) the extent to which Federal, State, and local programs of drug abuse education, prevention, and treatment require reorganization or reform in order to better use available resources and to ensure greater coordination among such programs;

(4) the impact of current laws on efforts to control international and domestic trafficking of illicit drugs; and

(5) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 1935. CONFERENCE PARTICIPANTS.

In order to carry out the purposes and responsibilities specified in sections 1933 and 1934, the Conference shall bring together individuals concerned with issues relating to drug abuse education, prevention, and treatment, and the production, trafficking, and distribution of illicit drugs. The President shall—

(1) ensure the active participation in the Conference of the heads of appropriate executive and military departments, and agencies, including the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, Secretary of Transportation, and the Director of ACTION;

(2) provide for the involvement in the Conference of other appropriate public officials, including Members of Congress, Governors of States, and Mayors of Cities;

(3) provide for the involvement in the Conference of private entities, especially parents' organizations, which have been active in the fight against drug abuse; and

(4) provide for the involvement in the Conference of individuals distinguished in medicine, law, drug abuse treatment and prevention, primary, secondary, and post-secondary education, and law enforcement.

SEC. 1936. ADMINISTRATIVE PROVISIONS.

(a) All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as the President may consider advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates.

(c) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

(d) Each participant in the Conference shall be responsible for the expenses of such participant in attending the Conference, and shall not be reimbursed for such expenses from amounts appropriated to carry out this subtitle.

SEC. 1937. FINAL REPORT AND FOLLOW-UP ACTIONS.

No later than six months after the effective date of this Act, the Conference shall prepare and transmit a final report to the President and to Congress, pursuant to sections 1933 and 1934. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1938. AUTHORIZATION.

There are hereby authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of this subtitle.

Subtitle .—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. . OFFENSE.

(a) Part I of title 18, United States Code, is amended by inserting after chapter 17, the following:

"CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

"§ 341. Definitions

"As used in this chapter, the term 'common carrier' means a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while under the influence of alcohol or drugs, shall be imprisoned not more than five years or fined not more than $10,000, or both.

"§ 343. Presumptions

"For purposes of this chapter—

"(1) an individual with a blood alcohol content of .10 or more shall be conclusively presumed to be under the influence of alcohol; and

"(2) an individual shall be conclusively presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.".

(b) The table of chapters for part I of title 18, United States Code, is amended by adding after the item for chapter 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs

Subtitle .—Federal Drug Law Enforcement Agent Protection Act of 1986

SEC. . SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and

(3) striking out the matter of following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

"(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

"(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).".

Strike out title II of the House amendment and insert in lieu thereof the following:

TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 2002. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$75,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less than $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of this Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts and shall be avilable primarily for use in Latin America.".

SEC. 2003. AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES: RETENTION OF TITLE AND RECORDS OF USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new sections:

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

SEC. 2004. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 2005. RESTRICTIONS OF THE PROVISION OF UNITED STATES ASSISTANCE.

(a) Section 481(h) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(h)(1) Subject to paragraph (2), for every major illicit drug producing country or major drug-transit country—

"(A) 50 percent of United States assistance allocated for such country notified to Congress in the report required under section 653(a) of this Act shall be withheld from obligation and expenditure;

"(B) on or after March 1, 1987, and on March 1 of each succeeding year, the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for such country; and

"(c) on or after March 1, 1987, and March 1 of each succeeding year, the President shall deny to all products of such country tariff treatment under title V of the Trade Act of 1974 (the Generalized System of Preferences), the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment.

"(2)(A) The assistance withheld by paragraph (1)(A) may be obligated and expended and the provisions of clauses (A) and (B) of paragraph (1) shall not apply if the President determines, and so certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; or

"(ii) for a country that would not otherwise qualify for certification under subclause (i), the vital national interests of the United States require the provision of such assistance, financing, or preferential treatment to such country.

"(B) If the President makes a certification pursuant to clause (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk should assistance, financing, or preferential tariff treatment not be provided such country; and

"(ii) a statement weighing the risk described in subclause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combatting narcotics or to take adequate steps to combat narcotics on its own.

"(3) In making the certification required by paragraph (2) of this subsection, the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4). The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct, and

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

"(4)(A) The provisions of paragraph (1) shall apply without regard to paragraph (2) if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (2), joint resolution disapproving the determination of the President contained in such certification.

"(B)(i) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section, the financing described in (1)(B) of this subsection or and the preferential tariff treatment described in (1)(C) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification.".

(b) Section 481(e) of such Act is amended by striking out "February" and inserting in lieu thereof "March".

(c) Section 481(i) of such Act is amended—

"(1) by striking out "and" at the end of paragraph (3);

"(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

"(3) by adding at the end thereof the following new paragraph:

"(5) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

(d) The amendments made by this section shall take effect October 1, 1986.

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

SEC. 2008. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.".

SEC. 2009. FOREIGN POLICE ARREST ACTIONS.

Section 481(c) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1), by striking out in the first sentence "engage or participate in any direct police arrest action in any foreign country" and inserting in lieu thereof "directly make an arrest in any foreign country as part of any foreign police action";

(2) by amending paragraph (2) to read as follows:

"(2) Nothing in paragraph (1) prevents such employee or officer—

"(A) from being present at the scene of an arrest or otherwise assisting foreign officers in making an arrest; or

"(B) from taking direct action to protect life or safety if exigent circumstances arise in the course of an arrest which are unanticipated and which pose an immediate threat to United States or foreign officers or to members of the public."; and

(3) by adding at the end thereof the following new paragraph:

"(3) The provisions of this subsection shall apply to all countries, unless the President certifies to the Congress a specific country or countries for which it would be against the national interests of the United States to do so.

"(4) With the agreement of a foreign country, paragraph (1) shall not apply to maritime law enforcement operations in the territorial sea of such country.".

SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

(A) the Government of Bolivia's recent drug interdiction operations in cooperation with the United States (Operation Blast Furnace) evidenced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted;

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the

achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) CONDITIONS ON ASSISTANCE.—Paragraph (2) of section 611 of the International Security and Development Cooperation Act of 1985 is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

"(B) the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

"In the certification required by suparagraph (B), the President shall explain why the terms of the 1983 agreement proved unattainable and the reasons why a new agreement was necessary.".

(c) RELATION TO OTHER PROVISIONS.—Nothing in the amendment made by subsection (b) shall be construed as superseding any provision of section 481 of the Foreign Assistance Act of 1961.

SEC. 2013. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

(a) REPORTS.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—

(1) listing each major illicit drug producing country and each major drug-transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

(b) RESTRICTIONS.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country had made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

(d) DEFINITIONS.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the act of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SSC. 2015. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDING.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase effects to negotiate with relevant countries procedure which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 2016. INTELLIGENCE SUPPORT TO COMBATING THE DRUG PROBLEM.

(a) It is the sense of the Congress that the Intelligence Community can play a key role in United States efforts to prevent the importation of illegal drugs into the United States. It is also the sense of the Congress that the drug problem is sufficiently important that monitoring the production of illegal drugs and providing support to efforts to halt the trafficking in illegal drugs should be a high priority for the United States intelligence program.

(b) In order to improve the strategic international narcotics control program of the United States and to assist the reporting requirements of section 481(e) of the Foreign Assistance Act of 1961, the Congress directs the Director of Central Intelligence to improve the collection and analysis of foreign drug production sufficiently to produce highly reliable data on drug cultivation, harvest, and yields for each major illicit drug producing country (as defined by section 481(i) of the Foreign Assistance Act of 1961).

(c) The Congress also directs the Director of Central Intelligence (hereafter in this paragraph referred to as the "DCI") to make support to anti-drug efforts a Level One Priority in his National Foreign Intelligence Strategy and to reflect this priority in the National Foreign Intelligence Program. The Congress understands that—

(1) a copy of the DCI's National Foreign Intelligence Strategy will be provided to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, with the DCI's budget request for fiscal year 1988; and

(2) the DCI will address Intelligence Community support to anti-drug efforts and the coordination of these efforts within the Intelligence Community in his presentation of the National Foreign Intelligence Strategy to the Committees.

SEC. 2017. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 2018. POLICY TOWARD MULTILATERAL DEVELOPMENT BANKS.

Section 481(a) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.".

SEC. 2019. MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation of production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2020. DRUGS AS A NATIONAL SECURITY PROBLEM.

The Congress hereby declares that drugs are a national security problem and urges the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2021. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations asupices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2022. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, incuding the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 2023. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study.

SEC. 2024. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2025. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentay Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2026. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 67 days after the date of enactment of this Act with respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2027. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delega-

tions to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2028. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2029. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 2030. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2031. SUGAR QUOTA.

(a) Notwithstanding any other provision of the law: The President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the U.S. in narcotics enforcement activities as defined in section 2002 as determined by the President.

SEC. 2032. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the importance and the desire to respect the sovereignty of each nation;

(2) further, the United States government has actively worked to support the Mexican government in easing its international debt burden;

(3) Both presidents pledged their cooperation in drug eradication, enforcement and education;

(4) This pledge of cooperation has not been realized fully because of the inadequate response of the Mexican government in:

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfedo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the U.S.-Mexican border.

(b) Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subparagraph (A)(4), the President should consider taking one or more of the following measures:

(1) imposition of a mandatory travel advisory for all of Mexico;

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank);

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

TITLE III—INTERDICTION

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Improvement act of 1986".

SEC. 3002. FINDINGS.

The Congress hereby finds that—

(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

(A) increased investigations of large networks of drug smuggler organizations;

(B) source country drug eradication;

(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

(D) increased emphasis on drug education programs in the schools and workplaces;

(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive antidrug effort are emphasized;

(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal drug interdiction program;

(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

SEC. 3003. PURPOSES.

It is the purpose of this title—

(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act, for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States and

(3) to improve other drug interdiction programs of the Federal Government.

Subtitle A—Department of Defense Drug Interdiction Assistance

SEC. 3051. SHORT TITLE.

This subtitle may be cited as the "Defense Drug Interdiction Assistance Act".

SEC. 3052. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy, $138,000,000, to be available for (A) the refurbishment and upgrading, for drug interdiction purposes, of four existing E-2C Hawkeye surveillance aircraft or any other aircraft of the Navy which the Secretary considers better suited than E-2C Hawkeye surveillance aircraft to perform the drug interdiction mission, and (B) the procurement of four replacement aircraft (of the same type of aircraft refurbished and upgraded under the authorization in this paragraph) and related spares for the Navy.

(2) For procurement of seven radar aerostats, $99,500,000.

(3) For procurement of eight Blackhawk helicopters, $40,000,000.

(b) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—(1)(A) The Secretary of Defense shall make two of the existing aircraft refurbished and upgraded under section (a)(1) available to the Customs Service and the other two of such existing aircraft available to the Coast Guard.

(B) The Customs Service and the Coast Guard shall each have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service and the Coast Guard, respectively, under subparagrah (A).

(2) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(2) and the helicopters acquired under subsection (a)(3) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984.

(3) Aircraft and radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

(c) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligated for equipment for enhance-

ment of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 3053. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on the date of the enactment of this Act, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

(c) USE OF DEPARTMENT OF DEFENSE FUNDS FOR THE COAST GUARD.—In addition to any other amounts authorized to be appropriated to the Department of Defense in fiscal year 1987, $45,000,000 shall be authorized to be appropriated for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

(d) INSTALLATION OF 360-DEGREE RADAR ON COAST GUARD SURVEILLANCE AIRCRAFT.—The Secretary of Defense is authorized to use $45,000,000 for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Funds to carry out this subsection shall be derived as described in section 3052(b). Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

SEC. 3054. REPORT ON DEFENSE DRUG EDUCATION ACTIVITIES.

Not later than December 1, 1986, the Secretary of Defense, in consultation with the National Drug Enforcement Policy Board and the Department of Education, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of—

(1) the extent to which youth enrolled in schools operated by the Department of Defense for dependent members of the Armed Forces are receiving education on drug and substance abuse,

(2) the types of drug education programs that are currently being provided in such schools,

(3) whether additional drug education programs are needed in such schools, and

(4) the extent to which drug education for youth in grades kindergarten through 12 include or should include preventive peer counseling classes.

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

SEC. 3056. ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AND EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL.

(a) ASSISTANCE TO CIVILIAN LAW ENFORCEMENT.—Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws.".

(b) EMERGENCY ASSISTANCE.—Section 374(c) of such title is amended to read as follows:

"(c)(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used as a base of operations outside the land area of the United States (or any territory, commonwealth, or possession of the United States) by Federal law enforcement officials—

"(A) to facilitate the enforcement of a law listed in subsection (a); and

"(B) to transport such law enforcement officials in connection with such operations.

"(2)(A) Subject to subparagraph (B), equipment operated by or with the assistance of personnel assigned under subsection (a) may not be used to interdict or interrupt the passage of vessels and aircraft.

"(B) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to intercept vessels and aircraft outside the land area of the United States (or any territory, commonwealth, or possession of the United States) for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists and that enforcement of a law listed in subsection (a) would be seriously impaired if such use of equipment were not permitted. Such use of equipment may continue into the land area of the United States (or any territory or possession of the United States) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(3) For purposes of this subsection, an emergency circumstance exists when—

"(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interest of the United States; and

"(B) the assistance described in this subsection would significantly enhance the enforcement of a law listed in subsection (a).".

SEC. 3057. ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) GENERAL REQUIREMENT.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress the following:

(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

(B) Communications equipment, including secure communications.

(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

(b) COMMITTEE APPROVAL AND FINAL IMPLEMENTATION.—Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of

such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

(c) EQUIPMENT SUBJECT TO SECTION 3052(d).—Equipment identified in this section is subject to the provisions of section 3052(d).

(d) APPLICABILITY.—Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

(e) REVIEW BY GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).

SEC. 3058. GRADE OF DIRECTOR OF DEPARTMENT OF DEFENSE TASK FORCE ON DRUG ENFORCEMENT.

During fiscal year 1987, the number of officers of the Marine Corps authorized under section 525(b) of title 10, United States Codes, to be on active duty in grades above major general is increased by one during any period that an officer of the Marine Corps is serving as the Director of the Department of Defense Task Force on Drug Enforcement. An additional officer in a grade above major general by reason of this section may not be in the grade of general.

SEC. 3059. CIVIL AIR PATROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Civil Air Patrol, the all-volunteer civilian auxiliary of the Air force, can increase its participation in and make significant contributions to the drug interdiction efforts of the Federal Government, and

(2) the Secretary of the Air Force should fully support that participation.

(b) AUTHORIZATION.—In addition to any other amounts appropriated for the Civil Air Patrol for fiscal year 1987, there are authorized to be appropriated for the Civil Air Patrol, out of any unobligated and uncommitted balances of appropriations for the Department of Defense for fiscal year 1986 which are carried forward into fiscal year 1987, $7,000,000 for the acquisition of the major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions.

(c) REPORTS.—(1) The Secretary of the Air Force shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives quarterly reports which contain the following information:

(A) A description of the manner in which any funds are used under subsection (b).

(B) A detailed description of the activities of the Civil Air Patrol in support of the Federal Government's drug interdiction program.

(2) The first report under paragraph (1) shall be submitted on the last day of the first quarter ending not less than 90 days after the date of the enactment of this Act.

Subtitle B—Customs Enforcement

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Customs Enforcement Act of 1986".

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 3111. DEFINITIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c);

(2) by striking out "The term" in subsection (k) and inserting in lieu thereof "(1) The term";

(3) by adding at the end of subsection (k) the following new paragraph:

"(2) For the purposes of sections 432, 433, 434, 448, 585, and 586, any vessel which—

"(A) has visited any hovering vessel;

"(B) has received merchandise while in the customs waters beyond the territorial sea; or

"(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place."; and

(4) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.".

SEC. 3112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

only in accordance with regulations prescribed by the Secretary.".

SEC. 3113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433;

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the

United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 of the Tariff Act of 1930 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 3114. PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 3115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 of the Tariff Act of 1930 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $5,000, or imprisonment for not more than 1 year, or both.".

(b) REPEAL.—Section 460 is repealed.

SEC. 3116. PENALTIES FOR FAILURE TO DECLARE.

Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497) is amended to read as follows:

"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.

"(a) IN GENERAL.—(1) Any article which—

"(A) is not included in the declaration and entry as made; and

"(B) is not mentioned before examination of the baggage begins—

"(i) in writing by such person, if written declaration and entry was required, or

"(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

"(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

"(A) if the article is a controlled substance, 200 percent of the value of the article; and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 3117. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 3118. FALSE MANIFESTS; LACK OF MANIFEST.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000";

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000";

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500"; and

(4) by striking out "$10" in subsection (a)(2) and inserting in lieu thereof "$200".

SEC. 3119. UNLAWFUL UNLOADING OF MERCHANDISE.

Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 3120. AVIATION SMUGGLING.

Part V of title IV of the Tariff Act of 1930 is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) SEA TRANSFERS.—It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

"(1) either—

"(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

"(B) the vessel is a vessel of the United States (within the meaning of section 3(b) of the Anti-Smuggling Act (19 U.S.C. 1703(b)), or

"(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

"(c) CIVIL PENALTIES.—Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 497(b).

"(d) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (c), any person who intentionally commits a violation of any provision of this section is, upon conviction—

"(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

"(e) SEIZURE AND FORFEITURE.—

"(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier."

"(f) DEFINITION OF MERCHANDISE.—As used in this section, the term 'merchandise' means only merchandise the importation of which into the United States is prohibited or restricted.

"(g) INTENT OF TRANSFER OF MERCHANDISE.—For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) or section 596, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

"(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

"(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

"(3) The failure to identify correctly—

"(A) the vessel by name or country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

"(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

"(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 3121. SEIZURES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining, and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 3122. SEARCHES AND SEIZURES.

Section 595(a) of the Tariff Act of 1930 (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

"(C) any document, container, wrapping, or other article which is evidence of a violation of section 592 involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

"(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.".

SEC. 3123. FORFEITURES.

Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

SEC. 3124. PROCEEDS OF FORFEITED PROPERTY.

Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 3125. COMPENSATION TO INFORMERS.

Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1) any person who is not an employee or officer of the United States—

"(A) detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws and reports such detection and seizure to a customs officer, or

"(B) furnishes to a United States attorney, the Secretary of the Treasury, or any customs officer original information concerning—

"(i) any fraud upon the customs revenue, or

"(ii) any violation of the customs laws or the navigation laws which is being, or has been, perpetrated or contemplated by any other person; and

"(2) such detection and seizure or such information leads to a recovery of—

"(A) any duties withheld, or

"(B) any fine, penalty, or forfeiture of property incurred;

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount so recovered.

"(b) FORFEITED PROPERTY NOT SOLD.—If—

"(1) any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States and is thereafter, in lieu of sale—

"(A) destroyed under the customs or navigation laws, or

"(B) delivered to any governmental agency for official use, and

"(2) any person would be eligible to receive an award under subsection (a) but for the lack of sale of such forfeited property,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the appraised value of such forfeited property.

"(c) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

"(d) SOURCE OF PAYMENT.—Unless otherwise provided by law, any amount paid under this section shall be paid out of appropriations available for the collection of the customs revenue.

"(e) RECOVERY OF BAIL BOND.—For purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.".

SEC. 3126. FOREIGN LANDING CERTIFICATES.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 3127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 628. EXCHANGE OF INFORMATION.

"(a) IN GENERAL.—The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(4) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

"(b) NONDISCLOSURE AND USES OF INFORMATION PROVIDED.—

"(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

"(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).".

SEC. 3128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV of the Tariff Act of 1930 is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections; and

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.".

PART 2—UNDERCOVER CUSTOMS OPERATIONS

SEC. 3131. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such

proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

(b) SPECIAL EFFECTIVE DATE RULE.—If the bill H.R. 5300 (providing for reconciliation of the budget for fiscal year 1987) is enacted and includes an amendment to section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 which is identical to the amendment made by subsection (a) of this section, then the amendment made by subsection (a) shall have no effect.

SEC. 3142. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 3151. RECREATIONAL VESSELS.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 3152. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer shall—

"(1) upon being questioned at the time of executing any of the powers conferred upon him, make known his character as an officer of the Federal Government; and

"(2) have the authority to demand the assistance of any person in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary.

If a person, without reasonable excuse, neglects or refuses to assist a customs officer upon proper demand under paragraph (2), such person is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person other than an officer or employee of the United States who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 3153. REPORTS ON EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 3161. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

(a) AMENDMENT TO ACT.—Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "POSSESSION," in the heading;

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall";

(3) by striking out "This section" and inserting in lieu thereof "(c) This section";

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a); and

(5) by inserting after subsection (a) the following new subsection:

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

"(1) manufacture or distribute a controlled substance; or

"(2) possess a controlled substance with intent to distribute.".

(b) CONFORMING AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Manufacture" in the item relating to section 1009 and insert-

ing in lieu thereof "Possession, manufacture".

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Maritime Drug Law Enforcement Prosecution Improvements Act of 1986".

SEC. 3202. IMPROVEMENT OF PUBLIC LAW 96-350.

The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign state, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 3. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

Subtitle D—Coast Guard

SEC. 3251. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

(a) ADDITIONAL AUTHORIZATIONS FOR THE COAST GUARD.—

(1) There are authorized to be appropriated for Acquisition, Construction, and Improvements of the Coast Guard, $89,000,000.

(2) There are hereby authorized to be appropriated for Operating Expenses of the Coast Guard, $39,000,000. This amount shall be used to increase the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1987 to 39,220, and to increase the utilization rate of Coast Guard equipment.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this section are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle E—United States-Bahamas Drug Interdiction Task Force

SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act, immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized

for the task force in this section and section 3141, and (ii) any training and personnel enhancements authorized in this section and section 3141.

(C) The Attorney General shall report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title, $10,000,000 for the following:

(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle F—Command, Control, Communications, and Intelligence Centers

SEC. 3351. ESTABLISHMENT OF COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE CENTERS (C-3I).

There are authorized to be appropriated $25,000,000 for the establishment of command, control, communications, and intelligence (C-3I) centers, including sector operations centers and a national command, control, communications, and intelligence (C-3I) center, in locations within the United States. The coordination of the establishment and location of such C-3I centers shall be conducted by the Commissioner of Customs; the Commandant of the Coast Guard; the Attorney General of the United States; and the National Narcotics Border Interdiction System (NNBIS).

Subtitle G—Transportation Safety

SEC. 3401. AIR SAFETY.

(a)(1) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App 1472(b)) is amended by adding at the end the following:

"(3)(A) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who in connection with an act described in subparagraph (B) and with knowledge of such act—

"(i) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

"(ii) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

"(ii) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

"(iv) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictiticus, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictiticus, or fraudulent statement or entry.

"(B) The act referred to in subparagraph (A) is the transportation by aircraft of any controlled substance, or the aiding or facilitation of a controlled substance offense, where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).".

(2) Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.".

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

(b)(1) Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked, or if such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration is suspended or revoked, or that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator of the Federal Aviation Administration with respect to the display of navigation or anticollision lights; and

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given to such term by section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting the following:

"(q) Violations in connection with transportation of controlled substances.".

(c) Section 904(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1474(a)) is amended—

"(1) by striking "$500" each place it appears and inserting in lieu thereof "$5,000";

(2) by inserting after the second sentence the following: "In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109(b) and (c) of this Act, the owner or person in charge of such aircraff shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidenced, that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board."; and

(3) by amending the third sentence to read as follows: "In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft.".

(d)(1) Section 1109 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1509) is amended by adding at the end thereof the following:

"REPORTING TRANSFER OF OWNERSHIP

"(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale, transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act.".

(2) Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection, the Secretary of the Treasury shall promulgate regulations establishing guidelines by which persons or classes of persons may apply for exemptions from the filing requirements of subsection (f) of section 1109. The Secretary of the Treasury may exempt such persons or classes of persons pursuant to such regulations.

(3) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 1109. Application of existing laws relating to foreign commerce."

is amended by adding at the end thereof the following:

"(f) Reporting transfer of ownership.".

SEC. 3402. DRUG AND HIGHWAY SAFETY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resultng in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3403. SAVINGS PROVISION.

In any proceeding under section 11344 of title 49, United States Code, involving an application by a rail carrier (or a person controlled by or affiliated with a rail carrier) to acquire a motor carrier, the Interstate Commerce Commission, and any Federal court reviewing action of the Commission, shall follow the standards set forth in the Commission decision in Ex Parte No. 438 if the applicant rail carrier, between July 20, 1984, and September 30, 1986 (1) filed an application with the Commission to acquire a motor carrier, (2) entered into a contract or signed a letter of intent to acquire a motor carrier, or (3) made a public tender offer to acquire a motor carrier.

Subtitle H—Department of Justice Funds for Drug Interdiction Operations in Hawaii

SEC. 3451. COMMUNICATIONS.

The Federal Communications Commission shall revoke any license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission shall, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

Subtitle A—Treatment and Rehabilitation

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. EXTENSION OF ALCOHOL, DRUG, ABUSE, AND MENTAL HEALTH BLOCK GRANT.

(a) Section 1911 is amended—

(1) by striking out "the purpose of grants and allotments under section 1913" and inserting in lieu thereof "purposes of carrying out this part";

(2) by striking out "$576,000,000" and inserting in lieu thereof "$736,000,000"; and

(3) by adding at the end thereof the following new sentence: "If the total amount appropriated under the preceding sentence for fiscal year 1987 exceeds $500,000,000, 27 percent of the amount of such excess shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 67 percent of the amount of such excess shall be available for allotments to States under section 1921 for such fiscal year, and 6 percent of the amount of such excess shall be available for transfer to the Administrator of Veterans' Affairs under section 1923.".

(b)(1) Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Twenty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Seventy-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs, who are seeking treatment, and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (c);

"(C) the commitment of the State to the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse (as determined by the Secretary after an evaluation of the expenditures of the State for such services during the calendar year described in subparagraph (B) and of the ability of the State to meet the need for such services); and

"(D) the availability in the State of Federal, State, and local public resources to satisfy the needs in such State for services described in subparagraph (C).

"(b)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under subsection (a) from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(c) In order to receive an allotment for a fiscal year under subsection (a), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (F) of subsection (a)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (b) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any application under this section, the State

will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (b) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (b) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(d)(1) Except as provided in subsections (e), (f), and (i), amounts paid to a State under subsection (b) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(e) A state shall use 5 percent of the total amount paid to a State under subsection (b) for a fiscal year to carry out the programs described in section 1922.

"(f) Of the total amount paid to any State under subsection (b) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (d)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"STATE PROGRAMS FOR HIGH RISK YOUTH

"SEC. 1922. A State shall use the amounts required by sections 1916(c)(8) and 1921(e) to be used under this section for model, innovative, community based programs to provide multiple coordinated services for alcohol abuse and drug abuse prevention, treatment, and rehabilitation directed toward high risk youth. For purposes of this paragraph, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is identified as a child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

"TRANSFER TO THE ADMINISTRATOR OF VETERAN'S AFFAIRS

"SEC. 1923. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1911, is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

SEC. 1924. One percent of the total amount appropriated under section 1911 for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. REVISION OF ALLOTMENT PROCEDURES APPLICABLE TO INDIAN TRIBES.

(a) Section 1902(d)(1) is amended to read as follows:

"(d)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

(b) Section 1913(b)(1) is amended to read as follows:

"(d)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

SEC. 4004. REVISION OF CERTAIN BLOCK GRANT EARMARKS.

(a) Section 1916(c) is amended—

(1) by striking out "35" each place it appears in subparagraphs (A) and (B) of paragraph (7) and inserting in lieu thereof "25";

(2) by striking out paragraph (8) and inserting in lieu thereof the following:

"(8) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 80 percent of such amount for treatment and rehabilitation programs for individuals who abuse alcohol or drugs."; and

(3) by adding at the end thereof the following new paragraph:

"(16) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 5 percent of such amount for programs described in section 1922.".

SEC. 4005. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4006. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the national research institute for which it was appointed on—

"(A) matters relating to the activities carried out by and through the institute and the policies respecting such activities; and

"(B) matters relating to activities carried out by the Secretary and the National Institutes respecting the disease, disorder, or other aspect of human health with which the advisory council is concerned.

"(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established;

"(B) the acquisition of grounds for the institute; or

"(C) the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the national research institute was established and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the national research institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4007. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by section 4006 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 508. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of a national research institute constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year.".

SEC. 4008. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4009. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should conduct studies on the most effective means of providing such education, including health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any studies described in paragraph (2) which have been conducted, and should include in such report any findings concerning the labels described in such paragraph and recommendations for specific language for such labels.

SEC. 4010. SUICIDE.

(a) Section 501 is amended by adding at the end thereof the following new subsection:

"(i) The Secretary shall—

"(1) develop and publish information respecting the causes of suicide among individuals under the age of 21 and the means of preventing suicide among such individuals, and

"(2) make such information generally available to the public and health professionals.".

(b) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 501(i) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. PREPARATION OF PUBLIC SERVICE ANNOUNCEMENTS.

(a) The Secretary of Health and Human Services shall increase and expand activities conducted under paragraphs (1) and (4) of section 503(d) of the Public Health Service Act.

(b) Section 503(d)(4) is amended—

(1) by inserting "and documentary films" after "television"; and

(2) by inserting "and films" before the period.

SEC. 4012. NATIONAL PLAN TO COMBAT DRUG ABUSE.

By October 1, 1988, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report which sets forth a comprehensive national plan to combat drug abuse. The report shall include—

(1) a description of a model program for activities to be conducted by the States to combat drug abuse;

(2) an analysis of the social and economic costs of drug abuse to the Nation, including amounts expended by public agencies and private organizations—

(A) for the treatment of individuals for drug abuse, including a division of such amounts among the types of settings in which such treatment is provided;

(B) for treatment of individuals for health problems resulting from drug abuse; and

(C) to meet other costs resulting from drug abuse, such as costs resulting from lost employee productivity;

(3) an assessment of current treatment and rehabilitation needs and the current integration and financing of drug treatment and rehabilitation into the Nation's health care system;

(4) recommendations for the National Institute on Drug Abuse for research on, and plans for the development of, chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction;

(5) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(6) a statement of specific goals and objectives to meet the Nation's current treatment, rehabilitation, and personnel needs in the area of drug abuse;

(7) estimates of public and private resources needed to accomplish the goals and objectives referred to in paragraph (6) and estimates of savings in resources that can be anticipated from the achievement of such goals and objectives.

SEC. 4013. CLEARINGHOUSE.

(a) The Secretary of Health and Human Services, through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

(b) The Secretary of Health and Human Services shall ensure that the clearinghouse established under subsection (a) coordinates its activities with similar activities conducted by the Secretary of Education.

SEC. 4014. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs.".

SEC. 4015. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4016. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new

nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (d)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 302(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4017. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Food, Drug, and Cosmetic Act.

SEC. 4018. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4019. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) FINDINGS.—The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact on societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) CATEGORIZATION.—It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

Section 4043 of the House amendment is amended to read as follows:

SEC. 4020. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should provide that the possession or distribution, respectively, of such drug is a criminal offense.

SEC. 4021. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) of the Public Health Service Act (42 U.S.C. 290cc(a)(5)) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to reduce the incidence of drug abuse or the severity of addiction to specific drugs.".

SEC. 4022. ALKYL NITRITES.

In the administration of the Federal Food, Drug, and Cosmetic Act, alkyl nitrites and their isomers shall be treated as a drug under such Act unless alkyl nitrites and their isomers are not manufactured, processed, distributed, or sold for use by individuals.

SEC. 4023. ADMINISTRATOR OF VETERANS' AFFAIRS.

There is authorized to be appropriated for fiscal year 1987 to the Administrator of Veterans' Affairs $6,000,000 for the purpose of providing outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitutes a grave threat to their physical and mental well-being and significantly impedes the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 4103. PURPOSE.

The purpose of this subtitle is to assist States in their efforts to educate concerning, and to prevent, drug use and alcohol abuse through school and community based programs.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

(a)(1) From the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year—

(A) $2,000,000 shall be reserved by the Secretary for programs under sections 4135 and 4136 for such fiscal year, of which $300,000 shall be for programs under section 4136 for such fiscal year;

(B) $10,000,000 shall be reserved by the Secretary for regional centers under section 4132(b) for such fiscal year;

(C) $15,000,000 shall be reserved by the Secretary for grants to and contracts with institutions of higher education under section 4131 for such fiscal year; and

(D) $7,500,000 shall be reserved by the Secretary for programs and activities under sections 4132(a) and 4134 for such fiscal year.

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $7,500,000 shall be available to the Secretary of Health and Human Services to carry out section 4134 for such fiscal year.

(b)(1) From the remainder of the amount appropriated or otherwise made available to carry out this subtitle for each fiscal year after the application of subsection (a) for such fiscal year, the Secretary may reserve up to 1 percent for allotments to territories and possessions.

(2) From the amount reserved under paragraph (1) for a fiscal year, the Secretary shall allot to each territory or possession an amount which bears the same ratio to such reserved amount as the school-age population of such territory or possession bears to the population of all territories and possessions.

(3) For purposes of this subsection, the term "territory or possession" means Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(c)(1) From the amount available to carry out this subtitle for a fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to such available amount as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than $800,000 under this subsection.

(2) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) The Secretary may reallot any amount of any allotment to a State under subsection (b) or (c) to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under subsection (b) or (c).

(e) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under subsection (b) or (c) from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 35 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State programs is accordance with section 4122.

(b) An amount equal to 65 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency for—

(1) programs described in section 4123(b); and

(2) grants to and contracts with local educational agencies, intermediate educational agencies, and consortia for activities in accordance with sections 4123(a) and 4125.

SEC. 4122. STATE PROGRAMS.

(a) Funds made available to the chief executive officer of a State under section 4121(a) shall be used for grants to and contracts with local governments, local educational agencies, institutions of higher education, consortia, and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broad based programs for drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education for all age groups;

(2) training programs for teachers, counselors, other educational personnel, parents, local law enforcement and judicial officials,

other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) aimed at drug-free communities in every State;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia of such agencies—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs; and

(B) in undertaking the coordination of such programs with related community efforts and resources; and

(C) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

(b) In carrying out subsection (a), the chief executive officer of a State shall ensure that model, innovative, community based programs of multiple coordinated services for high risk youth are given the highest priority. For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is the child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

SEC. 4123. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use 90 percent of the amounts available to such agency under section 4121(b) for grants to, and contracts with, local educational agencies, intermediate educational agencies, and consortia in the State, for the purposes described in section 4125(a), except that for fiscal years 1989 and 1990 the State educational agency shall allot to each local educational agency an amount which bears the same ratio to the amounts available for purposes of this subsection for such fiscal year as the school-age population in the local school district bears to the school-age population in the State.

(b) Each State educational agency shall use 10 percent of the amounts available under section 4121(b) for each fiscal year for programs of drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education. Programs carried out under this subsection may include activities such as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricula and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children, sparsely populated areas, or to meet other special needs;

(5) collaborative and coordinated activities, including grants to and contracts with institutions of higher education, local educational agencies, and regional centers established under section 4132(b); and

(6) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

(c) Each State educational agency shall submit to the chief executive officer of the State a plan which—

(1) describes the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(2) provides assurances that the State educational agency will provide financial assistance under this part only to local educational agencies, intermediate educational agencies, and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

(3) describes how funds will be allocated among local educational agencies, intermediate educational agencies, and consortia for fiscal years 1987 and 1988 and how funds will be used under this part; and

(4) provides for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. STATE APPLICATIONS.

(a) In order to receive an allotment under subsection (b) or (c) of section 4112, a State shall submit an application to the Secretary. As part of such application the chief executive officer of the State shall agree to use the funds paid to the State under this part in accordance with the requirements of this subtitle.

(b) Each application submitted under subsection (a) shall—

(1) cover a period of two fiscal years;

(2) be submitted at a time, in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this subtitle for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this subtitle and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part; and

(6) designate the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part and include the plan for use of funds under section 4123(c).

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to a local educational agency, intermediate educational agency, or consortia pursuant to a grant or contract under section 4123(a) may be used by such agency or consortia for drug abuse and alcohol abuse prevention and education activities primarily directed toward elementary, secondary, and postsecondary schools. Such activities may include—

(A) the development and implementation of drug abuse and alcohol abuse education curricula for elementary and secondary schools;

(B) drug abuse and alcohol abuse prevention counseling programs including peer and professional counseling;

(C) programs of drug abuse and alcohol abuse treatment referral;

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(I) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

(b) Not more than 2.5 percent of any grant, contract, or allotment under section 4123(a) for any fiscal year may be used for administrative costs of a local or intermediate educational agency or consortium in carrying out programs under this part.

SEC. 4126. LOCAL APPLICATIONS.

(a) A local educational agency, intermediate educational agency, or a consortia may submit an application to the State educational agency for a grant, contract, or allotment under this part. A local educational agency may receive a grant, contract, or allotment under this part for any fiscal year for which such application is certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

(1) sets forth a comprehensive plan for programs to be carried out by the applicant under this part;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establishes or designates a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describes the manner in which the applicant will establish, implement, or augment age-appropriate, developmentally-

based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, including a description of provisions to target education efforts to students most at risk of drug abuse and to schools with the greatest need of drug abuse prevention programs;

(5) provides assurances that the applicant enforces related rules and regulations of student conduct;

(6) describes the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(7) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(8) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(9) provide assurances of compliance with the provisions of this part;

(10) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(11) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From amounts reserved by the Secretary under section 4112(a)(1)(C), the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia thereof for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education or consortia thereof which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to institutions of higher education of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b)(1) Training grants shall be available for—

(A) pre-service and in-service training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(B) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(C) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and

(D) training programs for law enforcement officials, community leaders, parents, and government officials.

(2) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this paragraph, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(c) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4132(b).

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including treatment and rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 4132. FEDERAL ACTIVITIES.

(a)(1) The amount reserved by the Secretary under section 4112(a)(1)(D) for each fiscal year shall be used to carry out the activities described in paragraph (2).

(2) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(A) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under the Public Health Service Act;

(B) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug and alcohol abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(C) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug and alcohol abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies;

(D) identify research and development priorities with regard to school-based drug and alcohol abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4; and

(E) collect data concerning, and evaluate, programs that reduce drug abuse and alcohol abuse among students.

(b) The Secretary shall use the amount reserved under section 4112(a)(1)(B) for each fiscal year to maintain at least 5 regional centers to—

(1) train school teams to access the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

(c) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the Committees on Appropriations and Labor and Human Resources of the Senate and the Committees on Appropriations and Education and Labor of the House of Representatives not later than one year after the date of the enactment of this Act.

SEC. 4133. INTERAGENCY COORDINATION.

The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, and the Director of ACTION shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, and ACTION, respectively, to coordinate interagency drug and alcohol abuse activities.

SEC. 4134. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

(a) The Secretary of Health and Human Services and the Secretary of Education shall provide training and technical assistance to States and public and nonprofit private entities in planning and operating activities to be carried out under this subtitle.

(b) The Secretary of Health and Human Services and the Secretary of Education may conduct data collection and evaluation activities to assist in carrying out this subtitle.

SEC. 4135. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the amounts reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under

the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423(a) of the Indian Education Act (20 U.S.C. 3385b) is amended by inserting "clinical psychology," after "medicine,".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.".

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 4136. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

PART 4—GENERAL PROVISIONS

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, treatment and rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies, intermediate educational agencies, State educational agencies, and institutions of higher education or a consortium of one or more such agencies or institutions.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 4144. MATERIALS.

Any materials produced or distributed with amounts appropriated under this subtitle shall reflect the message that the use of illegal drugs and the abuse of alcohol and other drugs is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this section.

Subtitle C—Indians and Alaska Natives

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

SEC. 4202. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in education, social services, law enforcement, and other areas, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indians is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their members and the resources made available under this subtitle will assist Indian tribes in meeting that responsibility.

SEC. 4203. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 4204. DEFINITIONS.

For purposes of this subtitle—

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 4205, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 19 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, Indians who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help Indians reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 4205. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 4206, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 130 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 4206. TRIBAL ACTION PLANS.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such reso-

lution shall be the basis for the implementation of this subtitle and of the Memorandum of Agreement under section 4205.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 4205, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for scheduling Federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among Indians as provided under section 4228, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 4205(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted the resolution for the Plan,

(2) the identification and coordination of available resources and programs relevant to a program of alcohol and substance abuse prevention and treatment,

(3) the establishment and prioritization of goals and the efforts needed to meet those goals, and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. The Secretary shall allocate funds based on need.

(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal year 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 90 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 4207. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 4206.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 4208. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction: Provided, That the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available Federal, tribal, State, local, or private funds, if not otherwise prohibited by law. This subsection does not require the Secretary of the Interior nor the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

SEC. 4210. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

PART III—INDIAN YOUTH PROGRAMS

SEC. 4211. REVIEW OF PROGRAMS.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) Federal programs providing education services or benefits to Indian children,

(2) tribal, State, local, and private educational resources and programs,

(3) Federal programs providing family and social services and benefits for Indian families and children,

(4) Federal programs relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 4206.

SEC. 4212. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 4213. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 4206 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 4205, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operated.

(e) AUTHORIZATION.—For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989. For the operation of emergency shelters or half-way houses there is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 4214. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 4215. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION: SOURCE ERADICATION

(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal Law enforcement agencies, including the United States Customs Service.

(2) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989.

(b)(1) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(2) AUTHORIZATIONS.—To carry out subsection (a), there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 4218. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in subsection (a) shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 4228.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

71-059 O-87-23 (Pt. 21)

SEC. 4219. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 4205 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either through its direct or contract health service.

SEC. 4220. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall construct or renovate and staff new or existing juvenile detention centers. The Secretary shall ensure that the construction and operation of the centers is consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there is authorized to be appropriated $10,000,000 for construction and renovation for each of the fiscal years 1987, 1988, and 1989, and $5,000,000 for staffing and operation for each of the fiscal years 1987, 1988, and 1989.

SEC. 4221. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 4222. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reportcd in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 4224. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 4225. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 4205 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 4226. INDIAN HEALTH SERVICE PROGRAM.

The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

SEC. 4227. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) CENTERS.—The Secretary shall construct or renovate a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For purposes of the preceding sentence, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health professionals. There are authorized to be appropriated $6,000,000 for the construction and renovation of the regional youth treatment centers, and $3,000,000 for the staffing of such centers, for each of the fiscal years 1987, 1988, and 1989.

(c) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures, suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth, and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(3) There are authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4228. TRAINING AND COMMUNITY EDUCATION.

(a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the In-

terior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical parties.

(b) TRAINING.—The Secretary of Health and Human Services shall, either directly or through contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Indian Health Service, and personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Indian Health Services, including supervisors of emergency shelters and half-way houses described in section 4213.

"(c)(1) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall establish at least one demonstration project to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, * * * depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

"(5) For purposes of this paragraph, the term 'health promotion' shall include:

"(A) reduction in the misuse of alcohol and drugs,

"(B) cessation of tobacco smoking.

"(C) improvement of nutrition.

"(D) improvement in physical fitness.

"(E) family planning, and

"(F) control of stress.

"(6) For purposes of this paragraph, the term 'disease prevention' shall include:

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) pregnancy and infant care (including prevention of fetal alcohol syndrome),

"(6) control of toxic agents,

"(7) occupational safety and health,

"(8) accident prevention,

"(9) fluoridation of water, and

"(10) control of infectious agents.

"(7) Sec. 4228 is amended by adding at the end the following 'provided that $500,000 shall be made available for activities described under section 4228(c)(1).

(d) AUTHORIZATION.—There are authorized to be appropriated $4,000,000 for the fiscal year 1987 and such sums as are necessary to carry out the purposes of this section for the fiscal years 1988 and 1989.

SEC. 4229. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 4230. INDIAN HEALTH SERVICE REPORTS.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and section 4204 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle D—Miscellaneous Provisions

SEC. 4301. ACTION GRANTS.

The Domestic Volunteer Service Act of 1973 is amended—

(1) in title I by adding after section 123 the following new section:

"SPECIAL INITIATIVES

"SEC. 124. The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, public service announcements, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations). In fulfilling the authority of this section, the Director is authorized to (1) coordinate the agency efforts with the White House and other Federal agencies, and (2) accept in the name of the ACTION agency funds received through solicitation of profit and nonprofit entities.";

(2) by amending subsection (c) of section 501 to read as follows:

"(c) There is to be authorized to be appropriated to carry out programs under part C of title I of this Act $4,484,000 for the fiscal year 1987 (of which $2,500,000 shall be available for drug abuse prevention), $1,984,000 for fiscal year 1988, and $1,984,000 for fiscal year 1989."; and

(3) by amending section 504 to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the Administration of this Act, as authorized in title IV of this Act, $25,812,000 for fiscal year 1987 (of which $500,000 shall be available for support of drug abuse prevention), $25,312,000 for fiscal year 1988, and $25,312,000 for fiscal year 1989.".

SEC. 4302. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under subtitle B, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matters, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Reports.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

SEC. 4303. INFORMATION ON DRUG ABUSE AT THE WORKPLACE.

The Secretary of Labor may collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary may conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The Secretary may submit the findings of such collection and research to the House Committee on Education and Labor and the Senate Committee on Labor and Human Services no later than two years from the date of enactment of this Act.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "United States Insular Areas Drug Abuse Act of 1986".

SEC. 5002. PURPOSES.

The purposes of this subtitle are to improve enforcement of drug laws and enhance interdiction of illicit drug shipments in the Caribbean and Pacific territories and commonwealths of the United States and to assist public and private sector drug abuse prevention and treatment programs in United States insular areas.

SEC. 5003. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 5004. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services of the United States are authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated $700,000 to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(2) There are authorized to be appropriated $1,000,000 to carry out paragraph (1). Funds appropriated under this paragraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States and the Secretary of Health and Human Services, as appropriate, are authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated $250,000 to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The United States Customs Service should station an aerostat in Puerto Rico.

(3) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(4)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent and treat narcotics abuse, such sums to remain available until expended.

(2) The United States Coast Guard should station a patrol vessel in St. Croix, Virgin Islands.

(3)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

Subtitle B—National Park Service Program

SEC. 5051. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 5052. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of ad-

ditional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 6002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subchapter, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (42 U.S.C. 290ee-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of the Federal Employee Substance Abuse Education and Treatment Act of 1986 and annually thereafter, submit to each House of Congress a report containing the matters described in subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362 of this title, including the costs associated with each such program or service and the source and adequacy of any funding such program or service;

"(2) a description of the levels of participation in each program and service provided under section 7361 or 7362 of this title, and the effectiveness of such programs and services;

"(3) a description of the training and qualifications required of the personnel providing any program or service under section 7361 or 7362 of this title;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) any recommendations for legislation considered appropriate by the Office and any proposed administrative actions; and

"(6) information describing any other related activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290dd-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(2) in section 525 (42 U.S.C. 290ee-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

SEC. 6003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes prescribed in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed to provide information to Federal Government employees with respect to—

(1) the short- and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law or regulation, and any administrative action (permissive or mandatory), relating to the use of alcohol or drugs by a Federal Government employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 6004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 6005. SUBSTANCE ABUSE COVERAGE STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent to which the cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and (2) the adequacy of such coverage for the rehabilitation of drug abusers.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of Health and Human Services shall transmit to the Congress a report of the results of the study conducted under subsection (a). The report shall include recommendations of means to meet the needs identified in such study.

SEC. 6006. HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT.

(a) FINDINGS.—The Congress finds that—

(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

(4) the total cost of drug abuse to the nation in 1983 was over $60,000,000,000; and

(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 7002. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 7003. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "President's Media Commission on Alcohol and Drug Abuse Prevention Act".

SEC. 8002. ESTABLISHMENT.

There is established a commission to be known as the President's Media Commission on Alcohol and Drug Abuse Prevention (hereinafter in this title referred to as the "Commission").

SEC. 8003. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public education programs in effect on the date of the enactment of this title which are—

(A) implemented through various segments of mass media; and

(B) intended to prevent alcohol and drug abuse;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, motion picture, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) professional sports organizations and associations;

to assist the implementation of new programs and national strategies for dissemination of information intended to prevent alcohol and drug abuse;

(3) encourage media outlets throughout the country to provide information aimed at preventing alcohol and drug abuse, including public service announcements, documentary films, and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 8004. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this title, and should include representatives of—

(1) advertising agencies;

(2) motion picture, television, radio, cable communications, and print media;

(3) the recording industry;

(4) other segments of the business sector of the United States;

(5) experts in the prevention of alcohol and drug abuse;

(6) professional sports organizations and associations; and

(7) other Federal agencies, as designated by the President, including the Director of the Agency for Substance Abuse Prevention of the Department of Health and Human Services.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of his term until his successor has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 8005. MEETINGS.

(a) IN GENERAL.—(1) The Commission shall meet at the call of the Moderator.

(2) The Moderator shall convene the 1st meeting of the Commission within 30 days after the date of the completion of appointments under section 4(a).

(b) MODERATOR.—One member of the Commission shall be designated by the President to serve as Moderator of the Commission.

(c) QUORUM AND PROCEDURE.—The Commission shall adopt rules regarding quorum requirements and meeting procedures as the Commission deems appropriate at the 1st meeting of the Commission.

(d) VOTING.—Decisions and official acts of the Commission shall be according to the vote of a majority of members at a properly called meeting.

SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR AND STAFF.—(1) Subject to paragraph (2), the Moderator, with the approval of the Commission, may employ and set the rate of pay for a Director and such staff as the Moderator deems necessary.

(2) Rates of pay set under paragraph (1) shall be less than the rate of basic pay payable under section 5316 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Moderator, with the approval of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

SEC. 8007. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—Upon the request of the Moderator of the Commission, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8008. REPORT.

The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

SEC. 8009. TERMINATION.

The Commission shall terminate on a date which is three years after the date on which members of the Commission are first appointed, unless the President, by Executive

order, extends the authority of the Commission.

TITLE IX—BALLISTIC KNIFE PROHIBITION

SEC. 9001. SHORT TITLE.

This title may be cited as the "Ballistic Knife Prohibition Act of 1986".

SEC. 9002. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

"SEC. 7. (a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

SEC. 9003. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

The amendments made by this title shall take effect 30 days after the date of enactment of this title.

TITLE —HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. . SHORT TITLE.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. . MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. . JOB TRAINING FOR THE HOMELESS.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN TO INCLUDE HOMELESS.—(1) Section 121(b)(1) of the Job Training Partnership Act (20 U.S.C. 1531(b)(1)) is amended by inserting after "rehabilitation agencies" a comma and the following: "programs for the homeless".

(2) Section 121(c)(3) of the Job Training Partnership Act is amended by inserting after "offenders" a comma and the following: "homeless individuals".

(b) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by striking out "or addicts" and inserting in lieu thereof "addicts, or homeless".

Subtitle C—Entitlements Eligibility

SEC. . TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER AFDC, SSI, AND MEDICAID PROGRAMS.

(a) AFDC.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (38),

(2) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(40) provide a method of verifying the eligibility of, and making aid available with respect to, a dependent child who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(b) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide a method of verifying the eligibility of, and making payments under this title to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(c) MEDICAID PROGRAM.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(47) provide a method of verifying the eligibility of, and making medical assistance available to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2) If a State agency administering a plan approved under part A of title IV of the Social Security Act or under title XIX of such Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by subsection (a) or (c) of this section, respectively, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or the date of the enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

SEC. . SINGLE APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

(a) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Single Application for SSI and Food Stamp Benefits by SSI Pre-Release Individuals

"(j)(1) The Secretary shall provide for the establishment, maintenance, and improvement of procedures designed to ease the transition of institutionalized persons from medical, penal, and other institutions to the community, and to prevent homelessness, by permitting such persons to apply for benefits under this title prior to their discharge or release from such institutions and thereby assuring that essential support (such as housing, food, and clothing) is available to them upon such discharge or release.

"(2) Under regulations prescribed by the Secretary, the procedures described in paragraph (1) shall—

"(A) require that personnel of the district offices of the Social Security Administration, and of the appropriate State disability determination services, make regular visits to all institutions of the types involved to receive and process applications for benefits under this title and for food stamps under paragraph (3);

"(B) provide for the development of descriptive materials on such procedures for use by such district offices and by social service departments in such institutions;

"(C) provide training for employees in such district offices; and

"(D) establish time limits within which State agencies must complete their processing of applications filed pursuant to such procedures.

"(3) The Secretary and the Secretary of Agriculture shall establish special procedures under which persons applying for benefits under this title prior to their discharge or release from an institution pursuant to the pre-release procedures described in paragraphs (1) and (2) can also apply to participate in the food stamp program under the Food Stamp Act of 1977, utilizing a single application for this purpose.".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall become effective April 1, 1987.

(2) The Secretary of Health and Human Services shall promulgate final regulations to implement the amendment made by subsection (a) not later than April 1, 1987.

SEC. . DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

Strike out title XII and insert in lieu thereof the following:

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 12001. SHORT TITLE.

That this title may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

SEC. 12002. PURPOSE.

The purpose of this title is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, by providing penalties for the operation of commercial motor vehicles by persons who have used alcohol before or during the operation of such vehicles, and by increasing inspections of commercial motor vehicle operators and the equipment they operate.

SEC. 12003. DEFINITIONS.

As used in this title, the term—

(1) "alcohol" has the meaning the term alcoholic beverage had under section 158(c) of title 23, United States Code;

(2) "commence" means—

(A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or

(B) trade, traffic, or transportation in the United States which affects any trade, traffic, or transportation described in subparagraph (A);

(3) "commercial driver's license" means a license issued by a State to an individual which authorizes the individual to operate a class of commercial motor vehicle;

(4) "commercial motor vehicle" means any self-proposed or towed vehicle used in commerce to transport passengers or property if—

(A) such vehicle has a gross vehicle weight rating of twenty-six thousand and one or more pounds, or such lower weight rating (not less than ten thousand and one pounds) as the Secretary considers appropriate;

(B) such vehicle is designed to transport more than fifteen passengers, including the driver; or

(C) such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purpose of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(5) "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(6) "driver's license" means a license issued by a State to an individual which authorizes the individual to operate a motor vehicle on highways;

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle) who is employed by an employer;

(8) "employer" means any person (including the United States, a State, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

(9) "felony" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year;

(10) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on the highways other than a commercial motor vehicle; such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail;

(11) "Secretary" means the Secretary of Transportation;

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident; and

(D) any other similar violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) which the Secretary determines by regulation is serious;

(13) "State" means a State of the United States and the District of Columbia; and

(14) "United States" means the fifty States and the District of Columbia.

SEC. 12004. RESPONSIBILITIES OF THE SECRETARY.

(a) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which establish minimum Federal standards for the licensing, testing, qualifications and classification of operators of commercial motor vehicles. Such regulations shall, at a minimum—

(1) establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) require a driving test of each person who operates or will operate a commercial motor vehicle in commerce in the type of vehicle such person operates or will operate, except that the Secretary may, by regulation, permit any State to waive such test in the case of any such person who applies for renewal of a commercial driver's license;

(3) establish minimum scores for passing such tests;

(4) ensure that each person taking such tests is qualified to operate a commercial motor vehicle in commerce under regulations promulgated under this section, regulations contained in subpart E of part 391 of title 49 of the Code of Federal Regulations, and such other Federal Motor Carrier Safety Regulations contained in title 49 of the Code of Federal Regulations as the Secretary considers appropriate;

(5) establish requirements for the disqualification of the operator of any commercial motor vehicle who is once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(6) establish requirements for the immediate revocation of the operator's license of any individual who is more than once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(7) disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

(8) establish a system of classification for licensing that provides different minimum Federal testing standards for operation of different classes of commercial motor vehicles;

(9) provide that each commercial driver's license shall contain, at a minimum—

(A) the legal name, date of birth (including day, month and year) sex, address, and a physical description of the person to whom such license is issued;

(B) other identifying information which the Secretary considers necessary or appropriate;

(C) the type of commercial motor vehicle which such person is authorized to operate under such license;

(D) the name of the State which issued such license; and

(E) the dates between which such license is valid; and

(10) may require the issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests, and may require such person to have a copy of such certification in his or her possession when such person is operating a commercial motor vehicle.

(b) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which shall be in addition to regulations promulgated under subsection (a) of this section and which shall establish minimum Federal standards for the licensing, testing, qualifications and classification of any person who operates or will operate a commercial motor vehicle carrying a hazardous material (as defined in section 103(2) of the Hazardous Materials Transportation Act (49 App. US.C. 1802(2)). Such regulations shall—

(1) ensure that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such hazardous material issued by the Secretary under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(2) establish minimum Federal standards for, and scores for passing, written tests which ensure that such person is knowledgeable regarding (A) all such regulations, (B) the handling of such hazardous mateial, and (C) the appropriate response to emergencies arising out of the transportation of such hazardous material; and

(3) establish minimum Federal standards for driving tests which ensure that such person is knowledgeable regarding the type of vehicle that such person operates or will operate and regarding the safety system of such vehicle.

The Secretary may exempt any such person from any requirement of this Act if the material to be transported is a harzardous material listed pursuant to section 306(a) of the Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Department of Transportation, or if the material to be transported is a consumer commodity or limited quantity hazardous material, as defined in section 171.8 of title 49 of the Code of Federal Regulations.

(c) Nowithstanding any other provision of this Act, after notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to a class of persons or class of commercial motor vehicles if the Secretary determines that such waiver promotes the public interest and does not diminish the safe operation of commercial motor vehicles. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

(d) The Secretary shall, not later than October 1, 1988, submit to the Congress a study regarding the manner in which the requirements of subsection (a) (5) and (6) and section 12005 of this Act regarding blood alcohol content level impact on operators of commercial motor vehicles who are required by their employers to be available to operate such commercial motor vehicles on short notice.

SEC. 12005. RESPONSIBILITIES OF OPERATOR OF COMMERCIAL MOTOR VEHICLES.

(a) No person may operate a commercial motor vehicle in commerce unless such person—

(1) complies with all requirements imposed by regulations promulgated under section 12004 of this title; and

(2) has a blood alcohol content level of less than 0.04 percent while operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, subsection (a) of this section shall become applicable with respect to any person who operates or will operate a commercial motor vehicle in commerce on the date on which the State in which such person is domiciled adopts a licensing program under section 12006(a) of this title or September 30, 1990, whichever is earlier, except that, with respect to a person to whom a commercial driver's license has been issued on or before such applicable date, who has not been found to have violated a State or local law relating to motor vehicle traffic control (other than a parking violation) in the three-year priod ending on such date, and who has not been disqualified by the Secretary pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle in commerce or has had a commercial driver's license suspended, revoked or cancelled for cause at any time during such three-year period, subsection (a) of this section shall only take effect on the date after such date on which—

(A) such license is required to be renewed under State law,

(B) such person is found to have violated such a State or local law, or

(C) such person is disqualified pursuant to title 49 of the Code of Federal Regulations by the Secretary from operating a commercial motor vehicle in commerce and has had such person's license suspended, revoked or cancelled for cause by a State,

whichever is earliest.

(2) If any such person is not domiciled in a State that has adopted such a licensing program, the Secretary may, in accordance with regulations to be prescribed by the Secretary, permit such person to obtain a commercial driver's license from any State that has adopted such a program.

(c) Effective on July 1, 1987, no operator of a commercial motor vehicle shall at any time have more than one driver's license, except during the 10-day period beginning on the date such person is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. The second exception in the preceding sentence shall not be effective after September 1, 1989.

(d)(1) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify such operator's employer of such violation, within 30 days after the date such person is found to have committed such violation.

(3) Effective on July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right or disqualification.

(4) (A) Effective on July 1, 1987, subject to subparagraph (B) of this paragraph, each person who applies for employment as an operator of a commercial motor vehicle with an employer shall, at the time of such application, notify the employer of such persons's previous employment as an operator of a commercial motor vehicle.

(B) The Secretary shall by regulation establish the period with respect to which notice must be given under subparagraph (A) of this paragraph, except that such period shall not be less than a 10-year period ending on the date of application for employment.

SEC. 12006. RESPONSIBILITIES OF THE STATES.

On or before September 30, 1990, each State shall, at a minimum—

(1) adopt and administer a program for the issuance of commercial driver's licenses that includes testing and qualification standards for persons who operate commercial motor vehicles in commerce in accordance with all of the minimum Federal standards established by the Secretary under section 12004 of this title, which program (A) may include standards for its domiciliaries that are more stringent that the minimum Federal standards established by the Secretary under section 12004 of this title, (B) shall provide that such State shall recognize any license issued by another State if such license meets all of the Federal minimum standards established by the Secretary under section 12004 of this title, (C) shall not require any person other than its domiciliaries to obtain a commercial driver's license, and (D) provides that such State may issue a commercial driver's license to a person domiciled in another State if such person satisfied all of the requirements for such a license required of domiciliaries of such State under this Act;

(2) not issue a commercial driver's license to a person unless such person passes a written test and driving test for the operation of a commercial motor vehicle which complies with such minimum standards and complies with all requirements imposed by regulations promulgated under section 12005 of this title;

(3) ensure that each commercial driver's license contains the information described in section 12004(a)(9) of this title;

(4) until the information system established under section 12009 of this title provides a means of rapid communication of the information specified in such section—

(A) notify the Secretary, before the issuance of a commercial driver's license, of the proposed issuance of such license and such other information as the Secretary may require to ensure identification of the person applying for such license;

(B) within 30 days after issuance of a commercial driver's license, notify the Secretary of the issuance of such a license;

(C) maintain information regarding (i) any suspension, revocation or cancellation for cause of such a license and any disqualification pursuant to title 49 of the Code of Federal Regulations of the holder of such a commercial driver's license from operating a commercial motor vehicle for a period of 60 days or more, (ii) a decision to deny for cause a license to a person applying for such a license, or (iii) the conviction of the holder of such a commercial driver's license of any of the offenses specified in section 12009(b)(2) of this title;

(D) upon the request of the Secretary, another State, or an employee requesting information regarding such employee, transmit (to the extent permitted by law) to such State, the Secretary or such employee, the information specified in subparagraph (C) of this paragraph; and

(E) at such State's option, upon the request of an employer or prospective employer, transmit (to the extent permitted by law) to such employer or prospective employer, the information specified in subparagraph (C) of this paragraph;

(5) when the information system established under section 12009 of this title allows for the rapid communication of information, comply with the requirements of all regulations within such time periods as the Secretary establishes under section 12009(d) of this title, including a requirement that the State shall respond to all requests for information from the Secretary, another State, an employee who is requesting information regarding such employee, and employers a requirement that the State shall furnish to such information system the information specified in paragraph (4)(C) of this section, and information regarding all violations of any State or local law relating to motor vehicle traffic control (other than a parking violation), and a requirement that the State shall notify the information system of the issuance of a commercial driver's license and of the disqualification of the holder of a commercial driver's license for a period of 60 days or more;

(6) before issuance of a commercial driver's license, contact any other State which has issued to such person such a license to determine the driving record of such person and, if the State determines as a result of such contact that such person has been disqualified pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle by the Secretary, or has had a license suspended, revoked or cancelled for cause for violation of an offense pursuant to section 12004(a)(5) of this title, within three years before application has been made for such a commercial driver's license, not issue such a license to such person;

(7) not issue a commercial driver's license to any person to whom such a license has been issued by any other State unless such person first returns such license issued by such other State;

(8) prior to issuing a commercial driver's license to any person, consult the National Driver Register established pursuant to the National Driver Register Act of 1982 (23 U.S.C. 401, note) (after such Register is determined by the Secretary to be operational) to determine whether, within three years before application has been made for such a license, such person has either been disqualified from operating a motor vehicle other than a commercial motor vehicle, or has had a license other than a commercial driver's license suspended, revoked or cancelled for cause or has been convicted of any of the offenses specified in section 205(a) of the National Driver Register Act of 1982 and, if the State is informed that such person has been so disqualified or convicted or such license has been suspended, revoked or cancelled for cause, not issue a commercial driver's license to such person;

(9) impose such penalties for a violation of section 12004 of this title as the State determines appropriate, if such penalties are the same as or more stringent than the guidelines established by the Secretary in section 12008(b) of this title; and

(10) provide for disqualification, through suspension or revocation of a license, in accordance with section 12004(a) (5) and (6) of this title.

SEC. 12007. GRANTS.

(a)(1) The Secretary may make a grant to a State in a fiscal year if the State enters into an agreement with the Secretary to comply with all provisions of section 6 of this Act.

(2) The amount of a grant under this subsection to any State shall not be less than $100,000 in any fiscal year.

(3) The Secretary may not make a grant to any State under this subsection unless such State agrees that the aggregate expenditure of funds of the State, exclusive of Federal funds, for testing and licensing of operators of commercial motor vehicles will be maintained at a level which does not fall below the average level of such expenditure for the last two fiscal years preceding the date of enactment of this Act.

(4) A State which receives a grant under this subsection may use the funds provided under such grant only for testing and licensing of operators of commercial motor vehicles.

(5) A grant made under this subsection shall be for a period of 1 year.

(6) Funds made available to carry out this subsection shall remain available for obligation by the Secretary for the fiscal year in which such funds are made available and the three fiscal years after such fiscal year.

(7) There shall be available to the Secretary to carry out this subsection—

(A) $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for each of fiscal years 1987, 1988, 1989, 1990, and 1991; and

(B) after deducting the amount permitted under section 402(c) of title 23, United States Code, $3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(8) Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this subsection shall be deemed to be a contractual obligation of the United States for payment of the amount of such grant.

(b)(1) The Secretrary shall withhold highway funds from any State that is not in compliance with section 12006 of this Act after September 30, 1993.

(2) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006 (10) of this title).

(3) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second fiscal year beginning after September 30, 1993, and the first day of each fiscal year thereafter, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006(10) of this title).

(4)(A) The Secretary shall withhold 2 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(B) The Secretary shall withhold not less than 2 percent nor more than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second through fifth fiscal years beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(C) The Secretary shall withhold not less than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the sixth fiscal year, and each fiscal year thereafter, beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(5)(A) Any funds withheld under this subsection from apportionment to any State after September 30, 1993, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) If, before the last day of the period for which funds withheld under this subsection from apportionment are to remain available for apportionment to a State under subparagraph (A) of this paragraph, the State complies with the provisions of section 12006 of this title, the Secretary shall, on the day following the date on which such State complies, apportion to such State the withheld

funds remaining available for apportionment to such State.

(C) Any funds apportioned pursuant to subparagraph (B) of this paragraph shall remain available for expenditure as follows:

(i) Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

(ii) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of title 23, United States Code, shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse.

(D) If, at the end of the period for which funds withheld under this subsection from apportionment are available for apportionment to a State under subparagraph (A) of this paragraph, the State has not complied with the provisions of section 1 of this Act, such funds shall lapse.

SEC. 12008. PENALTIES.

(a) Section 521(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting immediately after paragraph (11) the following:

"(12) The civil penalties provided in this subsection shall apply to any violation of section 12005(d) of the Commercial Motor Vehicle Safety Act of 1986, and the provisions of this subsection shall apply to any person who operates a commercial motor vehicle without a commercial driver's license after the applicable date specified in section 12005(b) of such Act and any violation of section 12005(c) of such Act, except that—

"(A) the amount to be assessed under this subsection for any such violation shall not exceed $5,000 for each such violation; and

"(B) the exceptions regarding employees in paragraphs (2) and (6) of this subsection shall not apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, but (i) in the case of paragarph (2) of this subsection, the amount to be assessed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation, and (ii) in the case of paragraph (6) of this subsection, the penalty to be imposed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation or imprisonment for a term not to exceed one year, or both.".

(b) The Secretary shall establish guidelines for civil and criminal penalties to be imposed by the States for a violation of this Act. Such penalties shall not exceed $5,000 for each such violation, and shall not provide for imprisonment of more than one year.

SEC. 12009. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.

(a) Not later than January 1, 1989, the Secretary, after consulation with the States, shall cause to be in operation an information system pertaining to the driving status and licensing of operators of commercial motor vehicles. The information system shall serve as a clearinghouse by which the States may communicate rapidly concerning the licensing, identification and driving records of operators of commercial motor vehicles.

(b) The information system established under this section shall—

(1) provide for a depository of information that will, at a minimum, include (with respect to each operator of a commercial motor vehicle)—

(A) the birth date and physical description of such operator, and any other information which the Secretary considers necessary or appropriate to identify specifically such operator;

(B) the address of such operator; and

(C) all States in which such operator currently has a commercial dirver's license; and

(2) provide a system of communication among States that, at a minimum, shall provide exchange of information specified in paragraph (1) of this subsection and information regarding whether such operator has been denied a commercial driver's license, has been disqualified by the Secretary pursuant to title 49 of Code of Federal Regulations from operating a commercial motor vehicle, has had a license suspended, revoked or cancelled for cause, or has been convicted under the laws of any State for (A) operating a commercial motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance or with a blood alcohol content level of 0.04 percent or more; (B) violating a traffic rule or ordinance arising in connection with a fatal traffic accident, reckless driving, or racing on the highways and involving a commercial motor vehicle; (C) failing to render aid or provide identification when involved in an accident involving a commercial motor vehicle which resulted in a fatality or personal injury; or (D) commiting perjury or knowingly making a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a commercial motor vehicle.

(c)(1) The operator of the information system established under this section shall, to the extent otherwise permitted by law, make available—

(A) to the Secretary such information in such information system as the Secretary may request to enable the Secretary to comply with the requirements of section 12004 (a)(5), (6) and (7) of this title;

(B) to a State such information in the information system as the State may request;

(C) to an employer or prospective employer of an employee such information in the information system relating to such employee as such employer or prospective employer may request; and

(D) to an employee such information in the information system relating to such employee as such employee may request.

(2) Any prospective employer of a person as an operator of a commercial motor vehicle shall consult the information system established under this section to determine, prior to employing such person, whether a commercial driver's license issued to such person has been suspended, revoked or cancelled for cause. If such prospective employer determines, as a result of such consultation, that such person's license has been suspended, revoked or cancelled for cause, the prospective employer shall not employ such person as an operator of a commercial motor vehicle.

(d) When the information system required by this section has become available, the Secretary shall issue regulations establishing appropriate time periods for transmission of information regarding any violation of this Act.

(e) The Secretary shall establish and the Secretary or a State, as appropriate, shall collect fees for utilization of the information system established under this section. The amount of fees collected by the Secretary or a State under this subsection in any fiscal year shall as nearly as possible equal the costs of operating the information system in such fiscal year. The Secretary shall deposit fees collected by the Secretary under this subsection in the general fund of the Treasury.

(f) There shall be available for fiscal year 1987 to the Secretary for purposes of establishing the information system under this section not to exceed $2,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304). Such sums shall remain available until expended.

SEC. 12010. FREQUENT INSPECTIONS.

(a) Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)(1) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period in subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(H) with respect to any fiscal year beginning with fiscal year 1989, provides for the adoption and implementation of an effective program to conduct inspections of commercial motor vehicles, which program shall provide—

"(i) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside;

"(ii) for the administration of observations, and (with proper safeguards) for the administration of tests, to determine if the operator of a commercial motor vehicle is operating such vehicle with a blood alcohol content level of 0.04 percent or more; and

"(iii) for the prompt suspension, for a period of not less than one year, of the operator's license of any individual who is determined, as a result of an observation or test administered under clause (ii) of this subparagraph, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, and for the immediate revocation of the operator's license of any individual who has been twice determined, as a result of such an observation or test, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who has twice refused to submit to such a test.".

(b) Section 402(b) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)) is amended by adding at the end thereof the following:

"(3)(A) As part of a grant made under this subsection, the Secretary may also provide funds to encourage the States to adopt and implement programs providing for the administration of tests to determine whether the operator of a commercial motor vehicle is under the influence of a controlled substance while operating such motor vehicle.

"(B) For puposes of this subsection, the term 'controller substance' shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).".

SEC. 12011. TRUCK BRAKE REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall revise the regulations of the Administrator of the Federal Highway Administration con-

tained in section 393.42 of title 49 of the Code of Federal Regulations to require trucks and truck tractors manufactured after July 24, 1980, to have brakes operating on all wheels. The Secretary may provide for a delayed effective date (not exceeding one year) for trucks and truck tractors manufactured after July 24, 1980, and before such date of enactment.

SEC. 12012. RADAR DEMONSTRATION PROJECT.

(a) Notwithstanding any other provision of law, the Secretary, in cooperation with State and local law enforcement officials, shall conduct a demonstration project to assess the benefits of continuous use of unmanned radar equipment on highway safety on a section of highway with a high rate of motor vehicle accidents. Such project shall be conducted in northern Kentucky on a hilly section of Interstate Route I-75 between Fort Mitchell and the Brent Spence Bridge over the Ohio River during the two-year period beginning on the date of enactment of this Act.

(b)(1) Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit to the Congress an intrim report on the results of the demonstration project conducted under subsection (a) of this section, together with any recommendations on whether to extend the duration of such demonstration project and whether to expand the scope of such project.

(2) Not later than 60 days after completion of the demonstration project conducted under subsection (a) of this section, the Secretary shall transmit to the Congress a final report on the results of such project, together with any such recommendations.

SEC. 12013. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to alter or affect the authority of the Secretary to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than twenty six thousand and one pounds or such lesser gross vehicle weight rating as determined appropriate by the Secretary under section 12003(4)(A) of this title.

SEC. 12014. AUTHORIZATIONS OF APPROPRIATIONS..

Section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) is amended—

(1) by striking "$40,000,000" and inserting in lieu thereof "$50,000,000";

(2) by striking "and" after "1987,";

(3) by striking "1988." and inserting in lieu thereof "1988; not to exceed $60,000,000 in the fiscal year ending September 30, 1989; and not to exceed $60,000,000 in the fiscal year ending September 30, 1990."

TITLE XIII—ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

SEC 13001. SHORT TITLE.

This title may be cited as the "Electronic Communications Privacy Act of 1986".

Subtitle A—Interception of Communications and Related Matters

SEC. 13011. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception";

(C) by striking out "as a common carrier"; and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof" and inserting in lieu thereof "such disclosure";

(B) by striking out "the carrier" and inserting in lieu thereof "such person"; and

(C) by striking out "an order or certification under this subparagraph" and inserting in lieu thereof "a court order or certification under this chapter".

(2) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(3) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(4) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2515, 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": Provided, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" in both places it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "carrier" and inserting in lieu thereof "service provider".

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, the offender shall be fined not more than $500.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

"(i) to a broadcasting station for purposes of retransmission to the general public; or

"(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

"(5)(a)(i) If the communication is—

"(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

"(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

"(ii) In an action under this subsection—

"(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

"(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

"(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

(f) STATE OF MIND.—Paragraphs (a), (b), (c), and (d) of subsection (1) of section 2511 of title 18, United States Code, are amended by striking out "willfully" and inserting in lieu thereof "intentionally".

(2) Subsection (1) of section 2512 of title 18, United States Code, is amended in the matter before paragraph (a) by striking out "willfully" and inserting in lieu thereof "intentionally".

SEC. 13012. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 13013. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

"(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5)(a)(i) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

"(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5)(a)(i) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1,000.

"(2) In any other action under this section, the court may assess as damages whichever is the greater of—

"(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 13014. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 13015. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),";

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)"; and

(F) by—

(i) striking out "or" before "section 351" and inserting in lieu thereof a comma; and

(ii) inserting before the semicolon at the end thereof the following: ", section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code;

"(j) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act); or";

"(k) the location of any fugitive from justice from an offense described in this section;

(4) by redesignating paragraph (h) as paragraph (l); and

(5) in paragraph (a) by—

(A) inserting after "Atomic Energy Act of 1954)," the following: "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),";

(B) striking out "or" after "(relating to treason),"; and

(C) inserting before the semicolon at the end thereof the following: "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 13016. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF THIRTY-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from

which, or the place where, the communication is to be intercepted do not apply if—

"(a) in the case of an application with respect to the interception of an oral communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(iii) the judge finds that such specification is not practical; and

"(b) in the case of an application with respect to a wire or electronic communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(iii) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 13017. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this title or the amendments made by this title constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 13018. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 13019. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 13020. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 13021. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or (c), this subtitle and the amendments made by this subtitle shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this subtitle shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this title.

(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 13014 of this title shall take effect on the date of enactment of this title.

Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access

SEC. 13031. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703, 2704, or 2518 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1)(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

"(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(ii) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(iii) obtains a court order for such disclosure under subsection (d) of this section; or

"(iv) has the consent of the subscriber or customer to such disclosure.

"(2) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

"(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within fourteen days after notice by the governmen-

tal entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access..... 2701".

SEC. 13032. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

Subtitle C—Pen Registers and Trap and Trace Devices

SEC. 13041. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

"Sec.

"3121. General prohibition on pen register and trap and trace device use; exception.

"3122. Application for an order for a pen register or a trap and trace device.

"3123. Issuance of an order for a pen register or a trap or trace device.

"3124. Assistance in installation and use of a pen register or a trap and trace device.

"3125. Reports concerning pen registers and trap and trace devices.

"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register and trap and trace device use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or

"(3) where the consent of the user of that service has been obtained.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register or a trap and trace device

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register or a trap and trace device

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed sixty days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR A TRAP AND TRACE DEVICE.—An order authorizing or approving the installa-

tion and use of a pen register or a trap and trace device shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

"§ 3124. Assistance in installation and use of a pen register or a trap and trace device

"(a) PEN REGISTERS.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) TRAP AND TRACE DEVICE.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court, at reasonable intervals during regular business hours for the duration of the order.

"(c) COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"(d) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

"(e) DEFENSE.—A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

"§ 3125. Reports concerning pen registers and trap and trace devices

"The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the terms 'wire communication', 'electronic communication', and 'electronic communication service' have the meanings set forth for such terms in section 2510 of this title;

"(2) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

"(3) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

"(4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers and Trap and Trace Devices..... 3121".

SEC. 13042. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this subtitle; or

(2) the date two years after the date of the enactment of this title.

SEC. 13043. INTERFERENCE WITH THE OPERATION OF A SATELLITE.

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1367. Interference with the operation of a satellite.".

Subtitle D—Special Rule Relating to Effect of Title

SEC. 13061. SPECIAL RULE.

If the bill H.R. 4952, the Electronic Communications Privacy Act of 1986, is enacted, this title and the amendments made by this title shall have no effect after that enactment.

TITLE XIV—CYANIDE WRONGFUL USE

SEC. 14001. STUDY AND REPORT.

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures, or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) MATTERS TO BE INCLUDED.—Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) a determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of the matter of interstate versus intrastate to the extent that it involves the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming

public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes; and

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(c) REPORT.—On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(d) DEFINITIONS.—As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XV—SENATE POLICY REGARDING FUNDING

SEC. 15001. STATEMENT OF POLICY.

(a) The Senate finds that—

(1) there is an urgent critical need for funds to carry out the programs and activities authorized by the preceding provisions of this Act in order to ensure a drug free America;

(2) this Act is the result of a bipartisan effort to combat our national drug abuse problem; and

(3) only the exceptional nature of the drug abuse problem warrants the expenditure of funds in excess of otherwise applicable budget limitations.

(b) Therefore, it is the sense of the Senate that—

(1) amounts authorized to carry out the preceding provisions of this Act should be provided as new budget authority for fiscal year 1987 in H.J. Res. 738 (99th Congress, 2d Session); and

(2) such amounts should not be provided through transfers from, or reductions in, any amount appropriated by such joint resolution for any other program, project, or activity for such fiscal year.

TITLE —RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. . RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Cost of 1954 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Secretary for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum ultimately recovered. The Internal Revenue Service shall maintain records reflecting the receipt of information from the contributing agency, and shall notify the agency when a recovery has been effected. Following such notification, the agency shall submit a statement detailing the investigative costs incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Secretary shall equitably distribute the costs reimbursements among those agencies up to an aggregate sum of 10 percent of the taxes recovered.

"(b) ESTABLISHMENT OF A FUND.—The Secretary shall establish a fund for recovering that portion of recovered Federal taxes authorized under subsection (a) and intended as reimbursements for State and local law enforcement agencies. In conjunction with the fund, the Secretary shall develop guidelines on the procedures and timetables for reimbursing those law enforcement agencies which have contributed to the recoupment of Federal taxes.

"(c) REIMBURSEMENT.—Reimbursements under section (a) shall be made directly from the fund under subsection (b), as provided by appropriations acts, prior to the deposit of such funds into the Treasury of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

TITLE —ANTI-DRUG TRUST FUND

SEC. . DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) any amount of an overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, any contribution which the taxpayer includes with such return,

be paid over to the Anti-Drug Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if late, the date the return is filed.".

(b) ESTABLISHMENT OF ANTI-DRUG TRUST FUND.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. ANTI-DRUG TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Anti-Drug Trust Fund', consisting of such amounts as may be appropriated or credited to the Anti-Drug Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO ANTI-DRUG TRUST FUND.—There are hereby appropriated to the Anti-Drug Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Anti-Drug Trust Fund shall be available as provided by appropriation Acts, for making expenditures to carry out the purposes of the Drug Enforcement Act of 1986.".

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"PART IX. Designation of overpayments and contributions for Anti-Drug Trust Fund.".

(2) The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Anti-Drug Trust Fund.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

TITLE *—NATIONAL FOREST SYSTEM DRUG CONTROL

SEC. ***1. SHORT TITLE.

This title may be cited as the "National Forest System Drug Control Act of 1986".

SEC. ***2. PURPOSE.

(a) The purpose of this title is to authorize the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Nothing in this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) As used in this title, the terms "manufacture", "dispense", and "distribute" shall have the same meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. ***3. POWERS.

For the purposes of this title, if specifically designated by the Secretary and specially trained, not to exceed 500 officers and employees of the Forest Service when in the performance of their duties shall have authority within the boundaries of the National Forest System to—

(1) carry firearms;

(2) conduct investigations of violations of and enforce section 401 of Controlled Substances Act (21 U.S.C. 841) and other crimi-

nal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands;

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony;

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

*SEC. ***4. COOPERATION.*

*For the purposes of this title, in exercising the authority provided by section ***3—*

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations relating to marijuana and other controlled substances, and State drug control laws or ordinances, both within and outside the boundaries of the National Forest System.

*SEC. ***5. PENALTY.*

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following subsection:

"(e)(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

"(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

"(3) For the purposes of this subsection, the term 'boobytrap' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.".

*SEC. ***6. AUTHORIZATION OF APPROPRIATIONS.*

There is authorized to be appropriated $10,000,000 for each fiscal year to carry out this title.

(b) Notwithstanding any other provision of law, and to the extent the sum authorized for each fiscal year by subsection (a) is not appropriated, the Secretary is authorized to fund activities under this title by using moneys received from the sale of products from or for the use of National Forest System lands. Such moneys shall be available without further appropriation.

*SEC. ***7. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL.*

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

METZENBAUM AMENDMENT NOS. 3286 THROUGH 3299

(Ordered to lie on the table)

Mr. METZENBAUM submitted 14 amendments intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill, H.R. 5484, supra, as follows:

AMENDMENT No. 3286

In paragraph (a)(3) of Section 1951 of Senate Amendment 3275, as modified, insert after "section" and before the period: "provided that no person may be sentenced to death who was less than eighteen years of age at the time of the offense".

AMENDMENT No. 3287

In Subsection (m) of Section 1951 of Senate Amendment 3275, as modified, strike "but are not exclusive" and insert in lieu thereof "and are exclusive".

AMENDMENT No. 3288

In paragraph (a)(2) of Section 1951 of Senate Amendment 3275, as modified, strike "knowingly" and insert in lieu thereof "intentionally".

AMENDMENT No. 3289

In paragraph (l)(1) of Section 1951 of Senate Amendment 3275, as modified, strike "18" and insert in lieu thereof "21".

AMENDMENT No. 3290

Strike paragraph (m)(1) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3291

Strike paragraph (m)(2) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3292

Strike paragraph (m)(3) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3293

Strike paragraph (m)(4) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3294

Strike paragraph (m)(5) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3295

Strike paragraph (m)(6) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3296

Strike paragraph (m)(7) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3297

Strike paragraph (m)(8) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3298

Strike paragraph (m)(9) in Section 1951 of Senate Amendment 3275, as modified.

AMENDMENT No. 3299

Strike paragraph (m)(10) in Section 1951 of Senate Amendment 3275, as modified.

SIMON AMENDMENT NO. 3300

(Ordered to lie on the table)

Mr. SIMON submitted an amendment intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Strike out section 3403 of the amendment.

HAWKINS (AND OTHERS) AMENDMENT NO. 3301

(Ordered to lie on the table)

Mrs. HAWKINS (for herself, Mr. CHILES, Mr. D'AMATO, Mr. MOYNIHAN, Mr. DODD, and Mr. HATCH) submitted an amendment intended to be proposed by them to the motion to concur with an amendment, as modified, to the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Strike out section 4112(a)(2) and insert in lieu thereof the following:

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $5,000,000 shall be available to the Secretary of Health and Human Services for such fiscal year to carry out section 4134 of this Act and sections 508 and 509 of the Public Health Service Act.

Strike out subtitle A of title IV of the House amendment and insert in lieu thereof the following:

SUBTITLE A—TREATMENT AND REHABILITATION

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. SPECIAL ALLOTMENTS FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS.

Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a) To carry out this section and sections 1922, 1923, 508, and 510 there are authorized to be appropriated $241,000,000 for fiscal year 1987. Of the total amount appropriated under the preceding sentence for fiscal year 1987, 7 percent shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 72 percent shall be available for allotments to States under this section for such fiscal year, 5 percent shall be available for transfer to the Administrator of Veterans' Affairs under section 1922 for such fiscal year, 1 percent shall be available to carry out section 1923 for such fiscal year, and 15 percent shall be available to

carry out sections 508 and 510 for such fiscal year.

"(b)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance wth this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d);

"(C) the commitment of the State to the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse (as determined by the Secretary after an evaluation of the expenditures of the State for such services during the calendar year described in subparagraph (B) and of the ability of the State to meet the need for such services); and

"(D) the availability in the State of Federal, State, and local public resources to satisfy the needs in such State for services described in subparagraph (C).

"(4) The Secretary shall make allotments to States under paragraph (1) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year. The Secretary shall make allotments to States under paragraph (2) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, within four months after the date of enactment of the Alcohol and Drug Abuse Amendments of 1986.

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts which are appropriated for that fiscal year and available for such allotments.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(d) In order to receive an allotment for a fiscal year under subsection (b), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3;

"(2) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (c) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (c) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(e)(1) Except as provided in subsections (f) and (i), amounts paid to a State under subsection (c) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(f) Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (e)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"TRANSFER TO THE ADMINISTRATOR OF VETERANS' AFFAIRS

"SEC. 1922. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1921(a), is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1923. One percent of the total amount appropriated under section 1921(a) for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. ADVISORY COUNCILS.

"(a) Part A of title V is amended by redesignating section 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters relating to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspects of human health with respect to which the Institute was established;

"(B) the acquisition of grounds for the Intitute; or

"(C) the construction, equipping, or maintenance of facilities for the Institute.

"(3) Each advisory council for an Institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the Institute, make recommendations to the Director of the Institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the Institute was established and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of any advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such offices), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions;

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the Institute for which the advisory council was established.

"(f) The Director of the Institute for which an advisory council is established shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) The amendment made by subsection (a) does not terminate the membership of any advisory council for the National Institute of Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which was in existence on the date of enactment of this Act. After such date—

(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 of the Public Health Service Act;

(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section.

(c) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4004. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) Part A of title V (as amended by section 4003 of this Act) is further amended by adding at the end thereof the following new sections:

"OFFICE FOR SUBSTANCE ABUSE PREVENTION

"SEC. 508. (a) There is established in the Administration an Office for Substance Abuse Prevention (hereafter in this part referred to as the 'Office'). The Office shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack');

"(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

"(5) support programs of clinical training of substance abuse counselors and other health professionals;

"(6) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

"(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986;

"(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people; and

"(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.

"(c) The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b).

"(d) Of the amounts available under the second sentence of section 1921(a) to carry out this section and section 510, $20,000,000 shall be available to carry out section 510.

"ALCOHOL AND DRUG ABUSE INFORMATION CLEARINGHOUSE

"SEC. 509. The Secretary, through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

"(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the Department of Education, and the ACTION agency concerning alcohol abuse and drug abuse;

"(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

"(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

"(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

"PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

"SEC. 510. (a) The Secretary, through the Director of the Office, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth.

"(b)(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

"(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(c) To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

"(d)(1) In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Governor of the State in which the project will be conducted. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

"(2) The Governor of each State shall review each application received under subsection (a) for a fiscal year and shall submit to the Secretary, by a date prescribed by the Secretary for such fiscal year, the recommendations of the Governor concerning the approval or disapproval of each such application and a ranking recommended by the designated state agency of the priority for approval of such applications. In making recommendations under the preceding sentence, the Governor shall consider the priorities and requirements for grants established by subsections (b) and (c).

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.

"(f) For purposes of this section, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide; or

"(9) is disabled by injuries.".

(b)(1) Section 502(e) is repealed.

(2) Section 503(d) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(C) by striking out paragraph (4).

SEC. 4005. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by sections 4003 and 4004 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 511. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of an Institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

SEC. 4006. PEER REVIEW.

Subsection (b) of section 507 (as redesignated by section 4003(a) of this Act) is amended by inserting "applications made for" after "review of" in the matter preceding paragraph (1).

SEC. 4007. NATIONAL ALCOHOL RESEARCH CENTERS.

Section 511(b) is amended—

(1) by striking out "or rental" before "any land"; and

(2) by striking out "rental," before "purchase".

SEC. 4008. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a) is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs; and"; and

(3) by adding at the end thereof the following:

"(6) the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction.".

SEC. 4009. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4010. SUICIDE.

(a) Section 504 is amended by adding at the end thereof the following new subsection:

"(h) The Director shall—

"(1) develop and publish information respecting the causes of suicide and the means of preventing suicide; and

"(2) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.".

(b) Not later than one year after the date of enactment of this Act, the Director of the National Institute of Mental Health shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 504(h) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. MENTAL HEALTH NEEDS OF THE ELDERLY.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4012. TECHNICAL AMENDMENT.

Section 504(e) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

SEC. 4013. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in the second sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

'(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manuacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(v) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (c)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded, the manufacturer shall promptly

notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risks to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 301(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4014. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Federal Food, Drug, and Cosmetic Act.

SEC. 4015. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not provide or be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4016. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should review available knowledge and conduct studies to assess the most effective means of providing such education, including an assessment of the potential educational impact of health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any activities described in paragraph (2) which have been undertaken, and should include in such report any findings respecting the impact and potential benefits of displaying health warnings on the containers of alcoholic beverages and recommendations for specific language for such labels.

COHEN AMENDMENT NO. 3302

(Ordered to lie on the table)

Mr. COHEN submitted an amendment intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

At the appropriate place add the following:

Subsection (i) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) in the fourth sentence thereof by striking "Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant," and inserting in lieu thereof, "Any information relevant to such aggravating factor may be presented only to the extent that it is admissible under the rules governing admission of evidence at criminal trials. Any other information relevant to such mitigating factor may be presented,"

MATHIAS AMENDMENT NO. 3303

(Ordered to lie on the table)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Amendment 3275, as modified, is amended by adding at the end of Title I, Subtitle U the following new subsection:

Subsection (): This subtitle shall not apply to any offense committed in any State if the law of that State does not authorize the imposition of capital punishment for that offense.

EVANS AMENDMENT NOS. 3304 THROUGH 3327

(Ordered to lie on the table)

Mr. EVANS submitted 24 amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3304

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of a Federal felony for which a term of 4 years is authorized." following paragraph (5).

AMENDMENT No. 3305

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of a Federal felony for which a term of 5 years is authorized." following paragraph (5).

AMENDMENT No. 3306

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of a Federal felony for which a term of 6 years is authorized." following paragraph (5).

AMENDMENT No. 3307

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of a Federal felony for which a term of 10 years is authorized." following paragraph (5).

AMENDMENT No. 3308

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of a Federal felony for which a term of 15 years is authorized." following paragraph (5).

AMENDMENT No. 3309

Subsection (i) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking the last sentence.

AMENDMENT No. 3310

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (1)(b) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3311

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (2) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3312

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (3) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3313

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (4) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3314

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (5) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3315

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (6) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3316

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (7) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3317

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (8) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3318

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph (9) and redesignating the subsequent paragraphs accordingly.

AMENDMENT No. 3319

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by striking paragraph 10.

AMENDMENT No. 3320

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended:

(1) by striking in paragraph (1) "18"; and

(2) inserting "21" in lieu thereof.

AMENDMENT No. 3321

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended:

(1) by striking in paragraph (1) "18"; and

(2) inserting "20" in lieu thereof.

AMENDMENT No. 3322

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended:

(1) by striking in paragraph (1) "18"; and

(2) inserting "19" in lieu thereof.

AMENDMENT No. 3323

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant has not been previously convicted of any crime of violence that is a felony." following paragraph (5).

AMENDMENT No. 3324

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The victim was a participant in the defendant's conduct or consented to the act." following paragraph (5).

AMENDMENT No. 3325

Subsection (l) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting:

"(6) The defendant was under the substantial domination of another person, but not such domination as to constitute a defense to the prosecution." following paragraph (5).

AMENDMENT No. 3326

Subsection (n) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting "or the victim" after "or sex of the defendant" each place it appears.

AMENDMENT No. 3327

In lieu of the matter inserted by Amendment Numbered 3275—as modified, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Compliance with Budget Act.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

Sec. 1001. Short title.
Sec. 1002. Controlled Substances Act penalties.
Sec. 1003. Other amendments to the Controlled Substances Act.
Sec. 1004. Elimination of special parole terms.
Sec. 1005. Amendment to the Comprehensive Crime Control Act of 1984.
Sec. 1006. Miscellaneous technical amendments.

Subtitle B—Drug Possession Penalty Act of 1986

Sec. 1051. Short title.
Sec. 1052. Penalty for simple possession.

Subtitle C—Juvenile Drug Trafficking Act of 1986

Sec. 1101. Short title.
Sec. 1102. Offense.
Sec. 1103. Technical amendments.
Sec. 1104. Manufacturing a controlled substance within 1,000 feet of a college.
Sec. 1105. Imprisonment.

Subtitle D—Assets Forfeiture Amendments Act of 1986

Sec. 1151. Short title.
Sec. 1152. Department of Justice Asset forfeiture fund.
Sec. 1153. Substitute assets.

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

Sec. 1201. Short title.
Sec. 1202. Treatment of Controlled Substance Analogues.
Sec. 1203. Definition.
Sec. 1204. Clerical Amendment.

Subtitle F—Continuing Drug Enterprise Act of 1986

Sec. 1251. Short title.
Sec. 1252. Increased penalties.
Sec. 1253. Continuing criminal enterprise enhanced penalties.

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

Sec. 1301. Short title.
Sec. 1302. Enhanced penalties.

Subtitle H—Money Laundering Control Act of 1986

Sec. 1351. Short title.
Sec. 1352. New offense for laundering of monetary instruments.
Sec. 1353. Amendments to the Right to Financial Privacy Act.
Sec. 1354. Structuring transactions to evade reporting requirements prohibited.
Sec. 1355. Seizure and civil forfeiture of monetary instruments and related provisions.
Sec. 1356. Compliance authority for Secretary of the Treasury and related matters.
Sec. 1357. Penalty provisions.

Sec. 1358. Monetary transaction recordkeeping and reporting amendments.
Sec. 1359. Banking regulatory agency supervision of recordkeeping systems.
Sec. 1360. Change in Bank Control Act amendments.
Sec. 1361. Change in Savings and Loan Control Act amendments.
Sec. 1362. Amendments to definitions.
Sec. 1363. International information exchange system; study of foreign branches of domestic institutions.
Sec. 1364. Effective dates.
Sec. 1365. Predicate Offenses.
Sec. 1366. Forfeiture.
Sec. 1367. Severability clause.
Subtitle I—Armed Career Criminals
Sec. 1401. Short title.
Sec. 1402. Expansion of predicate offenses for armed career criminal penalties.
Subtitle J—Authorization of Appropriations for Drug Law Enforcement
Sec. 1451. Authorization of appropriations.
Subtitle K—State and Local Narcotics Control Assistance
Sec. 1551. Short title.
Sec. 1552. Bureau of Justice Assistance drug grant programs.
Subtitle L—Study on the Use of Existing Federal Buildings as Prisons
Sec. 1601. Study required.
Subtitle M—Narcotics Traffickers Deportation Act
Sec. 1751. Amendment to the Immigration and Nationality Act.
Subtitle N—Freedom of Information Act
Sec. 1801. Short title.
Sec. 1802. Law enforcement.
Sec. 1803. Fees and Fee waivers.
Sec. 1804. Effective dates.
Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia
Sec. 1821. Short title.
Sec. 1822. Offense.
Sec. 1823. Effective date.
Subtitle P—Manufacturing Operations
Sec. 1841. Manufacturing operation.
Subtitle Q—Controlled Substances Technical Amendments
Sec. 1861. Duties of Director of Administrative Office and authorizations.
Sec. 1862. Amendment to section 608 of the Tariff Act.
Sec. 1863. Amendments to section 616 of the Tariff Act.
Sec. 1864. Cross reference corrections.
Sec. 1865. Warrants relating to seizure.
Sec. 1866. Minor technical amendments.
Sec. 1867. Modification of cocaine definition for purposes of Schedule II.
Sec. 1868. Authority of Attorney General to enter into contracts with State and local law enforcement agencies.
Sec. 1869. Authority of Attorney General to deputize State and local law enforcement officers for controlled substances enforcement.
Sec. 1870. Clarification of isomer definition.
Subtitle R—Precursor and essential chemical review
Sec. 1901. Precursor and essential chemical review.
Subtitle S—Improved Drug Crime Reporting
Sec. 1921. Improved drug crime reporting.
Subtitle T—White House Conference on Drug Abuse and Control
Sec. 1931. Short title.
Sec. 1932. Establishment of the Conference.
Sec. 1933. Purpose.
Sec. 1934. Responsibilities of the Conference.
Sec. 1935. Conference participants.
Sec. 1936. Administrative provisions.
Sec. 1937. Final report and follow-up actions.
TITLE II—INTERNATIONAL NARCOTICS CONTROL
Sec. 2001. Short title.
Sec. 2002. Additional funding for international narcotics control assistance and regional cooperation.
Sec. 2003. Aircraft provided to foreign countries for narcotics control purposes: Retention of title and records of use.
Sec. 2004. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 2005. Restrictions on the provision of United States assistance.
Sec. 2006. Development of herbicides for aerial coca eradication.
Sec. 2007. Review of effectiveness of international narcotics control assistance program.
Sec. 2008. Extradition to the United States for narcotics-related offenses.
Sec. 2009. Foreign policy arrest actions.
Sec. 2010. Issuance of diplomatic passports for Drug Enforcement Administration Agents abroad.
Sec. 2011. Information-sharing so that visas are denied to drug traffickers.
Sec. 2012. Conditions on assistance for Bolivia.
Sec. 2013. Narcotics control efforts in Mexico.
Sec. 2014. Reports and restrictions concerning certain countries.
Sec. 2015. Combating narcoterrorism.
Sec. 2016. Interdiction procedures for vessels of foreign registry.
Sec. 2017. Information relating to illicit narcotics activities abroad.
Sec. 2018. Assessment of narcotics trafficking for Africa.
Sec. 2019. Policy toward multilateral development banks.
Sec. 2020. Multilateral development bank assistance for drug eradication and crop substitution programs.
Sec. 2021. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotics crops in Mexico.
Sec. 2022. Drugs as a national security problem.
Sec. 2023. Findings concerning greater international effort to address drug threat.
Sec. 2024. International Conference on Drug Abuse and Illicit Trafficking.
Sec. 2025. Effectiveness of international drug prevention and control system.
Sec. 2026. Narcotics control conventions.
Sec. 2027. Mexico-United States Intergovernmental Commission.
Sec. 2028. Opium production in Pakistan.
Sec. 2029. Opium production in Iran, Afghanistan, and Laos.
Sec. 2030. Increased funding for USIA Drug Education programs.
Sec. 2031. Increased funding for AID drug education programs.
Sec. 2032. Reports to Congress on drug education programs abroad.
TITLE III—INTERDICTION
Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Subtitle A—Department of Defense Drug Interdiction Assistance
Sec. 3051. Short title.
Sec. 3052. Authorization.
Sec. 3053. Coast Guard activities.
Sec. 3054. Reports on Department of Defense drug control activities.
Sec. 3055. Driving while impaired.
Sec. 3056. Assistance to civilian law enforcement and emergency assistance by Department of Defense personnel.
Sec. 3057. Additional Department of Defense drug law enforcement assistance.
Sec. 3058. Grade of Director of Department of Defense Task Force on Drug Enforcement.
Sec. 3059. Civil Air Patrol.
Subtitle B—Customs Enforcement
Sec. 3101. Short title.
PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930
Sec. 3111. Definitions.
Sec. 3112. Report of arrival of vessels, vehicles, and aircraft.
Sec. 3113. Penalties for arrival, reporting, entry, and departure violations.
Sec. 3114. Penalties for unauthorized unloading of passengers.
Sec. 3115. Reporting requirements for individuals.
Sec. 3116. Penalties for failure to declare.
Sec. 3117. Examination of books and witnesses.
Sec. 3118. False manifests; lack of manifest.
Sec. 3119. Unlawful unloading of merchandise.
Sec. 3120. Aviation smuggling.
Sec. 3121. Seizures.
Sec. 3122. Searches and seizures.
Sec. 3123. Forfeitures.
Sec. 3124. Proceeds of forfeited property.
Sec. 3125. Compensation to informers.
Sec. 3126. Foreign landing certificates.
Sec. 3127. Exchange of information with foreign agencies.
Sec. 3128. Inspections and preclearance in foreign countries.
PART 2—UNDERCOVER CUSTOMS OPERATIONS
Sec. 3131. Undercover investigative operations of the Customs Service.
PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND
Sec. 3141. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.
Sec. 3142. Customs forfeiture fund.
PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS
Sec. 3151. Recreational vessels.
Sec. 3152. Assistance for customs officers.
Sec. 3153. Reports on exports and imports of monetary instruments.
PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT
Sec. 3161. Possession, manufacture, or distribution for purposes of unlawful importation.

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986
Sec. 3201. Short title.
Sec. 3202. Improvement of Public Law 96-350.
Subtitle D—Coast Guard
Sec. 3251. Coast Guard drug interdiction enhancement.
Subtitle E—United States Bahamas Drug Interdiction Task Force
Sec. 3301. Establishment of United States Bahamas Drug Interdiction Task Force.
Subtitle F—Command, Control, Communications, and Intelligence Centers
Sec. 3351. Establishment of Command, Control, Communications, and Intelligence Centers.
Subtitle G—Transportation Safety
Sec. 3401. Air safety.
Sec. 3402. Drugs and highway safety.
Sec. 3403. Savings provision.
Subtitle H—Department of Justice funds for drug interdiction operation in Hawaii
Sec. 3451. Additional funds for the Department of Justice.
TITLE IV—DEMAND REDUCTION
Subtitle A—Prevention Initiatives and Treatment Services
Sec. 4001. Short title.
PART I—FINANCIAL ASSISTANCE TO STATES AND COMMUNITIES
Sec. 4002. Allotments to States.
PART II—AGENCY FOR SUBSTANCE ABUSE PREVENTION
Sec. 4003. Agency for Substance Abuse Prevention.
PART III—ADAMHA AND RELATED PROVISIONS
Sec. 4011. Short title, reference.
Sec. 4012. Technical revision of ADAMHA.
Sec. 4013. National Institute of Mental Health.
Sec. 4014. Advisory councils.
Sec. 4015. Public health emergencies.
Sec. 4016. Peer Review.
Sec. 4017. National Alcohol Research Center.
Sec. 4018. Research authorization.
Sec. 4019. Suicide.
Sec. 4020. Animals in research.
Sec. 4021. Block grants.
Sec. 4022. Technical amendments.
Sec. 4023. Alcoholism and alcohol abuse treatment study.
PART IV—INFANT FORMULAS
Sec. 4031. Infant formulas.
PART V—MISCELLANEOUS
Sec. 4041. Efforts of the entertainment industry and written media industry.
Sec. 4042. Sense of the Senate urging categorization of films which promote alcohol abuse and drug use.
Sec. 4043. Sense of the Senate with respect to possession or distribution of drugs under State law.
Sec. 4045. Expansion of drug abuse research.
Sec. 4046. Alkyl nitrites.
Sec. 4047. Administrator of Veterans' Affairs.
Subtitle B—Drug-Free Schools and Communities Act of 1986
Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Purpose.
PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS
Sec. 4111. Authorization of appropriations.
Sec. 4112. Reservations and state allotments.
PART 2—STATE AND LOCAL PROGRAMS
Sec. 4121. Use of allotments by States.
Sec. 4122. State programs.
Sec. 4123. Responsibilities of state educational agencies.
Sec. 4124. Local drug abuse education and prevention programs.
Sec. 4125. Local applications.
PART 3—NATIONAL PROGRAMS
Sec. 4131. Grants to institutions of higher education.
Sec. 4132. Federal activities.
Sec. 4133. Programs for Indian youth.
Sec. 4134. Programs for Hawaiian natives.
PART 4—GENERAL PROVISIONS
Sec. 4141. Definitions.
Sec. 4142. Functions of the Secretary of Education.
Sec. 4143. Participation of children and teachers from private nonprofit schools.
Subtitle C—Indians and Alaska Natives
Sec. 4201. Short title.
PART I—GENERAL PROVISIONS
Sec. 4202. Findings.
Sec. 4203. Purpose.
Sec. 4204. Definitions.
PART II—COORDINATION OF RESOURCES AND PROGRAMS
Sec. 4205. Inter-departmental Memorandum of Agreement.
Sec. 4206. Tribal action plans.
Sec. 4207. Departmental responsibility.
Sec. 4208. Congressional intent.
Sec. 4209. Federal facilities, property, and equipment.
Sec. 4210. Newsletter.
PART III—INDIAN YOUTH PROGRAMS
Sec. 4211. Review of programs.
Sec. 4212. Indian education programs.
Sec. 4213. Emergency shelters.
Sec. 4214. Social services reports.
PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES
Sec. 4215. Review of programs.
Sec. 4216. Illegal narcotics traffic on the Papago Reservation: source eradication.
PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT
Sec. 4217. Tribal courts, sentencing and fines.
Sec. 4218. Law enforcement services.
Sec. 4219. Bureau of Indian Affairs law enforcement and judicial training.
Sec. 4220. Medical assessment and treatment of juvenile offenders.
Sec. 4221. Juvenile detention centers.
Sec. 4222. Model Indian Juvenile Code.
Sec. 4223. Law enforcement and judicial report.
PART IV—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION
Sec. 4224. Review of programs.
Sec. 4225. Indian Health Service responsibilities.
Sec. 4226. Indian Health Service program.
Sec. 4227. Indian Health Service youth program.
Sec. 4228. Community education and training.
Sec. 4229. Navajo alcohol rehabilitation demonstration program.
Sec. 4230. Indian Health Service reports.
Subtitle D—Miscellaneous Provisions
Sec. 4301. Action grants.
Sec. 4302. Establishment of national trust for drug-free youth.
Sec. 4303. Information on drug abuse at the workplace.
TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS
Subtitle A—Programs in United States Insular Areas.
Sec. 5001. Short title.
Sec. 5002. Purposes.
Sec. 5003. Annual reports to Congress.
Sec. 5004. Enforcement and administration in insular areas.
Subtitle B—National Park Service Program.
Sec. 5051. Short title.
Sec. 5052. National Park Police authorization.
TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT
Sec. 6001. Short title.
Sec. 6002. Programs to provide prevention, treatment, and rehabilitation services to Federal employees with respect to drug and alcohol abuse.
Sec. 6003. Educational program for Federal employees relating to drug and alcohol abuse.
Sec. 6004. Employee assistance programs relating to drug abuse and alcohol abuse.
Sec. 6005. Substance abuse coverage study.
Sec. 6006. Health insurance coverage for drug and alcohol treatment.
TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION
Sec. 7001. Short title.
Sec. 7002. Findings.
Sec. 7003. Submission of legislation.
TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION
Sec. 8001. Short title.
Sec. 8002. Establishment.
Sec. 8003. Duties of Commission.
Sec. 8004. Membership.
Sec. 8005. Meetings.
Sec. 8006. Director and staff; experts and consultants.
Sec. 8007. Powers of Commission.
Sec. 8008. Report.
Sec. 8009. Termination.
TITLE IX—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE DRUG SOURCE NATIONS
Sec. 9001. Short title.
Sec. 9002. Determinations regarding uncooperative drug source nations.
Sec. 9003. Tariff treatment of products of uncooperative drug source nations.
Sec. 9004. Progress reports.
Sec. 9005. Cancellation of determinations.
Sec. 9006. Definition.
Sec. 9007. Conforming amendments.
TITLE X—BALLISTIC KNIFE PROHIBITION
Sec. 10001. Short title.
Sec. 10002. Prohibition on possession, manufacture, sale, and importation of ballistic knives.
Sec. 10003. Nonmailability of ballistic knives.

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT
Sec. 11001. Short title.
Subtitle A—Emergency Food for the Homeless
Sec. 11002. Meals served to homeless individuals.
Subtitle B—Job Training for the Homeless
Sec. 11004. Job training for the homeless.
Subtitle C—Entitlements Eligibility
Sec. 11005. Application for SSI and food stamp benefits by SSI pre-release individuals.
Sec. 11006. Delivery of veterans' benefits payments.
TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986
Sec. 12001. Short title.
Sec. 12002. Limitation on number of driver's licenses.
Sec. 12003. Notification requirements.
Sec. 12004. Employer responsibilities.
Sec. 12005. Testing of operators.
Sec. 12006. Classified driver's license.
Sec. 12007. Classified driver's license information system.
Sec. 12008. Federal disqualifications.
Sec. 12009. Requirements for State participation.
Sec. 12010. Grant program.
Sec. 12011. Withholding of highway funds for State noncompliance.
Sec. 12012. Penalties.
Sec. 12013. Waiver authority.
Sec. 12014. Review of commercial motor vehicle alcohol regulations.
Sec. 12015. Truck brake regulations.
Sec. 12016. Radar demonstration project.
Sec. 12017. Limitation on statutory construction.
Sec. 12018. Regulations.
Sec. 12019. Definitions.
TITLE XIII—ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986
Sec. 13001. Short title.
Subtitle A—Interception of communications and related matters
Sec. 13011. Federal penalties for the interception of communications.
Sec. 13012. Requirements for certain disclosures.
Sec. 13013. Recovery of civil damages.
Sec. 13014. Certain approvals by Justice Department officials.
Sec. 13015. Addition of offenses to crimes for which interception is authorized.
Sec. 13016. Applications, orders, and implementation of orders.
Sec. 13017. Intelligence activities.
Sec. 13018. Mobile tracking devices.
Sec. 13019. Warning subject of surveillance.
Sec. 13020. Injunctive remedy.
Sec. 13021. Effective date.
Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access
Sec. 13031. Title 18 amendment.
Sec. 13032. Effective date.
Subtitle C—Pen Registers and Trap and Trace Devices.
Sec. 13041. Title 18 amendment.
Sec. 13042. Effective date.
Sec. 13043. Interference with the operation of a satellite.
Subtitle D—Special Rule Relating to Effect of Title.
Sec. 13061. Special Rule.
TITLE XIV—CYANIDE WRONGFUL USE
Sec. 14001. Study and Report.
TITLE XV—SENATE POLICY CONCERNING FUNDING
Sec. 15001. Statement of policy.

SEC. 3. COMPLIANCE WITH BUDGET ACT.

Notwithstanding any other provision of this Act, any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 and the term "credit authority" has the meaning provided in section 3(10) of the Congressional Budget Act of 1974.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18,

United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(1) In subsection (b), paragraph (1)(D), as redesignated, is amended by—

(A) striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual";

(B) striking out "a fine of not more than $100,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual"; and

(C) inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana," the first place it appears.

(2) In subsection (b), paragraph (2) is amended by striking out "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual".

(3) In subsection (b), paragraph (3) is amended by striking out "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out "a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual".

(4) In subsection (b), paragraph (4) is amended by striking out "1(C)" and inserting "1(D)" in lieu thereof.

(5) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

"(A) the amount authorized in accordance with this section;

"(B) the amount authorized in accordance with the provisions of title 18, United States Code;

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual;

or both.".

(6) Subsection (d) is amended by striking out "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by inserting the following new paragraph after paragraph (24):

"(25) The term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) protracted and obvious disfigurement; or

"(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."; and

(2) by renumbering the following paragraphs accordingly.

SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" wherever it appears and inserting "term of supervised release" in lieu thereof.

(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"SEC. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c).".

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting ", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided, the".

(3) Subsection (c) of section 3583 of title 18, United States Code, is amended—

(A) so that the catchline reads as follows: "Modification of conditions or revocation.";

(B) in paragraph (2) by striking out "or" after the semicolon;

(C) in paragraph (3) by striking out "title," and inserting "title; or" in lieu thereof; and

(D) by inserting the following new paragraph after paragraph (3):

"(4) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release,

pursuant to the provisions of rule 32.1 of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission.".

(4) The amendments made by this subsection shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".

(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended—

(1) in subsection (f) by inserting "or II" after "I" each place it appears;

(2) by redesignating subsection (f) as subsection (f)(1); and

(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:

"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary.".

On page 28, insert the following after line 15:

SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE.

(a) Section 3553 of title 18, United States Code, is amended by adding the following at the end thereof:

"(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM.—Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.".

(b) The amendment made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code.

SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

Section 994 of title 28 of the United States Code is amended by—

(1) inserting the following after subsection (m):

"(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."; and

(2) redesignating subsections (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking out "to the extent" and all that follows through the end and inserting in lieu thereof the following: "in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code. The court's authority to lower a sentence under this subdivision includes the authority to lower such sentence to a level below that established by statute as a minimum sentence.

(b) The amendment made by this section shall take effect on the date of the taking effect of rule 35(b) of the Federal Rules of Criminal Procedure, as amended by section 215(b) of the Comprehensive Crime Control Act of 1984.

Subtitle B—Drug Possession Penalty Act of 1986

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Drug Possession Penalty Act of 1986".

SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

"PENALTY FOR SIMPLE POSSESSION

"SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this title or title III, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this title or title III, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

"(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

"(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

"(c) As used in this section, the term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this title.".

Subtitle C—Juvenile Drug Trafficking Act of 1986

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Juvenile Drug Trafficking Act of 1986".

SEC. 1102. OFFENSE.

Part D of the Controlled Substances Act is amended by adding after section 405A a new section as follows:

"EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS

"SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

"(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or

"(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title

or title III by any Federal, State, or local law enforcement official.

"(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(d) Any person who violates section 405B(a) (1) or (2)

"(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

"(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

"(e) In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18, United States Code, until the individual has served the mandatory term of imprisonment required by section 401(b) as enhanced by this section.

"(f) Except as authorized by this title, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).".

SEC. 1103. TECHNICAL AMENDMENTS.

(a) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking out "or 405A" and inserting in lieu thereof ", 405A, or 405B".

(b) Section 401(c) of the Controlled Substances Act (21 U.S.C. 841(c)) is amended by striking out "405A" each place it appears and inserting in lieu thereof ", 405A, or 405B".

"405B. Employment of minors in controlled substance trafficking.".

SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF A COLLEGE.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by inserting "or manufacturing" after "distributing" wherever it appears and by striking out "a public or private elementary or secondary school" wherever it appears and inserting in lieu thereof "a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university".

(b) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by striking out "involving the same controlled substance and schedule".

(c) Section 405A(b) of the Controlled Substance Act (21 U.S.C. 845a(b)) is amended by striking out "(1) by" and all that follows through the end and inserting the following in lieu thereof:

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both, and (2) at least three times any special parole term authorized by section 401(b) of this title for a first offense.".

SEC. 1105. IMPRISONMENTS.

(a) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.".

(b) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

(c) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

Subtitle D—Assets Forfeiture Amendments Act of 1986

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

On page 37, strike out all beginning with line 14 through line 2 on page 39 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "in such amounts as may be specified in appropriations acts";

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "Such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed, during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) in subsection (a) before paragraph (1) by striking out "in such amounts as may be specified in appropriations Acts";

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

(c) FUNDS NOT COUNTED FOR PURPOSES OF ALLOCATION LIMITS IN SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974.—Notwithstanding any other provision of law or any rule of the House of Representatives or the Senate, amounts available in the Customs Forfeiture Fund or the Department of Justice Assets Forfeiture Fund shall not be counted in determining the allocation of totals under subsections (a) and (b) of section 302 of the Budget Act of 1974.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Controlled Substance Analogue Enforcement Act of 1986".

SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue all or part of which is intended for human consumption shall be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

SEC. 1203. DEFINITION.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; or

"(ii) which was specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in schedule I or II.".

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

"For purposes of this paragraph, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle F—Continuing Drug Enterprise Act of 1986

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the Continuing Drug Enterprises Act of 1986".

SEC. 1252. INCREASED PENALTIES.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(2) by striking out "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,".

SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting the following new subsection after subsection (a);

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2)(A) the violation referred to in subsection (d)(1) involved at least 300 times the quantity of a substance described in subsection 401(b)(1)(B) of this Act, or

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelvemonth period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(B) of this Act."

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Import and Export Penalties Enhancement Act of 1986.".

SEC. 1302. ENHANCED PENALTIES.

(a) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting the following in lieu thereof:

"(1) In the case of a violation of subsection (a) of this section involving—

"(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of

this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, imposed a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(2) In the case of a violation of subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(B) 500 grams or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated, is amended—

(1) by striking out ", except as provided in paragraph (4)";

(2) by striking out "fined not more than $50,000" and inserting in lieu thereof "fined not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual"; and

(3) by inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana,".

Subtitle H—Money Laundering Control Act of 1986

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both

"(3) Whoever conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate or facilitate a violation of section 7201 or 7206 of the Internal Revenue Code of 1954 shall be sentenced to a fine of not more than $250,000 or twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is specified in paragraph (7);

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act;

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3).

"(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.".

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments".

SEC. 1353 AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS AND RELATED PROVISIONS.

(a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT BORDER.—Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.".

(b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) SUMMONS POWER.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

(2) The heading of section 5318 of title 31, United States Code, is amended to read as follows:

"§ 5318. Compliance, exemptions, and summons authority".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking out the item relating to section 5318 and inserting in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority.".

SEC. 1357. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315".

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (d) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

(f) CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY AND CRIMINAL PENALTY.—Section 5321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.".

(g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN OFFENSES.—Section 5322(b) of title 31, United States Code, is amended—

(1) by striking out "illegal activity involving transactions of" and inserting in lieu thereof "any illegal activity involving";

(2) by striking out "5 years" and inserting in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 1358. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) AMENDMENTS RELATING TO REPORTS ON EXPORTS OR IMPORTS OF MONEY.

(1) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(2) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(A) by striking out "or attempts to transport or have transported,", and

(B) by inserting ", is about to transport," after "transports".

(3) TECHNICAL AND CONFORMING AMENDMENT.—Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forefit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on September 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency,

unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1361. CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1362. AMENDMENTS TO DEFINITIONS.

(a) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

(b) UNITED STATES INCLUDES CERTAIN TERRITORIES AND POSSESSIONS.—Section 5312(a)(5) of title 31, United States Code, is amended by inserting "the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands," after "Puerto Rico".

SEC. 1363. INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS.

(a) DISCUSSIONS ON INTERNATIONAL INFORMATION EXCHANGE SYSTEM.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT ON DISCUSSIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of discussions initiated pursuant to subsection (a).

(c) STUDY OF MONEY LAUNDERING THROUGH FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Attorney General and the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the extent to which foreign branches of domestic institutions are used—

(A) to facilitate illicit transfers of coins, currency, and other monetary instruments (as such term is defined in section 5312(a)(3)) of title 31, United States Code) into and out of the United States; and

(B) to evade reporting requirements with respect to any transfer of coins, currency, and other monetary instruments (as so defined) into and out of the United States;

(2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and

(3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States.

(d) REPORT ON STUDY OF FOREIGN BRANCHES REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the results of the study conducted pursuant to subsection (c).

SEC. 1364. EFFECTIVE DATES.

(a) The amendments made by sections 1354, 1358(b), and 1358(c) shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 1355(b), 1355(c), and 1357(a) shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The amendments made by section 1357 (other than subsection (a) of such section) shall apply with respect to violations committed after the date of the enactment of this Act.

(d) Any regulation prescribed under the amendments made by section 1358(a) shall apply with respect to transactions completed after the effective date of such regulation.

(e) The regulations required to be prescribed under the amendments made by section 1359 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(f) The amendments made by sections 1360 and 1361 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

SEC. 1365. PREDICATE OFFENSES.

(a) Subsection (b) of section 1952 of title 18, United States Code, is amended by striking out "or" before "(2)", and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title.".

(b) Subsection (1) of section 1961 of title 18, United States Code, is amended by inserting "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (relating to the prohibition of illegal gambling businesses),".

(c) Subsection (1) of section 2516 of title 18, United States Code, is amended in paragraph (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (prohibition of relating to business enterprises of gambling),".

SEC. 1366. FORFEITURE.

(a) Title 18 of the United States Code is amended by adding after chapter 45 a new chapter 46 as follows:

"CHAPTER 46—FORFEITURE

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

"§ 981. Civil forfeiture

"(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

"(A) Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.

"(B) Any property within the jurisdiction of the United States, which represents the proceeds of an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense or activity would be punishable by death or imprisonment for a term exceeding one year and which would be punishable by imprisonment for a term exceeding one year if such act or activity had occurred within the jurisdiction of the United States.

"(C) Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer or employee thereof."

"(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or emission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

"(b) Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by the Secretary of the Treasury, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as

the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(i) In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:

"(1) Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subchapter, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General may, in his discretion, set. Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.

"(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

"(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

"(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

"(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

"(j) For purposes of this section—

"(1) the term 'Attorney General' means the Attorney General or his delegate; and

"(2) the term 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"§ 982. Criminal forfeiture

"(a) The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.

"(b) The provisions of subsections 413 (c) and (e) through (o) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (c) and (e)—(o)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) The chapter analysis of part I of title 18, United States Code, is amended by inserting after the item for chapter 45 the following:

"46. Forfeiture ..... 981".

SEC. 1367. SEVERABILITY CLAUSE.

If any provision of this subtitle or any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.

Subtitle I—Armed Career Criminals

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by strik-

ing out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.".

Subtitle J—Authorization of Appropriation for Drug Law Enforcement

SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Drug Enforcement Administration, $60,000,000; except, that notwithstanding section 1345 of title 31, United States Code, funds made available to the Department of Justice for the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

(b) The Drug Enforcement Administration of the Department of Justice is hereby authorized to plan, construct, renovate, maintain, remodel and repair buildings and purchase equipment incident thereto for an All Source Intelligence Center: "Provided, That the existing El Paso Intelligence Center shall remain in Texas.".

(c) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Federal Prison System, $124,500,000, of which $96,500,000 shall be for the construction of Federal penal and correctional institutions and $28,000,000 shall be for salaries and expenses.

(d) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Defender Services, $18,000,000.

(e) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Fees and Expenses of Jurors and Commissioners, $7,500,000.

(f) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Office of Justice Assistance, $5,000,000 to carry out a pilot prison capacity program.

(g) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for support of United States prisoners in non-Federal Institutions, $5,000,000.

(h) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Offices of the United States Attorneys, $31,000,000.

(i) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the United States Marshals Service, $17,000,000.

"(j) Authorizations of appropriations for fiscal year 1987 contained in this section are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738."

(k) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1987, the following sums are authorized to be appropriated to procure secure voice radios:

Federal Bureau of Investigation	$2,000,000
Secret Service	$1,000,000.

(l) This section may be cited as the "Drug Enforcement Enhancement Act of 1986".

Subtitle K—State and Local Narcotics Control Assistance

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1986".

SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

(a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF THE DIRECTOR

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

"SEC. 1302. The Director is authorized to make grants to States, for the use of States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.), and to—

"(1) provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons;

"(2) provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution;

"(3) provide additional personnel (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases;

"(4) provide additional public correctional resources for the detention of persons convicted of violating State and local laws relating to the production, possession, or transfer of controlled substances, and to establish and improve treatment and rehabilitative counseling provided to drug dependent persons convicted of violating State and local laws;

"(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

"(6) provide programs which identify and meet the needs of drug-dependent offenders; and

"(7) conduct demonstration programs, in conjunction with local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking to expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1303. To request a grant under section 1302, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a statewide strategy for the enforcement of State and local laws relating to the production, possession, and transfer of controlled substances;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(5) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

Such strategy shall be prepared after consultation with State and local officials whose duty it is to enforce such laws. Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director or to the State, as the case may be, a performance report concerning the activities carried out pursuant to section 1302 of this title.

"REVIEW OF APPLICATIONS

"SEC. 1304. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1303 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1303 shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1305. (a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for section 1302 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under section 1309 of this title.

"REPORTS

"SEC. 1306. (a) Each State which receives a grant under section 1302 of this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 1303 of this title;

"(2) a summary of the activities carried out in such year with any grant received under section 1309 of this title by such State; and

"(3) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than ninety days after the end of each fiscal year for which grants are made under section 1302 of this title, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under sections 1302 and 1309 of this title to such State for such fiscal year;

"(2) the amount of such grants expended for each of the purposes specified in section 1302; and

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1307. (a) A grant made under section 1302 of this title may not be expended for more than 75 per centum of the cost of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in section 1302, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 per centum of a grant made under section 1302 of this title may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under section 1302 of this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under section 1302, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISCRETIONARY GRANTS

"SEC. 1309. The Director is authorized to make grants to public agencies and private nonprofit organizations for any purpose specified in section 1302 of this title. The Director shall have final authority over all grants awarded under this section.

"APPLICATION REQUIREMENTS

"SEC. 1310. (a) No grant may be made under section 1309 of this title unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

"SEC. 1311. Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for section 1309 of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in section 1302 of this title. Grants under section 1309 may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.".

(b)(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M

and section 1301, and inserting in lieu thereof the following new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Director.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Review of applications.
"Sec. 1305. Allocation and distribution of funds under formula grants.
"Sec. 1306. Reports.
"Sec. 1307. Expenditure of grants; records.
"Sec. 1308. State office.
"Sec. 1309. Discretionary grants.
"Sec. 1310. Application requirements.
"Sec. 1311. Allocation of funds for discretionary grants.
"Sec. 1312. Limitation on use of discretionary grant funds.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $350,000,000 for fiscal year 1987, $350,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title.", and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

SEC. 1601. STUDY REQUIRED.

(a) Within 90 days of the date of enactment of this Act, the Secretary of Defense shall provide to the Attorney General—

(1) a list of all sites under the jurisdiction of the Department of Defense including facilities beyond the excess and surplus property inventories whose facilities or a portion thereof could be used, or are being used, as detention facilities for felons, especially those who are a Federal responsibility such as illegal alien felons and major narcotics traffickers;

(2) a statement of fact on how such facilities could be used as detention facilities with detailed descriptions on their actual daily percentage of use; their capacities or rated capacities; the time periods they could be utilized as detention facilities; the cost of converting such facilities to detention facilities; and, the cost of maintaining them as such; and

(3) in consultation with the Attorney General, a statement showing how the Department of Defense and the Department of Justice would administer and provide staffing responsibilities to convert and maintain such detention facilities.

(b) Copies of the report and analysis required by subsection (a) shall be provided to the Congress.

Subtitle M—Narcotics Traffickers Deportation Act

SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))"; and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(c) The amendments made by this subsections (a) and (b) of this section shall apply to convictions occurring before, on, or after the date of the enactment of this section, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this section.

(d) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

(e)(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Subtitle N—Freedom of Information Act

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the "Freedom of Information Reform Act of 1986".

SEC. 1802. LAW ENFORCEMENT.

(a) EXEMPTION.—Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;".

(b) EXCLUSIONS.—Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.".

SEC. 1803. FEES AND FEE WAIVERS.

Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.".

SEC. 1804. EFFECTIVE DATES.

(a) The amendments made by section 1802 shall be effective on the date of enactment of this Act, and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b)(1) The amendments made by section 1803 shall be effective 180 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 180th day.

(2) The amendments made by section 1803 shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia Control Act".

SEC. 1822. OFFENSE.

(a) It is unlawful for any person—

(1) to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale and transportation in interstate or foreign commerce drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) This subtitle shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1823. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle P—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATION.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF MANUFACTURING OPERATIONS

"SEC. 416. (a) Except as authorized by this title, it shall be unlawful to—

"(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

"(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

"(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.".

(b) Section 405A of the Controlled Substances Act is amended—

(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 416"; and

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle Q—Controlled Substances Technical Amendments

SEC. 1861. DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE AND AUTHORIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

(b) PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—(1) The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

(2) The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

(c) INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

(d) REAUTHORIZATION OF CONTRACT SERVICES.—Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof "; $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

SEC. 1862. AMENDMENT TO SECTION 608 OF THE TARIFF ACT.

(a) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$2,500" and inserting in lieu thereof "$5,000".

(b) Section 608 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1863. AMENDMENTS TO SECTION 616 OF THE TARIFF ACT.

(a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1864. CROSS REFERENCE CORRECTIONS.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 1865. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 1866. MINOR TECHNICAL AMENDMENTS.

(a) Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

(b) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "special term" and inserting "term of supervised release" in lieu thereof.

(c) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

(d) Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

(e) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

(f) The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following:

"Sec. 405A. Manufacture or distribution in or near schools.

"405B. Employment of minors in controlled substance trafficking.";

and

(2) by inserting after the item relating to section 414 the following:

"Sec. 415. Alternative fine.".

SEC. 1867. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.".

SEC. 1868. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

SEC. 1869. AUTHORITY OF ATTORNEY GENERAL TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 1870. CLARIFICATION OF ISOMER DEFINITION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

Subtitle R—Precursor and Essential Chemical Review

SEC. 1901. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor

and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this subtitle.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

Subtitle T—White House Conference for a Drug Free America

SEC. 1931. SHORT TITLE.

This subtitle may be cited as the "White House Conference for a Drug Free America".

SEC. 1932. ESTABLISHMENT OF THE CONFERENCE.

There is established a conference to be known as "The White House Conference for a Drug Free America". The members of the Conference shall be appointed by the President.

SEC. 1933. PURPOSE.

The purposes of the Conference are—

(1) to share information and experiences in order to vigorously and directly attack drug abuse at all levels, local, State, Federal, and international;

(2) to bring public attention to those approaches to drug abuse education and prevention which have been successful in curbing drug abuse and those methods of treatment which have enabled drug abusers to become drug free;

(3) to highlight the dimensions of the drug abuse crisis, to examine the progress made in dealing with such crisis, and to assist in formulating a national strategy to thwart sale and solicitation of illicit drugs and to prevent and treat drug abuse; and

(4) to examine the essential role of parents and family members in preventing the basic causes of drug abuse and in successful treatment efforts.

SEC. 1934. RESPONSIBILITIES OF THE CONFERENCE.

The Conference shall specifically review—

(1) the effectiveness of law enforcement at the local, State, and Federal levels to prevent the sale and solicitation of illicit drugs and the need to provide greater coordination among such programs;

(2) the impact of drug abuse upon American education, examining in particular—

(A) the effectiveness of drug education programs in our schools with particular attention to those schools, both public and private, which have maintained a drug free learning environment;

(B) the role of colleges and universities in discouraging the illegal use of drugs by student-athletes; and

(C) the relationship between drug abuse by student-athletes and college athletic policies, including eligibility and academic requirements, recruiting policies, athletic department financing policies, the establishment of separate campus facilities for athletes, and the demands of practice and lengthy playing seasons;

(3) the extent to which Federal, State, and local programs of drug abuse education, prevention, and treatment require reorganization or reform in order to better use available resources and to ensure greater coordination among such programs;

(4) the impact of current laws on efforts to control international and domestic trafficking of illicit drugs; and

(5) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 1935. CONFERENCE PARTICIPANTS.

In order to carry out the purposes and responsibilities specified in sections 1933 and 1934, the Conference shall bring together individuals concerned with issues relating to drug abuse education, prevention, and treatment, and the production, trafficking, and distribution of illicit drugs. The President shall—

(1) ensure the active participation in the Conference of the heads of appropriate executive and military departments, and agencies, including the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, Secretary of Transportation, and the Director of ACTION;

(2) provide for the involvement in the Conference of other appropriate public officials, including Members of Congress, Governors of States, and Mayors of Cities;

(3) provide for the involvement in the Conference of private entities, especially parents' organizations, which have been active in the fight against drug abuse; and

(4) provide for the involvement in the Conference of individuals distinguished in medicine, law, drug abuse treatment and prevention, primary, secondary, and postsecondary education, and law enforcement.

SEC. 1936. ADMINISTRATIVE PROVISIONS.

(a) All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as the President may consider advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates.

(c) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

(d) Each participant in the Conference shall be responsible for the expenses of such participant in attending the Conference, and shall not be reimbursed for such expenses from amounts appropriated to carry out this subtitle.

SEC. 1937. FINAL REPORT AND FOLLOW-UP ACTIONS.

No later than six months after the effective date of this Act, the Conference shall prepare and transmit a final report to the President and to Congress, pursuant to sections 1933 and 1934. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1938. AUTHORIZATION.

There are hereby authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of this subtitle.

Subtitle .—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. . OFFENSE.

(a) Part I of title 18, United States Code, is amended by inserting after chapter 17, the following:

"CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

"§ 341. Definitions

"As used in this chapter, the term 'common carrier' means a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while under the influence of alcohol or drugs, shall be imprisoned not more than five years or fined not more than $10,000, or both.

"§ 343. Presumptions

"For purposes of this chapter—

"(1) an individual with a blood alcohol content of .10 or more shall be conclusively presumed to be under the influence of alcohol; and

"(2) an individual shall be conclusively presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.".

(b) The table of chapters for part I of title 18, United States Code, is amended by adding after the item for chapter 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs

Subtitle .—Federal Drug Law Enforcement Agent Protection Act of 1986

SEC. . SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and

(3) striking out the matter of following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

"(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

"(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).".

Strike out title II of the House amendment and insert in lieu thereof the following:

TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 2002. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$75,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less than $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of this Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts and shall be available primarily for use in Latin America.".

SEC. 2003. AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES: RETENTION OF TITLE AND RECORDS OF USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new sections:

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

SEC. 2004. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 200. RESTRICTIONS OF THE PROVISION OF UNITED STATES ASSISTANCE.

(a) Section 481(h) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(h)(1) Subject to paragraph (2), for every major illicit drug producing country or major drug-transit country—

"(A) 50 percent of United States assistance allocated for such country notified to Congress in the report required under section 653(a) of this Act shall be withheld from obligation and expenditure;

"(B) on or after March 1, 1987, and on March 1 of each succeeding year, the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for such country; and

"(C) on or after March 1, 1987, and March 1 of each succeeding year, the President shall deny to all products of such country tariff treatment under title V of the Trade Act of 1974 (the Generalized System of Preferences), the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment.

"(2)(A) The assistance withheld by paragraph (1)(A) may be obligated and expended and the provisions of clauses (A) and (B) of paragraph (1) shall not apply if the President determines, and so certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; or

"(ii) for a country that would not otherwise qualify for certification under subclause (i), the vital national interests of the United States require the provision of such assistance, financing, or preferential treatment to such country.

"(B) If the President makes a certification pursuant to clause (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk should assistance, financing, or preferential tariff treatment not be provided such country; and

"(ii) a statement weighing the risk described in subclause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combatting narcotics or to take adequate steps to combat narcotics on its own.

"(3) In making the certification required by paragraph (2) of this subsection, the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4). The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct, and

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

"(4)(A) The provisions of paragraph (1) shall apply without regard to paragraph (2) if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (2), joint resolution disapproving the determination of the President contained in such certification.

"(B)(i) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the Inter-

national Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section, the financing described in (1)(B) of this subsection or and the preferential tariff treatment described in (1)(C) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification.".

(b) Section 481(e) of such Act is amended by striking out "February" and inserting in lieu thereof "March".

(c) Section 481(i) of such Act is amended—

"(1) by striking out "and" at the end of paragraph (3);

"(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

"(3) by adding at the end thereof the following new paragraph:

"(5) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

(d) The amendments made by this section shall take effect October 1, 1986.

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

SEC. 2008. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.".

SEC. 2009. FOREIGN POLICE ARREST ACTIONS.

Section 481(c) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1), by striking out in the first sentence "engage or participate in any direct police arrest action in any foreign country" and inserting in lieu thereof "directly make an arrest in any foreign country as part of any foreign police action";

(2) by amending paragraph (2) to read as follows:

"(2) Nothing in paragraph (1) prevents such employee or officer—

"(A) from being present at the scene of an arrest or otherwise assisting foreign officers in making an arrest; or

"(B) from taking direct action to protect life or safety if exigent circumstances arise in the course of an arrest which are unanticipated and which pose an immediate threat to United States or foreign officers or to members of the public."; and

(3) by adding at the end thereof the following new paragraph:

"(3) The provisions of this subsection shall apply to all countries, unless the President certifies to the Congress a specific country or countries for which it would be against the national interests of the United States to do so.

"(4) With the agreement of a foreign country, paragraph (1) shall not apply to maritime law enforcement operations in the territorial sea of such country.".

SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

(A) the Government of Bolivia's recent drug interdiction operations in cooperation with the United States (Operation Blast Furnace) evinced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted;

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) CONDITIONS ON ASSISTANCE.—Paragraph (2) of section 611 of the International Security and Development Cooperation Act of 1985 is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

"(B) the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

"In the certification required by suparagraph (B), the President shall explain why the terms of the 1983 agreement proved unattainable and the reasons why a new agreement was necessary.".

(c) RELATION TO OTHER PROVISIONS.—Nothing in the amendment made by subsection (b) shall be construed as superseding any provision of section 481 of the Foreign Assistance Act of 1961.

SEC. 2013. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

(a) REPORTS.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—

(1) listing each major illicit drug producing country and each major drug-transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

(b) RESTRICTIONS.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country had made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

(d) DEFINITIONS.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the act of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SEC. 2015. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDING.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase effects to negotiate with relevant countries procedure which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 2016. INTELLIGENCE SUPPORT TO COMBATING THE DRUG PROBLEM.

(a) It is the sense of the Congress that the Intelligence Community can play a key role in United States efforts to prevent the importation of illegal drugs into the United States. It is also the sense of the Congress that the drug problem is sufficiently important that monitoring the production of illegal drugs and providing support to efforts to halt the trafficking in illegal drugs should be a high priority for the United States intelligence program.

(b) In order to improve the strategic international narcotics control program of the United States and to assist the reporting requirements of section 481(e) of the Foreign Assistance Act of 1961, the Congress directs the Director of Central Intelligence to improve the collection and analysis of foreign drug production sufficiently to produce highly reliable data on drug cultivation, harvest, and yields for each major illicit drug producing country (as defined by section 481(i) of the Foreign Assistance Act of 1961).

(c) The Congress also directs the Director of Central Intelligence (hereafter in this paragraph referred to as the "DCI") to make support to anti-drug efforts a Level One Priority in his National Foreign Intelligence Strategy and to reflect this priority in the National Foreign Intelligence Program. The Congress understands that—

(1) a copy of the DCI's National Foreign Intelligence Strategy will be provided to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, with the DCI's budget request for fiscal year 1988; and

(2) the DCI will address Intelligence Community support to anti-drug efforts and the coordination of these efforts within the Intelligence Community in his presentation of the National Foreign Intelligence Strategy to the Committees.

SEC. 2017. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 2018. POLICY TOWARD MULTILATERAL DEVELOPMENT BANKS.

Section 481(a) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.".

SEC. 2019. MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation of production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such

countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2020. DRUGS AS A NATIONAL SECURITY PROBLEM.

The Congress hereby declares that drugs are a national security problem and urges the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2021. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2022. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, including the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 2023. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study.

SEC. 2024. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2025. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentay Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2026. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 67 days after the date of enactment of this Act with respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2027. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2028. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2029. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 2030. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2031. SUGAR QUOTA.

(a) Notwithstanding any other provision of the law: The President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the U.S. in narcotics enforcement activities as defined in section 2002 as determined by the President.

SEC. 2032. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the impor-

tance and the desire to respect the sovereignty of each nation;

(2) further, the United States government has actively worked to support the Mexican government in easing its international debt burden;

(3) Both presidents pledged their cooperation in drug eradication, enforcement and education;

(4) This pledge of cooperation has not been realized fully because of the inadequate response of the Mexican government in:

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfedo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the U.S.-Mexican border.

(b) Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subparagraph (A)(4), the President should consider taking one or more of the following measures:

(1) imposition of a mandatory travel advisory for all of Mexico;

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank);

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

TITLE III—INTERDICTION

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Improvement Act of 1986".

SEC. 3002. FINDINGS.

The Congress hereby finds that—

(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

(A) increased investigations of large networks of drug smuggler organizations;

(B) source country drug eradication;

(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

(D) increased emphasis on drug education programs in the schools and workplaces;

(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive antidrug effort are emphasized;

(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal drug interdiction program;

(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

SEC. 3003. PURPOSES.

It is the purpose of this title—

(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act, for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States and

(3) to improve other drug interdiction programs of the Federal Government.

Subtitle A—Department of Defense Drug Interdiction Assistance

SEC. 3051. SHORT TITLE.

This subtitle may be cited as the "Defense Drug Interdiction Assistance Act".

SEC. 3052. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy, $138,000,000, to be available for (A) the refurbishment and upgrading, for drug interdiction purposes, of four existing E-2C Hawkeye surveillance aircraft or any other aircraft of the Navy which the Secretary considers better suited than E-2C Hawkeye surveillance aircraft to perform the drug interdiction mission, and (B) the procurement of four replacement aircraft (of the same type of aircraft refurbished and upgraded under the authorization in this paragraph) and related spares for the Navy.

(2) For procurement of seven radar aerostats, $99,500,000.

(3) For procurement of eight Blackhawk helicopters, $40,000,000.

(b) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—(1)(A) The Secretary of Defense shall make two of the existing aircraft refurbished and upgraded under section (a)(1) available to the Customs Service and the other two of such existing aircraft available to the Coast Guard.

(B) The Customs Service and the Coast Guard shall each have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service and the Coast Guard, respectively, under subparagrah (A).

(2) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(2) and the helicopters acquired under subsection (a)(3) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984.

(3) Aircraft and radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

(c) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligated for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 3053. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that ac-

tivities involving smuggling of drugs into the United States are ongoing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on the date of the enactment of this Act, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

(c) USE OF DEPARTMENT OF DEFENSE FUNDS FOR THE COAST GUARD.—In addition to any other amounts authorized to be appropriated to the Department of Defense in fiscal year 1987, $45,000,000 shall be authorized to be appropriated for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

(d) INSTALLATION OF 360-DEGREE RADAR ON COAST GUARD SURVEILLANCE AIRCRAFT.—The Secretary of Defense is authorized to use $45,000,000 for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Funds to carry out this subsection shall be derived as described in section 3052(b). Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

SEC. 3054. REPORT ON DEFENSE DRUG EDUCATION ACTIVITIES.

Not later than December 1, 1986, the Secretary of Defense, in consultation with the National Drug Enforcement Policy Board and the Department of Education, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of—

(1) the extent to which youth enrolled in schools operated by the Department of Defense for dependent members of the Armed Forces are receiving education on drug and substance abuse,

(2) the types of drug education programs that are currently being provided in such schools,

(3) whether additional drug education programs are needed in such schools, and

(4) the extent to which drug education for youth in grades kindergarten through 12 include or should include preventive peer counseling classes.

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

SEC. 3056. ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AND EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL.

(a) ASSISTANCE TO CIVILIAN LAW ENFORCEMENT.—Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws".

(b) EMERGENCY ASSISTANCE.—Section 374(c) of such title is amended to read as follows:

"(c)(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used as a base of operations outside the land area of the United States (or any territory, commonwealth, or possession of the United States) by Federal law enforcement officials—

"(A) to facilitate the enforcement of a law listed in subsection (a); and

"(B) to transport such law enforcement officials in connection with such operations.

"(2)(A) Subject to subparagraph (B), equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to interdict or interrupt the passage of vessels and aircraft.

"(B) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to intercept vessels and aircraft outside the land area of the United States (or any territory, commonwealth, or possession of the United States) for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists and that enforcement of a law listed in subsection (a) would be seriously impaired if such use of equipment were not permitted. Such use of equipment may continue into the land area of the United States (or any territory or possession of the United States) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(3) For purposes of this subsection, an emergency circumstance exists when—

"(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interest of the United States; and

"(B) the assistance described in this subsection would significantly enhance the enforcement of a law listed in subsection (a).".

SEC. 3057. ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) GENERAL REQUIREMENT.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress the following:

(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

(B) Communications equipment, including secure communications.

(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

(b) COMMITTEE APPROVAL AND FINAL IMPLEMENTATION.—Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

(c) EQUIPMENT SUBJECT TO SECTION 3052(d).—Equipment identified in this section is subject to the provisions of section 3052(d).

(d) APPLICABILITY.—Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

(e) REVIEW BY GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).

SEC. 3058. GRADE OF DIRECTOR OF DEPARTMENT OF DEFENSE TASK FORCE ON DRUG ENFORCEMENT.

During fiscal year 1987, the number of officers of the Marine Corps authorized under section 525(b) of title 10, United States Codes, to be on active duty in grades above major general is increased by one during any period that an officer of the Marine Corps is serving as the Director of the Department of Defense Task Force on Drug Enforcement. An additional officer in a grade above major general by reason of this section may not be in the grade of general.

SEC. 3059. CIVIL AIR PATROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Civil Air Patrol, the all-volunteer civilian auxiliary of the Air force, can in-

crease its participation in and make significant contributions to the drug interdiction efforts of the Federal Government, and

(2) the Secretary of the Air Force should fully support that participation.

(b) AUTHORIZATION.—In addition to any other amounts appropriated for the Civil Air Patrol for fiscal year 1987, there are authorized to be appropriated for the Civil Air Patrol, out of any unobligated and uncommitted balances of appropriations for the Department of Defense for fiscal year 1986 which are carried forward into fiscal year 1987, $7,000,000 for the acquisition of the major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions.

(c) REPORTS.—(1) The Secretary of the Air Force shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives quarterly reports which contain the following information:

(A) A description of the manner in which any funds are used under subsection (b).

(B) A detailed description of the activities of the Civil Air Patrol in support of the Federal Government's drug interdiction program.

(2) The first report under paragraph (1) shall be submitted on the last day of the first quarter ending not less than 90 days after the date of the enactment of this Act.

Subtitle B—Customs Enforcement

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Customs Enforcement Act of 1986".

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 3111. DEFINITIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c);

(2) by striking out "The term" in subsection (k) and inserting in lieu thereof "(1) The term";

(3) by adding at the end of subsection (k) the following new paragraph:

"(2) For the purposes of sections 432, 433, 434, 448, 585, and 586, any vessel which—

"(A) has visited any hovering vessel;

"(B) has received merchandise while in the customs waters beyond the territorial sea; or

"(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place."; and

(4) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.".

SEC. 3112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

only in accordance with regulations prescribed by the Secretary.".

SEC. 3113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433;

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 of the Tariff Act of 1930 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 3114. PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 3115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 of the Tariff Act of 1930 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard

the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $5,000, or imprisonment for not more than 1 year, or both.".

(b) REPEAL.—Section 460 is repealed.

SEC. 3116. PENALTIES FOR FAILURE TO DECLARE.

Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497) is amended to read as follows:

"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.

"(a) IN GENERAL.—(1) Any article which—

"(A) is not included in the declaration and entry as made; and

"(B) is not mentioned before examination of the baggage begins—

"(i) in writing by such person, if written declaration and entry was required, or

"(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

"(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

"(A) if the article is a controlled substance, 200 percent of the value of the article; and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 3117. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 3118. FALSE MANIFESTS; LACK OF MANIFEST.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000";

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000";

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500"; and

(4) by striking out "$10" in subsection (a)(2) and inserting in lieu thereof "$200".

SEC. 3119. UNLAWFUL UNLOADING OF MERCHANDISE.

Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 3120. AVIATION SMUGGLING.

Part V of title IV of the Tariff Act of 1930 is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) SEA TRANSFERS.—It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

"(1) either—

"(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

"(B) the vessel is a vessel of the United States (within the meaning of section 3(b) of the Anti-Smuggling Act (19 U.S.C. 1703(b)), or

"(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

"(c) CIVIL PENALTIES.—Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 497(b).

"(d) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (c), any person who intentionally commits a violation of any provision of this section is, upon conviction—

"(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

"(e) SEIZURE AND FORFEITURE.—

"(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier."

"(f) DEFINITION OF MERCHANDISE.—As used in this section, the term 'merchandise' means only merchandise the importation of which into the United States is prohibited or restricted.

"(g) INTENT OF TRANSFER OF MERCHANDISE.—For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) or section 596, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

"(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

"(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

"(3) The failure to identify correctly—

"(A) the vessel by name or country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

"(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

"(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 3121. SEIZURES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining, and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 3122. SEARCHES AND SEIZURES.

Section 595(a) of the Tariff Act of 1930 (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

"(C) any document, container, wrapping, or other article which is evidence of a violation of section 592 involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

"(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.".

SEC. 3123. FORFEITURES.

Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

SEC. 3124. PROCEEDS OF FORFEITED PROPERTY.

Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 3125. COMPENSATION TO INFORMERS.

Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1) any person who is not an employee or officer of the United States—

"(A) detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws and reports such detection and seizure to a customs officer, or

"(B) furnishes to a United States attorney, the Secretary of the Treasury, or any customs officer original information concerning—

"(i) any fraud upon the customs revenue, or

"(ii) any violation of the customs laws or the navigation laws which is being, or has been, perpetrated or contemplated by any other person; and

"(2) such detection and seizure or such information leads to a recovery of—

"(A) any duties withheld, or

"(B) any fine, penalty, or forfeiture of property incurred;

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount so recovered.

"(b) FORFEITED PROPERTY NOT SOLD.—If—

"(1) any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States and is thereafter, in lieu of sale—

"(A) destroyed under the customs or navigation laws, or

"(B) delivered to any governmental agency for official use, and

"(2) any person would be eligible to receive an award under subsection (a) but for the lack of sale of such forfeited property,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the appraised value of such forfeited property.

"(c) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

"(d) SOURCE OF PAYMENT.—Unless otherwise provided by law, any amount paid under this section shall be paid out of appropriations available for the collection of the customs revenue.

"(e) RECOVERY OF BAIL BOND.—For purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.".

SEC. 3126. FOREIGN LANDING CERTIFICATES.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 3127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 628. EXCHANGE OF INFORMATION.

"(a) IN GENERAL.—The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(4) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

"(b) NONDISCLOSURE AND USES OF INFORMATION PROVIDED.—

"(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

"(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).".

SEC. 3128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV of the Tariff Act of 1930 is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections; and

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.".

PART 2—UNDERCOVER CUSTOMS OPERATIONS

SEC. 3131. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

(b) SPECIAL EFFECTIVE DATE RULE.—If the bill H.R. 5300 (providing for reconciliation of the budget for fiscal year 1987) is enacted and includes an amendment to section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 which is identical to the amendment made by subsection (a) of this section, then the amendment made by subsection (a) shall have no effect.

SEC. 3142. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 3151. RECREATIONAL VESSELS.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 3152. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer shall—

"(1) upon being questioned at the time of executing any of the powers conferred upon him, make known his character as an officer of the Federal Government; and

"(2) have the authority to demand the assistance of any person in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary.

If a person, without reasonable excuse, neglects or refuses to assist a customs officer upon proper demand under paragraph (2), such person is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person other than an officer or employee of the United States who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 3153. REPORTS ON EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 3161. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

(a) AMENDMENT TO ACT.—Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "POSSESSION," in the heading;

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall";

(3) by striking out "This section" and inserting in lieu thereof "(c) This section";

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a); and

(5) by inserting after subsection (a) the following new subsection:

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

"(1) manufacture or distribute a controlled substance; or

"(2) possess a controlled substance with intent to distribute.".

(b) CONFORMING AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Manufacture" in the item relating to section 1009 and inserting in lieu thereof "Possession, manufacture".

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Maritime Drug Law Enforcement Prosecution Improvements Act of 1986".

SEC. 3202. IMPROVEMENT OF PUBLIC LAW 96-350.

The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States,

was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign state, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 3. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

Subtitle D—Coast Guard

SEC. 3251. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

(a) ADDITIONAL AUTHORIZATIONS FOR THE COAST GUARD.—

(1) There are authorized to be appropriated for Acquisition, Construction, and Improvements of the Coast Guard, $89,000,000.

(2) There are hereby authorized to be appropriated for Operating Expenses of the Coast Guard, $39,000,000. This amount shall be used to increase the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1987 to 39,220, and to increase the utilization rate of Coast Guard equipment.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this section are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle E—United States-Bahamas Drug Interdiction Task Force

SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act, immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141, and (ii) any training and personnel enhancements authorized in this section and section 3141.

(C) The Attorney General shall report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title, $10,000,000 for the following:

(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle F—Command, Control, Communications, and Intelligence Centers

SEC. 3351. ESTABLISHMENT OF COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE CENTERS (C-3I).

There are authorized to be appropriated $25,000,000 for the establishment of com-

mand, control, communications, and intelligence (C-3I) centers, including sector operations centers and a national command, control, communications, and intelligence (C-3I) center, in locations within the United States. The coordination of the establishment and location of such C-3I centers shall be conducted by the Commissioner of Customs; the Commandant of the Coast Guard; the Attorney General of the United States; and the National Narcotics Border Interdiction System (NNBIS).

Subtitle G—Transportation Safety

SEC. 3401. AIR SAFETY.

(a)(1) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App 1472(b)) is amended by adding at the end the following:

"(3)(A) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who in connection with an act described in subparagraph (B) and with knowledge of such act—

"(i) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

"(ii) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

"(ii) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

"(iv) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictiticus, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictiticus, or fraudulent statement or entry.

"(B) The act referred to in subparagraph (A) is the transportation by aircraft of any controlled substance, or the aiding or facilitation of a controlled substance offense, where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).".

(2) Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.".

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

(b)(1) Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked, or if such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration is suspended or revoked, or that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator of the Federal Aviation Administration with respect to the display of navigation or anticollision lights; and

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given to such term by section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting the following:

"(q) Violations in connection with transportation of controlled substances.".

(c) Section 904(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1474(a)) is amended—

"(1) by striking "$500" each place it appears and inserting in lieu thereof "$5,000";

(2) by inserting after the second sentence the following: "In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109(b) and (c) of this Act, the owner or person in charge of such aircraft shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidenced, that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board."; and

(3) by amending the third sentence to read as follows: "In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft.".

(d)(1) Section 1109 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1509) is amended by adding at the end thereof the following:

"REPORTING TRANSFER OF OWNERSHIP

"(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale, transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act.".

(2) Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection, the Secretary of the Treasury shall promulgate regulations establishing guidelines by which persons or classes of persons may apply for exemptions from the filing requirements of subsection (f) of section 1109. The Secretary of the Treasury may exempt such persons or classes of persons pursuant to such regulations.

(3) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under ths side heading

"Sec. 1109. Application of existing laws relating to foreign commerce."

is amended by adding at the end thereof the following:

"(f) Reporting transfer of ownership.".

SEC. 3402. DRUG AND HIGHWAY SAFETY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resulting in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3403. SAVINGS PROVISION.

In any proceeding under section 11344 of title 49, United States Code, involving an application by a rail carrier (or a person controlled by or affiliated with a rail carrier) to acquire a motor carrier, the Interstate Commerce Commission, and any Federal court reviewing action of the Commission, shall follow the standards set forth in the Commission decision in Ex Parte No. 438 if the applicant rail carrier, between July 20, 1984, and September 30, 1986 (1) filed an application with the Commission to acquire a motor carrier, (2) entered into a contract or signed a letter of intent to acquire a motor carrier, or (3) made a public tender offer to acquire a motor carrier.

Subtitle H—Department of Justice Funds for Drug Interdiction Operations in Hawaii

SEC. 3451. COMMUNICATIONS.

The Federal Communications Commission shall revoke any license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission shall, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

Subtitle A—Treatment and Rehabilitation

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. EXTENSION OF ALCOHOL, DRUG, ABUSE, AND MENTAL HEALTH BLOCK GRANT.

(a) Section 1911 is amended—

(1) by striking out "the purpose of grants and allotments under section 1913" and inserting in lieu thereof "purposes of carrying out this part";

(2) by striking out "$576,000,000" and inserting in lieu thereof "$736,000,000"; and

(3) by adding at the end thereof the following new sentence: "If the total amount appropriated under the preceding sentence for fiscal year 1987 exceeds $500,000,000, 27 percent of the amount of such excess shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 67 percent of the amount of such excess shall be available for allotments to States under section 1921 for such fiscal year, and 6 percent of the amount of such excess shall be available for transfer to the Administrator of Veterans' Affairs under section 1923.".

(b)(1) Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Twenty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Seventy-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs, who are seeking treatment, and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (c);

"(C) the commitment of the State to the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse (as determined by the Secretary after an evaluation of the expenditures of the State for such services during the calendar year described in subparagraph (B) and of the ability of the State to meet the need for such services); and

"(D) the availability in the State of Federal, State, and local public resources to satisfy the needs in such State for services described in subparagraph (C).

"(b)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under subsection (a) from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(c) In order to receive an allotment for a fiscal year under subsection (a), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (F) of subsection (a)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (b) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any application under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (b) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (b) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(d)(1) Except as provided in subsections (e), (f), and (i), amounts paid to a State under subsection (b) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(e) A State shall use 5 percent of the total amount paid to a State under subsection (b) for a fiscal year to carry out the programs described in section 1922.

"(f) Of the total amount paid to any State under subsection (b) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from

non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (d)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"STATE PROGRAMS FOR HIGH RISK YOUTH

"SEC. 1922. A State shall use the amounts required by sections 1916(c)(8) and 1921(e) to be used under this section for model, innovative, community based programs to provide multiple coordinated services for alcohol abuse and drug abuse prevention, treatment, and rehabilitation directed toward high risk youth. For purposes of this paragraph, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide; or

"(9) is disabled by injuries.

"TRANSFER TO THE ADMINISTRATOR OF VETERAN'S AFFAIRS

"SEC. 1923. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1911, is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1924. One percent of the total amount appropriated under section 1911 for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. REVISION OF ALLOTMENT PROCEDURES APPLICABLE TO INDIAN TRIBES.

(a) Section 1902(d)(1) is amended to read as follows:

"(b)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

(b) Section 1913(b)(1) is amended to read as follows:

"(d)(1) If the Secretary receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under subsection (a) be provided directly by the Secretary to such tribe or organization, the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).".

SEC. 4004. REVISION OF CERTAIN BLOCK GRANT EARMARKS.

(a) Section 1916(c) is amended—

(1) by striking out "35" each place it appears in subparagraphs (A) and (B) of paragraph (7) and inserting in lieu thereof "25";

(2) by striking out paragraph (8) and inserting in lieu thereof the following:

"(8) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 80 percent of such amount for treatment and rehabilitation programs for individuals who abuse alcohol or drugs."; and

(3) by adding at the end thereof the following new paragraph:

"(16) Of the amount to be used in any fiscal year for alcohol abuse and drug abuse activities, the State agrees to use not less than 5 percent of such amount for programs described in section 1922.".

SEC. 4005. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4006. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the national research institute for which it was appointed on—

"(A) matters relating to the activities carried out by and through the institute and the policies respecting such activities; and

"(B) matters relating to activities carried out by the Secretary and the National Institutes respecting the disease, disorder, or other aspect of human health with which the advisory council is concerned.

"(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established;

"(B) the acquisition of grounds for the institute; or

"(C) the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the national research institute was established and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the national research institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to

ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4007. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by section 4006 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 508. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of a national research institute constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year.".

SEC. 4008. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4009. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should conduct studies on the most effective means of providing such education, including health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any studies described in paragraph (2) which have been conducted, and should include in such report any findings concerning the labels described in such paragraph and recommendations for specific language for such labels.

SEC. 4010. SUICIDE.

(a) Section 501 is amended by adding at the end thereof the following new subsection:

"(i) The Secretary shall—

"(1) develop and publish information respecting the causes of suicide among individuals under the age of 21 and the means of preventing suicide among such individuals, and

"(2) make such information generally available to the public and health professionals.".

(b) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 501(i) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. PREPARATION OF PUBLIC SERVICE ANNOUNCEMENTS.

(a) The Secretary of Health and Human Services shall increase and expand activities conducted under paragraphs (1) and (4) of section 503(d) of the Public Health Service Act.

(b) Section 503(d)(4) is amended—

(1) by inserting "and documentary films" after "television"; and

(2) by inserting "and films" before the period.

SEC. 4012. NATIONAL PLAN TO COMBAT DRUG ABUSE.

By October 1, 1988, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report which sets forth a comprehensive national plan to combat drug abuse. The report shall include—

(1) a description of a model program for activities to be conducted by the States to combat drug abuse;

(2) an analysis of the social and economic costs of drug abuse to the Nation, including amounts expended by public agencies and private organizations—

(A) for the treatment of individuals for drug abuse, including a division of such amounts among the types of settings in which such treatment is provided;

(B) for treatment of individuals for health problems resulting from drug abuse; and

(C) to meet other costs resulting from drug abuse, such as costs resulting from lost employee productivity;

(3) an assessment of current treatment and rehabilitation needs and the current integration and financing of drug treatment and rehabilitation into the Nation's health care system;

(4) recommendations for the National Institute on Drug Abuse for research on, and plans for the development of, chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction;

(5) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(6) a statement of specific goals and objectives to meet the Nation's current treatment, rehabilitation, and personnel needs in the area of drug abuse;

(7) estimates of public and private resources needed to accomplish the goals and objectives referred to in paragraph (6) and estimates of savings in resources that can be anticipated from the achievement of such goals and objectives.

SEC. 4013. CLEARINGHOUSE.

(a) The Secretary of Health and Human Services, through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

(b) The Secretary of Health and Human Services shall ensure that the clearinghouse established under subsection (a) coordinates its activities with similar activities conducted by the Secretary of Education.

SEC. 4014. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs.".

SEC. 4015. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4016. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (d)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 302(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4017. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Food, Drug, and Cosmetic Act.

SEC. 4018. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4019. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) FINDINGS.—The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact on societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) CATEGORIZATION.—It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

Section 4043 of the House amendment is amended to read as follows:

SEC. 4020. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should provide that the possession or distribution, respectively, of such drug is a criminal offense.

SEC. 4021. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a)(5) of the Public Health Service Act (42 U.S.C. 290cc(a)(5)) is amended to read as follows:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to reduce the incidence of drug abuse or the severity of addiction to specific drugs.".

SEC. 4022. ALKYL NITRITES.

In the administration of the Federal Food, Drug, and Cosmetic Act, alkyl nitrites and their isomers shall be treated as a drug under such Act unless alkyl nitrites and their isomers are not manufactured, processed, distributed, or sold for use by individuals.

SEC. 4023. ADMINISTRATOR OF VETERANS' AFFAIRS.

There is authorized to be appropriated for fiscal year 1987 to the Administrator of Veterans' Affairs $6,000,000 for the purpose of providing outpatient treatment, rehabilita-

tion, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitutes a grave threat to their physical and mental well-being and significantly impedes the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 4103. PURPOSE.

The purpose of this subtitle is to assist States in their efforts to educate concerning, and to prevent, drug use and alcohol abuse through school and community based programs.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

(a)(1) From the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year—

(A) $2,000,000 shall be reserved by the Secretary for programs under sections 4135 and 4136 for such fiscal year, of which $300,000 shall be for programs under section 4136 for such fiscal year;

(B) $10,000,000 shall be reserved by the Secretary for regional centers under section 4132(b) for such fiscal year;

(C) $15,000,000 shall be reserved by the Secretary for grants to and contracts with institutions of higher education under section 4131 for such fiscal year; and

(D) $7,500,000 shall be reserved by the Secretary for programs and activities under sections 4132(a) and 4134 for such fiscal year.

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $7,500,000 shall be available to the Secretary of Health and Human Services to carry out section 4134 for such fiscal year.

(b)(1) From the remainder of the amount appropriated or otherwise made available to carry out this subtitle for each fiscal year after the application of subsection (a) for such fiscal year, the Secretary may reserve up to 1 percent for allotments to territories and possessions.

(2) From the amount reserved under paragraph (1) for a fiscal year, the Secretary shall allot to each territory or possession an amount which bears the same ratio to such reserved amount as the school-age population of such territory or possession bears to the population of all territories and possessions.

(3) For purposes of this subsection, the term "territory or possession" means Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(c)(1) From the amount available to carry out this subtitle for a fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to such available amount as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than $800,000 under this subsection.

(2) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) The Secretary may reallot any amount of any allotment to a State under subsection (b) or (c) to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under subsection (b) or (c).

(e) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under subsection (b) or (c) from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 35 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State programs is accordance with section 4122.

(b) An amount equal to 65 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency for—

(1) programs described in section 4123(b); and

(2) grants to and contracts with local educational agencies, intermediate educational agencies, and consortia for activities in accordance with sections 4123(a) and 4125.

SEC. 4122. STATE PROGRAMS.

(a) Funds made available to the chief executive officer of a State under section 4121(a) shall be used for grants to and contracts with local governments, local educational agencies, institutions of higher education, consortia, and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broad based programs for drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education for all age groups;

(2) training programs for teachers, counselors, other educational personnel, parents, local law enforcement and judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) aimed at drug-free communities in every State;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia of such agencies—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs; and

(B) in undertaking the coordination of such programs with related community efforts and resources; and

(C) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

(b) In carrying out subsection (a), the chief executive officer of a State shall ensure that model, innovative, community based programs of multiple coordinated services for high risk youth are given the highest priority. For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is the child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

SEC. 4123. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use 90 percent of the amounts available to such agency under section 4121(b) for grants to, and contracts with, local educational agencies, intermediate educational agencies, and consortia in the State, for the purposes described in section 4125(a), except that for fiscal years 1989 and 1990 the State educational agency shall allot to each local educational agency an amount which bears the same ratio to the amounts available for purposes of this subsection for such fiscal year as the school-age population in the local school district bears to the school-age population in the State.

(b) Each State educational agency shall use 10 percent of the amounts available under section 4121(b) for each fiscal year for

programs of drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education. Programs carried out under this subsection may include activities such as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricula and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children, sparsely populated areas, or to meet other special needs;

(5) collaborative and coordinated activities, including grants to and contracts with institutions of higher education, local educational agencies, and regional centers established under section 4132(b); and

(6) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

(c) Each State educational agency shall submit to the chief executive officer of the State a plan which—

(1) describes the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(2) provides assurances that the State educational agency will provide financial assistance under this part only to local educational agencies, intermediate educational agencies, and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

(3) describes how funds will be allocated among local educational agencies, intermediate educational agencies, and consortia for fiscal years 1987 and 1988 and how funds will be used under this part; and

(4) provides for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. STATE APPLICATIONS.

(a) In order to receive an allotment under subsection (b) or (c) of section 4112, a State shall submit an application to the Secretary. As part of such application the chief executive officer of the State shall agree to use the funds paid to the State under this part in accordance with the requirements of this subtitle.

(b) Each application submitted under subsection (a) shall—

(1) cover a period of two fiscal years;

(2) be submitted at a time, in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this subtitle for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this subtitle and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part; and

(6) designate the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part and include the plan for use of funds under section 4123(c).

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to a local educational agency, intermediate educational agency, or consortia pursuant to a grant or contract under section 4123(a) may be used by such agency or consortia for drug abuse and alcohol abuse prevention and education activities primarily directed toward elementary, secondary, and postsecondary schools. Such activities may include—

(A) the development and implementation of drug abuse and alcohol abuse education curricula for elementary and secondary schools;

(B) drug abuse and alcohol abuse prevention counseling programs including peer and professional counseling;

(C) programs of drug abuse and alcohol abuse treatment referral;

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(I) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

(b) Not more than 2.5 percent of any grant, contract, or allotment under section 4123(a) for any fiscal year may be used for administrative costs of a local or intermediate educational agency or consortium in carrying out programs under this part.

SEC. 4126. LOCAL APPLICATIONS.

(a) A local educational agency, intermediate educational agency, or a consortia may submit an application to the State educational agency for a grant, contract, or allotment under this part. A local educational agency may receive a grant, contract, or allotment under this part for any fiscal year for which such application is certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

(1) sets forth a comprehensive plan for programs to be carried out by the applicant under this part;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establishes or designates a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describes the manner in which the applicant will establish, implement, or augment age-appropriate, developmentally-based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, including a description of provisions to target education efforts to students most at risk of drug abuse and to schools with the greatest need of drug abuse prevention programs;

(5) provides assurances that the applicant enforces related rules and regulations of student conduct;

(6) describes the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(7) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(8) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(9) provide assurances of compliance with the provisions of this part;

(10) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(11) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From amounts reserved by the Secretary under section 4112(a)(1)(C), the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia thereof for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education or consortia thereof which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to institutions of higher education of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b)(1) Training grants shall be available for—

(A) pre-service and in-service training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(B) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(C) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and

(D) training programs for law enforcement officials, community leaders, parents, and government officials.

(2) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this paragraph, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(c) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4132(b).

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including treatment and rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 4132. FEDERAL ACTIVITIES.

(a)(1) The amount reserved by the Secretary under section 4112(a)(1)(D) for each fiscal year shall be used to carry out the activities described in paragraph (2).

(2) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(A) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under the Public Health Service Act;

(B) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug and alcohol abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(C) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug and alcohol abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies;

(D) identify research and development priorities with regard to school-based drug and alcohol abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4; and

(E) collect data concerning, and evaluate, programs that reduce drug abuse and alcohol abuse among students.

(b) The Secretary shall use the amount reserved under section 4112(a)(1)(B) for each fiscal year to maintain at least 5 regional centers to—

(1) train school teams to access the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

(c) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the Committees on Appropriations and Labor and Human Resources of the Senate and the Committees on Appropriations and Education and Labor of the House of Representatives not later than one year after the date of the enactment of this Act.

SEC. 4133. INTERAGENCY COORDINATION.

The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, and the Director of ACTION shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, and ACTION, respectively, to coordinate interagency drug and alcohol abuse activities.

SEC. 4134. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

(a) The Secretary of Health and Human Services and the Secretary of Education shall provide training and technical assistance to States and public and nonprofit private entities in planning and operating activities to be carried out under this subtitle.

(b) The Secretary of Health and Human Services and the Secretary of Education may conduct data collection and evaluation activities to assist in carrying out this subtitle.

SEC. 4135. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the amounts reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423(a) of the Indian Education Act (20 U.S.C. 3385b) is amended by inserting "clinical psychology," after "medicine,".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.".

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 4136. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

PART 4—GENERAL PROVISIONS

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, treatment and rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies, intermediate educational agencies, State educational agencies, and institutions of higher education or a consortium of one or more such agencies or institutions.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 4144. MATERIALS.

Any materials produced or distributed with amounts appropriated under this subtitle shall reflect the message that the use of illegal drugs and the abuse of alcohol and other drugs is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this section.

Subtitle C—Indians and Alaska Natives

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

SEC. 4202. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in education, social services, law enforcement, and other areas, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indians is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their members and the re-

sources made available under this subtitle will assist Indian tribes in meeting that responsibility.

SEC. 4203. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 4204. DEFINITIONS.

For purposes of this subtitle—

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 4205, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 19 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, Indians who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help Indians reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 4205. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 4206, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 130 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 4206. TRIBAL ACTION PLANS.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such resolution shall be the basis for the implementation of this subtitle and of the Memorandum of Agreement under section 4205.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 4205, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for scheduling Federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among Indians as provided under section 4228, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 4205(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted the resolution for the Plan,

(2) the identification and coordination of available resources and programs relevant to a program of alcohol and substance abuse prevention and treatment,

(3) the establishment and prioritization of goals and the efforts needed to meet those goals, and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. The Secretary shall allocate funds based on need.

(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal year 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 90 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 4207. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs and Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 4206.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 4208. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction: Provided, That the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available Federal, tribal, State, local, or private funds, if not otherwise prohibited by law. This subsection does not require the Secretary of the Interior nor the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

SEC. 4210. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

PART III—INDIAN YOUTH PROGRAMS

SEC. 4211. REVIEW OF PROGRAMS.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) Federal programs providing education services or benefits to Indian children,

(2) tribal, State, local, and private educational resources and programs,

(3) Federal programs providing family and social services and benefits for Indian families and children,

(4) Federal programs relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 4206.

SEC. 4212. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 4213. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 4206 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 4205, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operated.

(e) AUTHORIZATION.—For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989. For the operation of emergency shelters or half-way houses there is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 4214. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 4215. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION: SOURCE ERADICATION

(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal Law enforcement agencies, including the United States Customs Service.

(2) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989.

(b)(1) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(2) AUTHORIZATIONS.—To carry out subsection (a), there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 4218. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in subsection (a) shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 4228.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4219. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 4205 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either through its direct or contract health service.

SEC. 4220. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall construct or renovate and staff new or existing juvenile detention centers. The Secretary shall ensure that the construction and operation of the centers is consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there is authorized to be appropriated $10,000,000 for construction and renovation for each of the fiscal years 1987, 1988, and 1989, and $5,000,000 for staffing and operation for each of the fiscal years 1987, 1988, and 1989.

SEC. 4221. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 4222. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by

the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 4224. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 4225. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 4205 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 4226. INDIAN HEALTH SERVICE PROGRAM.

The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

SEC. 4227. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) CENTERS.—The Secretary shall construct or renovate a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For purposes of the preceding sentence, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health professionals. There are authorized to be appropriated $6,000,000 for the construction and renovation of the regional youth treatment centers, and $3,000,000 for the staffing of such centers, for each of the fiscal years 1987, 1988, and 1989.

(c) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures, suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth, and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(3) There are authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4228. TRAINING AND COMMUNITY EDUCATION.

(a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical parties.

(b) TRAINING.—The Secretary of Health and Human Services shall, either directly or through contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Indian Health Service, and personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Indian Health Services, including supervisors of emergency shelters and half-way houses described in section 4213.

"(c)(1) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall establish at least one demonstration project to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, * * * depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

"(5) For purposes of this paragraph, the term 'health promotion' shall include:

"(A) reduction in the misuse of alcohol and drugs,

"(B) cessation of tobacco smoking.

"(C) improvement of nutrition.

"(D) improvement in physical fitness.

"(E) family planning, and

"(F) control of stress.

"(6) For purposes of this paragraph, the term 'disease prevention' shall include:

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) pregnancy and infant care (including prevention of fetal alcohol syndrome),

"(6) control of toxic agents,

"(7) occupational safety and health,

"(8) accident prevention,

"(9) fluoridation of water, and

"(10) control of infectious agents.

"(7) Sec. 4228 is amended by adding at the end the following 'provided that $500,000 shall be made available for activities described under section 4228(c)(1).

(d) AUTHORIZATION.—There are authorized to be appropriated $4,000,000 for the fiscal year 1987 and such sums as are necessary to carry out the purposes of this section for the fiscal years 1988 and 1989.

SEC. 4229. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 4230. INDIAN HEALTH SERVICE REPORTS.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and section 4204 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle D—Miscellaneous Provisions

SEC. 4301. ACTION GRANTS.

The Domestic Volunteer Service Act of 1973 is amended—

(1) in title I by adding after section 123 the following new section:

"SPECIAL INITIATIVES

"SEC. 124. The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, public service announcements, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations). In fulfilling the authority of this section, the Director is authorized to (1) coordinate the agency efforts with the White House and other Federal agencies, and (2) accept in the name of the ACTION agency funds received through solicitation of profit and nonprofit entities.";

(2) by amending subsection (c) of section 501 to read as follows:

"(c) There is to be authorized to be appropriated to carry out programs under part C of title I of this Act $4,484,000 for the fiscal year 1987 (of which $2,500,000 shall be available for drug abuse prevention), $1,984,000 for fiscal year 1988, and $1,984,000 for fiscal year 1989."; and

(3) by amending section 504 to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the Administration of this Act, as authorized in title IV of this Act, $25,812,000 for fiscal year 1987 (of which $500,000 shall be available for support of drug abuse prevention), $25,312,000 for fiscal year 1988, and $25,312,000 for fiscal year 1989.".

SEC. 4302. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under subtitle B, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matters, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Reports.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

SEC. 4303. INFORMATION ON DRUG ABUSE AT THE WORKPLACE.

The Secretary of Labor may collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary may conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The Secretary may submit the findings of such collection and research to the House Committee on Education and Labor and the Senate Committee on Labor and Human Services no later than two years from the date of enactment of this Act.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "United States Insular Areas Drug Abuse Act of 1986".

SEC. 5002. PURPOSES.

The purposes of this subtitle are to improve enforcement of drug laws and enhance interdiction of illicit drug shipments in the Caribbean and Pacific territories and commonwealths of the United States and to assist public and private sector drug abuse prevention and treatment programs in United States insular areas.

SEC. 5003. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 5004. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services of the United States are authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated $700,000 to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(2) There are authorized to be appropriated $1,000,000 to carry out paragraph (1). Funds appropriated under this paragraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States and the Secretary of Health and Human Services, as appropriate, are authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated $250,000 to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The United States Customs Service should station an aerostat in Puerto Rico.

(3) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(4)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent and treat narcotics abuse, such sums to remain available until expended.

(2) The United States Coast Guard should station a patrol vessel in St. Croix, Virgin Islands.

(3)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

Subtitle B—National Park Service Program

SEC. 5051. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 5052. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 6002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subchapter, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (42 U.S.C. 290ee-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the fami-

lies of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of the Federal Employee Substance Abuse Education and Treatment Act of 1986 and annually thereafter, submit to each House of Congress a report containing the matters described in subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362 of this title, including the costs associated with each such program or service and the source and adequacy of any funding such program or service;

"(2) a description of the levels of participation in each program and service provided under section 7361 or 7362 of this title, and the effectiveness of such programs and services;

"(3) a description of the training and qualifications required of the personnel providing any program or service under section 7361 or 7362 of this title;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) any recommendations for legislation considered appropriate by the Office and any proposed administrative actions; and

"(6) information describing any other related activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290dd-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(2) in section 525 (42 U.S.C. 290ee-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

SEC. 6003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes prescribed in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed to provide information to Federal Government employees with respect to—

(1) the short- and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law or regulation, and any administrative action (permissive or mandatory), relating to the use of alcohol or drugs by a Federal Government employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 6004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 6005. SUBSTANCE ABUSE COVERAGE STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent to which the cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and (2) the adequacy of such coverage for the rehabilitation of drug abusers.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of Health and Human Services shall transmit to the Congress a report of the results of the study conducted under subsection (a). The report shall include recommendations of means to meet the needs identified in such study.

SEC. 6006. HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT.

(a) FINDINGS.—The Congress finds that—

(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

(4) the total cost of drug abuse to the nation in 1983 was over $60,000,000,000; and

(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 7002. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 7003. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to

more effectively combat drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "President's Media Commission on Alcohol and Drug Abuse Prevention Act".

SEC. 8002. ESTABLISHMENT.

There is established a commission to be known as the President's Media Commission on Alcohol and Drug Abuse Prevention (hereinafter in this title referred to as the "Commission").

SEC. 8003. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public education programs in effect on the date of the enactment of this title which are—

(A) implemented through various segments of mass media; and

(B) intended to prevent alcohol and drug abuse;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, motion picture, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) professional sports organizations and associations;

to assist the implementation of new programs and national strategies for dissemination of information intended to prevent alcohol and drug abuse;

(3) encourage media outlets throughout the country to provide information aimed at preventing alcohol and drug abuse, including public service announcements, documentary films, and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 8004. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this title, and should include representatives of—

(1) advertising agencies;

(2) motion picture, television, radio, cable communications, and print media;

(3) the recording industry;

(4) other segments of the business sector of the United States;

(5) experts in the prevention of alcohol and drug abuse;

(6) professional sports organizations and associations; and

(7) other Federal agencies, as designated by the President, including the Director of the Agency for Substance Abuse Prevention of the Department of Health and Human Services.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of his term until his successor has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 8005. MEETINGS.

(a) IN GENERAL.—(1) The Commission shall meet at the call of the Moderator.

(2) The Moderator shall convene the 1st meeting of the Commission within 30 days after the date of the completion of appointments under section 4(a).

(b) MODERATOR.—One member of the Commission shall be designated by the President to serve as Moderator of the Commission.

(c) QUORUM AND PROCEDURE.—The Commission shall adopt rules regarding quorum requirements and meeting procedures as the Commission deems appropriate at the 1st meeting of the Commission.

(d) VOTING.—Decisions and official acts of the Commission shall be according to the vote of a majority of members at a properly called meeting.

SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR AND STAFF.—(1) Subject to paragraph (2), the Moderator, with the approval of the Commission, may employ and set the rate of pay for a Director and such staff as the Moderator deems necessary.

(2) Rates of pay set under paragraph (1) shall be less than the rate of basic pay payable under section 5316 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Moderator, with the approval of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

SEC. 8007. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—Upon the request of the Moderator of the Commission, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8008. REPORT.

The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

SEC. 8009. TERMINATION.

The Commission shall terminate on a date which is three years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

TITLE IX—BALLISTIC KNIFE PROHIBITION

SEC. 9001. SHORT TITLE.

This title may be cited as the "Ballistic Knife Prohibition Act of 1986".

SEC. 9002. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

"SEC. 7. (a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

SEC. 9003. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

The amendments made by this title shall take effect 30 days after the date of enactment of this title.

TITLE —HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. . SHORT TITLE.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. . MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. . JOB TRAINING FOR THE HOMELESS.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN TO INCLUDE HOMELESS.—(1) Section 121(b)(1) of the Job Training Partnership Act (20 U.S.C. 1531(b)(1)) is amended by inserting after "rehabilitation agencies" a comma and the following: "programs for the homeless".

(2) Section 121(c)(3) of the Job Training Partnership Act is amended by inserting after "offenders" a comma and the following: "homeless individuals".

(b) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by striking out "or addicts" and inserting in lieu thereof "addicts, or homeless".

Subtitle C—Entitlements Eligibility

SEC. . TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER AFDC, SSI, AND MEDICAID PROGRAMS.

(a) AFDC.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (38),

(2) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(40) provide a method of verifying the eligibility of, and making aid available with respect to, a dependent child who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(b) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide a method of verifying the eligibility of, and making payments under this title to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(c) MEDICAID PROGRAM.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(47) provide a method of verifying the eligibility of, and making medical assistance available to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2) If a State agency administering a plan approved under part A of title IV of the Social Security Act or under title XIX of such Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by subsection (a) or (c) of this section, respectively, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or the date of the enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

SEC. . SINGLE APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

(a) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Single Application for SSI and Food Stamp Benefits by SSI Pre-Release Individuals

"(j)(1) The Secretary shall provide for the establishment, maintenance, and improvement of procedures designed to ease the transition of institutionalized persons from medical, penal, and other institutions to the community, and to prevent homelessness, by permitting such persons to apply for benefits under this title prior to their discharge or release from such institutions and thereby assuring that essential support (such as housing, food, and clothing) is available to them upon such discharge or release.

"(2) Under regulations prescribed by the Secretary, the procedures described in paragraph (1) shall—

"(A) require that personnel of the district offices of the Social Security Administration, and of the appropriate State disability determination services, make regular visits to all institutions of the types involved to receive and process applications for benefits under this title and for food stamps under paragraph (3);

"(B) provide for the development of descriptive materials on such procedures for use by such district offices and by social service departments in such institutions;

"(C) provide training for employees in such district offices; and

"(D) establish time limits within which State agencies must complete their processing of applications filed pursuant to such procedures.

"(3) The Secretary and the Secretary of Agriculture shall establish special procedures under which persons applying for benefits under this title prior to their discharge or release from an institution pursuant to the pre-release procedures described in paragraphs (1) and (2) can also apply to participate in the food stamp program under the Food Stamp Act of 1977, utilizing a single application for this purpose.".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall become effective April 1, 1987.

(2) The Secretary of Health and Human Services shall promulgate final regulations to implement the amendment made by subsection (a) not later than April 1, 1987.

SEC. . DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

Strike out title XII and insert in lieu thereof the following:

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 12001. SHORT TITLE.

That this title may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

SEC. 12002. PURPOSE.

The purpose of this title is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, by providing penalties for the operation of commercial motor vehicles by persons who have used alcohol before or during the operation of such vehicles, and by increasing inspections of commercial motor vehicle operators and the equipment they operate.

SEC. 12003. DEFINITIONS.

As used in this title, the term—

(1) "alcohol" has the meaning the term alcoholic beverage had under section 158(c) of title 23, United States Code;

(2) "commence" means—

(A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or

(B) trade, traffic, or transportation in the United States which affects any trade, traffic, or transportation described in subparagraph (A);

(3) "commercial driver's license" means a license issued by a State to an individual which authorizes the individual to operate a class of commercial motor vehicle;

(4) "commercial motor vehicle" means any self-proposed or towed vehicle used in commerce to transport passengers or property if—

(A) such vehicle has a gross vehicle weight rating of twenty-six thousand and one or more pounds, or such lower weight rating (not less than ten thousand and one pounds) as the Secretary considers appropriate;

(B) such vehicle is designed to transport more than fifteen passengers, including the driver; or

(C) such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purpose of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(5) "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(6) "driver's license" means a license issued by a State to an individual which authorizes the individual to operate a motor vehicle on highways;

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle) who is employed by an employer;

(8) "employer" means any person (including the United States, a State, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

(9) "felony" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year;

(10) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on the highways other than a commercial motor vehicle; such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail;

(11) "Secretary" means the Secretary of Transportation;

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident; and

(D) any other similar violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) which the Secretary determines by regulation is serious;

(13) "State" means a State of the United States and the District of Columbia; and

(14) "United States" means the fifty States and the District of Columbia.

SEC. 12004. RESPONSIBILITIES OF THE SECRETARY.

(a) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which establish minimum Federal standards for the licensing, testing, qualifications and classification of operators of commercial motor vehicles. Such regulations shall, at a minimum—

(1) establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) require a driving test of each person who operates or will operate a commercial motor vehicle in commerce in the type of vehicle such person operates or will operate, except that the Secretary may, by regulation, permit any State to waive such test in the case of any such person who applies for renewal of a commercial driver's license;

(3) establish minimum scores for passing such tests;

(4) ensure that each person taking such tests is qualified to operate a commercial motor vehicle in commerce under regulations promulgated under this section, regulations contained in subpart E of part 391 of title 49 of the Code of Federal Regulations, and such other Federal Motor Carrier Safety Regulations contained in title 49 of the Code of Federal Regulations as the Secretary considers appropriate;

(5) establish requirements for the disqualification of the operator of any commercial motor vehicle who is once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(6) establish requirements for the immediate revocation of the operator's license of any individual who is more than once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(7) disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

(8) establish a system of classification for licensing that provides different minimum Federal testing standards for operation of different classes of commercial motor vehicles;

(9) provide that each commercial driver's license shall contain, at a minimum—

(A) the legal name, date of birth (including day, month and year) sex, address, and a physical description of the person to whom such license is issued;

(B) other identifying information which the Secretary considers necessary or appropriate;

(C) the type of commercial motor vehicle which such person is authorized to operate under such license;

(D) the name of the State which issued such license; and

(E) the dates between which such license is valid; and

(10) may require the issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests, and may require such person to have a copy of such certification in his or her possession when such person is operating a commercial motor vehicle.

(b) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which shall be in addition to regulations promulgated under subsection (a) of this section and which shall establish minimum Federal standards for the licensing, testing, qualifications and classification of any person who operates or will operate a commercial motor vehicle carrying a hazardous material (as defined in section 103(2) of the Hazardous Materials Transportation Act (49 App. US.C. 1802(2)). Such regulations shall—

(1) ensure that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such hazardous material issued by the Secretary under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(2) establish minimum Federal standards for, and scores for passing, written tests which ensure that such person is knowledgeable regarding (A) all such regulations, (B) the handling of such hazardous material, and (C) the appropriate response to emergencies arising out of the transportation of such hazardous material; and

(3) establish minimum Federal standads for driving tests which ensure that such person is knowledgeable regarding the type of vehicle that such person operates or will operate and regarding the safety system of such vehicle.

The Secretary may exempt any such person from any requirement of this Act if the ma-

terial to be transported is a hazardous material listed pursuant to section 306(a) of the Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Department of Transportation, or if the material to be transported is a consumer commodity or limited quantity hazardous material, as defined in section 171.8 of title 49 of the Code of Federal Regulations.

(c) Nowithstanding any other provision of this Act, after notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to a class of persons or class of commercial motor vehicles if the Secretary determines that such waiver promotes the public interest and does not diminish the safe operation of commercial motor vehicles. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

(d) The Secretary shall, not later than October 1, 1988, submit to the Congress a study regarding the manner in which the requirements of subsection (a) (5) and (6) and section 12005 of this Act regarding blood alcohol content level impact on operators of commercial motor vehicles who are required by their employers to be available to operate such commercial motor vehicles on short notice.

SEC. 12005. RESPONSIBILITIES OF OPERATOR OF COMMERCIAL MOTOR VEHICLES.

(a) No person may operate a commercial motor vehicle in commerce unless such person—

(1) complies with all requirements imposed by regulations promulgated under section 12004 of this title; and

(2) has a blood alcohol content level of less than 0.04 percent while operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, subsection (a) of this section shall become applicable with respect to any person who operates or will operate a commercial motor vehicle in commerce on the date on which the State in which such person is domiciled adopts a licensing program under section 12006(a) of this title or September 30, 1990, whichever is earlier, except that, with respect to a person to whom a commercial driver's license has been issued on or before such applicable date, who has not been found to have violated a State or local law relating to motor vehicle traffic control (other than a parking violation) in the three-year period ending on such date, and who has not been disqualified by the Secretary pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle in commerce or has had a commercial driver's license suspended, revoked or cancelled for cause at any time during such three-year period, subsection (a) of this section shall only take effect on the date after such date on which—

(A) such license is required to be renewed under State law,

(B) such person is found to have violated such a State or local law, or

(C) such person is disqualified pursuant to title 49 of the Code of Federal Regulations by the Secretary from operating a commercial motor vehicle in commerce and has had such person's license suspended, revoked or cancelled for cause by a State,

whichever is earliest.

(2) If any such person is not domiciled in a State that has adopted such a licensing program, the Secretary may, in accordance with regulations to be prescribed by the Secretary, permit such person to obtain a commercial driver's license from any State that has adopted such a program.

(c) Effective on July 1, 1987, no operator of a commercial motor vehicle shall at any time have more than one driver's license, except during the 10-day period beginning on the date such person is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. The second exception in the preceding sentence shall not be effective after September 1, 1989.

(d)(1) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify such operator's employer of such violation, within 30 days after the date such person is found to have committed such violation.

(3) Effective on July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right or disqualification.

(4) (A) Effective on July 1, 1987, subject to subparagraph (B) of this paragraph, each person who applies for employment as an operator of a commercial motor vehicle with an employer shall, at the time of such application, notify the employer of such person's previous employment as an operator of a commerical motor vehicle.

(B) The Secretary shall by regulation establish the period with respect to which notice must be given under subparagraph (A) of this paragraph, except that such period shall not be less than a 10-year period ending on the date of application for employment.

SEC. 12006. RESPONSIBILITIES OF THE STATES.

On or before September 30, 1990, each State shall, at a minimum—

(1) adopt and administer a program for the issuance of commercial driver's licenses that includes testing and qualification standards for persons who operate commercial motor vehicles in commerce in accordance with all of the minimum Federal standards established by the Secretary under section 12004 of this title, which program (A) may include standards for its domiciliaries that are more stringent that the minimum Federal standards established by the Secretary under section 12004 of this title, (B) shall provide that such State shall recognize any license issued by another State if such license meets all of the Federal minimum standards established by the Secretary under section 12004 of this title, (C) shall not require any person other than its domiciliaries to obtain a commercial driver's license, and (D) provides that such State may issue a commercial driver's license to a person domiciled in another State if such person satisfied all of the requirements for such a license required of domiciliaries of such State under this Act;

(2) not issue a commercial driver's license to a person unless such person passes a written test and driving test for the operation of a commercial motor vehicle which complies with such minimum standards and complies will all requirements imposed by regulations promulgated under section 12005 of this title;

(3) ensure that each commercial driver's license contains the information described in section 12004(a)(9) of this title;

(4) until the information system established under section 12009 of this title provides a means of rapid communication of the information specified in such section—

(A) notify the Secretary, before the issuance of a commercial driver's license, of the proposed issuance of such license and such other information as the Secretary may require to ensure identification of the person applying for such license;

(B) within 30 days after issuance of a commercial driver's license, notify the Secretary of the issuance of such a license;

(C) maintain information regarding (i) any suspension, revocation or cancellation for cause of such a license and any disqualification pursuant to title 49 of the Code of Federal Regulations of the holder of such a commercial driver's license from operating a commercial motor vehicle for a period of 60 days or more, (ii) a decision to deny for cause a license to a person applying for such a license, or (iii) the conviction of the holder of such a commercial driver's license of any of the offenses specified in section 12009(b)(2) of this title;

(D) upon the request of the Secretary, another State, or an employee requesting information regarding such employee, transmit (to the extent permitted by law) to such State, the Secretary or such employee, the information specified in subparagraph (C) of this paragraph; and

(E) at such State's option, upon the request of an employer or prospective employer, transmit (to the extent permitted by law) to such employer or prospective employer, the information specified in subparagraph (C) of this paragraph;

(5) when the information system established under section 12009 of this title allows for the rapid communication of information, comply with the requirements of all regulations within such time periods as the Secretary establishes under section 12009(d) of this title, including a requirement that the State shall respond to all requests for information from the Secretary, another State, an employee who is requesting information regarding such employee, and employers a requirement that the State shall furnish to such information system the information specified in paragraph (4)(C) of this section, and information regarding all violations of any State or local law relating to motor vehicle traffic control (other than a parking violation), and a requirement that the State shall notify the information system of the issuance of a commercial driver's license and of the disqualification of the holder of a commercial driver's license for a period of 60 days or more;

(6) before issuance of a commercial driver's license, contact any other State which has issued to such person such a license to determine the driving record of such person and, if the State determines as a result of

such contact that such person has been disqualified pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle by the Secretary, or has had a license suspended, revoked or cancelled for cause for violation of an offense pursuant to section 12004(a)(5) of this title, within three years before application has been made for such a commercial driver's license, not issue such a license to such person;

(7) not issue a commercial driver's license to any person to whom such a license has been issued by any other State unless such person first returns such license issued by such other State;

(8) prior to issuing a commercial driver's license to any person, consult the National Driver Register established pursuant to the National Driver Register Act of 1982 (23 U.S.C. 401, note) (after such Register is determined by the Secretary to be operational) to determine whether, within three years before application has been made for such a license, such person has either been disqualified from operating a motor vehicle other than a commercial motor vehicle, or has had a license other than a commercial driver's license suspended, revoked or cancelled for cause or has been convicted of any of the offenses specified in section 205(a) of the National Driver Register Act of 1982 and, if the State is informed that such person has been so disqualified or convicted or such license has been suspended, revoked or cancelled for cause, not issue a commercial driver's license to such person;

(9) impose such penalties for a violation of section 12004 of this title as the State determines appropriate, if such penalties are the same as or more stringent than the guidelines established by the Secretary in section 12008(b) of this title; and

(10) provide for disqualification, through suspension or revocation of a license, in accordance with section 12004(a) (5) and (6) of this title.

SEC. 12007. GRANTS.

(a)(1) The Secretary may make a grant to a State in a fiscal year if the State enters into an agreement with the Secretary to comply with all provisions of section 6 of this Act.

(2) The amount of a grant under this subsection to any State shall not be less than $100,000 in any fiscal year.

(3) The Secretary may not make a grant to any State under this subsection unless such State agrees that the aggregate expenditure of funds of the State, exclusive of Federal funds, for testing and licensing of operators of commercial motor vehicles will be maintained at a level which does not fall below the average level of such expenditure for the last two fiscal years preceding the date of enactment of this Act.

(4) A State which receives a grant under this subsection may use the funds provided under such grant only for testing and licensing of operators of commercial motor vehicles.

(5) A grant made under this subsection shall be for a period of 1 year.

(6) Funds made available to carry out this subsection shall remain available for obligation by the Secretary for the fiscal year in which such funds are made available and the three fiscal years after such fiscal year.

(7) There shall be available to the Secretary to carry out this subsection—

(A) $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for each of fiscal years 1987, 1988, 1989, 1990, and 1991; and

(B) after deducting the amount permitted under section 402(c) of title 23, United States Code, $3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(8) Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this subsection shall be deemed to be a contractual obligation of the United States for payment of the amount of such grant.

(b)(1) The Secretrary shall withhold highway funds from any State that is not in compliance with section 12006 of this Act after September 30, 1993.

(2) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006 (10) of this title).

(3) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second fiscal year beginning after September 30, 1993, and the first day of each fiscal year thereafter, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006(10) of this title).

(4)(A) The Secretary shall withhold 2 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(B) The Secretary shall withhold not less than 2 percent nor more than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second through fifth fiscal years beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(C) The Secretary shall withhold not less than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the sixth fiscal year, and each fiscal year thereafter, beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(5)(A) Any funds withheld under this subsection from apportionment to any State after September 30, 1993, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) If, before the last day of the period for which funds withheld under this subsection from apportionment are to remain available for apportionment to a State under subparagraph (A) of this paragraph, the State complies with the provisions of section 12006 of this title, the Secretary shall, on the day following the date on which such State complies, apportion to such State the withheld funds remaining available for apportionment to such State.

(C) Any funds apportioned pursuant to subparagraph (B) of this paragraph shall remain available for expenditure as follows:

(i) Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

(ii) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of title 23, United States Code, shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse.

(D) If, at the end of the period for which funds withheld under this subsection from apportionment are available for apportionment to a State under subparagraph (A) of this paragraph, the State has not complied with the provisions of section 1 of this Act, such funds shall lapse.

SEC. 12008. PENALTIES.

(a) Section 521(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting immediately after paragraph (11) the following:

"(12) The civil penalties provided in this subsection shall apply to any violation of section 12005(d) of the Commercial Motor Vehicle Safety Act of 1986, and the provisions of this subsection shall apply to any person who operates a commercial motor vehicle without a commercial driver's license after the applicable date specified in section 12005(b) of such Act and any violation of section 12005(c) of such Act, except that—

"(A) the amount to be assessed under this subsection for any such violation shall not exceed $5,000 for each such violation; and

"(B) the exceptions regarding employees in paragraphs (2) and (6) of this subsection shall not apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, but (i) in the case of paragarph (2) of this subsection, the amount to be assessed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation, and (ii) in the case of paragraph (6) of this subsection, the penalty to be imposed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation or imprisionment for a term not to exceed one year, or both.".

(b) The Secretary shall establish guidelines for civil and criminal penalties to be imposed by the States for a violation of this Act. Such penalties shall not exceed $5,000 for each such violation, and shall not pro-

vide for imprisonment of more than one year.

SEC. 12009. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.

(a) Not later than January 1, 1989, the Secretary, after consulation with the States, shall cause to be in operation an information system pertaining to the driving status and licensing of operators of commercial motor vehicles. The information system shall serve as a clearinghouse by which the States may communicate rapidly concerning the licensing, identification and driving records of operators of commercial motor vehicles.

(b) The information system established under this section shall—

(1) provide for a depository of information that will, at a minimum, include (with respect to each operator of a commercial motor vehicle)—

(A) the birth date and physical description of such operator, and any other information which the Secretary considers necessary or appropriate to identify specifically such operator;

(B) the address of such operator; and

(C) all States in which such operator currently has a commercial dirver's license; and

(2) provide a system of communication among States that, at a minimum, shall provide exchange of information specified in paragraph (1) of this subsection and information regarding whether such operator has been denied a commercial driver's license, has been disqualified by the Secretary pursuant to title 49 of Code of Federal Regulations from operating a commercial motor vehicle, has had a license suspended, revoked or cancelled for cause, or has been convicted under the laws of any State for (A) operating a commercial motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance or with a blood alcohol content level of 0.04 percent or more; (B) violating a traffic rule or ordinance arising in connection with a fatal traffic accident, reckless driving, or racing on the highways and involving a commercial motor vehicle; (C) failing to render aid or provide identification when involved in an accident involving a commercial motor vehicle which resulted in a fatality or personal injury; or (D) commiting perjury or knowingly making a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a commercial motor vehicle.

(c)(1) The operator of the information system established under this section shall, to the extent otherwise permitted by law, make available—

(A) to the Secretary such information in such information system as the Secretary may request to enable the Secretary to comply with the requirements of section 12004 (a)(5), (6) and (7) of this title;

(B) to a State such information in the information system as the State may request;

(C) to an employer or prospective employer of an employee such information in the information system relating to such employee as such employer or prospective employer may request; and

(D) to an employee such information in the information system relating to such employee as such employee may request.

(2) Any prospective employer of a person as an operator of a commercial motor vehicle shall consult the information system established under this section to determine, prior to employing such person, whether a commercial driver's license issued to such person has been suspended, revoked or cancelled for cause. If such prospective employer determines, as a result of such consultation, that such person's license has been suspended, revoked or cancelled for cause, the prospective employer shall not employ such person as an operator of a commercial motor vehicle.

(d) When the information system required by this section has become available, the Secretary shall issue regulations establishing appropriate time periods for transmission of information regarding any violation of this Act.

(e) The Secretary shall establish and the Secretary or a State, as appropriate, shall collect fees for utilization of the information system established under this section. The amount of fees collected by the Secretary or a State under this subsection in any fiscal year shall as nearly as possible equal the costs of operating the information system in such fiscal year. The Secretary shall deposit fees collected by the Secretary under this subsection in the general fund of the Treasury.

(f) There shall be available for fiscal year 1987 to the Secretary for purposes of establishing the information system under this section not to exceed $2,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304). Such sums shall remain available until expended.

SEC. 12010. FREQUENT INSPECTIONS.

(a) Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)(1) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period in subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(H) with respect to any fiscal year beginning with fiscal year 1989, provides for the adoption and implementation of an effective program to conduct inspections of commercial motor vehicles, which program shall provide—

"(i) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside;

"(ii) for the administration of observations, and (with proper safeguards) for the administration of tests, to determine if the operator of a commercial motor vehicle is operating such vehicle with a blood alcohol content level of 0.04 percent or more; and

"(iii) for the prompt suspension, for a period of not less than one year, of the operator's license of any individual who is determined, as a result of an observation or test administered under clause (ii) of this subparagraph, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, and for the immediate revocation of the operator's license of any individual who has been twice determined, as a result of such an observation or test, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who has twice refused to submit to such a test.".

(b) Section 402(b) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)) is amended by adding at the end thereof the following:

"(3)(A) As part of a grant made under this subsection, the Secretary may also provide funds to encourage the States to adopt and implement programs providing for the administration of tests to determine whether the operator of a commercial motor vehicle is under the influence of a controlled substance while operating such motor vehicle.

"(B) For purposes of this subsection, the term 'controller substance' shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).".

SEC. 12011. TRUCK BRAKE REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall revise the regulations of the Administrator of the Federal Highway Administration contained in section 393.42 of title 49 of the Code of Federal Regulations to require trucks and truck tractors manufactured after July 24, 1980, to have brakes operating on all wheels. The Secretary may provide for a delayed effective date (not exceeding one year) for trucks and truck tractors manufactured after July 24, 1980, and before such date of enactment.

SEC. 12012. RADAR DEMONSTRATION PROJECT.

(a) Notwithstanding any other provision of law, the Secretary, in cooperation with State and local law enforcement officials, shall conduct a demonstration project to assess the benefits of continuous use of unmanned radar equipment on highway safety on a section of highway with a high rate of motor vehicle accidents. Such project shall be conducted in northern Kentucky on a hilly section of Interstate Route I-75 between Fort Mitchell and the Brent Spence Bridge over the Ohio River during the two-year period beginning on the date of enactment of this Act.

(b)(1) Not late than eighteen months after the date of enactment of this Act, the Secretary shall transmit to the Congress an intrim report on the results of the demonstration project conducted under subsection (a) of this section, together with any recommendations on whether to extend the duration of such demonstration project and whether to expand the scope of such project.

(2) Not later than 60 days after completion of the demonstration project conducted under subsection (a) of this section, the Secretary shall transmit to the Congress a final report on the results of such project, together with any such recommendations.

SEC. 12013. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to alter or affect the authority of the Secretary to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than twenty six thousand and one pounds or such lesser gross vehicle weight rating as determined appropriate by the Secretary under section 12003(4)(A) of this title.

SEC. 12014. AUTHORIZATIONS OF APPROPRIATIONS.

Section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) is amended—

(1) by striking "$40,000,000" and inserting in lieu thereof "$50,000,000";

(2) by striking "and" after "1987,";

(3) by striking "1988." and inserting in lieu thereof "1988; not to exceed $60,000,000 in the fiscal year ending September 30, 1989; and not to exceed $60,000,000 in the fiscal year ending September 30, 1990."

TITLE XIII—ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

SEC 13001. SHORT TITLE.

This title may be cited as the "Electronic Communications Privacy Act of 1986".

Subtitle A—Interception of Communications and Related Matters

SEC. 13011. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception";

(C) by striking out "as a common carrier"; and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof" and inserting in lieu thereof "such disclosure";

(B) by striking out "the carrier" and inserting in lieu thereof "such person"; and

(C) by striking out "an order or certification under this subparagraph" and inserting in lieu thereof "a court order or certification under this chapter".

(2) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(3) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(4) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2515, 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider

of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": Provided, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" in both places it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "carrier" and inserting in lieu thereof "service provider".

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, the offender shall be fined not more than $500.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

"(i) to a broadcasting station for purposes of retransmission to the general public; or

"(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

"(5)(a)(i) If the communication is—

"(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

"(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

"(ii) In an action under this subsection—

"(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

"(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

"(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

(f) STATE OF MIND.—Paragraphs (a), (b), (c), and (d) of subsection (1) of section 2511 of title 18, United States Code, are amended by striking out "willfully" and inserting in lieu thereof "intentionally".

(2) Subsection (1) of section 2512 of title 18, United States Code, is amended in the matter before paragraph (a) by striking out "willfully" and inserting in lieu thereof "intentionally".

SEC. 13012. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 13013. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

"(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5)(a)(i) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

"(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5)(a)(i) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1,000.

"(2) In any other action under this section, the court may assess as damages whichever is the greater of—

"(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 13014. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 13015. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),";

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)"; and

(F) by—

(i) striking out "or" before "section 351" and inserting in lieu thereof a comma; and

(ii) inserting before the semicolon at the end thereof the following: ", section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code;

"(j) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act); or";

"(k) the location of any fugitive from justice from an offense described in this section;

(4) by redesignating paragraph (h) as paragraph (l); and

(5) in paragraph (a) by—

(A) inserting after "Atomic Energy Act of 1954)," the following: "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),";

(B) striking out "or" after "(relating to treason),"; and

(C) inserting before the semicolon at the end thereof the following: "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 13016. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF THIRTY-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

"(a) in the case of an application with respect to the interception of an oral communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(iii) the judge finds that such specification is not practical; and

"(b) in the case of an application with respect to a wire or electronic communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(iii) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 13017. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this title or the amendments made by this title consti-

tutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 13018. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 13019. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 13020. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 13021. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or (c), this subtitle and the amendments made by this subtitle shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this subtitle shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this title.

(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 13014 of this title shall take effect on the date of enactment of this title.

Subtitle B—Stored Wire and Electronic Communications and Transactional Records Access

SEC. 13031. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703, 2704, or 2518 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1)(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

"(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(ii) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(iii) obtains a court order for such disclosure under subsection (d) of this section; or

"(iv) has the consent of the subscriber or customer to such disclosure.

"(2) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

"(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within fourteen days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access..... 2701".

SEC. 13032. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

Subtitle C—Pen Registers and Trap and Trace Devices

SEC. 13041. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

"Sec.

"3121. General prohibition on pen register and trap and trace device use; exception.

"3122. Application for an order for a pen register or a trap and trace device.

"3123. Issuance of an order for a pen register or a trap or trace device.

"3124. Assistance in installation and use of a pen register or a trap and trace device.

"3125. Reports concerning pen registers and trap and trace devices.

"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register and trap and trace device use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or

"(3) where the consent of the user of that service has been obtained.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register or a trap and trace device

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register or a trap and trace device

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed sixty days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR A TRAP AND TRACE DEVICE.—An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

"§ 3124. Assistance in installation and use of a pen register or a trap and trace device

"(a) PEN REGISTERS.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) TRAP AND TRACE DEVICE.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court, at reasonable intervals during regular business hours for the duration of the order.

"(c) COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"(d) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or

electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

"(e) DEFENSE.—A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

"§ 3125. Reports concerning pen registers and trap and trace devices

"The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the terms 'wire communication', 'electronic communication', and 'electronic communication service' have the meanings set forth for such terms in section 2510 of this title;

"(2) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

"(3) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

"(4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers and Trap and Trace Devices..... 3121".

SEC. 13042. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect ninety days after the date of the enactment of this title and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this subtitle takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this subtitle; or

(2) the date two years after the date of the enactment of this title.

SEC. 13043. INTERFERENCE WITH THE OPERATION OF A SATELLITE.

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1367. Interference with the operation of a satellite.".

Subtitle D—Special Rule Relating to Effect of Title

SEC. 13061. SPECIAL RULE.

If the bill H.R. 4952, the Electronic Communications Privacy Act of 1986, is enacted, this title and the amendments made by this title shall have no effect after that enactment.

TITLE XIV—CYANIDE WRONGFUL USE

SEC. 14001. STUDY AND REPORT.

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures, or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) MATTERS TO BE INCLUDED.—Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) an determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of the matter of interstate versus intrastate to the extent that it involves the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes; and

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(c) REPORT.—On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(d) DEFINITIONS.—As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XV—SENATE POLICY REGARDING FUNDING

SEC. 15001. STATEMENT OF POLICY.

(a) The Senate finds that—

(1) there is an urgent critical need for funds to carry out the programs and activities authorized by the preceding provisions of this Act in order to ensure a drug free America;

(2) this Act is the result of a bipartisan effort to combat our national drug abuse problem; and

(3) only the exceptional nature of the drug abuse problem warrants the expenditure of funds in excess of otherwise applicable budget limitations.

(b) Therefore, it is the sense of the Senate that—

(1) amounts authorized to carry out the preceding provisions of this Act should be provided as new budget authority for fiscal year 1987 in H.J. Res. 738 (99th Congress, 2d Session); and

(2) such amounts should not be provided through transfers from, or reductions in, any amount appropriated by such joint resolution for any other program, project, or activity for such fiscal year.

TITLE —RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. . RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Cost of 1954 (re-

lating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Secretary for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum ultimately recovered. The Internal Revenue Service shall maintain records reflecting the receipt of information from the contributing agency, and shall notify the agency when a recovery has been effected. Following such notification, the agency shall submit a statement detailing the investigative costs incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Secretary shall equitably distribute the costs reimbursements among those agencies up to an aggregate sum of 10 percent of the taxes recovered.

"(b) ESTABLISHMENT OF A FUND.—The Secretary shall establish a fund for recovering that portion of recovered Federal taxes authorized under subsection (a) and intended as reimbursements for State and local law enforcement agencies. In conjunction with the fund, the Secretary shall develop guidelines on the procedures and timetables for reimbursing those law enforcement agencies which have contributed to the recoupment of Federal taxes.

"(c) REIMBURSEMENT.—Reimbursements under section (a) shall be made directly from the fund under subsection (b), as provided by appropriations acts, prior to the deposit of such funds into the Treasury of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

TITLE —ANTI-DRUG TRUST FUND

SEC. . DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) any amount of an overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, any contribution which the taxpayer includes with such return,

be paid over to the Anti-Drug Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if late, the date the return is filed.".

(b) ESTABLISHMENT OF ANTI-DRUG TRUST FUND.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. ANTI-DRUG TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Anti-Drug Trust Fund', consisting of such amounts as may be appropriated or credited to the Anti-Drug Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO ANTI-DRUG TRUST FUND.—There are hereby appropriated to the Anti-Drug Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Anti-Drug Trust Fund shall be available as provided by appropriation Acts, for making expenditures to carry out the purposes of the Drug Enforcement Act of 1986.".

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"PART IX. Designation of overpayments and contributions for Anti-Drug Trust Fund.".

(2) The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Anti-Drug Trust Fund.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

TITLE *—NATIONAL FOREST SYSTEM DRUG CONTROL

SEC. ***1. SHORT TITLE.

This title may be cited as the "National Forest System Drug Control Act of 1986".

SEC. ***2. PURPOSE.

(a) The purpose of this title is to authorize the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Nothing in this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) As used in this title, the terms "manufacture", "dispense", and "distribute" shall have the same meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. ***3. POWERS.

For the purposes of this title, if specifically designated by the Secretary and specially trained, not to exceed 475 officers and employees of the Forest Service when in the performance of their duties shall have authority within the boundaries of the National Forest System to—

(1) carry firearms;

(2) conduct investigations of violations of and enforce section 401 of Controlled Substances Act (21 U.S.C. 841) and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands;

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony;

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

SEC. ***4. COOPERATION.

For the purposes of this title, in exercising the authority provided by section ***3—

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations relating to marijuana and other controlled substances, and State drug control laws or ordinances, both within and outside the boundaries of the National Forest System.

SEC. ***5. PENALTY.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following subsection:

"(e)(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

"(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

"(3) For the purposes of this subsection, the term 'boobytrap' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.".

SEC. ***6. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated $10,000,000 for each fiscal year to carry out this title.

(b) Notwithstanding any other provision of law, and to the extent the sum authorized

for each fiscal year by subsection (a) is not appropriated, the Secretary is authorized to fund activities under this title by using moneys received from the sale of products from or for the use of National Forest System lands. Such moneys shall be available without further appropriation.

*SEC. ***7. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL.*

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

AMENDMENTS SUBMITTED

(Continued)

KENNEDY AMENDMENT NOS. 3328 THROUGH 3332

(Ordered to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3328

Strike out subtitle U of title I of the amendment.

AMENDMENT No. 3329

Section 408 of the Controlled Substances Act, as added by subtitle U of title I, is amended by adding at the end thereof the following:

"EXCEPTION FOR MENTALLY ILL

"(q) The death penalty may not be carried out under this section upon any person who, as a result of mental disease or defect, is unable to understand his impending death or the reasons for it.".

AMENDMENT No. 3330

Section 408 of the Controlled Substances Act, as added by subtitle U of title I, is amended by adding at the end thereof the following:

"EXCEPTION FOR TERMINALLY ILL

"(q) The death penalty may not be carried out under this section upon any person who is diagnosed as having a terminal illness.".

AMENDMENT No. 3331

Section 408 of the Controlled Substances Act, as added by subtitle U of title I, is amended by adding at the end thereof the following:

"MAXIMUM AGE EXCEPTION

"(q) The death penalty may not be carried out under this section upon any person who is 65 years of age or older at the time of sentencing.".

AMENDMENT No. 3332

Subsection (1) of section 408 of the Controlled Substances Act, as added by subtitle U of title I, is amended by adding at the end thereof the following.

"(6) The defendant was 65 years of age or older at the time of the offense.".

CHAFEE AMENDMENT NO. 3333

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra as follows:

Strike out subtitle U of title I of the amendment.

HELMS AMENDMENT NOS. 3334 AND 3335

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra as follows:

AMENDMENT No. 3334

At the end of the pending amendment, add the following:

"SEC. . DISAPPROVAL OF ACTION OF THE DISTRICT OF COLUMBIA COUNCIL

"The Congress disapproves of the action of the District of Columbia Council described as follows: The Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170); and, notwithstanding any other provision of law, D.C. Law shall be null and void effective from June 6, 1986.".

AMENDMENT No. 3335

At an appropriate place in the pending amendment, add the following:

"SEC. . Section 223(b) of the Communications Act of 1934 is amended—

"(1) in paragraph (1)(A), by striking out 'under eighteen years of age or to any other person without that person's consent';

"(2) by striking out paragraph (2);

"(3) in paragraph (4), by striking out 'paragraphs (1) and (3)' and inserting in lieu thereof 'paragraphs (1) and (2)'; and

"(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.".

BIDEN AMENDMENT NO. 3336

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra as follows:

In lieu of the matter inserted by said amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Compliance with Budget Act.
TITLE I—ANTI-DRUG ENFORCEMENT
Subtitle A—Narcotics Penalties and Enforcement Act of 1986
Sec. 1001. Short title.
Sec. 1002. Controlled Substances Act penalties.
Sec. 1003. Other amendments to the Controlled Substances Act.
Sec. 1004. Elimination of special parole terms.
Sec. 1005. Amendment to the Comprehensive Crime Control Act of 1984.
Sec. 1006. Miscellaneous technical amendments.
Subtitle B—Drug Possession Penalty Act of 1986
Sec. 1051. Short title.
Sec. 1052. Penalty for simple possession.
Subtitle C—Juvenile Drug Trafficking Act of 1986
Sec. 1101. Short title.
Sec. 1102. Offense.
Sec. 1103. Technical amendments.
Sec. 1104. Manufacturing a controlled substance within 1,000 feet of a college.
Sec. 1105. Imprisonment.
Subtitle D—Assets Forfeiture Amendments Act of 1986
Sec. 1151. Short title.
Sec. 1152. Department of Justice Asset forfeiture fund.
Sec. 1153. Substitute assets.
Subtitle E—Controlled Substance Analogue Enforcement Act of 1986
Sec. 1201. Short title.
Sec. 1202. Treatment of Controlled Substance Analogues.
Sec. 1203. Definition.
Sec. 1204. Clerical Amendment.
Subtitle F—Continuing Drug Enterprise Act of 1986
Sec. 1251. Short title.
Sec. 1252. Increased penalties.
Sec. 1253. Continuing criminal enterprise enhanced penalties.
Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986
Sec. 1301. Short title.
Sec. 1302. Enhanced penalties.
Subtitle H—Money Laundering Control Act of 1986
Sec. 1351. Short title.
Sec. 1352. New offense for laundering of monetary instruments.
Sec. 1353. Amendments to the Right to Financial Privacy Act.
Sec. 1354. Structuring transactions to evade reporting requirements prohibited.
Sec. 1355. Seizure and civil forfeiture of monetary instruments and related provisions.
Sec. 1356. Compliance authority for Secretary of the Treasury and related matters.
Sec. 1357. Penalty provisions.
Sec. 1358. Monetary transaction recordkeeping and reporting amendments.
Sec. 1359. Banking regulatory agency supervision of recordkeeping systems.
Sec. 1360. Change in Bank Control Act amendments.
Sec. 1361. Change in Savings and Loan Control Act amendments.
Sec. 1362. Amendments to definitions.
Sec. 1363. International information exchange system; study of foreign branches of domestic institutions.
Sec. 1364. Effective dates.
Sec. 1365. Predicate Offenses.
Sec. 1366. Forfeiture.
Sec. 1367. Severability clause.
Subtitle I—Armed Career Criminals
Sec. 1401. Short title.
Sec. 1402. Expansion of predicate offenses for armed career criminal penalties.

Subtitle J—Authorization of Appropriations for Drug Law Enforcement
Sec. 1451. Authorization of appropriations.
Subtitle K—State and Local Narcotics Control Assistance
Sec. 1551. Short title.
Sec. 1552. Bureau of Justice Assistance drug grant programs.
Subtitle L—Study on the Use of Existing Federal Buildings as Prisons
Sec. 1601. Study required.
Subtitle M—Narcotics Traffickers Deportation Act
Sec. 1751. Amendment to the Immigration and Nationality Act.
Subtitle N—Freedom of Information Act
Sec. 1801. Short title.
Sec. 1802. Law enforcement.
Sec. 1803. Fees and Fee waivers.
Sec. 1804. Effective dates.
Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia
Sec. 1821. Short title.
Sec. 1822. Offense.
Sec. 1823. Effective date.
Subtitle P—Manufacturing Operations
Sec. 1841. Manufacturing operation.
Subtitle Q—Controlled Substances Technical Amendments
Sec. 1861. Duties of Director of Administrative Office and authorizations.
Sec. 1862. Amendment to section 608 of the Tariff Act.
Sec. 1863. Amendments to section 616 of the Tariff Act.
Sec. 1864. Cross reference corrections.
Sec. 1865. Warrants relating to seizure.
Sec. 1866. Minor technical amendments.
Sec. 1867. Modification of cocaine definition for purposes of Schedule II.
Sec. 1868. Authority of Attorney General to enter into contracts with State and local law enforcement agencies.
Sec. 1869. Authority of Attorney General to deputize State and local law enforcement officers for controlled substances enforcement.
Sec. 1870. Clarification of isomer definition.
Subtitle R—Precursor and essential chemical review
Sec. 1901. Precursor and essential chemical review.
Subtitle S—Improved Drug Crime Reporting
Sec. 1921. Improved drug crime reporting.
Subtitle T—White House Conference on Drug Abuse and Control
Sec. 1931. Short title.
Sec. 1932. Establishment of the Conference.
Sec. 1933. Purpose.
Sec. 1934. Responsibilities of the Conference.
Sec. 1935. Conference participants.
Sec. 1936. Administrative provisions.
Sec. 1937. Final report and follow-up actions.
TITLE II—INTERNATIONAL NARCOTICS CONTROL
Sec. 2001. Short title.
Sec. 2002. Additional funding for international narcotics control assistance and regional cooperation.
Sec. 2003. Aircraft provided to foreign countries for narcotics control purposes: Retention of title and records of use.
Sec. 2004. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 2005. Restrictions on the provision of United States assistance.
Sec. 2006. Development of herbicides for aerial coca eradication.
Sec. 2007. Review of effectiveness of international narcotics control assistance program.
Sec. 2008. Extradition to the United States for narcotics-related offenses.
Sec. 2009. Foreign policy arrest actions.
Sec. 2010. Issuance of diplomatic passports for Drug Enforcement Administration Agents abroad.
Sec. 2011. Information-sharing so that visas are denied to drug traffickers.
Sec. 2012. Conditions on assistance for Bolivia.
Sec. 2013. Narcotics control efforts in Mexico.
Sec. 2014. Reports and restrictions concerning certain countries.
Sec. 2015. Combating narcoterrorism.
Sec. 2016. Interdiction procedures for vessels of foreign registry.
Sec. 2017. Information relating to illicit narcotics activities abroad.
Sec. 2018. Assessment of narcotics trafficking for Africa.
Sec. 2019. Policy toward multilateral development banks.
Sec. 2020. Multilateral development bank assistance for drug eradication and crop substitution programs.
Sec. 2021. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotics crops in Mexico.
Sec. 2022. Drugs as a national security problem.
Sec. 2023. Findings concerning greater international effort to address drug threat.
Sec. 2024. International Conference on Drug Abuse and Illicit Trafficking.
Sec. 2025. Effectiveness of international drug prevention and control system.
Sec. 2026. Narcotics control conventions.
Sec. 2027. Mexico-United States Intergovernmental Commission.
Sec. 2028. Opium production in Pakistan.
Sec. 2029. Opium production in Iran, Afghanistan, and Laos.
Sec. 2030. Increased funding for USIA Drug Education programs.
Sec. 2031. Increased funding for AID drug education programs.
Sec. 2032. Reports to Congress on drug education programs abroad.
TITLE III—INTERDICTION
Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Subtitle A—Department of Defense Drug Interdiction Assistance
Sec. 3051. Short title.
Sec. 3052. Authorization.
Sec. 3053. Coast Guard activities.
Sec. 3054. Reports on Department of Defense drug control activities.
Sec. 3055. Driving while impaired.
Sec. 3056. Assistance to civilian law enforcement and emergency assistance by Department of Defense personnel.
Sec. 3057. Additional Department of Defense drug law enforcement assistance.
Sec. 3058. Grade of Director of Department of Defense Task Force on Drug Enforcement.
Sec. 3059. Civil Air Patrol.
Subtitle B—Customs Enforcement
Sec. 3101. Short title.
PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930
Sec. 3111. Definitions.
Sec. 3112. Report of arrival of vessels, vehicles, and aircraft.
Sec. 3113. Penalties for arrival, reporting, entry, and departure violations.
Sec. 3114. Penalties for unauthorized unloading of passengers.
Sec. 3115. Reporting requirements for individuals.
Sec. 3116. Penalties for failure to declare.
Sec. 3117. Examination of books and witnesses.
Sec. 3118. False manifests; lack of manifest.
Sec. 3119. Unlawful unloading of merchandise.
Sec. 3120. Aviation smuggling.
Sec. 3121. Seizures.
Sec. 3122. Searches and seizures.
Sec. 3123. Forfeitures.
Sec. 3124. Proceeds of forfeited property.
Sec. 3125. Compensation to informers.
Sec. 3126. Foreign landing certificates.
Sec. 3127. Exchange of information with foreign agencies.
Sec. 3128. Inspections and preclearance in foreign countries.
PART 2—UNDERCOVER CUSTOMS OPERATIONS
Sec. 3131. Undercover investigative operations of the Customs Service.
PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND
Sec. 3141. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.
Sec. 3142. Customs forfeiture fund.
PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS
Sec. 3151. Recreational vessels.
Sec. 3152. Assistance for customs officers.
Sec. 3153. Reports on exports and imports of monetary instruments.
PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT
Sec. 3161. Possession, manufacture, or distribution for purposes of unlawful importation.
Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986
Sec. 3201. Short title.
Sec. 3202. Improvement of Public Law 96-350.
Subtitle D—Coast Guard
Sec. 3251. Coast Guard drug interdiction enhancement.
Subtitle E—United States Bahamas Drug Interdiction Task Force
Sec. 3301. Establishment of United States Bahamas Drug Interdiction Task Force.
Subtitle F—Command, Control, Communications, and Intelligence Centers
Sec. 3351. Establishment of Command, Control, Communications, and Intelligence Centers.
Subtitle G—Transportation Safety
Sec. 3401. Air safety.
Sec. 3402. Drugs and highway safety.
Sec. 3403. Savings provision.

Subtitle H—Department of Justice funds for drug interdiction operation in Hawaii
Sec. 3451. Additional funds for the Department of Justice.
TITLE IV—DEMAND REDUCTION
Subtitle A—Prevention Initiatives and Treatment Services
Sec. 4001. Short title.
PART I—FINANCIAL ASSISTANCE TO STATES AND COMMUNITIES
Sec. 4002. Allotments to States.
PART II—AGENCY FOR SUBSTANCE ABUSE PREVENTION
Sec. 4003. Agency for Substance Abuse Prevention.
PART III—ADAMHA AND RELATED PROVISIONS
Sec. 4011. Short title, reference.
Sec. 4012. Technical revision of ADAMHA.
Sec. 4013. National Institute of Mental Health.
Sec. 4014. Advisory councils.
Sec. 4015. Public health emergencies.
Sec. 4016. Peer Review.
Sec. 4017. National Alcohol Research Center.
Sec. 4018. Research authorization.
Sec. 4019. Suicide.
Sec. 4020. Animals in research.
Sec. 4021. Block grants.
Sec. 4022. Technical amendments.
Sec. 4023. Alcoholism and alcohol abuse treatment study.
PART IV—INFANT FORMULAS
Sec. 4031. Infant formulas.
PART V—MISCELLANEOUS
Sec. 4041. Efforts of the entertainment industry and written media industry.
Sec. 4042. Sense of the Senate urging categorization of films which promote alcohol abuse and drug use.
Sec. 4043. Sense of the Senate with respect to possession or distribution of drugs under State law.
Sec. 4045. Expansion of drug abuse research.
Sec. 4046. Alkyl nitrites.
Sec. 4047. Administrator of Veterans' Affairs.
Subtitle B—Drug-Free Schools and Communities Act of 1986
Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Purpose.
PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS
Sec. 4111. Authorization of appropriations.
Sec. 4112. Reservations and state allotments.
PART 2—STATE AND LOCAL PROGRAMS
Sec. 4121. Use of allotments by States.
Sec. 4122. State programs.
Sec. 4123. Responsibilities of state educational agencies.
Sec. 4124. Local drug abuse education and prevention programs.
Sec. 4125. Local applications.
PART 3—NATIONAL PROGRAMS
Sec. 4131. Grants to institutions of higher education.
Sec. 4132. Federal activities.
Sec. 4133. Programs for Indian youth.
Sec. 4134. Programs for Hawaiian natives.
PART 4—GENERAL PROVISIONS
Sec. 4141. Definitions.
Sec. 4142. Functions of the Secretary of Education.
Sec. 4143. Participation of children and teachers from private nonprofit schools.
Subtitle C—Indians and Alaska Natives
Sec. 4201. Short title.
PART I—GENERAL PROVISIONS
Sec. 4202. Findings.
Sec. 4203. Purpose.
Sec. 4204. Definitions.
PART II—COORDINATION OF RESOURCES AND PROGRAMS
Sec. 4205. Inter-departmental Memorandum of Agreement.
Sec. 4206. Tribal action plans.
Sec. 4207. Departmental responsibility.
Sec. 4208. Congressional intent.
Sec. 4209. Federal facilities, property, and equipment.
Sec. 4210. Newsletter.
PART III—INDIAN YOUTH PROGRAMS
Sec. 4211. Review of programs.
Sec. 4212. Indian education programs.
Sec. 4213. Emergency shelters.
Sec. 4214. Social services reports.
PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES
Sec. 4215. Review of programs.
Sec. 4216. Illegal narcotics traffic on the Papago Reservation: source eradication.
PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT
Sec. 4217. Tribal courts, sentencing and fines.
Sec. 4218. Law enforcement services.
Sec. 4219. Bureau of Indian Affairs law enforcement and judicial training.
Sec. 4220. Medical assessment and treatment of juvenile offenders.
Sec. 4221. Juvenile detention centers.
Sec. 4222. Model Indian Juvenile Code.
Sec. 4223. Law enforcement and judicial report.
PART IV—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION
Sec. 4224. Review of programs.
Sec. 4225. Indian Health Service responsibilities.
Sec. 4226. Indian Health Service program.
Sec. 4227. Indian Health Service youth program.
Sec. 4228. Community education and training.
Sec. 4229. Navajo alcohol rehabilitation demonstration program.
Sec. 4230. Indian Health Service reports.
Subtitle D—Miscellaneous Provisions
Sec. 4301. Action grants.
Sec. 4302. Establishment of national trust for drug-free youth.
Sec. 4303. Information on drug abuse at the workplace.
TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS
Subtitle A—Programs in United States Insular Areas
Sec. 5001. Short title.
Sec. 5002. Purposes.
Sec. 5003. Annual reports to Congress.
Sec. 5004. Enforcement and administration in insular areas.
Subtitle B—National Park Service Program
Sec. 5051. Short title.
Sec. 5052. National Park Police authorization.
TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT
Sec. 6001. Short title.
Sec. 6002. Programs to provide prevention, treatment, and rehabilitation services to Federal employees with respect to drug and alcohol abuse.
Sec. 6003. Educational program for Federal employees relating to drug and alcohol abuse.
Sec. 6004. Employee assistance programs relating to drug abuse and alcohol abuse.
Sec. 6005. Substance abuse coverage study.
Sec. 6006. Health insurance coverage for drug and alcohol treatment.
TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION
Sec. 7001. Short title.
Sec. 7002. Findings.
Sec. 7003. Submission of legislation.
TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION
Sec. 8001. Short title.
Sec. 8002. Establishment.
Sec. 8003. Duties of Commission.
Sec. 8004. Membership.
Sec. 8005. Meetings.
Sec. 8006. Director and staff; experts and consultants.
Sec. 8007. Powers of Commission.
Sec. 8008. Report.
Sec. 8009. Termination.
TITLE IX—BALLISTIC KNIFE PROHIBITION
Sec. 10001. Short title.
Sec. 10002. Prohibition on possession, manufacture, sale, and importation of ballistic knives.
Sec. 10003. Nonmailability of ballistic knives.
TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT
Sec. 11001. Short title.
Subtitle A—Emergency Food for the Homeless
Sec. 11002. Meals served to homeless individuals.
Subtitle B—Job Training for the Homeless
Sec. 11004. Job training for the homeless.
Subtitle C—Entitlements Eligibility
Sec. 11005. Application for SSI and food stamp benefits by SSI pre-release individuals.
Sec. 11006. Delivery of veterans' benefits payments.
TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986
Sec. 12001. Short title.
Sec. 12002. Limitation on number of driver's licenses.
Sec. 12003. Notification requirements.
Sec. 12004. Employer responsibilities.
Sec. 12005. Testing of operators.
Sec. 12006. Classified driver's license.
Sec. 12007. Classified driver's license information system.
Sec. 12008. Federal disqualifications.
Sec. 12009. Requirements for State participation.
Sec. 12010. Grant program.
Sec. 12011. Withholding of highway funds for State noncompliance.
Sec. 12012. Penalties.
Sec. 12013. Waiver authority.
Sec. 12014. Review of commercial motor vehicle alcohol regulations.
Sec. 12015. Truck brake regulations.
Sec. 12016. Radar demonstration project.
Sec. 12017. Limitation on statutory construction.

Sec. 12018. Regulations.
Sec. 12019. Definitions.
TITLE XIV—CYANIDE WRONGFUL USE
Sec. 14001. Study and Report.
TITLE XV—SENATE POLICY CONCERNING FUNDING
Sec. 15001. Statement of policy.

SEC. 3. COMPLIANCE WITH BUDGET ACT.

Notwithstanding any other provision of this Act, any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 and the term "credit authority" has the meaning provided in section 3(10) of the Congressional Budget Act of 1974.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence

of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(1) In subsection (b), paragraph (1)(D), as redesignated, is amended by—

(A) striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual";

(B) striking out "a fine of not more than $100,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual"; and

(C) inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana," the first place it appears.

(2) In subsection (b), paragraph (2) is amended by striking out "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual".

(3) In subsection (b), paragraph (3) is amended by striking out "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out "a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual".

(4) In subsection (b), paragraph (4) is amended by striking out "1(C)" and inserting "1(D)" in lieu thereof.

(5) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

"(A) the amount authorized in accordance with this section;

"(B) the amount authorized in accordance with the provisions of title 18, United States Code;

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual;

or both.".

(6) Subsection (d) is amended by striking out "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by inserting the following new paragraph after paragraph (24):

"(25) The term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) protracted and obvious disfigurement; or

"(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."; and

(2) by renumbering the following paragraphs accordingly.

SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" wherever it appears and inserting "term of supervised release" in lieu thereof.

(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"SEC. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c).".

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting ", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided, the".

(3) Subsection (c) of section 3583 of title 18, United States Code, is amended—

(A) so that the catchline reads as follows: "Modification of conditions or revocation.";

(B) in paragraph (2) by striking out "or" after the semicolon;

(C) in paragraph (3) by striking out "title," and inserting "title; or" in lieu thereof; and

(D) by inserting the following new paragraph after paragraph (3):

"(4) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of rule 32.1 of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission.".

(4) The amendments made by this subsection shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".

(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended—

(1) in subsection (f) by inserting "or II" after "I" each place it appears;

(2) by redesignating subsection (f) as subsection (f)(1); and

(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:

"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary.".

On page 28, insert the following after line 15:

SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE.

(a) Section 3553 of title 18, United States Code, is amended by adding the following at the end thereof:

"(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM.—Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.".

(b) The amendment made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code.

SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

Section 994 of title 28 of the United States Code is amended by—

(1) inserting the following after subsection (m):

"(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."; and

(2) redesignating subsections (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking out "to the extent" and all that follows through the end and inserting in lieu thereof the following: "in accordance with the

guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code. The court's authority to lower a sentence under this subdivision includes the authority to lower such sentence to a level below that established by statute as a minimum sentence.

(b) The amendment made by this section shall take effect on the date of the taking effect of rule 35(b) of the Federal Rules of Criminal Procedure, as amended by section 215(b) of the Comprehensive Crime Control Act of 1984.

Subtitle B—Drug Possession Penalty Act of 1986

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Drug Possession Penalty Act of 1986".

SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

"PENALTY FOR SIMPLE POSSESSION

"SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this title or title III, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this title or title III, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

"(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

"(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

"(c) As used in this section, the term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this title.".

Subtitle C—Juvenile Drug Trafficking Act of 1986

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Juvenile Drug Trafficking Act of 1986".

SEC. 1102. OFFENSE.

Part D of the Controlled Substances Act is amended by adding after section 405A a new section as follows:

"EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS

"SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

"(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or

"(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title or title III by any Federal, State, or local law enforcement official.

"(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any special parole term otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(d) Any person who violates section 405B(a) (1) or (2)—

"(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

"(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

"(e) In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18, United States Code, until the individual has served the mandatory term of imprisonment required by section 401(b) as enhanced by this section.

"(f) Except as authorized by this title, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).".

SEC. 1103. TECHNICAL AMENDMENTS.

(a) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking out "or 405A" and inserting in lieu thereof ", 405A, or 405B".

(b) Section 401(c) of the Controlled Substances Act (21 U.S.C. 841(c)) is amended by striking out "405A" each place it appears and inserting in lieu thereof ", 405A, or 405B".

"405B. Employment of minors in controlled substance trafficking.".

SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF A COLLEGE.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by inserting "or manufacturing" after "distributing" wherever it appears and by striking out "a public or private elementary or secondary school" wherever it appears and in-

serting in lieu thereof "a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university".

(b) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by striking out "involving the same controlled substance and schedule".

(c) Section 405A(b) of the Controlled Substance Act (21 U.S.C. 845a(b)) is amended by striking out "(1) by" and all that follows through the end and inserting the following in lieu thereof:

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both, and (2) at least three times any special parole term authorized by section 401(b) of this title for a first offense.".

SEC. 1105. IMPRISONMENTS.

(a) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.".

(b) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

(c) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

Subtitle D—Assets Forfeiture Amendments Act of 1986

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

On page 37, strike out all beginning with line 14 through line 2 on page 39 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "in such amounts as may be specified in appropriations acts";

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "Such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed, during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(B) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Controlled Substance Analogue Enforcement Act of 1986".

SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue all or part of which is intended for human consumption shall be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

SEC. 1203. DEFINITION.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; or

"(ii) which was specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in schedule I or II.".

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

"For purposes of this paragraph, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle F—Continuing Drug Enterprise Act of 1986

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the Continuing Drug Enterprises Act of 1986".

SEC. 1252. INCREASED PENALTIES.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(2) by striking out "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,".

SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting the following new subsection after subsection (a);

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2)(A) the violation referred to in subsection (d)(1) involved at least 300 times the quantity of a substance described in subsection 401(b)(1)(B) of this Act, or

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelvemonth period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(B) of this Act."

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Import and Export Penalties Enhancement Act of 1986.".

SEC. 1302. ENHANCED PENALTIES.

(a) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting the following in lieu thereof:

"(1) In the case of a violation of subsection (a) of this section involving—

"(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, imposed a special parole term of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(2) In the case of a violation of subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(B) 500 grams or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater

of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a special parole term of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated, is amended—

(1) by striking out ", except as provided in paragraph (4)";

(2) by striking out "fined not more than $50,000" and inserting in lieu thereof "fined not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual"; and

(3) by inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana,".

Subtitle H—Money Laundering Control Act of 1986

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both

"(3) Whoever conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate or facilitate a violation of section 7201 or 7206 of the Internal Revenue Code of 1954 shall be sentenced to a fine of not more than $250,000 or twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is specified in paragraph (7);

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act;

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relat-

ing to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3).

"(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments".

SEC. 1353 AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS AND RELATED PROVISIONS.

(a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT BORDER.—Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.".

(b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) SUMMONS POWER.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled

and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

(2) The heading of section 5318 of title 31, United States Code, is amended to read as follows:

"§ 5318. Compliance, exemptions, and summons authority".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking out the item relating to section 5318 and inserting in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority.".

SEC. 1357. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315'.

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (d) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

(f) CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY AND CRIMINAL PENALTY.—Section 5321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.".

(g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN OFFENSES.—Section 5322(b) of title 31, United States Code, is amended—

(1) by striking out "illegal activity involving transactions of" and inserting in lieu thereof "any illegal activity involving";

(2) by striking out "5 years" and inserting in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 1358. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) AMENDMENTS RELATING TO REPORTS ON EXPORTS OR IMPORTS OF MONEY:

(1) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(2) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(A) by striking out "or attempts to transport or have transported,", and

(B) by inserting ", is about to transport," after "transports".

(3) TECHNICAL AND CONFORMING AMENDMENT.—Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forefit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on September 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency,

unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or

is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1361. CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1362. AMENDMENTS TO DEFINITIONS.

(a) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

(b) UNITED STATES INCLUDES CERTAIN TERRITORIES AND POSSESSIONS.—Section 5312(a)(5) of title 31, United States Code, is amended by inserting "the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands," after "Puerto Rico".

SEC. 1363. INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS.

(a) DISCUSSIONS ON INTERNATIONAL INFORMATION EXCHANGE SYSTEM.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT ON DISCUSSIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of discussions initiated pursuant to subsection (a).

(c) STUDY OF MONEY LAUNDERING THROUGH FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Attorney General and the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the extent to which foreign branches of domestic institutions are used—

(A) to facilitate illicit transfers of coins, currency, and other monetary instruments (as such term is defined in section 5312(a)(3)) of title 31, United States Code) into and out of the United States; and

(B) to evade reporting requirements with respect to any transfer of coins, currency, and other monetary instruments (as so defined) into and out of the United States;

(2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and

(3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States.

(d) REPORT ON STUDY OF FOREIGN BRANCHES REQUIRED.—Before the end of the 9-month

period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the results of the study conducted pursuant to subsection (c).

SEC. 1364. EFFECTIVE DATES.

(a) The amendments made by sections 1354, 1358(b), and 1358(c) shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 1355(b), 1355(c), and 1357(a) shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The amendments made by section 1357 (other than subsection (a) of such section) shall apply with respect to violations committed after the date of the enactment of this Act.

(d) Any regulation prescribed under the amendments made by section 1358(a) shall apply with respect to transactions completed after the effective date of such regulation.

(e) The regulations required to be prescribed under the amendments made by section 1359 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(f) The amendments made by sections 1360 and 1361 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

SEC. 1365. PREDICATE OFFENSES.

(a) Subsection (b) of section 1952 of title 18, United States Code, is amended by striking out "or" before "(2)", and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title.".

(b) Subsection (1) of section 1961 of title 18, United States Code, is amended by inserting "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (relating to the prohibition of illegal gambling businesses),".

(c) Subsection (1) of section 2516 of title 18, United States Code, is amended in paragraph (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (prohibition of relating to business enterprises of gambling),".

SEC. 1366. FORFEITURE.

(a) Title 18 of the United States Code is amended by adding after chapter 45 a new chapter 46 as follows:

"CHAPTER 46—FORFEITURE

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

"§ 981. Civil forfeiture

"(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

"(A) Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.

"(B) Any property within the jurisdiction of the United States, which represents the proceeds of an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense or activity would be punishable by death or imprisonment for a term exceeding one year and which would be punishable by imprisonment for a term exceeding one year if such act or activity had occurred within the jurisdiction of the United States.

"(C) Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer or employee thereof."

"(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or emission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

"(b) Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by the Secretary of the Treasury, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) The filing of an indictment or information alleging a violation of law which is

also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(i) In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:

"(1) Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subchapter, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General may, in his discretion, set. Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.

"(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

"(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

"(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

"(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

"(j) For purposes of this section—

"(1) the term 'Attorney General' means the Attorney General or his delegate; and

"(2) the term 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"§ 982. Criminal forfeiture

"(a) The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.

"(b) The provisions of subsections 413 (c) and (e) through (o) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (c) and (e)—(o)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) The chapter analysis of part I of title 18, United States Code, is amended by inserting after the item for chapter 45 the following:

"46. Forfeiture ..... 981".

SEC. 1367. SEVERABILITY CLAUSE.

If any provision of this subtitle or any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.

Subtitle I—Armed Career Criminals

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.".

Subtitle J—Authorization of Appropriation for Drug Law Enforcement

SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Drug Enforcement Administration, $60,000,000; except, that notwithstanding section 1345 of title 31, United States Code, funds made available to the Department of Justice for the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

(b) The Drug Enforcement Administration of the Department of Justice is hereby authorized to plan, construct, renovate, maintain, remodel and repair buildings and purchase equipment incident thereto for an All Source Intelligence Center: "Provided, That the existing El Paso Intelligence Center shall remain in Texas.".

(c) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Federal Prison System, $124,500,000, of which $96,500,000 shall be for the construction of Federal penal and correctional institutions and $28,000,000 shall be for salaries and expenses.

(d) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Defender Services, $18,000,000.

(e) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Fees and Expenses of Jurors and Commissioners, $7,500,000.

(f) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Office of Justice Assistance, $5,000,000 to carry out a pilot prison capacity program.

(g) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for support of United States prisoners in non-Federal Institutions, $5,000,000.

(h) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Offices of the United States Attorneys, $31,000,000.

(i) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the United States Marshals Service, $17,000,000.

"(j) Authorizations of appropriations for fiscal year 1987 contained in this section are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738."

(k) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1987, the following sums are au-

thorized to be appropriated to procure secure voice radios:

Federal Bureau of Investigation	$2,000,000
Secret Service	$5,000,000.

(l) This section may be cited as the "Drug Enforcement Enhancement Act of 1986".

Subtitle K—State and Local Narcotics Control Assistance

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1986".

SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

(a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF THE DIRECTOR

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

"SEC. 1302. The Director is authorized to make grants to States, for the use of States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.), and to—

"(1) provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons;

"(2) provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution;

"(3) provide additional personnel (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases;

"(4) provide additional public correctional resources for the detention of persons convicted of violating State and local laws relating to the production, possession, or transfer of controlled substances, and to establish and improve treatment and rehabilitative counseling provided to drug dependent persons convicted of violating State and local laws;

"(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

"(6) provide programs which identify and meet the needs of drug-dependent offenders; and

"(7) conduct demonstration programs, in conjunction with local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking to expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1303. To request a grant under section 1302, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a statewide strategy for the enforcement of State and local laws relating to the production, possession, and transfer of controlled substances;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(5) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

Such strategy shall be prepared after consultation with State and local officials whose duty it is to enforce such laws. Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director or to the State, as the case may be, a performance report concerning the activities carried out pursuant to section 1302 of this title.

"REVIEW OF APPLICATIONS

"SEC. 1304. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1303 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1303 shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1305. (a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for section 1302 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under section 1309 of this title.

"REPORTS

"SEC. 1306. (a) Each State which receives a grant under section 1302 of this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 1303 of this title;

"(2) a summary of the activities carried out in such year with any grant received under section 1309 of this title by such State; and

"(3) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than ninety days after the end of each fiscal year for which grants are made under section 1302 of this title, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under sections 1302 and 1309 of this title to such State for such fiscal year;

"(2) the amount of such grants expended for each of the purposes specified in section 1302; and

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1307. (a) A grant made under section 1302 of this title may not be expended for more than 75 per centum of the cost of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in section 1302, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 per centum of a grant made under section 1302 of this title may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under section 1302 of this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under section 1302, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISCRETIONARY GRANTS

"SEC. 1309. The Director is authorized to make grants to public agencies and private nonprofit organizations for any purpose specified in section 1302 of this title. The Director shall have final authority over all grants awarded under this section.

"APPLICATION REQUIREMENTS

"SEC. 1310. (a) No grant may be made under section 1309 of this title unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

"SEC. 1311. Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for section 1309 of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in section 1302 of this title. Grants under section 1309 may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.".

(b)(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Director.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Review of applications.
"Sec. 1305. Allocation and distribution of funds under formula grants.
"Sec. 1306. Reports.
"Sec. 1307. Expenditure of grants; records.
"Sec. 1308. State office.
"Sec. 1309. Discretionary grants.
"Sec. 1310. Application requirements.
"Sec. 1311. Allocation of funds for discretionary grants.
"Sec. 1312. Limitation on use of discretionary grant funds.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $350,000,000 for fiscal year 1987, $350,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title.", and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

SEC. 1601. STUDY REQUIRED.

(a) Within 90 days of the date of enactment of this Act, the Secretary of Defense shall provide to the Attorney General—

(1) a list of all sites under the jurisdiction of the Department of Defense including facilities beyond the excess and surplus property inventories whose facilities or a portion thereof could be used, or are being used, as detention facilities for felons, especially those who are a Federal responsibility such as illegal alien felons and major narcotics traffickers;

(2) a statement of fact on how such facilities could be used as detention facilities with detailed descriptions on their actual daily percentage of use; their capacities or rated capacities; the time periods they could be utilized as detention facilities; the cost of converting such facilities to detention facilities; and, the cost of maintaining them as such; and

(3) in consultation with the Attorney General, a statement showing how the Department of Defense and the Department of Justice would administer and provide staffing responsibilities to convert and maintain such detention facilities.

(b) Copies of the report and analysis required by subsection (a) shall be provided to the Congress.

Subtitle M—Narcotics Traffickers Deportation Act

SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))"; and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out

"any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(c) The amendments made by this subsections (a) and (b) of this section shall apply to convictions occurring before, on, or after the date of the enactment of this section, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this section.

(d) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

(e)(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Subtitle N—Freedom of Information Act

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the "Freedom of Information Reform Act of 1986".

SEC. 1802. LAW ENFORCEMENT.

(a) EXEMPTION.—Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;".

(b) EXCLUSIONS.—Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.".

SEC. 1803. FEES AND FEE WAIVERS.

Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.".

SEC. 1804. EFFECTIVE DATES.

(a) The amendments made by section 1802 shall be effective on the date of enactment of this Act, and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b)(1) The amendments made by section 1803 shall be effective 180 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 180th day.

(2) The amendments made by section 1803 shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to

any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia Control Act".

SEC. 1822. OFFENSE.

(a) It is unlawful for any person—

(1) to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale and transportation in interstate or foreign commerce drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) This subtitle shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1823. EFFECTIVE DATE.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle P—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATION.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF MANUFACTURING OPERATIONS

"SEC. 416. (a) Except as authorized by this title, it shall be unlawful to—

"(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

"(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

"(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.".

(b) Section 405A of the Controlled Substances Act is amended—

(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 416"; and

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle Q—Controlled Substances Technical Amendments

SEC. 1861. DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE AND AUTHORIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

(b) PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—(1) The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

(2) The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

(c) INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

(d) REAUTHORIZATION OF CONTRACT SERVICES.—Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof "; $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

SEC. 1862. AMENDMENT TO SECTION 608 OF THE TARIFF ACT.

(a) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$2,500" and inserting in lieu thereof "$5,000".

(b) Section 608 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1863. AMENDMENTS TO SECTION 616 OF THE TARIFF ACT.

(a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1864. CROSS REFERENCE CORRECTIONS.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 1865. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 1866. MINOR TECHNICAL AMENDMENTS.

(a) Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

(b) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "special term" and inserting "term of supervised release" in lieu thereof.

(c) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

(d) Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

(e) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

(f) The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following:

"Sec. 405A. Manufacture or distribution in or near schools.

"405B. Employment of minors in controlled substance trafficking.";

and

(2) by inserting after the item relating to section 414 the following:

"Sec. 415. Alternative fine.".

SEC. 1867. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.".

SEC. 1868. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

SEC. 1869. AUTHORITY OF ATTORNEY GENERAL TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 1870. CLARIFICATION OF ISOMER DEFINITION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

Subtitle R—Precursor and Essential Chemical Review

SEC. 1901. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this subtitle.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

Subtitle T—White House Conference for a Drug Free America

SEC. 1931. SHORT TITLE.

This subtitle may be cited as the "White House Conference for a Drug Free America".

SEC. 1932. ESTABLISHMENT OF THE CONFERENCE.

There is established a conference to be known as "The White House Conference for a Drug Free America". The members of the Conference shall be appointed by the President.

SEC. 1933. PURPOSE.

The purposes of the Conference are—

(1) to share information and experiences in order to vigorously and directly attack drug abuse at all levels, local, State, Federal, and international;

(2) to bring public attention to those approaches to drug abuse education and prevention which have been successful in curbing drug abuse and those methods of treatment which have enabled drug abusers to become drug free;

(3) to highlight the dimensions of the drug abuse crisis, to examine the progress made in dealing with such crisis, and to assist in formulating a national strategy to thwart sale and solicitation of illicit drugs and to prevent and treat drug abuse; and

(4) to examine the essential role of parents and family members in preventing the basic causes of drug abuse and in successful treatment efforts.

SEC. 1934. RESPONSIBILITIES OF THE CONFERENCE.

The Conference shall specifically review—

(1) the effectiveness of law enforcement at the local, State, and Federal levels to prevent the sale and solicitation of illicit drugs and the need to provide greater coordination among such programs;

(2) the impact of drug abuse upon American education, examining in particular—

(A) the effectiveness of drug education programs in our schools with particular attention to those schools, both public and private, which have maintained a drug free learning environment;

(B) the role of colleges and universities in discouraging the illegal use of drugs by student-athletes; and

(C) the relationship between drug abuse by student-athletes and college athletic policies, including eligibility and academic requirements, recruiting policies, athletic department financing policies, the establishment of separate campus facilities for athletes, and the demands of practice and lengthy playing seasons;

(3) the extent to which Federal, State, and local programs of drug abuse education, prevention, and treatment require reorganization or reform in order to better use available resources and to ensure greater coordination among such programs;

(4) the impact of current laws on efforts to control international and domestic trafficking of illicit drugs; and

(5) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 1935. CONFERENCE PARTICIPANTS.

In order to carry out the purposes and responsibilities specified in sections 1933 and 1934, the Conference shall bring together individuals concerned with issues relating to drug abuse education, prevention, and treatment, and the production, trafficking, and distribution of illicit drugs. The President shall—

(1) ensure the active participation in the Conference of the heads of appropriate executive and military departments, and agencies, including the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, Secretary of Transportation, and the Director of ACTION;

(2) provide for the involvement in the Conference of other appropriate public officials, including Members of Congress, Governors of States, and Mayors of Cities;

(3) provide for the involvement in the Conference of private entities, especially parents' organizations, which have been active in the fight against drug abuse; and

(4) provide for the involvement in the Conference of individuals distinguished in medicine, law, drug abuse treatment and prevention, primary, secondary, and post-secondary education, and law enforcement.

SEC. 1936. ADMINISTRATIVE PROVISIONS.

(a) All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as the President may consider advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates.

(c) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

(d) Each participant in the Conference shall be responsible for the expenses of such participant in attending the Conference, and shall not be reimbursed for such expenses from amounts appropriated to carry out this subtitle.

SEC. 1937. FINAL REPORT AND FOLLOW-UP ACTIONS.

No later than six months after the effective date of this Act, the Conference shall prepare and transmit a final report to the President and to Congress, pursuant to sections 1933 and 1934. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1938. AUTHORIZATION.

There are hereby authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of this subtitle.

Subtitle .—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. . OFFENSE.

(a) Part I of title 18, United States Code, is amended by inserting after chapter 17, the following:

"CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

"§ 341. Definitions

"As used in this chapter, the term 'common carrier' means a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while under the influence of alcohol or drugs, shall be imprisoned not more than five years or fined not more than $10,000, or both.

"§ 343. Presumptions

"For purposes of this chapter—

"(1) an individual with a blood alcohol content of .10 or more shall be conclusively presumed to be under the influence of alcohol; and

"(2) an individual shall be conclusively presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.".

(b) The table of chapters for part I of title 18, United States Code, is amended by adding after the item for chapter 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs

Subtitle .—Federal Drug Law Enforcement Agent Protection Act of 1986

SEC. . SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and

(3) striking out the matter of following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

"(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

"(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).".

Strike out title II of the House amendment and insert in lieu thereof the following:

TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 2002. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$75,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less than $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of this Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts and shall be avilable primarily for use in Latin America.".

SEC. 2003. AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES: RETENTION OF TITLE AND RECORDS OF USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new sections:

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

SEC. 2004. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of

part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 200. RESTRICTIONS OF THE PROVISION OF UNITED STATES ASSISTANCE.

(a) Section 481(h) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(h)(1) Subject to paragraph (2), for every major illicit drug producing country or major drug-transit country—

"(A) 50 percent of United States assistance allocated for such country notified to Congress in the report required under section 653(a) of this Act shall be withheld from obligation and expenditure;

"(B) on or after March 1, 1987, and on March 1 of each succeeding year, the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for such country; and

"(c) on or after March 1, 1987, and March 1 of each succeeding year, the President shall deny to all products of such country tariff treatment under title V of the Trade Act of 1974 (the Generalized System of Preferences), the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment.

"(2)(A) The assistance withheld by paragraph (1)(A) may be obligated and expended and the provisions of clauses (A) and (B) of paragraph (1) shall not apply if the President determines, and so certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; or

"(ii) for a country that would not otherwise qualify for certification under subclause (i), the vital national interests of the United States require the provision of such assistance, financing, or preferential treatment to such country.

"(B) If the President makes a certification pursuant to clause (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk should assistance, financing, or preferential tariff treatment not be provided such country; and "(ii) a statement weighing the risk described in subclause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combatting narcotics or to take adequate steps to combat narcotics on its own.

"(3) In making the certification required by paragraph (2) of this subsection, the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4). The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct, and

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

"(4)(A) The provisions of paragraph (1) shall apply without regard to paragraph (2) if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (2), joint resolution disapproving the determination of the President contained in such certification.

"(B)(i) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section, the financing described in (1)(B) of this subsection or and the preferential tariff treatment described in (1)(C) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification.".

(b) Section 481(e) of such Act is amended by striking out "February" and inserting in lieu thereof "March".

(c) Section 481(i) of such Act is amended—

"(1) by striking out "and" at the end of paragraph (3);

"(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

"(3) by adding at the end thereof the following new paragraph:

"(5) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

(d) The amendments made by this section shall take effect October 1, 1986.

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

SEC. 2008. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or up-

dated extradition treaty relating to narcotics offenses.".

SEC. 2009. FOREIGN POLICE ARREST ACTIONS.

Section 481(c) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1), by striking out in the first sentence "engage or participate in any direct police arrest action in any foreign country" and inserting in lieu thereof "directly make an arrest in any foreign country as part of any foreign police action";

(2) by amending paragraph (2) to read as follows:

"(2) Nothing in paragraph (1) prevents such employee or officer—

"(A) from being present at the scene of an arrest or otherwise assisting foreign officers in making an arrest; or

"(B) from taking direct action to protect life or safety if exigent circumstances arise in the course of an arrest which are unanticipated and which pose an immediate threat to United States or foreign officers or to members of the public."; and

(3) by adding at the end thereof the following new paragraph:

"(3) The provisions of this subsection shall apply to all countries, unless the President certifies to the Congress a specific country or countries for which it would be against the national interests of the United States to do so.

"(4) With the agreement of a foreign country, paragraph (1) shall not apply to maritime law enforcement operations in the territorial sea of such country.".

SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

(A) the Government of Bolivia's recent drug interdiction operations in cooperation with the United States (Operation Blast Furnace) evinced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted;

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) CONDITIONS ON ASSISTANCE.—Paragraph (2) of section 611 of the International Security and Development Cooperation Act of 1985 is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

"(B) the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

"In the certification required by suparagraph (B), the President shall explain why the terms of the 1983 agreement proved unattainable and the reasons why a new agreement was necessary.".

(c) RELATION TO OTHER PROVISIONS.—Nothing in the amendment made by subsection (b) shall be construed as superseding any provision of section 481 of the Foreign Assistance Act of 1961.

SEC. 2013. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

(a) REPORTS.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—

(1) listing each major illicit drug producing country and each major drug-transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

(b) RESTRICTIONS.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country had made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

(d) DEFINITIONS.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the act of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SEC. 2015. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDING.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase effects to negotiate with relevant countries procedure which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 2016. INTELLIGENCE SUPPORT TO COMBATING THE DRUG PROBLEM.

(a) It is the sense of the Congress that the Intelligence Community can play a key role in United States efforts to prevent the importation of illegal drugs into the United States. It is also the sense of the Congress that the drug problem is sufficiently important that monitoring the production of illegal drugs and providing support to efforts to halt the trafficking in illegal drugs should be a high priority for the United States intelligence program.

(b) In order to improve the strategic international narcotics control program of the United States and to assist the reporting requirements of section 481(e) of the Foreign Assistance Act of 1961, the Congress directs the Director of Central Intelligence to improve the collection and analysis of foreign drug production sufficiently to produce highly reliable data on drug cultivation, harvest, and yields for each major illicit drug producing country (as defined by section 481(i) of the Foreign Assistance Act of 1961).

(c) The Congress also directs the Director of Central Intelligence (hereafter in this paragraph referred to as the "DCI") to make support to anti-drug efforts a Level One Priority in his National Foreign Intelligence Strategy and to reflect this priority in the National Foreign Intelligence Program. The Congress understands that—

(1) a copy of the DCI's National Foreign Intelligence Strategy will be provided to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, with the DCI's budget request for fiscal year 1988; and

(2) the DCI will address Intelligence Community support to anti-drug efforts and the coordination of these efforts within the Intelligence Community in his presentation of the National Foreign Intelligence Strategy to the Committees.

SEC. 2017. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 2018. POLICY TOWARD MULTILATERAL DEVELOPMENT BANKS.

Section 481(a) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.".

SEC. 2019. MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation of production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2020. DRUGS AS A NATIONAL SECURITY PROBLEM.

The Congress hereby declares that drugs are a national security problem and urges the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2021. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations asupices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2022. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, incuding the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 2023. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make ef-

fective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study.

SEC. 2024. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2025. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentay Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2026. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985–1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 67 days after the date of enactment of this Act with Respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2027. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2028. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2029. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 2030. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2031. SUGAR QUOTA.

(a) Notwithstanding any other provision of the law: The President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the U.S. in narcotics enforcement activities as defined in section 2002 as determined by the President.

SEC. 2032. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the importance and the desire to respect the sovereignty of each nation;

(2) further, the United States government has actively worked to support the Mexican government in easing its international debt burden;

(3) Both presidents pledged their cooperation in drug eradication, enforcement and education;

(4) This pledge of cooperation has not been realized fully because of the inadequate response of the Mexican government in:

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfedo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the U.S.-Mexican border.

(b) Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subparagraph (A)(4), the President should consider taking one or more of the following measures:

(1) imposition of a mandatory travel advisory for all of Mexico;

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank);

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

TITLE III—INTERDICTION

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Improvement act of 1986".

SEC. 3002. FINDINGS.

The Congress hereby finds that—

(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

(A) increased investigations of large networks of drug smuggler organizations;

(B) source country drug eradication;

(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

(D) increased emphasis on drug education programs in the schools and workplaces;

(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive antidrug effort are emphasized;

(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal drug interdiction program;

(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the De-

partment of Defense has assisted in the effort to interdict drugs, but they can do more.

SEC. 3003. PURPOSES.

It is the purpose of this title—

(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act, for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States and

(3) to improve other drug interdiction programs of the Federal Government.

Subtitle A—Department of Defense Drug Interdiction Assistance

SEC. 3051. SHORT TITLE.

This subtitle may be cited as the "Defense Drug Interdiction Assistance Act".

SEC. 3052. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy, $138,000,000, to be available for (A) the refurbishment and upgrading, for drug interdiction purposes, of four existing E-2C Hawkeye surveillance aircraft or any other aircraft of the Navy which the Secretary considers better suited than E-2C Hawkeye surveillance aircraft to perform the drug interdiction mission, and (B) the procurement of four replacement aircraft (of the same type of aircraft refurbished and upgraded under the authorization in this paragraph) and related spares for the Navy.

(2) For procurement of seven radar aerostats, $99,500,000.

(3) For procurement of eight Blackhawk helicopters, $40,000,000.

(b) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—(1)(A) The Secretary of Defense shall make two of the existing aircraft refurbished and upgraded under section (a)(1) available to the Customs Service and the other two of such existing aircraft available to the Coast Guard.

(B) The Customs Service and the Coast Guard shall each have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service and the Coast Guard, respectively, under subparagrah (A).

(2) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(2) and the helicopters acquired under subsection (a)(3) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984.

(3) Aircraft and radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

(c) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligatied for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 3053. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on the date of the enactment of this Act, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

(c) USE OF DEPARTMENT OF DEFENSE FUNDS FOR THE COAST GUARD.—In addition to any other amounts authorized to be appropriated to the Department of Defense in fiscal year 1987, $45,000,000 shall be authorized to be appropriated for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

(d) INSTALLATION OF 360-DEGREE RADAR ON COAST GUARD SURVEILLANCE AIRCRAFT.—The Secretary of Defense is authorized to use $45,000,000 for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Funds to carry out this subsection shall be derived as described in section 3052(b). Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard.

SEC. 3054. REPORT ON DEFENSE DRUG EDUCATION ACTIVITIES.

Not later than December 1, 1986, the Secretary of Defense, in consultation with the National Drug Enforcement Policy Board and the Department of Education, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of—

(1) the extent to which youth enrolled in schools operated by the Department of Defense for dependent members of the Armed Forces are receiving education on drug and substance abuse,

(2) the types of drug education programs that are currently being provided in such schools,

(3) whether additional drug education programs are needed in such schools, and

(4) the extent to which drug education for youth in grades kindergarten through 12 include or should include preventive peer counseling classes.

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

SEC. 3056. ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AND EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL

(a) ASSISTANCE TO CIVILIAN LAW ENFORCEMENT.—Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws".

(b) EMERGENCY ASSISTANCE.—Section 374(c) of such title is amended to read as follows:

"(c)(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used as a base of operations outside the land area of the United States (or any territory, commonwealth, or possession of the United States) by Federal law enforcement officials—

"(A) to facilitate the enforcement of a law listed in subsection (a); and

"(B) to transport such law enforcement officials in connection with such operations.

"(2)(A) Subject to subparagraph (B), equipment operated by or with the assistance of personnel assigned under subsection (a) may not be used to interdict or interrupt the passage of vessels and aircraft.

"(B) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to intercept vessels and aircraft outside the land area of the United States (or any territory, commonwealth, or possession of the United States) for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists and that enforcement of a law listed in subsection (a) would be seriously impaired if such use of equipment were not permitted. Such use of equipment may continue into the land area of the United States (or any territory or possession of the United States) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(3) For purposes of this subsection, an emergency circumstance exists when—

"(A) the size or scope of the suspected criminal activity in a given situation poses

a serious threat to the interest of the United States; and

"(B) the assistance described in this subsection would significantly enhance the enforcement of a law listed in subsection (a).".

SEC. 3057. ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) GENERAL REQUIREMENT.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress the following:

(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

(B) Communications equipment, including secure communications.

(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

(b) COMMITTEE APPROVAL AND FINAL IMPLEMENTATION.—Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

(c) EQUIPMENT SUBJECT TO SECTION 3052(d).—Equipment identified in this section is subject to the provisions of section 3052(d).

(d) APPLICABILITY.—Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

(e) REVIEW BY GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).

SEC. 3058. GRADE OF DIRECTOR OF DEPARTMENT OF DEFENSE TASK FORCE ON DRUG ENFORCEMENT.

During fiscal year 1987, the number of officers of the Marine Corps authorized under section 525(b) of title 10, United States Codes, to be on active duty in grades above major general is increased by one during any period that an officer of the Marine Corps is serving as the Director of the Department of Defense Task Force on Drug Enforcement. An additional officer in a grade above major general by reason of this section may not be in the grade of general.

SEC. 3059. CIVIL AIR PATROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Civil Air Patrol, the all-volunteer civilian auxiliary of the Air force, can increase its participation in and make significant contributions to the drug interdiction efforts of the Federal Government, and

(2) the Secretary of the Air Force should fully support that participation.

(b) AUTHORIZATION.—In addition to any other amounts appropriated for the Civil Air Patrol for fiscal year 1987, there are authorized to be appropriated for the Civil Air Patrol, out of any unobligated and uncommitted balances of appropriations for the Department of Defense for fiscal year 1986 which are carried forward into fiscal year 1987, $7,000,000 for the acquisition of the major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions.

(c) REPORTS.—(1) The Secretary of the Air Force shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives quarterly reports which contain the following information:

(A) A description of the manner in which any funds are used under subsection (b).

(B) A detailed description of the activities of the Civil Air Patrol in support of the Federal Government's drug interdiction program.

(2) The first report under paragraph (1) shall be submitted on the last day of the first quarter ending not less than 90 days after the date of the enactment of this Act.

Subtitle B—Customs Enforcement

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Customs Enforcement Act of 1986".

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 3111. DEFINITIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c);

(2) by striking out "The term" in subsection (k) and inserting in lieu thereof "(1) The term";

(3) by adding at the end of subsection (k) the following new paragraph:

"(2) For the purposes of sections 432, 433, 434, 448, 585, and 586, any vessel which—

"(A) has visited any hovering vessel;

"(B) has received merchandise while in the customs waters beyond the territorial sea; or

"(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place."; and

(4) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.".

SEC. 3112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DIS-

CHARGE.—Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

only in accordance with regulations prescribed by the Secretary.".

SEC. 3113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433;

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 of the Tariff Act of 1930 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 3114. PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 3115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 of the Tariff Act of 1930 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $5,000, or imprisonment for not more than 1 year, or both.".

(b) REPEAL.—Section 460 is repealed.

SEC. 3116. PENALTIES FOR FAILURE TO DECLARE.

Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497) is amended to read as follows:

"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.

"(a) IN GENERAL.—(1) Any article which—

"(A) is not included in the declaration and entry as made; and

"(B) is not mentioned before examination of the baggage begins—

"(i) in writing by such person, if written declaration and entry was required, or

"(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

"(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

"(A) if the article is a controlled substance, 200 percent of the value of the article; and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 3117. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 3118. FALSE MANIFESTS; LACK OF MANIFEST.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000";

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000";

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500"; and

(4) by striking out "$10" in subsection (a)(2) and inserting in lieu thereof "$200".

SEC. 3119. UNLAWFUL UNLOADING OF MERCHANDISE.

Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 3120. AVIATION SMUGGLING.

Part V of title IV of the Tariff Act of 1930 is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any

individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) SEA TRANSFERS.—It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

"(1) either—

"(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

"(B) the vessel is a vessel of the United States (within the meaning of section 3(b) of the Anti-Smuggling Act (19 U.S.C. 1703(b)), or

"(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

"(c) CIVIL PENALTIES.—Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 497(b).

"(d) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (c), any person who intentionally commits a violation of any provision of this section is, upon conviction—

"(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

"(e) SEIZURE AND FORFEITURE.—

"(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier."

"(f) DEFINITION OF MERCHANDISE.—As used in this section, the term 'merchandise' means only merchandise the importation of which into the United States is prohibited or restricted.

"(g) INTENT OF TRANSFER OF MERCHANDISE.—For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) or section 596, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

"(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

"(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

"(3) The failure to identify correctly—

"(A) the vessel by name or country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

"(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

"(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 3121. SEIZURES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining, and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 3122. SEARCHES AND SEIZURES.

Section 595(a) of the Tariff Act of 1930 (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

"(C) any document, container, wrapping, or other article which is evidence of a violation of section 592 involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

"(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.".

SEC. 3123. FORFEITURES.

Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

SEC. 3124. PROCEEDS OF FORFEITED PROPERTY.

Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 3125. COMPENSATION TO INFORMERS.

Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1) any person who is not an employee or officer of the United States—

"(A) detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws and reports such detection and seizure to a customs officer, or

"(B) furnishes to a United States attorney, the Secretary of the Treasury, or any customs officer original information concerning—

"(i) any fraud upon the customs revenue, or

"(ii) any violation of the customs laws or the navigation laws which is being, or has been, perpetrated or contemplated by any other person; and

"(2) such detection and seizure or such information leads to a recovery of—

"(A) any duties withheld, or

"(B) any fine, penalty, or forfeiture of property incurred;

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount so recovered.

"(b) FORFEITED PROPERTY NOT SOLD.—If—

"(1) any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States and is thereafter, in lieu of sale—

"(A) destroyed under the customs or navigation laws, or

"(B) delivered to any governmental agency for official use, and

"(2) any person would be eligible to receive an award under subsection (a) but for the lack of sale of such forfeited property,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the appraised value of such forfeited property.

"(c) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

"(d) SOURCE OF PAYMENT.—Unless otherwise provided by law, any amount paid under this section shall be paid out of appropriations available for the collection of the customs revenue.

"(e) RECOVERY OF BAIL BOND.—For purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.".

SEC. 3126. FOREIGN LANDING CERTIFICATES.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 3127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 628. EXCHANGE OF INFORMATION.

"(a) IN GENERAL.—The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(4) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

"(b) NONDISCLOSURE AND USES OF INFORMATION PROVIDED.—

"(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

"(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).".

SEC. 3128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV of the Tariff Act of 1930 is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections; and

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.".

PART 2—UNDERCOVER CUSTOMS OPERATIONS

SEC. 3131. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks

or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

(b) SPECIAL EFFECTIVE DATE RULE.—If the bill H.R. 5300 (providing for reconciliation of the budget for fiscal year 1987) is enacted and includes an amendment to section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 which is identical to the amendment made by subsection (a) of this section, then the amendment made by subsection (a) shall have no effect.

SEC. 3142. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 3151. RECREATIONAL VESSELS.

Section 1210(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 3152. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer shall—

"(1) upon being questioned at the time of executing any of the powers conferred upon him, make known his character as an officer of the Federal Government; and

"(2) have the authority to demand the assistance of any person in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary.

If a person, without reasonable excuse, neglects or refuses to assist a customs officer upon proper demand under paragraph (2), such person is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person other than an officer or employee of the United States who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 3153. REPORTS ON EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out

"$5,000" and inserting in lieu thereof "$10,000".

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 3161. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

(a) AMENDMENT TO ACT.—Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "POSSESSION," in the heading;

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall";

(3) by striking out "This section" and inserting in lieu thereof "(c) This section";

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a); and

(5) by inserting after subsection (a) the following new subsection:

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

"(1) manufacture or distribute a controlled substance; or

"(2) possess a controlled substance with intent to distribute.".

(b) CONFORMING AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Manufacture" in the item relating to section 1009 and inserting in lieu thereof "Possession, manufacture".

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Maritime Drug Law Enforcement Prosecution Improvements Act of 1986".

SEC. 3202. IMPROVEMENT OF PUBLIC LAW 96-350.

The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign state, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 3. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

Subtitle D—Coast Guard

SEC. 3251. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

(a) ADDITIONAL AUTHORIZATIONS FOR THE COAST GUARD.—

(1) There are authorized to be appropriated for Acquisition, Construction, and Improvements of the Coast Guard, $89,000,000.

(2) There are hereby authorized to be appropriated for Operating Expenses of the Coast Guard, $39,000,000. This amount shall be used to increase the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1987 to 39,220, and to increase the utilization rate of Coast Guard equipment.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this sec-

tion are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle E—United States-Bahamas Drug Interdiction Task Force

SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act, immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141, and (ii) any training and personnel enhancements authorized in this section and section 3141.

(C) The Attorney General shall report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title, $10,000,000 for the following:

(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle F—Command, Control, Communications, and Intelligence Centers

SEC. 3351. ESTABLISHMENT OF COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE CENTERS (C-3I).

There are authorized to be appropriated $25,000,000 for the establishment of command, control, communications, and intelligence (C-3I) centers, including sector operations centers and a national command, control, communications, and intelligence (C-3I) center, in locations within the United States. The coordination of the establishment and location of such C-3I centers shall be conducted by the Commissioner of Customs; the Commandant of the Coast Guard; the Attorney General of the United States; and the National Narcotics Border Interdiction System (NNBIS).

Subtitle G—Transportation Safety

SEC. 3401. AIR SAFETY.

(1) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App 1472(b)) is amended by adding at the end the following:

"(3)(A) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who in connection with an act described in subparagraph (B) and with knowledge of such act—

"(i) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

"(ii) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

"(ii) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

"(iv) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.

"(B) The act referred to in subparagraph (A) is the transportation by aircraft of any controlled substance, or the aiding or facilitation of a controlled substance offense, where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).".

(2) Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.".

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

(b)(1) Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked, or if such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration is suspended or revoked, or that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator of the Federal Aviation Administration with respect to the display of navigation or anticollision lights; and

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall

be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given to such term by section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting the following:

"(q) Violations in connection with transportation of controlled substances.".

(c) Section 904(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1474(a)) is amended—

"(1) by striking "$500" each place it appears and inserting in lieu thereof "$5,000";

(2) by inserting after the second sentence the following: "In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109(b) and (c) of this Act, the owner or person in charge of such aircraff shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidenced, that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board."; and

(3) by amending the third sentence to read as follows: "In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft.".

SEC. 3402. DRUG AND HIGHWAY SAFETY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resultng in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3403. SAVINGS PROVISION.

In any proceeding under section 11344 of title 49, United States Code, involving an application by a rail carrier (or a person controlled by or affiliated with a rail carrier) to acquire a motor carrier, the Interstate Commerce Commission, and any Federal court reviewing action of the Commission, shall follow the standards set forth in the Commission decision in Ex Parte No. 438 if the applicant rail carrier, between July 20, 1984, and September 30, 1986 (1) filed an application with the Commission to acquire a motor carrier, (2) entered into a contract or signed a letter of intent to acquire a motor carrier, or (3) made a public tender offer to acquire a motor carrier.

Subtitle H—Department of Justice Funds for Drug Interdiction Operations in Hawaii

SEC. 3421. ADDITIONAL FUNDS FOR THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for fiscal year 1987, in addition to any other amounts authorized to be appropriated to the Department for such fiscal year, $7,000,000 for helicopters with forward looking infrared radiation detection devices for drug interdiction operations in Hawaii.

SEC. 3451. COMMUNICATIONS.

The Federal Communications Commission may revoke any private operator's license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission may, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

TITLE IV—DEMAND REDUCTION

Subtitle A—Treatment and Rehabilitation

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. SPECIAL ALLOTMENTS FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS.

Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a) To carry out this section and sections 1922, 1923, 508, and 510 there are authorized to be appropriated $241,000,000 for fiscal year 1987. Of the total amount appropriated under the preceding sentence for fiscal year 1987, 7 percent shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 72 percent shall be available for allotments to States under this section for such fiscal year, 5 percent shall be available for transfer to the Administrator of Veterans' Affairs under section 1922 for such fiscal year, 1 percent shall be available to carry out section 1923 for such fiscal year, and 15 percent shall be available to carry out sections 508 and 510 for such fiscal year.

"(b)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d);

"(C) the commitment of the State to the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse (as determined by the Secretary after an evaluation of the expenditures of the State for such services during the calendar year described in subparagraph (B) and of the ability of the State to meet the need for such services); and

"(D) the availability in the State of Federal, State, and local public resources to satisfy the needs in such State for services described in subparagraph (C).

"(4) The Secretary shall make allotments to States under paragraph (1) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year. The Secretary shall make allotments to States under paragraph (2) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, within four months after the date of enactment of the Alcohol and Drug Abuse Amendments of 1986.

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts which are appropriated for that fiscal year and available for such allotments.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for

the purposes for which it was made for the next fiscal year.

"(d) In order to receive an allotment for a fiscal year under subsection (b), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (c) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (c) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(e)(1) Except as provided in subsections (f) and (i), amounts paid to a State under subsection (c) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(f) Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (e)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"TRANSFER TO THE ADMINISTRATOR OF VETERANS' AFFAIRS

"SEC. 1922. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1921(a), is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1923. One percent of the total amount appropriated under section 1921(a) for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters relating to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the Institute was established;

"(B) the acquisition of grounds for the Institute; or

"(C) the construction, equipping, or maintenance of facilities for the Institute.

"(3) Each advisory council for an Institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the Institute, make recommendations to the Director of the Institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the Institute was established and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If

a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the Institute for which the advisory council was established.

"(f) The Director of the Institute for which an advisory council is established shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) The amendment made by subsection (a) does not terminate the membership of any advisory council for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which was in existence on the date of enactment of this Act. After such date—

(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 of the Public Health Service Act;

(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section.

(c) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4004. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) Part A of title V (as amended by section 4003 of this Act) is further amended by adding at the end thereof the following new sections:

"OFFICE FOR SUBSTANCE ABUSE PREVENTION

"SEC. 508. (a) There is established in the Administration an Office for Substance Abuse Prevention (hereafter in this part referred to as the 'Office'). The Office shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack'));

"(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

"(5) support programs of clinical training of substance abuse counselors and other health professionals;

"(6) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

"(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986;

"(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people; and

"(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.

"(c) The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b).

"(d) Of the amounts available under the second sentence of section 1921(a) to carry out this section and section 510, $20,000,000 shall be available to carry out section 510.

"ALCOHOL AND DRUG ABUSE INFORMATION CLEARINGHOUSE

"SEC. 509. The Secretary, through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

"(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

"(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

"(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

"(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

"PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

"SEC. 510. (a) The Secretary, through the Director of the Office, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth.

"(b)(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

"(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(c) To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

"(d)(1) In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Governor of the State in which the project will be conducted. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

"(2) The Governor of each State shall review each application received under subsection (a) for a fiscal year and shall submit to the Secretary, by a date prescribed by the Secretary for such fiscal year, the recommendations of the Governor concerning the approval or disapproval of each such application and a ranking recommended by the Governor of the priority for approval of such applications. In making recommendations under the preceding sentence, the Governor shall consider the priorities and requirements for grants established by subsections (b) and (c).

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.

"(f) For purposes of this section, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;
"(4) has become pregnant;
"(5) is economically disadvantaged;
"(6) has committed a violent or delinquent act;
"(7) has experienced mental health problems;
"(8) has attempted suicide; or
"(9) is disabled by injuries.".

(b)(1) Section 502(e) is repealed.

(2) Section 503(d) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(C) by striking out paragraph (4).

SEC. 4005. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by sections 4003 and 4004 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 511. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of an Institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

SEC. 4006. PEER REVIEW.

Subsection (b) of section 507 (as redesignated by section 4003(a) of this Act) is amended by inserting "applications made for" after "review of" in the matter preceding paragraph (1).

SEC. 4007. NATIONAL ALCOHOL RESEARCH CENTERS.

Section 511(b) is amended—

(1) by striking out "or rental" before "any land"; and

(2) by striking out "rental," before "purchase".

SEC. 4008. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a) is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs; and"; and

(3) by adding at the end thereof the following:

"(6) the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction.".

SEC. 4009. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4010. SUICIDE.

(a) Section 504 is amended by adding at the end thereof the following new subsection:

"(h) The Director shall—

"(1) develop and publish information respecting the causes of suicide and the means of preventing suicide; and

"(2) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.".

(b) Not later than one year after the date of enactment of this Act, the Director of the National Institute of Mental Health shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 504(h) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. MENTAL HEALTH NEEDS OF THE ELDERLY.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4012. TECHNICAL AMENDMENT.

Section 504(e) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

SEC. 4013. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix

is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (c)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risks to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 301(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4014. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Federal Food, Drug, and Cosmetic Act.

71-059 O-87-27 (Pt. 21)

SEC. 4015. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4016. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should review available knowledge and conduct studies to assess the most effective means of providing such education, including an assessment of the potential educational impact of health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any activities described in paragraph (2) which have been undertaken, and should include in such report any findings respecting the impact and potential benefits of displaying health warnings on the containers of alcoholic beverages and recommendations for specific language for such labels.

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitutes a grave threat to their physical and mental well-being and significantly impedes the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 4103. PURPOSE.

The purpose of this subtitle is to assist States in their efforts to educate concerning, and to prevent, drug use and alcohol abuse through school and community based programs.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

(a)(1) From the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year—

(A) $2,000,000 shall be reserved by the Secretary for programs under sections 4135 and 4136 for such fiscal year, of which $300,000 shall be for programs under section 4136 for such fiscal year;

(B) $10,000,000 shall be reserved by the Secretary for regional centers under section 4132(b) for such fiscal year;

(C) $15,000,000 shall be reserved by the Secretary for grants to and contracts with institutions of higher education under section 4131 for such fiscal year; and

(D) $7,500,000 shall be reserved by the Secretary for programs and activities under sections 4132(a) and 4134 for such fiscal year.

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $7,500,000 shall be available to the Secretary of Health and Human Services to carry out section 4134 for such fiscal year.

(b)(1) From the remainder of the amount appropriated or otherwise made available to carry out this subtitle for each fiscal year after the application of subsection (a) for such fiscal year, the Secretary may reserve up to 1 percent for allotments to territories and possessions.

(2) From the amount reserved under paragraph (1) for a fiscal year, the Secretary shall allot to each territory or possession an amount which bears the same ratio to such reserved amount as the school-age population of such territory or possession bears to the population of all territories and possessions.

(3) For purposes of this subsection, the term "territory or possession" means Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(c)(1) From the amount available to carry out this subtitle for a fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to such available amount as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than $800,000 under this subsection.

(2) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) The Secretary may reallot any amount of any allotment to a State under subsection (b) or (c) to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under subsection (b) or (c).

(e) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under subsection (b) or (c) from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 35 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State programs is accordance with section 4122.

(b) An amount equal to 65 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency for—

(1) programs described in section 4123(b); and

(2) grants to and contracts with local educational agencies, intermediate educational agencies, and consortia for activities in accordance with sections 4123(a) and 4125.

SEC. 4122. STATE PROGRAMS.

(a) Funds made available to the chief executive officer of a State under section 4121(a) shall be used for grants to and contracts with local governments, local educational agencies, institutions of higher education, consortia, and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broad based programs for drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education for all age groups;

(2) training programs for teachers, counselors, other educational personnel, parents, local law enforcement and judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) aimed at drug-free communities in every State;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia of such agencies—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs; and

(B) in undertaking the coordination of such programs with related community efforts and resources; and

(C) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

(b) In carrying out subsection (a), the chief executive officer of a State shall ensure that model, innovative, community based programs of multiple coordinated services for high risk youth are given the highest priority. For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is the child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide; or

(9) is disabled by injuries.

SEC. 4123. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use 90 percent of the amounts available to such agency under section 4121(b) for grants to, and contracts with, local educational agencies, intermediate educational agencies, and consortia in the State, for the purposes described in section 4125(a), except that for fiscal years 1989 and 1990 the State educational agency shall allot to each local educational agency an amount which bears the same ratio to the amounts available for purposes of this subsection for such fiscal year as the school-age population in the local school district bears to the school-age population in the State.

(b) Each State educational agency shall use 10 percent of the amounts available under section 4121(b) for each fiscal year for programs of drug and alcohol abuse prevention, early intervention, treatment and rehabilitation referral, and education. Programs carried out under this subsection may include activities such as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricula and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children, sparsely populated areas, or to meet other special needs;

(5) collaborative and coordinated activities, including grants to and contracts with institutions of higher education, local educational agencies, and regional centers established under section 4132(b); and

(6) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

(c) Each State educational agency shall submit to the chief executive officer of the State a plan which—

(1) describes the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(2) provides assurances that the State educational agency will provide financial assistance under this part only to local educational agencies, intermediate educational agencies, and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

(3) describes how funds will be allocated among local educational agencies, intermediate educational agencies, and consortia for fiscal years 1987 and 1988 and how funds will be used under this part; and

(4) provides for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. STATE APPLICATIONS.

(a) In order to receive an allotment under subsection (b) or (c) of section 4112, a State shall submit an application to the Secretary. As part of such application the chief executive officer of the State shall agree to use the funds paid to the State under this part in accordance with the requirements of this subtitle.

(b) Each application submitted under subsection (a) shall—

(1) cover a period of two fiscal years;

(2) be submitted at a time, in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this subtitle for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this subtitle and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part; and

(6) designate the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part and include the plan for use of funds under section 4123(c).

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to a local educational agency, intermediate educational agency, or consortia pursuant to a grant or contract under section 4123(a) may be used by such agency or consortia for drug abuse and alcohol abuse prevention and education activities primarily directed toward elementary, secondary, and postsecondary schools. Such activities may include—

(A) the development and implementation of drug abuse and alcohol abuse education curricula for elementary and secondary schools;

(B) drug abuse and alcohol abuse prevention counseling programs including peer and professional counseling;

(C) programs of drug abuse and alcohol abuse treatment referral;

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(I) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

(b) Not more than 2.5 percent of any grant, contract, or allotment under section 4123(a) for any fiscal year may be used for administrative costs of a local or intermediate educational agency or consortium in carrying out programs under this part.

SEC. 4126. LOCAL APPLICATIONS.

(a) A local educational agency, intermediate educational agency, or a consortia may submit an application to the State educational agency for a grant, contract, or allotment under this part. A local educational agency may receive a grant, contract, or allotment under this part for any fiscal year for which such application is certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

(1) sets forth a comprehensive plan for programs to be carried out by the applicant under this part;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establishes or designates a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-

based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describes the manner in which the applicant will establish, implement, or augment age-appropriate, developmentally-based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, including a description of provisions to target education efforts to students most at risk of drug abuse and to schools with the greatest need of drug abuse prevention programs;

(5) provides assurances that the applicant enforces related rules and regulations of student conduct;

(6) describes the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(7) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(8) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(9) provide assurances of compliance with the provisions of this part;

(10) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(11) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From amounts reserved by the Secretary under section 4112(a)(1)(C), the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia thereof for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education or consortia thereof which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to institutions of higher education of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b)(1) Training grants shall be available for—

(A) pre-service and in-service training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(B) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(C) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and

(D) training programs for law enforcement officials, community leaders, parents, and government officials.

(2) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this paragraph, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(c) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4132(b).

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including treatment and rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 4132. FEDERAL ACTIVITIES.

(a)(1) The amount reserved by the Secretary under section 4112(a)(1)(D) for each fiscal year shall be used to carry out the activities described in paragraph (2).

(2) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(A) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under the Public Health Service Act;

(B) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug and alcohol abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(C) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug and alcohol abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies;

(D) identify research and development priorities with regard to school-based drug and alcohol abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4; and

(E) collect data concerning, and evaluate, programs that reduce drug abuse and alcohol abuse among students.

(b) The Secretary shall use the amount reserved under section 4112(a)(1)(B) for each fiscal year to maintain at least 5 regional centers to—

(1) train school teams to access the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

(c) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the Committees on Appropriations and Labor and Human Resources of the Senate and the Committees on Appropriations and Education and Labor of the House of Representatives not later than one year after the date of the enactment of this Act.

SEC. 4133. INTERAGENCY COORDINATION.

The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, and the Director of ACTION shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, and ACTION, respectively, to coordinate interagency drug and alcohol abuse activities.

SEC. 4134. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

(a) The Secretary of Health and Human Services and the Secretary of Education shall provide training and technical assistance to States and public and nonprofit private entities in planning and operating activities to be carried out under this subtitle.

(b) The Secretary of Health and Human Services and the Secretary of Education may conduct data collection and evaluation activities to assist in carrying out this subtitle.

SEC. 4135. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the amounts reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423(a) of the Indian Education Act (20 U.S.C. 3385b) is amended by inserting "clinical psychology," after "medicine,".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.".

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 4136. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(1)(A) and available for purposes of this section, the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

PART 4—GENERAL PROVISIONS

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, treatment and rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies, intermediate educational agencies, State educational agencies, and institutions of higher education or a consortium of one or more such agencies or institutions.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 4144. MATERIALS.

Any materials produced or distributed with amounts appropriated under this subtitle shall reflect the message that the use of illegal drugs and the abuse of alcohol and other drugs is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this section.

Subtitle C—Indians and Alaska Natives

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

SEC. 4202. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in education, social services, law enforcement, and other areas, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indians is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their members and the resources made available under this subtitle will assist Indian tribes in meeting that responsibility.

SEC. 4203. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 4204. DEFINITIONS.

For purposes of this subtitle—

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 4205, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 19 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, Indians who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help Indians reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 4205. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 4206, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 130 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 4206. TRIBAL ACTION PLANS.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and sub-

stance abuse among its members. Such resolution shall be the basis for the implementation of this subtitle and of the Memorandum of Agreement under section 4205.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 4205, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for scheduling Federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among Indians as provided under section 4228, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 4205(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted the resolution for the Plan,

(2) the identification and coordination of available resources and programs relevant to a program of alcohol and substance abuse prevention and treatment,

(3) the establishment and prioritization of goals and the efforts needed to meet those goals, and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. The Secretary shall allocate funds based on need.

(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 90 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 4207. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 4206.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 4208. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction: Provided, That the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available Federal, tribal, State, local, or private funds, if not otherwise prohibited by law. This subsection does not require the Secretary of the Interior nor the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

SEC. 4210. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

PART III—INDIAN YOUTH PROGRAMS

SEC. 4211. REVIEW OF PROGRAMS.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) Federal programs providing education services or benefits to Indian children,

(2) tribal, State, local, and private educational resources and programs,

(3) Federal programs providing family and social services and benefits for Indian families and children,

(4) Federal programs relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 4206.

SEC. 4212. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 4213. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 4206 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 4205, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operated.

(e) AUTHORIZATION.—For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989. For the operation of emergency shelters or half-way houses there is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 4214. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 4215. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION: SOURCE ERADICATION

(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal Law enforcement agencies, including the United States Customs Service.

(2) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989.

(b)(1) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(2) AUTHORIZATIONS.—To carry out subsection (a), there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 4218. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in subsection (a) shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 4228.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4219. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 4205 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either through its direct or contract health service.

SEC. 4220. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall construct or renovate and staff new or existing juvenile detention centers. The Secretary shall ensure that the construction and operation of the centers is consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there is authorized to be appropriated $10,000,000 for construction and renovation for each of the fiscal years 1987, 1988, and 1989, and $5,000,000 for staffing and operation for each of the fiscal years 1987, 1988, and 1989.

SEC. 4221. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 4222. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 4224. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 4225. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 4205 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 4226. INDIAN HEALTH SERVICE PROGRAM.

The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

SEC. 4227. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) CENTERS.—The Secretary shall construct or renovate a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For purposes of the preceding sentence, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health professionals. There are authorized to be appropriated $6,000,000 for the construction and renovation of the regional youth treatment centers, and $3,000,000 for the staffing of such centers, for each of the fiscal years 1987, 1988, and 1989.

(c) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures, suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth, and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(3) There are authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4228. TRAINING AND COMMUNITY EDUCATION.

(a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the In-

terior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical parties.

(b) TRAINING.—The Secretary of Health and Human Services shall, either directly or through contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Indian Health Service, and personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Indian Health Services, including supervisors of emergency shelters and half-way houses described in section 4213.

"(c)(1) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall establish at least one demonstration project to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, * * * depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

"(5) For purposes of this paragraph, the term 'health promotion' shall include:

"(A) reduction in the misuse of alcohol and drugs,

"(B) cessation of tobacco smoking.

"(C) improvement of nutrition.

"(D) improvement in physical fitness.

"(E) family planning, and

"(F) control of stress.

"(6) For purposes of this paragraph, the term 'disease prevention' shall include:

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) pregnancy and infant care (including prevention of fetal alcohol syndrome),

"(6) control of toxic agents,

"(7) occupational safety and health,

"(8) accident prevention,

"(9) fluoridation of water, and

"(10) control of infectious agents.

"(7) Sec. 4228 is amended by adding at the end the following 'provided that $500,000 shall be made available for activities described under section 4228(c)(1).

(d) AUTHORIZATION.—There are authorized to be appropriated $4,000,000 for the fiscal year 1987 and such sums as are necessary to carry out the purposes of this section for the fiscal years 1988 and 1989.

SEC. 4229. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 4230. INDIAN HEALTH SERVICE REPORTS.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and section 4204 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle D—Miscellaneous Provisions

SEC. 4301. ACTION GRANTS.

The Domestic Volunteer Service Act of 1973 is amended—

(1) in title I by adding after section 123 the following new section:

"SPECIAL INITIATIVES

"SEC. 124. The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, public service announcements, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations). In fulfilling the authority of this section, the Director is authorized to (1) coordinate the agency efforts with the White House and other Federal agencies, and (2) accept in the name of the ACTION agency funds received through solicitation of profit and nonprofit entities.";

(2) by amending subsection (c) of section 501 to read as follows:

"(c) There is to be authorized to be appropriated to carry out programs under part C of title I of this Act $4,484,000 for the fiscal year 1987 (of which $2,500,000 shall be available for drug abuse prevention), $1,984,000 for fiscal year 1988, and $1,984,000 for fiscal year 1989."; and

(3) by amending section 504 to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the Administration of this Act, as authorized in title IV of this Act, $25,812,000 for fiscal year 1987 (of which $500,000 shall be available for support of drug abuse prevention), $25,312,000 for fiscal year 1988, and $25,312,000 for fiscal year 1989.".

SEC. 4302. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under subtitle B, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matters, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Reports.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

SEC. 4303. INFORMATION ON DRUG ABUSE AT THE WORKPLACE.

The Secretary of Labor may collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary may conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The Secretary may submit the findings of such collection and research to the House Committee on Education and Labor and the Senate Committee on Labor and Human Services no later than two years from the date of enactment of this Act.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "United States Insular Areas Drug Abuse Act of 1986".

SEC. 5002. PURPOSES.

The purposes of this subtitle are to improve enforcement of drug laws and enhance interdiction of illicit drug shipments in the Caribbean and Pacific territories and commonwealths of the United States and to assist public and private sector drug abuse prevention and treatment programs in United States insular areas.

SEC. 5003. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 5004. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services of the United States are authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated $700,000 to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(2) There are authorized to be appropriated $1,000,000 to carry out paragraph (1). Funds appropriated under this paragraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States and the Secretary of Health and Human Services, as appropriate, are authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated $250,000 to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The United States Customs Service should station an aerostat in Puerto Rico.

(3) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(4)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent and treat narcotics abuse, such sums to remain available until expended.

(2) The United States Coast Guard should station a patrol vessel in St. Croix, Virgin Islands.

(3)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

Subtitle B—National Park Service Program

SEC. 5051. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 5052. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of ad-

ditional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 6002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subchapter, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (42 U.S.C. 290ee-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of the Federal Employee Substance Abuse Education and Treatment Act of 1986 and annually thereafter, submit to each House of Congress a report containing the matters described in subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362 of this title, including the costs associated with each such program or service and the source and adequacy of any funding such program or service;

"(2) a description of the levels of participation in each program and service provided under section 7361 or 7362 of this title, and the effectiveness of such programs and services;

"(3) a description of the training and qualifications required of the personnel providing any program or service under section 7361 or 7362 of this title;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) any recommendations for legislation considered appropriate by the Office and any proposed administrative actions; and

"(6) information describing any other related activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.— The Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290dd-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(2) in section 525 (42 U.S.C. 290ee-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

SEC. 6003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes prescribed in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed to provide information to Federal Government employees with respect to—

(1) the short- and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law or regulation, and any administrative action (permissive or mandatory), relating to the use of alcohol or drugs by a Federal Government employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 6004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 6005. SUBSTANCE ABUSE COVERAGE STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent to which the cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and (2) the adequacy of such coverage for the rehabilitation of drug abusers.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of Health and Human Services shall transmit to the Congress a report of the results of the study conducted under subsection (a). The report shall include recommendations of means to meet the needs identified in such study.

SEC. 6006. HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT.

(a) FINDINGS.—The Congress finds that—

(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

(4) the total cost of drug abuse to the nation in 1983 was over $60,000,000,000; and

(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 7002. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 7003. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "President's Media Commission on Alcohol and Drug Abuse Prevention Act".

SEC. 8002. ESTABLISHMENT.

There is established a commission to be known as the President's Media Commission on Alcohol and Drug Abuse Prevention (hereinafter in this title referred to as the "Commission").

SEC. 8003. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public education programs in effect on the date of the enactment of this title which are—

(A) implemented through various segments of mass media; and

(B) intended to prevent alcohol and drug abuse;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, motion picture, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) professional sports organizations and associations;

to assist the implementation of new programs and national strategies for dissemination of information intended to prevent alcohol and drug abuse;

(3) encourage media outlets throughout the country to provide information aimed at preventing alcohol and drug abuse, including public service announcements, documentary films, and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 8004. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this title, and should include representatives of—

(1) advertising agencies;

(2) motion picture, television, radio, cable communications, and print media;

(3) the recording industry;

(4) other segments of the business sector of the United States;

(5) experts in the prevention of alcohol and drug abuse;

(6) professional sports organizations and associations; and

(7) other Federal agencies, as designated by the President, including the Director of the Agency for Substance Abuse Prevention of the Department of Health and Human Services.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of his term until his successor has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 8005. MEETINGS.

(a) IN GENERAL.—(1) The Commission shall meet at the call of the Moderator.

(2) The Moderator shall convene the 1st meeting of the Commission within 30 days after the date of the completion of appointments under section 4(a).

(b) MODERATOR.—One member of the Commission shall be designated by the President to serve as Moderator of the Commission.

(c) QUORUM AND PROCEDURE.—The Commission shall adopt rules regarding quorum requirements and meeting procedures as the Commission deems appropriate at the 1st meeting of the Commission.

(d) VOTING.—Decisions and official acts of the Commission shall be according to the vote of a majority of members at a properly called meeting.

SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR AND STAFF.—(1) Subject to paragraph (2), the Moderator, with the approval of the Commission, may employ and set the rate of pay for a Director and such staff as the Moderator deems necessary.

(2) Rates of pay set under paragraph (1) shall be less than the rate of basic pay payable under section 5316 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Moderator, with the approval of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

SEC. 8007. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—Upon the request of the Moderator of the Commission, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8008. REPORT.

The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

SEC. 8009. TERMINATION.

The Commission shall terminate on a date which is three years after the date on which members of the Commission are first appointed, unless the President, by Executive

order, extends the authority of the Commission.

TITLE IX—BALLISTIC KNIFE PROHIBITION

SEC. 9001. SHORT TITLE.

This title may be cited as the "Ballistic Knife Prohibition Act of 1986".

SEC. 9002. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

"SEC. 7. (a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

SEC. 9003. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

The amendments made by this title shall take effect 30 days after the date of enactment of this title.

TITLE —HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. . SHORT TITLE.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. . MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. . JOB TRAINING FOR THE HOMELESS.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN TO INCLUDE HOMELESS.—(1) Section 121(b)(1) of the Job Training Partnership Act (20 U.S.C. 1531(b)(1)) is amended by inserting after "rehabilitation agencies" a comma and the following: "programs for the homeless".

(2) Section 121(c)(3) of the Job Training Partnership Act is amended by inserting after "offenders" a comma and the following: "homeless individuals".

(b) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by striking out "or addicts" and inserting in lieu thereof "addicts, or homeless".

Subtitle C—Entitlements Eligibility

SEC. . TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER AFDC, SSI, AND MEDICAID PROGRAMS.

(a) AFDC.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (38),

(2) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(40) provide a method of verifying the eligibility of, and making aid available with respect to, a dependent child who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(b) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide a method of verifying the eligibility of, and making payments under this title to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(c) MEDICAID PROGRAM.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(47) provide a method of verifying the eligibility of, and making medical assistance available to, an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2) If a State agency administering a plan approved under part A of title IV of the Social Security Act or under title XIX of such Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by subsection (a) or (c) of this section, respectively, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or the date of the enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

SEC. . SINGLE APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

(a) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Single Application for SSI and Food Stamp Benefits by SSI Pre-Release Individuals

"(j)(1) The Secretary shall provide for the establishment, maintenance, and improvement of procedures designed to ease the transition of institutionalized persons from medical, penal, and other institutions to the community, and to prevent homelessness, by permitting such persons to apply for benefits under this title prior to their discharge or release from such institutions and thereby assuring that essential support (such as housing, food, and clothing) is available to them upon such discharge or release.

"(2) Under regulations prescribed by the Secretary, the procedures described in paragraph (1) shall—

"(A) require that personnel of the district offices of the Social Security Administration, and of the appropriate State disability determination services, make regular visits to all institutions of the types involved to receive and process applications for benefits under this title and for food stamps under paragraph (3);

"(B) provide for the development of descriptive materials on such procedures for use by such district offices and by social service departments in such institutions;

"(C) provide training for employees in such district offices; and

"(D) establish time limits within which State agencies must complete their processing of applications filed pursuant to such procedures.

"(3) The Secretary and the Secretary of Agriculture shall establish special procedures under which persons applying for benefits under this title prior to their discharge or release from an institution pursuant to the pre-release procedures described in paragraphs (1) and (2) can also apply to participate in the food stamp program under the Food Stamp Act of 1977, utilizing a single application for this purpose.".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall become effective April 1, 1987.

(2) The Secretary of Health and Human Services shall promulgate final regulations to implement the amendment made by subsection (a) not later than April 1, 1987.

SEC. . DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

Strike out title XII and insert in lieu thereof the following:

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 12001. SHORT TITLE.

That this title may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

SEC. 12002. PURPOSE.

The purpose of this title is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, by providing penalties for the operation of commercial motor vehicles by persons who have used alcohol before or during the operation of such vehicles, and by increasing inspections of commercial motor vehicle operators and the equipment they operate.

SEC. 12003. DEFINITIONS.

As used in this title, the term—

(1) "alcohol" has the meaning the term alcoholic beverage had under section 158(c) of title 23, United States Code;

(2) "commence" means—

(A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or

(B) trade, traffic, or transportation in the United States which affects any trade, traffic, or transportation described in subparagraph (A);

(3) "commercial driver's license" means a license issued by a State to an individual which authorizes the individual to operate a class of commercial motor vehicle;

(4) "commercial motor vehicle" means any self-proposed or towed vehicle used in commerce to transport passengers or property if—

(A) such vehicle has a gross vehicle weight rating of twenty-six thousand and one or more pounds, or such lower weight rating (not less than ten thousand and one pounds) as the Secretary considers appropriate;

(B) such vehicle is designed to transport more than fifteen passengers, including the driver; or

(C) such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(5) "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(6) "driver's license" means a license issued by a State to an individual which authorizes the individual to operate a motor vehicle on highways;

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle) who is employed by an employer;

(8) "employer" means any person (including the United States, a State, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

(9) "felony" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year;

(10) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on the highways other than a commercial motor vehicle; such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail;

(11) "Secretary" means the Secretary of Transportation;

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident; and

(D) any other similar violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) which the Secretary determines by regulation is serious;

(13) "State" means a State of the United States and the District of Columbia; and

(14) "United States" means the fifty States and the District of Columbia.

SEC. 12004. RESPONSIBILITIES OF THE SECRETARY.

(a) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which establish minimum Federal standards for the licensing, testing, qualifications and classification of operators of commercial motor vehicles. Such regulations shall, at a minimum—

(1) establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) require a driving test of each person who operates or will operate a commercial motor vehicle in commerce in the type of vehicle such person operates or will operate, except that the Secretary may, by regulation, permit any State to waive such test in the case of any such person who applies for renewal of a commercial driver's license;

(3) establish minimum scores for passing such tests;

(4) ensure that each person taking such tests is qualified to operate a commercial motor vehicle in commerce under regulations promulgated under this section, regulations contained in subpart E of part 391 of title 49 of the Code of Federal Regulations, and such other Federal Motor Carrier Safety Regulations contained in title 49 of the Code of Federal Regulations as the Secretary considers appropriate;

(5) establish requirements for the disqualification of the operator of any commercial motor vehicle who is once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(6) establish requirements for the immediate revocation of the operator's license of any individual who is more than once (A) determined to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, (B) found to be operating a commercial motor vehicle while under the influence of a controlled substance or who refuses to submit to such a test, or (C) found to have used a commercial motor vehicle in the commission of a felony (other than a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance);

(7) disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

(8) establish a system of classification for licensing that provides different minimum Federal testing standards for operation of different classes of commercial motor vehicles;

(9) provide that each commercial driver's license shall contain, at a minimum—

(A) the legal name, date of birth (including day, month and year) sex, address, and a physical description of the person to whom such license is issued;

(B) other identifying information which the Secretary considers necessary or appropriate;

(C) the type of commercial motor vehicle which such person is authorized to operate under such license;

(D) the name of the State which issued such license; and

(E) the dates between which such license is valid; and

(10) may require the issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests, and may require such person to have a copy of such certification in his or her possession when such person is operating a commercial motor vehicle.

(b) Not later than March 1, 1988, the Secretary shall, in accordance with section 553 of title 5, United States Code, promulgate regulations which shall be in addition to regulations promulgated under subsection (a) of this section and which shall establish minimum Federal standards for the licensing, testing, qualifications and classification of any person who operates or will operate a commercial motor vehicle carrying a hazardous material (as defined in section 103(2) of the Hazardous Materials Transportation Act (49 App. US.C. 1802(2)). Such regulations shall—

(1) ensure that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such hazardous material issued by the Secretary under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(2) establish minimum Federal standards for, and scores for passing, written tests which ensure that such person is knowledgeable regarding (A) all such regulations, (B) the handling of such hazardous material, and (C) the appropriate response to emergencies arising out of the transportation of such hazardous material; and

(3) establish minimum Federal standards for driving tests which ensure that such person is knowledgeable regarding the type of vehicle that such person operates or will operate and regarding the safety system of such vehicle.

The Secretary may exempt any such person from any requirement of this Act if the material to be transported is a hazardous material listed pursuant to section 306(a) of the Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Department of Transportation, or if the material to be transported is a consumer commodity or limited quantity hazardous material, as defined in section 171.8 of title 49 of the Code of Federal Regulations.

(c) Notwithstanding any other provision of this Act, after notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to a class of persons or class of commercial motor vehicles if the Secretary determines that such waiver promotes the public interest and does not diminish the safe operation of commercial motor vehicles. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

(d) The Secretary shall, not later than October 1, 1988, submit to the Congress a study regarding the manner in which the requirements of subsection (a)(5) and (6) and section 12005 of this Act regarding blood alcohol content level impact on operators of commercial motor vehicles who are required by their employers to be available to operate such commercial motor vehicles on short notice.

SEC. 12005. RESPONSIBILITIES OF OPERATOR OF COMMERCIAL MOTOR VEHICLES.

(a) No person may operate a commercial motor vehicle in commerce unless such person—

(1) complies with all requirements imposed by regulations promulgated under section 12004 of this title; and

(2) has a blood alcohol content level of less than 0.04 percent while operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, subsection (a) of this section shall become applicable with respect to any person who operates or will operate a commercial motor vehicle in commerce on the date on which the State in which such person is domiciled adopts a licensing program under section 12006(a) of this title or September 30, 1990, whichever is earlier, except that, with respect to a person to whom a commercial driver's license has been issued on or before such applicable date, who has not been found to have violated a State or local law relating to motor vehicle traffic control (other than a parking violation) in the three-year priod ending on such date, and who has not been disqualified by the Secretary pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle in commerce or has had a commercial driver's license suspended, revoked or cancelled for cause at any time during such three-year period, subsection (a) of this section shall only take effect on the date after such date on which—

(A) such license is required to be renewed under State law,

(B) such person is found to have violated such a State or local law, or

(C) such person is disqualified pursuant to title 49 of the Code of Federal Regulations by the Secretary from operating a commercial motor vehicle in commerce and has had such person's license suspended, revoked or cancelled for cause by a State,

whichever is earliest.

(2) If any such person is not domiciled in a State that has adopted such a licensing program, the Secretary may, in accordance with regulations to be prescribed by the Secretary, permit such person to obtain a commercial driver's license from any State that has adopted such a program.

(c) Effective on July 1, 1987, no operator of a commercial motor vehicle shall at any time have more than one driver's license, except during the 10-day period beginning on the date such person is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. The second exception in the preceding sentence shall not be effective after September 1, 1989.

(d)(1) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) Effective on July 1, 1987, each operator of a commercial motor vehicle who has a driver's license issued by a State and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify such operator's employer of such violation, within 30 days after the date such person is found to have committed such violation.

(3) Effective on July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right or disqualification.

(4) (A) Effective on July 1, 1987, subject to subparagraph (B) of this paragraph, each person who applies for employment as an operator of a commercial motor vehicle with an employer shall, at the time of such application, notify the employer of such persons's previous employment as an operator of a commerical motor vehicle.

(B) The Secretary shall by regulation establish the period with respect to which notice must be given under subparagraph (A) of this paragraph, except that such period shall not be less than a 10-year period ending on the date of application for employment.

SEC. 12006. RESPONSIBILITIES OF THE STATES.

On or before September 30, 1990, each State shall, at a minimum—

(1) adopt and administer a program for the issuance of commercial driver's licenses that includes testing and qualification standards for persons who operate commercial motor vehicles in commerce in accordance with all of the minimum Federal standards established by the Secretary under section 12004 of this title, which program (A) may include standards for its domiciliaries that are more stringent that the minimum Federal standards established by the Secretary under section 12004 of this title, (B) shall provide that such State shall recognize any license issued by another State if such license meets all of the Federal minimum standards established by the Secretary under section 12004 of this title, (C) shall not require any person other than its domiciliaries to obtain a commercial driver's license, and (D) provides that such State may issue a commercial driver's license to a person domiciled in another State if such person satisfied all of the requirements for such a license required of domiciliaries of such State under this Act;

(2) not issue a commercial driver's license to a person unless such person passes a written test and driving test for the operation of a commercial motor vehicle which complies with such minimum standards and complies with all requirements imposed by regulations promulgated under section 12005 of this title;

(3) ensure that each commercial driver's license contains the information described in section 12004(a)(9) of this title;

(4) until the information system established under section 12009 of this title provides a means of rapid communication of the information specified in such section—

(A) notify the Secretary, before the issuance of a commercial driver's license, of the proposed issuance of such license and such other information as the Secretary may require to ensure identification of the person applying for such license;

(B) within 30 days after issuance of a commercial driver's license, notify the Secretary of the issuance of such a license;

(C) maintain information regarding (i) any suspension, revocation or cancellation for cause of such a license and any disqualification pursuant to title 49 of the Code of Federal Regulations of the holder of such a commercial driver's license from operating a commercial motor vehicle for a period of 60 days or more, (ii) a decision to deny for cause a license to a person applying for such a license, or (iii) the conviction of the holder of such a commercial driver's license of any of the offenses specified in section 12009(b)(2) of this title;

(D) upon the request of the Secretary, another State, or an employee requesting information regarding such employee, transmit (to the extent permitted by law) to such State, the Secretary or such employee, the information specified in subparagraph (C) of this paragraph; and

(E) at such State's option, upon the request of an employer or prospective employer, transmit (to the extent permitted by law) to such employer or prospective employer, the information specified in subparagraph (C) of this paragraph;

(5) when the information system established under section 12009 of this title allows for the rapid communication of information, comply with the requirements of all regulations within such time periods as the Secretary establishes under section 12009(d) of this title, including a requirement that the State shall respond to all requests for information from the Secretary, another State, an employee who is requesting information regarding such employee, and employers a requirement that the State shall furnish to such information system the information specified in paragraph (4)(C) of this section, and information regarding all violations of any State or local law relating to motor vehicle traffic control (other than a parking violation), and a requirement that the State shall notify the information system of the issuance of a commercial driver's license and of the disqualification of the holder of a commercial driver's license for a period of 60 days or more;

(6) before issuance of a commercial driver's license, contact any other State which has issued to such person such a license to determine the driving record of such person and, if the State determines as a result of such contact that such person has been disqualified pursuant to title 49 of the Code of Federal Regulations from operating a commercial motor vehicle by the Secretary, or has had a license suspended, revoked or cancelled for cause for violation of an offense pursuant to section 12004(a)(5) of this title, within three years before application has been made for such a commercial driver's license, not issue such a license to such person;

(7) not issue a commercial driver's license to any person to whom such a license has been issued by any other State unless such person first returns such license issued by such other State;

(8) prior to issuing a commercial driver's license to any person, consult the National Driver Register established pursuant to the National Driver Register Act of 1982 (23 U.S.C. 401, note) (after such Register is determined by the Secretary to be operational) to determine whether, within three years before application has been made for such a license, such person has either been disqualified from operating a motor vehicle other than a commercial motor vehicle, or has had a license other than a commercial driver's license suspended, revoked or cancelled for cause or has been convicted of any of the offenses specified in section 205(a) of the National Driver Register Act of 1982 and, if the State is informed that such person has been so disqualified or convicted or such license has been suspended, revoked or cancelled for cause, not issue a commercial driver's license to such person;

(9) impose such penalties for a violation of section 12004 of this title as the State determines appropriate, if such penalties are the same as or more stringent than the guidelines established by the Secretary in section 12008(b) of this title; and

(10) provide for disqualification, through suspension or revocation of a license, in accordance with section 12004(a) (5) and (6) of this title.

SEC. 12007. GRANTS.

(a)(1) The Secretary may make a grant to a State in a fiscal year if the State enters into an agreement with the Secretary to comply with all provisions of section 6 of this Act.

(2) The amount of a grant under this subsection to any State shall not be less than $100,000 in any fiscal year.

(3) The Secretary may not make a grant to any State under this subsection unless such State agrees that the aggregate expenditure of funds of the State, exclusive of Federal funds, for testing and licensing of operators of commercial motor vehicles will be maintained at a level which does not fall below the average level of such expenditure for the last two fiscal years preceding the date of enactment of this Act.

(4) A State which receives a grant under this subsection may use the funds provided under such grant only for testing and licensing of operators of commercial motor vehicles.

(5) A grant made under this subsection shall be for a period of 1 year.

(6) Funds made available to carry out this subsection shall remain available for obligation by the Secretary for the fiscal year in which such funds are made available and the three fiscal years after such fiscal year.

(7) There shall be available to the Secretary to carry out this subsection—

(A) $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for each of fiscal years 1987, 1988, 1989, 1990, and 1991; and

(B) after deducting the amount permitted under section 402(c) of title 23, United States Code, $3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(8) Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this subsection shall be deemed to be a contractual obligation of the United States for payment of the amount of such grant.

(b)(1) The Secretrary shall withhold highway funds from any State that is not in compliance with section 12006 of this Act after September 30, 1993.

(2) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006 (10) of this title).

(3) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second fiscal year beginning after September 30, 1993, and the first day of each fiscal year thereafter, in which the State does not comply with any requirement of section 12006 of this title (other than a requirement of section 12006(10) of this title).

(4)(A) The Secretary shall withhold 2 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(B) The Secretary shall withhold not less than 2 percent nor more than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the second through fifth fiscal years beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(C) The Secretary shall withhold not less than 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of the sixth fiscal year, and each fiscal year thereafter, beginning after September 30, 1993, in which the State does not comply with any requirement of section 12006(10) of this title.

(5)(A) Any funds withheld under this subsection from apportionment to any State after September 30, 1993, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of title 23, United States Code, but for this subsection, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) If, before the last day of the period for which funds withheld under this subsection from apportionment are to remain available for apportionment to a State under subparagraph (A) of this paragraph, the State complies with the provisions of section 12006 of this title, the Secretary shall, on the day following the date on which such State complies, apportion to such State the withheld

funds remaining available for apportionment to such State.

(C) Any funds apportioned pursuant to subparagraph (B) of this paragraph shall remain available for expenditure as follows:

(i) Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

(ii) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of title 23, United States Code, shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse.

(D) If, at the end of the period for which funds withheld under this subsection from apportionment are available for apportionment to a State under subparagraph (A) of this paragraph, the State has not complied with the provisions of section 1 of this Act, such funds shall lapse.

SEC. 12008. PENALTIES.

(a) Section 521(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting immediately after paragraph (11) the following:

"(12) The civil penalties provided in this subsection shall apply to any violation of section 12005(d) of the Commercial Motor Vehicle Safety Act of 1986, and the provisions of this subsection shall apply to any person who operates a commercial motor vehicle without a commercial driver's license after the applicable date specified in section 12005(b) of such Act and any violation of section 12005(c) of such Act, except that—

"(A) the amount to be assessed under this subsection for any such violation shall not exceed $5,000 for each such violation; and

"(B) the exceptions regarding employees in paragraphs (2) and (6) of this subsection shall not apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, but (i) in the case of paragarph (2) of this subsection, the amount to be assessed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation, and (ii) in the case of paragraph (6) of this subsection, the penalty to be imposed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation or imprisionment for a term not to exceed one year, or both.".

(b) The Secretary shall establish guidelines for civil and criminal penalties to be imposed by the States for a violation of this Act. Such penalties shall not exceed $5,000 for each such violation, and shall not provide for imprisonment of more than one year.

SEC. 12009. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.

(a) Not later than January 1, 1989, the Secretary, after consulation with the States, shall cause to be in operation an information system pertaining to the driving status and licensing of operators of commercial motor vehicles. The information system shall serve as a clearinghouse by which the States may communicate rapidly concerning the licensing, identification and driving records of operators of commercial motor vehicles.

(b) The information system established under this section shall—

(1) provide for a depository of information that will, at a minimum, include (with respect to each operator of a commercial motor vehicle)—

(A) the birth date and physical description of such operator, and any other information which the Secretary considers necessary or appropriate to identify specifically such operator;

(B) the address of such operator; and

(C) all States in which such operator currently has a commercial dirver's license; and

(2) provide a system of communication among States that, at a minimum, shall provide exchange of information specified in paragraph (1) of this subsection and information regarding whether such operator has been denied a commercial driver's license, has been disqualified by the Secretary pursuant to title 49 of Code of Federal Regulations from operating a commercial motor vehicle, has had a license suspended, revoked or cancelled for cause, or has been convicted under the laws of any State for (A) operating a commercial motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance or with a blood alcohol content level of 0.04 percent or more; (B) violating a traffic rule or ordinance arising in connection with a fatal traffic accident, reckless driving, or racing on the highways and involving a commercial motor vehicle; (C) failing to render aid or provide identification when involved in an accident involving a commercial motor vehicle which resulted in a fatality or personal injury; or (D) committing perjury or knowingly making a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a commercial motor vehicle.

(c)(1) The operator of the information system established under this section shall, to the extent otherwise permitted by law, make available—

(A) to the Secretary such information in such information system as the Secretary may request to enable the Secretary to comply with the requirements of section 12004 (a)(5), (6) and (7) of this title;

(B) to a State such information in the information system as the State may request;

(C) to an employer or prospective employer of an employee such information in the information system relating to such employee as such employer or prospective employer may request; and

(D) to an employee such information in the information system relating to such employee as such employee may request.

(2) Any prospective employer of a person as an operator of a commercial motor vehicle shall consult the information system established under this section to determine, prior to employing such person, whether a commercial driver's license issued to such person has been suspended, revoked or cancelled for cause. If such prospective employer determines, as a result of such consultation, that such person's license has been suspended, revoked or cancelled for cause, the prospective employer shall not employ such person as an operator of a commercial motor vehicle.

(d) When the information system required by this section has become available, the Secretary shall issue regulations establishing appropriate time periods for transmission of information regarding any violation of this Act.

(e) The Secretary shall establish and the Secretary or a State, as appropriate, shall collect fees for utilization of the information system established under this section. The amount of fees collected by the Secretary or a State under this subsection in any fiscal year shall as nearly as possible equal the costs of operating the information system in such fiscal year. The Secretary shall deposit fees collected by the Secretary under this subsection in the general fund of the Treasury.

(f) There shall be available for fiscal year 1987 to the Secretary for purposes of establishing the information system under this section not to exceed $2,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304). Such sums shall remain available until expended.

SEC. 12010. FREQUENT INSPECTIONS.

(a) Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)(1) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period in subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(H) with respect to any fiscal year beginning with fiscal year 1989, provides for the adoption and implementation of an effective program to conduct inspections of commercial motor vehicles, which program shall provide—

"(i) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside;

"(ii) for the administration of observations, and (with proper safeguards) for the administration of tests, to determine if the operator of a commercial motor vehicle is operating such vehicle with a blood alcohol content level of 0.04 percent or more; and

"(iii) for the prompt suspension, for a period of not less than one year, of the operator's license of any individual who is determined, as a result of an observation or test administered under clause (ii) of this subparagraph, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, and for the immediate revocation of the operator's license of any individual who has been twice determined, as a result of such an observation or test, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who has twice refused to submit to such a test.".

(b) Section 402(b) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302(b)) is amended by adding at the end thereof the following:

"(3)(A) As part of a grant made under this subsection, the Secretary may also provide funds to encourage the States to adopt and implement programs providing for the administration of tests to determine whether the operator of a commercial motor vehicle is under the influence of a controlled substance while operating such motor vehicle.

"(B) For puposes of this subsection, the term 'controller substance' shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).".

SEC. 12011. TRUCK BRAKE REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall revise the regulations of the Administrator of the Federal Highway Administration con-

tained in section 393.42 of title 49 of the Code of Federal Regulations to require trucks and truck tractors manufactured after July 24, 1980, to have brakes operating on all wheels. The Secretary may provide for a delayed effective date (not exceeding one year) for trucks and truck tractors manufactured after July 24, 1980, and before such date of enactment.

SEC. 12012. RADAR DEMONSTRATION PROJECT.

(a) Notwithstanding any other provision of law, the Secretary, in cooperation with State and local law enforcement officials, shall conduct a demonstration project to assess the benefits of continuous use of unmanned radar equipment on highway safety on a section of highway with a high rate of motor vehicle accidents. Such project shall be conducted in northern Kentucky on a hilly section of Interstate Route I-75 between Fort Mitchell and the Brent Spence Bridge over the Ohio River during the two-year period beginning on the date of enactment of this Act.

(b)(1) Not late than eighteen months after the date of enactment of this Act, the Secretary shall transmit to the Congress an intrim report on the results of the demonstration project conducted under subsection (a) of this section, together with any recommendations on whether to extend the duration of such demonstration project and whether to expand the scope of such project.

(2) Not later than 60 days after completion of the demonstration project conducted under subsection (a) of this section, the Secretary shall transmit to the Congress a final report on the results of such project, together with any such recommendations.

SEC. 12013. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to alter or affect the authority of the Secretary to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than twenty six thousand and one pounds or such lesser gross vehicle weight rating as determined appropriate by the Secretary under section 12003(4)(A) of this title.

SEC. 12014. AUTHORIZATIONS OF APPROPRIATIONS.

Section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) is amended—

(1) by striking "$40,000,000" and inserting in lieu thereof "$50,000,000";

(2) by striking "and" after "1987,";

(3) by striking "1988." and inserting in lieu thereof "1988; not to exceed $60,000,000 in the fiscal year ending September 30, 1989; and not to exceed $60,000,000 in the fiscal year ending September 30, 1990."

TITLE XIV—CYANIDE WRONGFUL USE

SEC. 14001. STUDY AND REPORT.

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures, or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) MATTERS TO BE INCLUDED.—Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) a determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of the matter of interstate versus intrastate to the extent that it involves the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes; and

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(c) REPORT.—On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(d) DEFINITIONS.—As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XV—SENATE POLICY REGARDING FUNDING

SEC. 15001. STATEMENT OF POLICY.

(a) The Senate finds that—

(1) there is an urgent critical need for funds to carry out the programs and activities authorized by the preceding provisions of this Act in order to ensure a drug free America;

(2) this Act is the result of a bipartisan effort to combat our national drug abuse problem; and

(3) only the exceptional nature of the drug abuse problem warrants the expenditure of funds in excess of otherwise applicable budget limitations.

(b) Therefore, it is the sense of the Senate that—

(1) amounts authorized to carry out the preceding provisions of this Act should be provided as new budget authority for fiscal year 1987 in H.J. Res. 738 (99th Congress, 2d Session); and

(2) such amounts should not be provided through transfers from, or reductions in, any amount appropriated by such joint resolution for any other program, project, or activity for such fiscal year.

TITLE —RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. . RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Code of 1954 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Secretary for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum ultimately recovered. The Internal Revenue Service shall maintain records reflecting the receipt of information from the contributing agency, and shall notify the agency when a recovery has been effected. Following such notification, the agency shall submit a statement detailing the investigative costs incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Secretary shall equitably distribute the costs reimbursements among those agencies up to an aggregate sum of 10 percent of the taxes recovered.

"(b) ESTABLISHMENT OF A FUND.—The Secretary shall establish a fund for recovering that portion of recovered Federal taxes authorized under subsection (a) and intended as reimbursements for State and local law enforcement agencies. In conjunction with the fund, the Secretary shall develop guidelines on the procedures and timetables for reimbursing those law enforcement agencies which have contributed to the recoupment of Federal taxes.

"(c) REIMBURSEMENT.—Reimbursements under section (a) shall be made directly from the fund under subsection (b), as provided by appropriations acts, prior to the deposit of such funds into the Treasury of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

TITLE —ANTI-DRUG TRUST FUND

SEC. . DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF TAX OVERPAYMENTS AND CONTRIBUTIONS TO ANTI-DRUG TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) any amount of an overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, any contribution which the taxpayer includes with such return,

be paid over to the Anti-Drug Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if late, the date the return is filed.".

(b) ESTABLISHMENT OF ANTI-DRUG TRUST FUND.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. ANTI-DRUG TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Anti-Drug Trust Fund', consisting of such amounts as may be appropriated or credited to the Anti-Drug Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO ANTI-DRUG TRUST FUND.—There are hereby appropriated to the Anti-Drug Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Anti-Drug Trust Fund shall be available as provided by appropriation Acts, for making expenditures to carry out the purposes of the Drug Enforcement Act of 1986.".

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"PART IX. Designation of overpayments and contributions for Anti-Drug Trust Fund.".

(2) The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Anti-Drug Trust Fund.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

TITLE *—NATIONAL FOREST SYSTEM DRUG CONTROL

SEC. ***1. SHORT TITLE.

This title may be cited as the "National Forest System Drug Control Act of 1986".

SEC. ***2. PURPOSE.

(a) The purpose of this title is to authorize the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Nothing in this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) As used in this title, the terms "manufacture", "dispense", and "distribute" shall have the same meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. ***3. POWERS.

For the purposes of this title, if specifically designated by the Secretary and specially trained, not to exceed 500 officers and employees of the Forest Service when in the performance of their duties shall have authority within the boundaries of the National Forest System to—

(1) carry firearms;

(2) conduct investigations of violations of and enforce section 401 of Controlled Substances Act (21 U.S.C. 841) and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands;

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony;

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

SEC. ***4. COOPERATION.

For the purposes of this title, in exercising the authority provided by section ***3—

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations relating to marijuana and other controlled substances, and State drug control laws or ordinances, both within and outside the boundaries of the National Forest System.

SEC. ***5. PENALTY.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following subsection:

"(e)(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

"(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

"(3) For the purposes of this subsection, the term 'boobytrap' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.".

SEC. ***6. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated $10,000,000 for each fiscal year to carry out this title.

(b) Notwithstanding any other provision of law, and to the extent the sum authorized for each fiscal year by subsection (a) is not appropriated, the Secretary is authorized to fund activities under this title by using moneys received from the sale of products from or for the use of National Forest System lands. Such moneys shall be available without further appropriation.

SEC. ***7. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL.

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

EVANS AMENDMENT NOS. 3337 THROUGH 3345

(Ordered to lie on the table.)

Mr. EVANS submitted nine amendments intended to be proposed by him to the motion to concur with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3337

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (3), and;

(2) inserting "two" in lieu thereof.

AMENDMENT No. 3338

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (3), and;

(2) inserting "five" in lieu thereof.

AMENDMENT No. 3339

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (3), and;

(2) inserting "ten" in lieu thereof.

AMENDMENT No. 3340

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (4), and;

(2) inserting "two" in lieu thereof.

AMENDMENT No. 3341

Subsection (m) of section 408 of the Controlled Substances Act, as added by section

1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (4), and;

(2) inserting "five" in lieu thereof.

AMENDMENT No. 3342

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "one" in paragraph (4), and;

(2) inserting "ten" in lieu thereof.

AMENDMENT No. 3343

Section 1951 of the Senate amendment as modified is amended by adding at the end thereof the following:

(c) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Section 3005 of title 18, United States Code, is amended—

(1) by striking out "not exceeding two" and inserting in lieu thereof "experienced in serious felony trials and not less than two in number"; and

(2) by adding at the end "The compensation of counsel appointed under this section is not limited by section 3006A of this title.".

AMENDMENT No. 3344

Subsection (a)(3) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting "except if the penalty of death is not authorized in the state in which the individual has engaged in the conduct constituting the offense" after "section".

AMENDMENT No. 3345

Subsection (1) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended—

(1) by striking "but are not exclusive" from the first sentence, and;

(2) adding "(6) Any other factor which may be offered in mitigation" following subparagraph (5).

ADDITIONAL STATEMENTS

ASBURY CHURCH'S SESQUICENTENNIAL

● Mr. MATHIAS. Mr. President, the Asbury United Methodist Church in Washington, DC, observes its sesquicentennial this year, celebrating 150 years of community outreach and involvement. I am proud to note that Maryland residents comprise approximately one-third of the church's membership.

Asbury Church's proud history began 27 years before the Emancipation Proclamation. It was in 1836 when 118 members of Foundry Church decided to form their own congregation. Recognizing the great benefits of education, Asbury housed several schools as early as 1863.

Continuing its pioneer spirit, the church, in 1947, sponsored the first interracial housing facility in the District of Columbia, the Roydon Apartments at 1619 R Street NW. A year later, Asbury became the first church in the District to establish a church Federal credit union. In 1955, under the pastorate of Rev. Robert Moton Williams, the church founded the Wesley Foundation at Howard University, the first of its kind on a black university campus. In 1963 and again in 1983, Asbury fed and sheltered many of the thousands who came to participate in the March on Washington.

In 1982, Asbury sponsored and dedicated a 147-unit home for elderly and handicapped individuals in the old Shaw Junior High School. It was the first such conversion of a former school to a residential facility in Washington.

Today, Asbury operates a food pantry, sponsors a child development center, and sponsored and built a church/school in Monjama, Sierra Leone, West Africa.

I know my colleagues join me in congratulating Asbury United Methodist Church on 150 years of contributing good works, heart, and spirit to our local community in the Nation's Capital.●

TRIBUTE TO JOHN A. "JACK" LOGAN (1896-1986)

HE MADE THE FOOD INDUSTRY A SHOWCASE FOR DEMOCRACY

● Mr. GLENN. Mr. President, in a town teeming with representatives of every interest conceivable, the death of one seldom is noticed outside a small circle of business associates. A notable exception is the recent passing of John A. "Jack" Logan (1896-1986), a distinguished native from my State and the town of Medina.

For more than a quarter century, Mr. Logan was president of the National Association of Food Chains, one of the two groups that merged to form today's Food Marketing Institute. Over four decades beginning in the 1930's, he represented the chain grocery field and ultimately supermarketing and the entire food industry.

He was one of the best industry representatives in his day. His brilliance flowed from a broad vision of the food industry that transcended the limits of his own segment. He learned to link the needs of his industry with a broader need—whether it was farmers, consumers, the Nation or the common good.

Several examples illustrate his gift. In 1935 food chains were under attack for unfair competition, depressing prices, inflating prices, causing the depression and many other evils. The attack was comparable to the more recent assaults on the nuclear and oil industries. So intense was the assault that many critics went beyond calling for regulation of the industry. They wanted to outlaw the chains, make the whole business illegal.

At first Mr. Logan tried conventional methods to defend his industry—to no avail. Then he hit upon a novel way of demonstrating why chain grocery stores ought not to be outlawed. He showed how chains could alleviate that chronic problem of American farmers—commodity surpluses. To do this, he orchestrated a series of producer-consumer campaigns.

The first focused on a 6.47 million case surplus of canned peaches in 1935. About 35,000 chain stores promoted peaches over four 1-week periods, using a blitz of national and local advertising. In those 4 weeks, the campaign cleared out two-thirds of the surplus. The consumer demand triggered by the campaign rescued peach farmers from the brink of bankruptcy as their price per ton surged up to $30, from a low of $15.

Under Mr. Logan's leadership, NAFC featured 400 commodities in this way. Many had a stunning impact like the peach campaign. Some introduced products to many American palates, such as the grapefruit and avocado campaigns. In all cases, farmers benefited from reduced surpluses and increased prices; and consumers, from an excellent value at the supermarket.

Soon after the first commodity campaigns, Mr. Logan turned the attention of his industry to the poor and hungry. In 1939 he conceived of the first Federal Food Stamp Program, which came to serve 4 million people in 1,700 locales before it was discontinued in 1943. For his efforts, the U.S. Secretary of Agriculture awarded Mr. Logan with Food Stamp Book No. 4.

He assisted the war effort by helping the military develop centralized chain buying methods, which saved taxpayers millions of dollars. He recruited many chain executives to handle the mass distribution efforts to feed millions of troops overseas. For the first time in any war, we were able to ship fresh, perishable products to troops fighting thousands of miles away.

After the war, Mr. Logan helped universities develop curricula in food distribution. The first was Michigan State then Cornell; and he assisted the University of Southern California, working with the Western Association of Food Chains.

A high point in his career was a series of international exhibitions, entitled "Supermarkets U.S.A." The principal ones were held in Rome, Madrid, and Zagreb, Yugoslavia. In these, he introduced to Europe the supermarket, a distinct American innovation. The exhibits prompted many Europeans to introduce supermarkets to their own countries.

The supermarket became a "showcase for democracy," as Mr. Logan often said, showing our abundance of food available to consumers at economic prices. Supermarkets U.S.A. had

a far more profound impact abroad than our fashion and car exhibitions. The internationals already were impressed with our bountiful farm system; the supermarket became the means to bring that bounty to the people.

Throughout his life, Mr. Logan was an ambassador for the food industry in the Nation's Capital and around the world. Helping him greatly over the last 25 years was his wife, Rebecca Pollard "Polly" Logan, who survives him along with his son, John A. Logan, Jr.

In many ways, Mr. Logan helped America attain the best standard of living in the world. A book on his achievements carries the appropriate title of "America The Bountiful." His legacy survives also in the statement of philosophy of the group that succeeded NAFC, the Food Marketing Institute:

> The grocery retailer is the purchasing agent for the consumer and the means by which the farmer and other producers make their products available to the public. In these two functions, the retailer serves to satisfy fundamental needs of everyone in our society.

The life of John A. Logan illustrated how an industry can best serve itself by serving the needs of society. His example will always be with us.●

SALUTE TO MAYOR JUNE DEMOS

● Mr. DURENBERGER. Mr. President, one of the things that makes America the great Nation it is involves the dedication of thousands of local elected officials like Mayor June Demos of Roseville, MN.

Over the past quarter century, June Demos has more than done her part to represent the interests of her fellow residents of Roseville, as mayor, a member of the city council, a school board member, and planning commissioner.

Now, because of an incurable eye disease, June is retiring as mayor. Her contributions and deep commitment to her community will be missed. But, the kind of spirit and caring for others which she brought to her responsibilities as a public officials won't soon be forgotten.

Mr. President, because of the outstanding contributions made by June Demos, I ask that the following article from the Minneapolis Star and Tribune be printed in the RECORD.

The article follows:

ROSEVILLE MAYOR QUITS PUBLIC LIFE TO PLAN A NEW ITINERARY

(By Jim Parsons)

Last year at Christmastime, June Demos was talking on long distance with her son and his family, who live in Greece.

"My grandson, Joel—he's 9—he got on the phone and said to me, 'Grandma, it just doesn't seem like Christmas without you and Grandpa.' "

"I'll bet you can guess where I'm going to be this Christmas," Demos said.

You can bet it's not going to be at the Roseville City Hall listening to a disgruntled driver who has been deeply wronged by a parking ticket. Or planning a conference for Minnesota's mayors. Or talking to the guys at the League of Minnesota Cities about fiscal disparities.

Grandma (and Grandpa) probably are going to be in Greece. Or maybe in Australia, where daughter No. 2 works in the U.S. Embassy. Or maybe in a condo in Florida.

But Roseville will have to do without its mayor. The mayors' conference will have to do without its leader. The Association of Metropolitan Municipalities will have to do without one of its founding members and first president.

After virtually becoming an institution in Roseville—she's been mayor, a City Council member, a planning commissioner, a school board member, PTA president and Girl Scout leader—Demos has decided to quit at age 62.

The main reason she is resigning in midterm is that she has an incurable eye disease that is robbing her of her eyesight. When the problem was diagnosed two years ago the doctor said that there would be a slow deterioration and that she would eventually be blind. It might take 15 years but it might happen in three.

In the past year the deterioration has been "going very fast," Demos said, especially in the left eye. That, combined with several other things, has made her think a lot about Christmas with Joel and her other two grandchildren. And about winters in Minnesota when there is a condo waiting in Florida.

"I decided that it's about time I did some things for myself. That if I'm ever going to have time with my husband, it's now. And to take that trip to Greece and Australia.

"I don't mean for it to sound like that I haven't enjoyed politics and city government, I have, and I believe that I have left the world—or, at least, Roseville—a better place for my having been here. That's important to me. My mother raised me to believe that we should do that.

"But I am tired of the phone calls in the middle of the night from some drunk who can't wait to tell you why he's mad at City Hall. And I'm tired of having to help people through the maze of government when they have a problem. You have to do that. In a small town (Roseville's population is 36,000) you simply have to do that.

"You also get tired of having to plan your personal life—vacations and going to concerts and the like—around council meetings or board meetings."

A damaged Achilles tendon that makes it difficult for her to climb steps also helped her make up her mind. So has the possibility that her husband will retire from his job as an engineer with Honeywell or, perhaps, get a transfer to Honeywell's space operation in Florida.

But it was the deteriorating eyesight that has, in effect, forced the issue.

Demos talks easily about her eye problem (Doyne's disease) and without any self-pity. "I've already learned to make some adjustments," she said. "I use a magnifying glass much of the time when I'm reading and I dial the phone without looking at the numbers.

"I decided one day that I would have to start using my sense of touch to identify car keys. Then I had to stop and laugh at myself for forgetting that blind people don't have much need for car keys.

I guess that's what bothers me most—losing my independence. I've always been an independent person and I'm used to doing things when I want to. It will be hard to adjust to relying on others to do things that I do without thinking about it now."

It was Demos' independent streak that got her into politics some 25 years ago. She and several neighbors were upset about the location of a city playground and noisy go-cart track. The group fought City Hall and lost, prompting one of the members to decide to run for the City Council.

In an outburst of uninhibited emotion, Demos volunteered to manage the campaign. Her candidate won.

That led to appointments to various committees—the first dealt with city streets—and commissions. In 1971 there was a vacancy on the City Council, and she realized that the three men who were running had no appreciable experience with city government. So she ran against them. She lost ("We got in too late with too little"), but the next time around she won.

That was back in the days when women were sometimes told that their place was in the kitchen, not in City Hall. She decided to deal with that issue straight up in a statement in her campaign literature:

"They say that women are too emotional to be in politics, but I have seen men get up and stomp out of council meetings and become so emotional that they resort to using profanity.

"Yes, I'm emotional. If I wasn't, I'd be dead."

Demos said that seemed to put the issue to rest. "I've never felt that my being a woman was a significant factor in any of my campaigns. Nor have I had any difficulty in dealing with the city staff, but I know women mayors who have had that problem."

Demos was elected mayor in 1975 and has presided over a period of business development in the city. Without prompting, she gives a short speech on the importance of city officials being aggressive in seeking development but also having to be aggressive in shaping it to the needs and interests of the community. It isn't development, however, that she considers her most significant contribution.

"We've opened up city government, brought people into the process who have something to contribute. I'm proud of that because when I first got involved city government was ingrown. The same people seemed to make all the decisions no matter what the forum. I think we've changed that."

Demos said she has no regrets about not trying for higher political office despite the fact that her involvement in various organizations gave her a wide exposure to statewide problems.

She was courted more than once by the Independent-Republicans to run for the Legislature or other office, but she always said no even though she was active in the party.

"The party endorsing process can really get rough," she said. "They (the factions within the party) can chew candidates up and split them out, and I never wanted to go through that."

Besides, there was plenty to do as mayor. And she enjoyed it. At least, she enjoyed it until her health turned bad. And until a 9-year-old reminded her of some of the things she was missing.

H.R. 5484—VETERANS' ADMINISTRATION DRUG AND ALCOHOL TREATMENT

● Mr. CRANSTON. Mr. President, I am delighted that in further amending H.R. 5484, the "Omnibus Drug Enforcement, Education, and Control Act," the Senate will be persisting in its support of the provision I proposed to transfer to the Administrator of Veterans' Affairs up to $11 million to be used to enhance the Veterans' Administration's alcohol and drug dependence treatment program.

The VA's program of treatment and rehabilitation of alcohol- and drug-dependent veterans is the largest, centrally managed health-care system involved in the treatment of alcohol and drug dependent persons, currently maintaining 102 alcohol-dependence treatment units and 51 drug-dependence treatment units which provide detoxification, inpatient, outpatient, and extended care services. I believe that enhancing the VA's already-existing program will be a very productive use of Federal substance-abuse funding. On October 2, I contacted all of the Senate conferees and certain key Members of the other body to urge that they retain this portion of the legislation enhancing the VA's well-regarded alcohol- and drug-dependence treatment program. I am disappointed that the House-amended version contains only an authorization of appropriations for VA drug and alcohol treatment, rather than an earmark as in the Senate version, and that the maximum additional amount that could be made available for this purpose was reduced to $6 million.

Mr. President, for a more extensive outline of the current VA, alcohol- and drug-dependence treatment program and the projected enhancement of the program, I refer my colleagues and others to my September 30, 1986, remarks on this provision, which begin on page S14279 of the September 30 RECORD.

Mr. President, I should like again to express my great appreciation to the principal sponsors of the Senate bipartisan measure, the two leaders [Mr. BYRD and Mr. DOLE], and to the other two major sponsors of the Democratic legislative package, S. 2798, of which I was an original cosponsor, Senate CHILES and Senator BIDEN, for their cooperation in incorporating this provision into the Senate-passed bill and now into the latest bipartisan package.●

NEW NATIONAL PARTNERSHIP TO PROMOTE RESEARCH IN AGING

● Mr. HEINZ. Mr. President, last week I participated in the opening ceremonies of a new national organization, the Alliance for Aging Research. The alliance has been established to promote research into the aging process as sound social and scientific policy for the United States. I was joined by several of my colleagues from the Senate and House and many other distinguished and notable leaders committed to the field of aging.

The Alliance for Aging Research is a bipartisan, private, nonprofit foundation that unites scientists, Federal officials, corporate and foundation leaders in endorsing a national policy to support research into gerontology and preventive geriatrics. This research, in a rapidly aging society, is vital to the national interest. The alliance will explore the potential for ushering in a generation of people whose health and vitality in later years may be unprecedented. The alliance will strive to broaden the discussion of the "graying" of our Nation to consider research that could lead to healthy, vigorous, self-productive old age for a greater number of people.

In the decade since the founding of the National Institute on Aging, no organization has emerged as the preeminent citizen support group for aging research. Although the NIA is the focal point for Federal research in aging, there is much that the Veterans' Administration, the Department of Agriculture, and several of the National Institutes of Health are doing in research that will be critical to our making the most of our aging population. Until the alliance was established, there was not a central private-sector focus here in the Nation's Capital from which to begin to develop a national consensus in support of aging research. Clearly, there is a need for an organization that can strengthen and unify all efforts to promote aging research and whose solid base of support will be able to effect the formulation of our Nation's science policies.

The Alliance for Aging Research has been established to fill that role. It provides a unique contribution to the field of aging, both through its mission, and by its creation of a national partnership between science, government, and business.

As chairman of the Special Committee on Aging, I believe one of the most fundamental issues our society faces is how to cope humanely with a burgeoning elderly population. Of critical importance in addressing this issue is the need for greater basic science research into the processes of aging. Medical science earlier in the century produced breakthroughs in understanding that allowed so many to experience old age. Now the challenge is to enable many more people to experience vigorous, vital, nonsenescent life to its maximum limits. I look forward to working closely with the alliance to meet this challenge.

I am very proud of my role in helping to launch this effort, because I believe the goals of the Alliance for Aging Research may make an important difference in improving the quality of human life for each and all of us. In addition to myself, I'd like to commend my colleagues who are also founding members of the Alliance for Aging Research and who comprise its Congressional Advisory Board: Senators CHILES, CRANSTON, GLENN, GORE, GRASSLEY, HATCH, HAWKINS, and PRESSLER.

The Members from the House include: Representatives PEPPER, RINALDO, ROYBAL, SCHNEIDER, and WYDEN.●

IMPORT FEE ON CRUDE OIL AND PETROLEUM PRODUCTS

● Mr. BENTSEN. Mr. President, I would like to bring to the attention of my colleagues Senate Concurrent Resolution 5, as passed by the 69th legislature, second called session, 1986, of the State of Texas. The resolution requests that Congress pass and send to the President an act imposing an import fee on crude oil and petroleum products imported into this country.

The resolution follows:

SENATE CONCURRENT RESOLUTION No. 5

Whereas, The domestic oil industry is of vital importance to national security and the American economy; and

Whereas, Changing worldwide trade practices have resulted in the destabilization of our economy with particularly dire effects on the domestic oil industry; and

Whereas, Increasing dependence on foreign oil imports will result in the plugging of numerous domestic wells and the lessening of exploration; and

Whereas, A secure domestic energy resource base should be a strategic part of our national security objectives; and

Whereas, Presently the Middle East and North Africa have oil reserves of 433 billion barrels dwarfing the 27-billion-barrel reserves of the United States; and

Whereas, Seventy-five percent of crude oil and crude oil products in the world are produced by governments, not oil companies; and

Whereas, If OPEC members are allowed to dominate the market, both American consumers and oil producers will become their victims; and

Whereas, Domestic oil production during the first half of 1986 was down 140,000 barrels a day compared to the same period in 1985, while at the same time, consumption increased by 515,000 barrels a day; and

Whereas, The escalating consumption of foreign oil imports and concurrent excessive dependence on foreign oil seriously jeopardize national security by the threat of energy blackmail; and

Whereas, The federal government should act promptly to address these national security concerns and pursue means of limiting dependence on foreign oil; now, therefore, be it

Resolved, That the 69th Legislature of the State of Texas, 2nd Called Session, request the Congress of the United States to pass and send to the president an act imposing an import fee on crude oil and petroleum products imported into the United States; and, be it further

Resolved, That the Texas delegation be urged to support the proposals of Senator Lloyd Bentsen requiring the federal government to take the steps needed to reduce our dependence on foreign oil; and, be it further

Resolved, That the Texas Secretary of State forward official copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States.●

IN EXPLANATION OF IMPEACHMENT VOTES

● Mr. McCONNELL. Mr. President, I would like to give some explanation for the manner in which I have cast my vote to convict Judge Harry E. Claiborne in this Senate Court of Impeachment. I will, therefore, briefly discuss each of the articles and my vote on each. Before I do so, however, I would like to address an issue which has haunted this impeachment proceeding since its inception.

Time after time during the evidence gathering sessions of the Senate Impeachment Trial Committee, of which I was a member, Judge Claiborne's counsel alleged that Claiborne's conviction of tax fraud was the direct result of prosecutorial and judicial misconduct. The defense stated that Judge Claiborne was the target of a sting, that he was stalked day and night by Government agents, that local FBI agents actively sought to "get him," and that this conspiracy involved not only Nevadan law enforcement officials but extended to the highest offices of the land. Time and time again Judge Claiborne's counsel strained against the limits established by the committee to seek and admit evidence of wrongdoing on the part of these officials. The implication he gave suggested that if only one more witness were called or one more piece of evidence were admitted, the clouds would part and the Senate would see that, indeed, Claiborne was guilty of no wrongdoing. And that only the IRS, the Justice Department, or some other Government agency had acted in an egregiously improper manner.

This impeachment proceeding sought to determine the wrongdoing of only one man—Judge Harry E. Claiborne. The evidence presented before the Impeachment Committee and the Senate was ample to prove his culpability. Any allegations of wrongdoing on the part of Government agents, and I will admit that some evidence of such activity was disturbing to me, was extraneous and fundamentally irrelevant to this proceeding. Nevertheless, the committee allowed Claiborne's counsel wide latitude in presenting evidence of prosecutorial misconduct to the extent such misconduct shaped testimony or tampered with exhibits. In sum, then, the Senate has heard all available evidence of misconduct on the part of Government agents to the extent such evidence is the least bit relevant to the issue at hand—the fitness of Judge Claiborne for office.

As just mentioned, however, I am disturbed by the allegations of prosecutorial targeting in the case of then Judge Claiborne. I am concerned about the possible overzealousness on the part of Justice Department, strike force, and IRS agents. Although our common law has traditionally granted prosecutors wide discretion in who and how they prosecute, that discretion surely has its limits. The prosecution of Harry Claiborne, I feel, may have been at the outer limits of that discretion. Consequently, I support the establishment of a special ivestigatory committee which will inquire into allegations of IRS and Federal strike force improprieties. If those charged to enforce laws fail to observe them scrupulously, the future of our Government of laws is imperiled. This unique committee will investigate and report on these law enforcement activities not only in the case of Judge Claiborne, but in cases nationwide. The fruit of this investigation will either put these allegations to rest as baseless or clearly reveal improprieties and allow for their correction.

I voted guilty on articles I and II for the simple reason that the record clearly established Claiborne's fraud for the 1979 and 1980 tax years. Without reciting all the facts before the Senate for its consideration, I felt the following facts for the 1979 tax year important for showing Claiborne's intent to defraud. First, Judge Claiborne gave his accountant preparing his tax return only his bank statements knowing full well that those bank statements would not reflect several large check payments Claiborne received which he had cashed in casinos. Second, Judge Claiborne for the first time in his life started cashing checks at casinos, where the income could not be easily recorded, rather than at banks. Third, only 19 days after tallying up his legal income of approximately $45,000 for 1979 and sending that figure to his accountant, Judge Claiborne failed to correct his accountant when he unknowingly read back to Claborne the incorrect sum of appoximately $22,000 as legal income for that year.

The facts are more damaging for 1980. First, Judge Claiborne dropped his accountant (and friend) of many years, refusing even to return the accountant's several inquiring telephone calls. Second, the tax return was so incompetently completed that it could not have failed to raise questions in Caliborne's mind. Third, even after a discussion with his accountant about the unorthodox and unauthorized manner in which ordinary and capital income was treated on the return, Claiborne did not attempt to vitiate the return. Fourth, Claiborne showed no alarm that the return showed a tax liability of only $1,103 for a year in which he earned about $85,000 in legal fees, $54,000 in his judicial salary, and he acquired a $214,000 gain in the sale of his home.

These facts were decisive in my mind in judging Judge Claiborne's state of mind during the tax years of 1979 and 1980. They prove to me that through a combination of active concealment and passive reliance on the incompetence of others Judge Claiborne sought to defraud the U.S. Government of lawful tax payments.

I did not find Judge Claiborne guilty under article III, I did not find so principally because conviction under that article would connote an improper reliance by the Senate on the judicial system when it determines impeachable offenses. The Constitution grants the Senate the sole power to try impeachment cases. The Senate has great discretion in deciding exactly how it will try a particular case, including perhaps a decision to rely on the transcript of a previous judicial trial. However, I feel it would abrogate its constitutional duty if the Senate were to rely soley on a judicial judgment to convict, in turn, in a Senate impeachment trial. Further, this kind of reliance on a court decision may establish a crippling precedent should the Senate find itself trying a judge or other Federal official concerning some wrongdoing for which the courts have previously acquitted the official. This possibility is quite real. A Federal judge was recently acquitted of bribery charges in a criminal trial. However, the judges' governing body is preparing to request the House of Representatives to draw up articles of impeachment against this judge. In refusing to vote guilty on article III, I sought to avoid tying my hands and those of the Senate when the time comes again that the Senate sits as a Court of Impeachment.

Article IV alleged that Judge Claiborne brought disrepute upon the Federal judiciary by defrauding the Government and by his consequential imprisonment. The obviousness of this allegation required me to vote guilty. Our Federal Judiciary is nothing if it is not an esteemed and respected branch of Government. Having control of neither the purse nor the sword, our judges rule by the power of their wisdom and the respect due their integrity. Indeed, the Judicial Code of Ethics rightly admonishes judges to avoid even the appearance of impropriety. In the case of Judge Claiborne a jury of his peers convicted him of a felony charge relying on evidence which the Senate felt was ample to

support such a conviction. A felony conviction goes well beyond the appearance of impropriety. Judge Claiborne's fraudulent acts generated notoriety. The reputation of our judicial system cannot tolerate this kind of wound through which the citizenry's good will will bleed. For this reason I voted Judge Claiborne guilty on the charge of Article IV.●

HONORING SENATOR JOHN SHERMAN COOPER

● Mr. McCONNELL. Mr. President, as we rush to bring this session to a close, I would like to take a few minutes to honor one of my predecessors and a colleague to many of the Members still serving in the U.S. Senate, Senator John Sherman Cooper.

Senator Cooper's public service is extraordinary. He served the people of Kentucky as a county judge, State representative, and U.S. Senator. He served his country as an officer in Germany during World War II and later returned to Europe as the first U.S. Ambassador to East Germany. In the same capacity he represented our country in India and Nepal. Senator Cooper also served as a U.S. delegate to the U.N. General Assembly.

On Saturday, September 28, hundreds of Kentuckians and friends from all across the Nation gathered in the small southeastern Kentucky town of Somerset to unveil a statue of John Sherman Cooper. Although the bronze likeness now stands only a few hundred yards from where the Senator was raised, it represents a public career which took John Sherman thousands of miles away from his Kentucky home.

Yet, throughout the incredible career which led Senator Cooper to all corners of the world, he never lost touch with those at home. As an elected official Senator Cooper voted for what he believed was best for the people of Kentucky and the Nation, even when his opinion may not have been popular at that time. The positions Senator Cooper took often made him a political maverick. Still, everyone knew and respected his honest and heartfelt motives.

Senator Cooper never forgot those whom he represented during the 20 years he served in this Chamber. And they never forgot him. As the recent crowd at the fountain square in Somerset gathered to honor this outstanding Kentuckian, so did rain clouds. Hundreds of Senator Cooper's well-wishers, including former Majority Leader Howard Baker of Tennessee, stood faithfully through hours of rain and delays to pay tribute to one of our most outstanding Kentuckians.

In an almost ironic fashion, the inclement weather was representative of the violent times in which John Sherman Cooper, the public servant, arose and spoke out—during the cold war, the civil rights struggle, the Vietnam war. Just as he did at those times, on a recent rainy Saturday in Somerset, KY, 85-year-old John Sherman Cooper rose, despite the storm, and spoke out.

I am sure that may fellow Senators join me in honoring John Sherman Cooper. And I hope my colleagues feel as I do that Senator Cooper's record is one we all should try to emulate.

80TH BIRTHDAY OF HERMAN GLIEM

● Mr. BOSCHWITZ. Mr. President, as an immigrant myself, I have a special place in my heart for stories about those who have come to our great country in search of the American dream and gone on to become respected, contributing citizens of their communities. Friday marks the 80th anniversary of the birth of one of my constituents, Herman Gliem. Although I do not know Herman personally, his story was recently brought to my attention by his family, and I would like to share it with you.

Herman Gliem was born October 1, 1906, in the farm village of Untersuhl, Germany, which is located on the current border between East and West Germany. In 1926, when he was 20 years old, he borrowed money from his uncle in the United States and immigrated to Minneapolis, MN, to escape the stifling economic conditions in Germany and to find a new life. Though unable to speak, read, or write English, while living at the YMCA, he found work and attended night school—like millions of other immigrants—to learn English. Five years later he established a men's clothier business in Minneapolis, specializing in custom men's clothing, which he ran for almost 30 years. He also moved out of the YMCA and married Martha Johnson of Menahga, MN.

Herman has been very active with the Shriners—giving innumerable hours to the Shrine circus and parade—and with St. Paul Folks Fest German/American Club, serving as president of the senior group for 10 years. He has survived five heart attacks, is currently fighting cancer, has raised two daughters, and lives with his wife Martha in Minneapolis. Herman typifies the American dream in which millions of poor immigrants have, through their own efforts against heavy odds, established themselves, become solid citizens, and contributed significantly to helping this country become the great hope of the world.

Mr. President, I ask you and my colleagues to join me in sending birthday greetings to Herman Gliem.●

DEDICATION OF M. LARRY LAWRENCE JEWISH COMMUNITY CENTER

● Mr. CRANSTON. America's strength as a nation rests on many foundations. One of the most crucial is the diversity and dynamism of our community life.

Communities that work are more than just collections of people who live in the same area. Successful communities are comprised of people who share the goal of making their community better. Such people know that good communities don't just happen. They require commitment and hard work.

Larry Lawrence knows this. He has long been a leader in the San Diego community. Larry also knows that every community needs a place where people can come together to learn, to grow, to have fun and to get to know their neighbors better.

Because of Larry Lawrence's commitment to his community and his recognition of his neighbors' need for a place to call their own, San Diego's community life gets better all the time.

The newest improvement will be the opening of the second phase of the M. Larry Lawrence Jewish Community Center. This cultural and recreational oasis for people of all denominations will contain a full-size gymnasium, dance studio, music room, fitness room, arts and crafts facility, adult and senior lounge, and snack bar. Also included are the Albert Hutler Tennis Center and the largest aquatic facilities and swimming pool in San Diego County.

Larry's donation to the center was integral in getting the project off the ground. But Larry's true strength as a community leader comes from his recognition that the real secret is getting everybody involved. He shares the credit that all concerned so richly deserve with the city, the local legislators, and the police force.

Why does Larry Lawrence care so much? His own words tell the story: "When I grew up, the YMCA kept me off the streets. I hope others realize centers such as this are the backbone of our communities."

Because of Larry Lawrence, people do.●

THE NEW GOVERNMENT OF PRESIDENT AQUINO

● Mr. LUGAR. Mr. President, the publisher and editor in chief of the Philippine News, the largest Filipino-American newspaper in the United States, Mr. Alex A. Esclamado, has written a most perceptive and moving article about the new government of President Aquino. I wish to correct my previous insertion in the RECORD and state that this article appeared in the

San Francisco Chronicle on September 24, 1986. It presents the case for assistance to that government very persuasively, especially the argument that it is in the national interest of the United States that we help democracy survive in the Philippines. I ask that Mr. Escalamado's article be printed in the RECORD at the appropriate place.

The article follows:

[From the San Francisco Chronicle, Sept. 24, 1986]

STRONG SUPPORT FOR AQUINO—WHY FILIPINO-AMERICANS ARE CHEERING

(By Alex A. Esclamado)

When the Filipino people succeeded in regaining their freedom in a most dramatic revolution last February, freedom-loving peoples around the world cheered them on. In center focus was Corazon C. Aquino, wife of the fallen hero, Senator Benigno S. Aquino Jr.

There were doubts in many minds whether she had the ability to lead a devasted nation. The most stinging indictment of her supposed lack of competence to handle the Herculean job of the presidency of the Philippines was made by the New York Times editorial board.

The Times had interviewed Aquino immediately after her victory. Candidly and unguardedly, acting like the sincere housewife she used to be, always giving center stage to her dynamic husband, she expressed her personal doubts about her ability to govern. She answered questions with the sincerity and openness characteristic of her personality.

Obviously, no politician of her newly acquired stature would have dared to display such candidness. Predictably, the Times article was devastating. The image created of Corazon Aquino was of a president who had no experience, who admittedly had to take crash courses in government and leadership under special tutors—tutors who, as many feared, could take advantage of her political naivete.

Today, barely seven short months after she assumed the powers of the presidency, Americans are being given the opportunity to size up, at close range, a diminutive housewife-turned president of 55 million people.

What is her performance rating? I can only sum up what she has already done in such a short time.

She has restored freedom to the Filipinos. This is clearly demonstrated by the reinstitution of press freedom. There are 26 newspapers and magazines in the Philippines today each trying to find fault with her government.

She is dismantling the corrupt political machinery of the past regime. Local, provincial and national officials who for 20 long years were the vital instrumennts of power of a totally corrupt administration are being replaced. One can appreciate the enormity of the undertaking and the tremendous implications it has on political stability.

She is restructing the framework of the nation through the formulation of a new constitution that embodies the Filipinos' high aspirations for a truly democratic system. She has announced that elections will be held under the new constitution soon after it is ratified.

With a duly elected Congress that provides the checks to the presidency and local officials receiving fresh mandate from the people, together with an independent judiciary, full political stability shall be achieved.

She has personnally implemented the laudable policy of reconciliation with the rebel and insurgent elements of the Philippine society which flourished from the brutal repression and unconscionable corruption of the past regime. She released all political prisoners including Communist leaders.

Aquino has traveled to the dangerous southernmost region of the country to meet the leader of the Moslem rebels with whom she has struck a ceasefire agreement. She has flown to the almost inaccessible jungles of northern Luzon to "smoke the peace pipe," so to speak with one of the most enigmatic of rebels.

She is in the process of negotiating peace with the New People's Army, the Communist-backed insurgents, whose cause and numbers flourished under the injustices and inequities of the Marcos dictatorship.

As Aquino pointed out in her speech before Congress, the communist insurgency started with only 500 armed soldiers when martial law was declared in 1972. It had grown to over 16,000 when the Marcos regime ended in February.

No president of the Philippines before her has accomplished these daring personal feats in the first 200 days of his term. At another time before hers, these things would only be attempted by a man in a man's world.

Now she has come to the United States to solve the most difficult problem of her government: the revival of the Philippine economy. There is no need to belabor here how much devastation has been inflicted by Imelda and Ferdinand Marcos upon the Filipino nation; much has been written about it.

Not only have they stolen a major chunk of whatever there was to steal from the country, they have also plunged the land hopelessly into debt. As Aquino has said, it is a $26 billion obligation of a people who never received the benefits of the debt.

President Aquino came to appeal to the United States for three forms of assistance.

To increase the level of U.S. aid to the Philippines so that the democracy that her people have valiantly regained in a phenomenal revolution may be preserved.

She was right in her speech to Congress when she pointed out that the Philippine revolution was the cheapest revolution ever. For in how many places have Americans been embroiled in conflicts to promote democracy and have failed at tremendous cost of American lives and financial resources?

To urge American investors to resume their business activities in the Philippines and to encourage new business ventures.

To make the burden lighter for the impoverished Filipino who must honor a huge foreign debt from which "he never benefitted."

The bottom line is: To what extent is America willing to help the Aquino government? How much is America willing to pay to help keep the Philippines on the side of freedom?

Doubts about Aquino's personal competence and ability to govern the Philippines should be erased by the time her plane lands in Manila to the rousing welcome of her proud people. She will return to her country finding it very much intact and well under her full control. Indeed, her visit will have been a definite diplomatic and substantive success.

She will also leave the United States with the strong support of the Filipino-American community throughout the country. Everywhere she went—Washington, D.C., New York, Boston and San Francisco, Filipinos welcomed her as their new heroine, a person full of sincerity, decency and talent. She has become the personification of the Filipinos' love and commitment to the immutable ideals of freedom and patriotism.

This is the real Corazon C. Aquino that I know: intelligent, strong-minded, sincere. No one can manipulate her. No one can dictate to her. While she needs advice from experts, she is clearly the Boss. There is no doubt that she can lead the Philippines to the greatness that it deserves.

How much must we help to make her succeed? I say enough to make her win the battle to preserve democracy in the Philippines!

I am an American by adoption, a Filipino by birth. I have seen how the United States has failed the Filipinos at certain crucial moments in the long history of Philippine-American friendship.

Democrats and Republicans alike, gave the Marcoses free rein, enabling them to destroy the moral and material well-being of the Filipino people.

I believe it is time for America to do justice and make amends to their Filipino friends who love Americans more than any other people in the world.

What is an equitable price, then, for maintaining democracy in the Philippines?

If the primary interest in the Philippines is the maintenance of U.S. strategic military bases there, then let the U.S. pay the price to maintain them. Assuming that the biggest threat to U.S. bases are the Communists, then let us spend now what it takes to defeat the Communists in the Philippines. How?

As President Aquino eloquently stressed, communism cannot be defeated by sheer military power. There must be an alleviation of the poverty of the people to remove their cause for rebellion.

Recently, Washington sent experts to the Philippines to determine how much it would cost to transfer the military bases in the Philippines to other areas, like the Mariana Islands. The figure was $10 billion and the resultant facility would not be even half as effective as the present facilities.

In response to the appeal of President Aquino, I submit that the United States adopt a Marshall Plan-type of commitment to the Philippines. The amount shall be equal to what would be spent to transfer the military bases elsewhere programmed over five years. The $2 billion annual budget may be placed in the Defense budget as "rental" for the military bases in the Philippines or for the maintenance thereof. The amount shall then be considerably reduced after the five-year period.

The fund should not be termed "foreign aid." This fund would enable President Aquino to effectively implement social amelioration projects to enhance the economic life of the Filipinos. The Communists then will lose their mass base and will eventually be defeated, thus the threat to the military bases will disappear.

And when the military bases issue is brought before the Filipino people for decision in a plebiscite in 1991 when the current treaty expires, I am certain that an overwhelming majority will vote for their retention.

We must help Aquino's government succeed. The $2 billion annual budget which I propose is only at parity with Egypt. It is very much less than our present support to

Israel of over $3 billion. The Reagan administration is reported to be considering an aid package for Pakistan at the level of $900 million. I say, in the scale of strategic importance and commitment to democracy, the survival of Philippine democracy should be ranked as equally important to America as the survival of democracy in Egypt, Israel or Pakistan.

If the United States cannot help democracy survive in the Philippines where all conditions are favorable how can she be expected to win a battle for Democracy anywhere else in the world? Is there a better country to invest in democracy and freedom?●

WORLD FOOD DAY

● Mr. SARBANES. Mr. President, on October 16 we will commemorate the sixth anniversary of World Food Day, an occasion to reflect upon the continuing tragedy of world hunger while working together to end it. In my own State of Maryland, concerned citizens will be taking this opportunity to organize positive action to end hunger both in their local communities and around the world, through a program called "RSVVP"—Restaurants Sharing V+V (10) Percent.

The RSVVP Program, which was initiated last October, represents the coordinated action of almost 200 Baltimore area restaurants and their patrons, media sponsors, and antihunger organizations. On October 15, the day preceding World Food Day, participating restaurants will contribute 10 percent of their gross receipts to fight hunger—half of which will be distributed locally by the Maryland Food Committee, and half of which will go to the Emergency Task Force on Africa for Famine Victims. Last year, the RSVVP Program raised enough money to help feed 60,000 people; this year the event's organizers hope to feed 100,000.

Mr. President, it is truly inspiring to see the Baltimore community join together to address one of the world's—and the Nation's—greatest challenges. I would like to congratulate the coordinators of this year's event, the Junior League of Baltimore, as well as the sponsors—the Baltimore Sun; WBSB, B-104 FM, radio, and WMAR-TV, channel 2—and the participating restaurants for their generous efforts. Finally, I would like to invite my colleagues and their staff members to contribute to this important event by eating out tomorrow night at one of the RSVVP restaurants. I ask that the list of participating establishments be printed in the RECORD.

The list follows:

RSVVP PARTICIPATING RESTAURANTS

Ad Inn, Finksburg.
Admiral's Cup, Fells Point.
Akbar, Charles Street.
Alley Oops, Charles Plaza.
Allview Inn, Columbia.
American Cafe, Harborplace.
Bamboo House, Cockeysville.
Bamboo House, Harborplace.
Bangkok Place, Govans.
Bay Island Seafood, Metro Plaza.
Beef, Wine, and Cheese Shoppe, Ruxton.
Beltway Restaurant and Lounge, Arbutus.
Bertha's, Fells Point.
Brass Elephant, Charles Street.
Brasserie at Peabody Court, Mount Vernon.
Bridge Restaurant, Downtown.
Brocato's Family Restaurant, Eastpoint Mall.
Bud Paolino's, Highlandtown.
Burke's Cafe, Inner Harbor.
Caesar's Den, Little Italy.
Cafe at the "J", Jewish Community Center.
Cafe des Artistes, Mount Washington.
Cafe Tattoo, Bel Air Road.
Calvert House, Downtown.
Candlelight Inn, Catonsville.
Capriccio's, Little Italy.
Captain Harvey's, Owings Mills.
Casa Giannerini, North Hamilton.
Casa Pepe, Little Italy.
Charles Village Pub, Charles Village.
Charles Village Pub West, Catonsville.
Cher's Pub, Downtown.
Chez Fernand, Downtown.
Chiapparelli's, Little Italy.
Chic-Fil-A, Hunt Valley Mall.
China Doll Restaurant, Downtown.
Chinese Gourmet Restaurant, Park Avenue.
Clubhouse Deli, Hunt Valley Mall.
Cobblestone Restaurant, Ellicott City.
Coffee, Tea, and Thee, Hunt Valley Mall.
Construction Company, Downtown.
Country Fare Inn, Owings Mills.
Country Sampler, Harborplace.
Cross Keys Inn, Cross Keys.
Cultured Pearl Cafe, Hollins Market.
Da Mimmo Restaurant, Little Italy.
Dalescio's, Little Italy.
Della Rose's Belair Inn, Overlea.
Dici Naz Vellegia, Towson.
Duffy's, Irvington.
Dynasty, Randallstown.
Ethel's Place, Mount Royal Center.
Fitzgerald's Havilah Inn, Taneytown.
Fran O'Brien's, Annapolis.
Frank's Pizza, Bel Air.
Fred's, Parole.
Friends at Fells Point, Fells Point.
Fritz's Fells Point.
Gelato Cafe, Fells Point.
Georgetown North, Bel Air.
Gianni's Harborplace.
Golden Crown Restaurant, Bel Air Road.
Golden Star Restaurant, Charles Village.
Golden Temple Cafe, Charles Street.
Golden Town Inn, Towson.
Grecian Gardens, Cockeysville.
Green Earth Deli, Charles Street.
Gringo's Casa Mexicana, Highlandtown.
Hacienda Mexican Restaurant, Bel Air Road.
Harvest Moon Cafe, Mount Royal Center.
Harvey's Greenspring Station.
Hickory Inn, Bel Air.
Hopkins Beef House, East Baltimore.
Horn and Horn Smorgasbord, Severna Park.
Horn and Horn Smorgasbord, Westminster.
House of Hess, Edgewood.
House of Welsh, Downtown.
Howard's Delly, Charles Street.
Hunan Restaurant, Owings Mills.
Hunan Taste, Randallstown.
Hunt Ridge Restaurant, Lutherville.
Imperial Palace, Randallstown.
Impressions, Maryland Avenue.
Irish Pub, Mount Royal Center.
J.K.'s Pub, Columbia.
J.T. McKinley's, Towson.
Jai Hind Indian Restaurant, Govans.
Jason's, Eastport/Annapolis.
Jean Claude's Cafe, Harborplace.
Jockey Club/Holiday Inn, Jessup.
Josef's, Fallston.
Kavanaugh's, Downtown.
Kent Lounge, Towson.
Kibby's, Arbutus.
King's Contrivance, Columbia.
Landmark Restaurant, Downtown.
Light Street Deli, Downtown.
Louie's Bookstore Cafe, Charles Street.
Lucky Ned's Columbia.
Maria D's, Federal Hill.
Mariner's Pier One, Harborplace.
Market Bar at Bun Penny, Harborplace.
Martick's Restaurante Francais, Downtown.
Merendino's, Maryland Avenue.
Midtown Yacht Club, Charles Street.
Milano's Towson.
Milano's West, Pikesville.
Ming's Timonium.
Morgan and Millard Restaurant Gallery, Roland Park.
Morning Edition, Butchers Hill.
Mount Washington Seafood, Mount Washington.
Mount Washington Tavern, Mount Washington.
Ms. Desserts, Harborplace.
Museum Cafe, Baltimore Museum of Art.
Never on Sunday, Charles Street.
Nolan's Cafe, Parkville.
Obie's, Bel Air.
Old Philadelphia Inn, Middle River.
Out to Lunch, Candler Building, Inner Harbor.
Out to Lunch, Rotunda Mall.
Owl Bar, Belvedere Hotel.
Paul's on the South River, Annapolis.
Peerce's, Downtown.
Peerce's Plantation, Phoenix.
Phillip's Seafood Restaurant, Harborplace.
Piccadeli's, Charles Street.
Pimlico Restaurant, Pikesville.
Pinocchio's, Charles Street.
Pizza Palazzo, Downtown.
Polo's/Ramada Inn, Security Square.
Poor Richard's, Towson.
Puffins Cafe, Pikesville.
Pump Room, Downtown.
Queen of Sheba Ethiopian Restaurant, Maryland Avenue.
Raffaele's Restaurant, Reisterstown.
Rafferty's, Bel Air.
Rallo's, Federal Hill.
Rax Restaurant, Woodlawn.
Regi's, Federal Hill.
Restaurant 2110, Charles Street.
Rita's Place, Charles Street.
Round Robin Cafe, Downtown Athletic Club.
Ruggerio's, Eastpoint.
Sabatino's, Little Italy.
Seabrook Restaurant, Charles Street.
Shamrock Inn, Hamilton.
Sir's Continental Cuisine, Midtown Belvedere.
Sisson's, Federal Hill.
Something Fishy, Fells Point.
Souvenirs, Bel Air.
Spanish Meson, Fells Point.
Squire's Cafe, Dundalk.
Stable South Restaurant, Timonium.
Suzy's Liquors and Restaurant, Mount Vernon.
Taj Restaurant, Catonsville.
Tandoor, Harborplace.
Taneytown Deli & Sandwich Shoppe, Catonsville.
Taverna Athena, Harborplace.

Thai Restaurant, Charles Village.
The Crease, Towson.
The Orchid, Charles Street.
The Real Thing, Towson.
Tio Pepe, Downtown.
Tommy's Lounge, Highlandtown.
Tony Cheng's Szechuan Restaurant, Charles Street.
Toucan Courtyard Cafe, Brown's Arcade.
Trattoria Petrucci, Little Italy.
Treaty of Paris, Annapolis.
Tree's Restaurant, Charles Street.
Uncle George's, Bel Air.
Washington Place Grill, Charles Street.
Water Street Exchange, Downtown.
Waterfront Hotel, Fells Point.
Women's Industrial Exchange, Charles Street.
Zingaro, Inner Harbor.●

ABORTION AND INFORMED CONSENT: MINNESOTA

● Mr. HUMPHREY. Mr. President, Kathy's letter from Minnesota speaks for itself. I would especially like to highlight what she says in the final paragraph: "Abortion is not a decision we can later change. It is final * * * for the innocent unborn and the mother." Since abortion is so decisive, we are morally compelled to insure that women have every bit of information made available to them.

Mr. President, I hope that my colleagues will read Kathy's letter carefully and cosponsor S. 2791.

The letter follows:

JUNE 30, 1986.

DEAR SENATOR HUMPHREY AND OTHERS: I am writing this letter concerning my abortion experience, not because it is so unusual, but because it could be written by thousands, perhaps millions, of American women. I hope that my ability to speak-up will be recognized as the voice of thousands who are unable to, due to the devastating emotional, physical and spiritual trauma of their abortions.

I had an abortion in 1971 in New York at Dr. Bernard Nathanson's clinic. Abortion was not the credit card, lunch time procedure it has become since the 1973 Roe vs. Wade decision, but as the years have gone by and I have worked in counselling women who have had abortions, I see that the *Roe v. Wade* decision has done nothing beneficial for women in terms of dealing with a crisis pregnancy, or in terms of physical safety. Crisis pregnancies leave scars, regardless of the chosen solution. The question for society is which solution leaves the least scars? My abortion was the worst mistake of my life. As time progresses it continually stands out to be so. It created in me emotional depression, suicidal tendencies, a very low self image, and I came very close to becoming one of society's supported indigent adults . . . for life.

Scars like that are common among women who have had abortions. Yet women who carry to term under the care of supporting counselors find that they feel good about the sacrifices which they have made . . . time becomes healing rather than increasing the trauma.

Over the last 10 years, I have personally counselled and worked with several hundred pregnant women or women who have had abortions. I have found that 100% of women who choose to carry to term are glad that they made that decision. Yet the women I have counselled who have had abortions have 100% regretted their decisions and have difficulty dealing with that decision, sometimes 25 years later! They hate themselves, have emotional problems, problems with their husbands, problems with their children and on and on.

Abortion is not a decision we can later change. It is final . . . for the innocent unborn and the mother. If we as a nation do not stop contributing to the emotional handicap of our future mothers and young women, our nation will suffer in ways that we can not even fathom.

Sincerely,

KATHY BUCKLEW,
Blaine, MN●

DR. MICHAEL G. WILSON 1986 DISTINGUISHED PRINCIPAL OF THE YEAR FROM CALIFORNIA

● Mr. CRANSTON. Mr. President, I have risen many times in this Chamber to speak to my colleagues on the importance of education. Today, I would like to bring attention to a man who knows better than most just how crucial schools are to America's future, a man who works everyday to guarantee that the children in his charge will be prepared to face the challenges the 21st century will bring.

Dr. Michael G. Wilson has been an employee of the Los Angeles Unified School District for the last 22 years. For the last 4 years he has served as the principal of the San Pedro Street Elementary School. This year he has been selected by the National Association of Elementary School Principals as the 1986 Distinguished Principal of the Year from California. Anyone familiar with Dr. Wilson's record would understand immediately why he is being recognized.

Since Dr. Wilson came to San Pedro Street, parents' participation in their children's school life has tripled, test scores are way up, science fairs have become an annual event and the community is more directly involved in the school's daily life. For example, Dr. Wilson was instrumental in inaugurating an antidrug program that has local police visiting the school 1 day a week to talk with fifth and sixth grade students about the dangers of drug use.

The leadership role a principal can play in his or her school cannot be overstated. A good principal instructs, inspires and energizes both students and faculty. A good principal understands not just education, but also human relations. A good principal knows not only his or her school, but also the community at large.

Dr. Wilson's accomplishments prove that he understands what it takes to make a difference for his school and that he's willing to do what's necessary to get the job done. His commitment, his dedication and his hard work provide a model for all he comes into contact with.

Certainly the San Pedro Street Elementary School benefits from Dr. Wilson's presence there. His selection by the National Association of Elementary School Principals as the 1986 Distinguished Principal of the Year from California will mean that many others can benefit from his example as well.

Congratulations, Dr. Wilson, for a job well done. And thanks.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 14, 1986.

Hon. PETE V. DOMENICI
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 120. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32 and is current through October 10, 1986. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

Since my last report Congress has completed action on the Omnibus Veterans Benefits Improvement and Health Care Authorization Act, H.R. 5299, changing outlay estimates for 1987. This bill included an increase in veterans compensation that is contingent on other legislation being enacted. The cost of this provision is not reflected in this report.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION AS OF OCTOBER 10, 1986

[Fiscal year 1987—in billions of dollars]

	Cureent level [1]	Budget resolution S. Con. Res. 120	Current level +/− resolution
Budget authority	634.0	1,093.4	−459.4
Outlays	734.5	995.0	−260.5
Revenues	857.7	852.4	5.3
Debt subject to limit	2,111.0	[2] 2,322.8	−211.8
Direct loan obligations	20.4	34.6	−14.1
Guaranteed loan commitments	33.1	100.8	−67.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111.0 billion.

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99th CONG., 2D SESS. AS OF OCT. 10, 1986

[In million of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous session:			
Revenues			843,799
Permanent appropriations and trust funds	733,558	647,692	
Other appropriations		195,861	
Offsetting receipts	−165,990	−165,990	
Total enacted in previous sessions	567,568	677,563	843,799
II. Enacted this session:			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251)		2	
Technical Corrections Amends to Food Security Act (Public Law 99–253)	50	50	
VA Home Loan Guarantee Amendments (Public Law 99–255)		49	
Food Security Improvements Act of 1986 (Public Law 99–260)	−115	−115	
White Earth Reservation Land Settlement Act of 1985 (Public Law 99–264)	10	10	
Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99–272)	155	−3,553	2,503
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289)		−178	
Federal Employees' Retirement System Act of 1986 (Public Law 99–335)	−150	−1,670	−666
Judicial Improvements Act (Public Law 99–336)	2		
Temporary Extension of Certain Housing Programs (Public Law 99–345)		−85	
Military Retirement Reform Act (Public Law 99–348)	−47	146	
Urgent Supplemental Appropriations, 1986 (Public Law 99–349)	−278	−914	
Panama Canal Commission Authorizing Act (Public Law 99–368)		2	
Omnibus Diplomatic Security and Anti-Terrorism Attack Act (Public Law 99–399)	1	1	
Children's Justice and Assistance Act (Public Law 99–401)	10		
Soccorro County Land Conveyance (Public Law 99–427)	−1	−1	
Total enacted this session	−363	−6,255	1,836
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
Tax Reform Act (H.R. 3838)	65	65	11,462
Higher Education Amendments of 1986 (S. 1965)		−579	
Bankruptcy Amendments of 1986 (H.R. 5316)	−55	−55	
Superfund Amendments and Reauthorization (H.R. 2005)			583
Federal Technology Transfer Act (H.R. 3773)	2	2	
Omnibus Veterans Benefits Improvement Act (H.R. 5299)		−12	
Total conference agreements	12	−579	12,045
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	126	126	
Claims, defense	156	150	
Payment to the foreign service retirement trust fund [2]	(173)	(173)	
Range improvements	10	7	
BLM: Miscellaneous trust fund	[1]	[1]	
Compact of free association	42	42	
Administration of territories	35	30	
Payments to air carries, DOT	32	30	
Retired pay—Coast Guard	370	341	
Maritime, operating-differential subsidies		297	
BIA: Miscellaneous trust funds	1	1	
Social service block grant	2,700	2,538	
Family social service	758	584	
Guaranteed student loans	3,219	2,580	
Guaranteed student loans (S. 1965)	−75	−65	
Higher education facilities loans and insurance	19		
Government payments for annuitants	1,459	1,301	
Retirement pay for PHS officers	83	81	
Medicaid	19,595	19,241	
Medical facilities guarantee and loan fund	20	19	
Payments to health care trust funds [2]	(20,826)	(20,826)	
Special milk program	16	11	
Child nurtition programs	4,212	3,791	
Federal unemployment benefits and allowances	103	102	
Advances to unemployment trust fund [2]	(9)	(9)	
Special benefits (general retirement and federal employee retirement)	257	257	
Black lung disability trust fund	549	549	
Supplemental security income	7,846	7,846	
Special benefits for disabled coal miners	698	638	
Assistance payments	7,350	7,350	
Child support enforcement	599	583	
Payments to social security trust funds [2]	(501)	(501)	
Veterans insurance and indemnities	5	4	
Veterans readjustment benefits	750	723	
Veterans compensation	10,300	9,360	
Veterans pensions	3,684	3,385	
Veterans burial benefits	138	138	
Salaries of judiges	104	103	
Fees and expenses of witnesses	46	37	
Compensation of the President	[1]	[1]	
Payment to civil service retirement trust fund [2]	(4,557)	(4,557)	
National wildlife refuge fund	6	6	
Military pay raises and benefits	1,566	1,539	
Total entitlements	66,780	63,728	
Total current level as of October 10, 1986	633,996	734,456	857,681
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution			5,281
Under budget resolution	459,354	260,544	

[1] Less than $500 thousand.

[2] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.

ASSISTANCE FOR VICTIMS OF WOUNDED KNEE OCCUPATION

● Mr. ABDNOR. Mr. President, I am pleased that the Senate has agreed to take up S. 2260, which I introduced to assist the innocent victims of the Wounded Knee occupation of 1973.

This legislation will close a sad chapter for a number of individuals who, through no fault of their own, lost livestock and property in the occupation of the town of Wounded Knee, SD, by members of the American Indian Movement. Many of these individuals were without benefit of insurance or other means of gaining restitution.

I introduced this legislation as a matter of simple justice—justice for individuals who deserved consideration because of the actions of AIM and of the Federal Government. By the passage of this legislation, I believe that we can show these innocent individuals that their elected Government is fair and just and responsive to needs of those who have no where else to turn.

I would like to express my gratitude to Senators on both sides of the aisle for their consideration and to Ms. Patricia Zell of the Senate Select Committee on Indian Affairs for her assistance with the passage of this legislation.●

INTELLIGENCE COMMITTEE REPORT ON COUNTERINTELLIGENCE

● Mr. MOYNIHAN. Mr. President, the Senate Select Committee on Intelligence has released the results of a yearlong review of U.S. counterintelligence and security programs. With the focus once again turned to Soviet espionage at the United Nations, the report is timely. But unfortunately, as the committee documents, the report would have been timely on almost any day these past 2 years. I commend the members and staff of the Intelligence Committee for their comprehensive effort to set a counterintelligence agenda for us in the Senate and for making so much of the report available to the public, for surely the public has both a need and a right to know that their security is being threatened as is their privacy.

Mr. President, I would like to draw attention to a particular concern—or threat, as they say at the Pentagon—of the committee. I speak of the threat of Soviet electronic eavesdropping from their diplomatic missions in New York, Washington, and San Francisco as well as the Soviet listening facility at Lourdes, Cuba. We have known about this eavesdropping at least since June 1975, when Vice President Rockefeller reported to the President:

> We believe these countries (Communist-bloc) can monitor and record thousands of private telephone conversations. Americans have a right to be uneasy if not seriously disturbed at the real possibility that their personal and business activities which they discuss freely over the telephone could be recorded and analyzed by agents of foreign powers.

In 1978, we learned even more about the Soviet listening operation run from their diplomatic facilites in New York City, when Arkady Shevchenko defected. In his book Breaking With Moscow, Shevchenko describes how:

> The rooftops at Glen Cove, the apartment building in Riverdale, and the Mission all bristled with antennas for listening to American conversations. * * *

At the same time the Soviets were expanding their operations at Glen Cove, they were also expanding their listening facility in Lourdes, Cuba. In the past decade the 28 square mile facility has grown by 60 percent, such that it is now the largest such Soviet facility outside the Soviet Union. An estimated 2,100 Soviet specialists are required to man its sophisticated electronic listening equipment. 2,100!

Mr. President, with this kind of growth are we prepared to believe—can we afford to believe—the Soviets are not getting their money's worth? The select committee believes they are. The report concludes:

> The massive Soviet surveillance efforts from Cuba and elsewhere demonstrate * * * that the Soviet intelligence payoff from interception of unsecured communications is immense.

The report also tells us that:

> More than half of all telephone calls in the United States made over any distance are vulnerable to interception.

I wonder if our constituents know this? And I wonder if they know that every time they make a long distance telephone call, Lourdes might be listening? They should. Moreover:

> Calls that the caller believes to be on less vulnerable circuits may be automatically switched to more vulnerable ones.

And the matter is only going to get worse because of the growing reliance of U.S. telecommunications on satellite microwave links to carry long distance and computer data communications.

Mr. President, the distinguished minority leader was right on target when he said on February 19 of this year:

> This (Soviet eavesdropping) is a gross threat to the national security of the United States. We may spend hundreds of billions of dollars on defense, but how secure is this Nation when a foreign superpower may be listening in on most any telephone conversation?

Nevertheless, the Government's response has been piecemeal and at times even reluctant. That is why it is so important that the Intelligence Committee has produced this comprehensive overview. Although President Carter was aware that "the intercept on a passive basis of these kinds of transmissions has become a common ability for nations to pursue," his response was to bury the Government's telephone cables. More recently, the Defense Department has installed fiber optics to protect communications at the Pentagon. The State Department, for their part, has prohibited certain foreign missions from importing telecommunications equipment without prior approval from the Department—those antennas Arkady Shevchenko was talking about on the roof in Riverdale. And of course, the Secure Telephone Unit Program will shore up the defense industry, provided enough are purchased and used. I applaud all these actions but still the majority of us are left out in the cold and we continue to bleed sensitive information.

On April 22 of this year I introduced legislation, S. 2348, the Satellite Communications Security Act, which would provide $1 billion to encrypt all domestic common carrier communications satellite links. Not the solution, but a piece to the solution. Therefore, I am particularly pleased to note that the Senate Select Committee recommends in their counterintelligence report that we encrypt the most sensitive of these domestic communications channels. In fact, this idea has already been endorsed by the Armed Services Committee and the Appropriations Committee in their respective defense bills, and by the House Permanent Select Committee on Intelligence.

Moreover, National Security Decision Directive 145, the White House directive outlining national policy on telecommunications security, clearly states:

> Assuring the security of telecommunications and automated information system which process and communicate classified national security information * * * and offering assistance in the protection of certain private sector information are key national responsibilities.

NSDD 145 says it is a national responsibility and national policy to offer assistance in the protection of certain private sector information; and so does the Intelligence Committee. Again to cite the report:

> Efforts to neutralize the Soviet intercept operations that damage national security should not depend so heavily on the marketplace.

Mr. President, I would conclude then by urging my colleagues to carefully read the select committee's report, and review its recommendations. It is time we reassess our priorities and give our counterintelligence assets the resources they need. It will cost us so much more not to do so.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Edmund Mihalski, a member of the staff of the Committee on Finance, to participate in a program in Ottawa, Canada, sponsored by the Centre for Legislative Exchange, from October 19–22, 1986.

The committee has determined that participation by Mr. Mihalski in the program in Ottawa, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Jade West, a member of the staff of Senator JAMES A. MCCLURE, to participate in a program in Chile, sponsored by the Universidad de Chile, Instituto de Ciencia Politica, Institute of Political Science of the University of Chile, from November 9–15, 1986.

The committee has determined that participation by Ms. West in the program in Chile, at the expense of the Universidad de Chile, Instituto de Ciencia Politica, is in the interest of the Senate and the United States.●

THE PERIL OF CIVIL WAR

● Mr. DECONCINI. Mr. President, a terrible war threatens Sri Lanka, the beautiful island once referred to as Ceylon. Both the Sinhalese majority, comprising 74 percent of the population, and the Tamils, making up 16 percent, exploit each other's atrocities to justify yet another reprisal. This, in turn, creates a vicious and self-defeating cycle of violence, death and self-perpetuating ethnic hatred.

You might ask what propels this cycle of conflict. In my opinion, it is the majority's refusal to share power with the minority. While the Sinhalese will periodically launch offensives against the Tamil minority, the overall escalation in violence only imperils the lives of all the Sri Lankan citizens, kills off their once prosperous tourism trade, and harms agricultural production. This type of intransigence risks turning Sri Lanka into a Lebanon.

Sri Lanka's President, J.R. Jayewardene, has ignored peace talks in the past. On May 17, 1986, while the Sri Lankan and Indian officials were supposedly negotiating terms to offer the Tamils, the Sri Lankan Army launched an offensive on the Jaffna Peninsula intended to break the guerrilla stronghold there. He continued through the week to bombard the Tamil northern cities on this peninsula. A military solution is not one which will bring Sri Lanka back to its phenomenal economic growth and model democratic practices.

The President claims that this insurgency is bleeding his once prosperous country. He also states that Tamil separatists, known as Tigers, are sponsored by foreigners. He says that Tamil militants are trained and funded by the PLO and the Soviet Union. While I condemn in no uncertain terms the violence of this fringe

group, these militants flourish because of the Government sponsored Home Guard force that rampages through Tamil villages. Killings, torture, and disappearances are reported by Amnesty International. The President has talked about the "complete liquidation" of Tamil extremists. These threats encourage more violent reprisals and give incentive to the Tamil community in India to harbor and train more militants.

The Prime Minister of India, Mr. Ragiv Gandhi, has valiantly tried to negotiate a settlement in this tragic situation. He brought the rival Sri Lankan groups to negotiations last year and closed down Tamil training camps in India. The answer might be to allow the Tamils to have locally elected administrators in the north and northeast to maintain their own police forces, collect some revenue, and control education. These are the contentious issues which have instituted longstanding rifts between Tamils and Sinhalese since independence in 1948.

Mr. Gandhi deserves U.S. support and praise for his diplomatic skill and diligence. I am not speaking for other Senators when I say that U.S. assistance, totaling $49.6 million in 1986, should be tied to President Jayewardene's cooperation in these negotiations, Sri Lanka should be given economic incentives to move toward ending this civil war. The United States might seriously analyze how this foreign assistance is most prudently used, especially in these days of domestic budget cuts and shrinking foreign aid. But continually providing this money unconditionally to a government which does not seriously consider the peace talks flies in the face of U.S. policy. Furthermore, if the United States were forced to move its bases from the Philippines, Sri Lanka might be a viable option. However, we have seen the effects of civil war and violence in other areas of the world and United States bases would not be secure or welcome in Sri Lanka under the present conditions. Clearly, United States foreign policy is better served by a peaceful and prosperous Sri Lanka. Talks between the Tamils, Sinhalese, and Mr. Gandhi proceed as I speak. We urgently need to resolve the stubborness and violence that threatens to hobble this rich country.

Mr. President, the moderate Tamils need tangible results and viable proposals to emerge from these present talks. Mr. Gandhi has risked sticking his neck out once again, and this deserves cooperation from the Sri Lanka Government. The combination of a government which takes the peace talks seriously, Mr. Gandhi's cooperation in negotiating and enforcing a settlement, and the moderate Tamils achieving tangible success could solve this ethnic stalemate. The scenic, ethnic, and religious beauty of Sri Lanka must return before political hatred permanently alters this country forever.

HEALTH CARE COVERAGE FOR ADOPTED CHILDREN

● Mr. HUMPHREY Mr. President, I would like to draw the attention of my colleagues to a serious problem some adoptive parents face in obtaining health care coverage for their adopted children. The problem arises when the child has a physical, mental or emotional disability which the insurer labels a preexisting condition. Some insurers use a policy against coverage for a condition or state of health which exists before the effective date of an insurance policy as a basis for denial of health insurance for disabled adopted children.

This past April, at the first hearing of congressional coalition on adoption, several witnesses on a panel devoted to health care for adoption of children with special needs discussed this problem. One witness, Mrs. Linda Sacra representing the Texas Council on Adoptable Children, spoke movingly of a case she knew which involved a baby born prematurely who showed a brain mass on a CAT-scan several days after birth. The prospective adoptive parents wanted to proceed with the adoption but, because their insurance company refused to cover any costs associated with the brain mass on the grounds that it was a preexistent condition, the adoption plan was disrupted. I am told there are many cases like this, involving both infants and older children.

A second witness, Mrs. Mary Ann Kuharski, who is both an adoptee and an adoptive parent working on adoption and foster care issues in Minnesota, testified about a Minnesota law which guarantees equal rights for adopted children in health and accident insurance coverage. The Minnesota statute encourages couples to adopt children with disabilities by providing that they will not be denied health insurance coverage for the child from the date of placement in their home. Under this law, if the child would be covered if he or she were a biological child and not an adopted child, then the child must be covered.

Mr. President, that makes eminent good sense to me. Under State law in this country, adoption severs the legal ties between the adoptee and his or her birth parents, and creates a legal relationship with the adoptive parents. In every State except Illinois, by statute an adopted child has the same status as a biological child for all intents and purposes. Illinois cases have established the same law. According to adoptive parents and child advocates, some insurers simply choose to ignore these laws and refuse to provide health care coverage for disabilities of adopted children.

According to the best information available, only eight States have statutes specifically dealing with health insurance coverage for adopted children, and some of those may not be strong enough to prevent this discrimination against adopted children. In addition, if the statute does not specify coverage must be provided from the time of placement, an insurance company may choose to provide coverage beginning from the date of the finalization of the adoption or later. There is little or no case law on this subject in any State.

According to the Department of Health and Human Services, at least 36,000 children in this country are free for adoption and waiting for a permanent home, and many of them are disabled. Some are eligible for Medicaid and thus their health care would be covered whether they are in a foster home or an adoptive home. For those who are not eligible for Medicaid, financing of their health care may impose a significant barrier to their adoption.

Through adoption laws, all States have said to adoptive parents, "This child is your child, like any other child born to you." As parents we accept and love, and the insurance companies cover, our biological children with any congenital conditions or abnormalities they may have. Since the State law says an adopted child is to be treated identically to a biological child, why should a health insurance plan not cover a disabled adopted child when it would cover a biological child with the same disability born to the adoptive parents? By denying health insurance coverage to adopted children, the insurers are discriminating against adopted children and establishing a policy contrary to the State law on adoption.

Mr. President, I have no interest in meddling in insurance policy or in encouraging the Federal Government to dictate policy in insurance matters to State legislatures. I simply want to draw the attention of my colleagues to the inequity of this practice and point out its negative impact on adoption, especially the adoption of disabled children.

The insurance industry could act to ensure that no insurance company discriminates in this way against adopted children and I call upon the industry to do so. I call upon State legislators to examine their law on this subject, study the policies and practices of insurance companies doing business in their State, and listen to the experiences of adoptive parents. I welcome the opportunity to work with the insurance industry and State legislators in their efforts.

On behalf of the children waiting to be adopted, and prospective adoptive parents who cannot afford to take the risk of a child with no health insurance, I pledge my utmost cooperation in working to find a solution to this problem which constitutes a serious barrier to adoption in this country today.●

TRIBUTE TO THE AMERICAN DENTAL ASSOCIATION AUXILIARY

● Mrs. HAWKINS. Mr. President, on October 19, the auxiliary of the American Dental Association will begin its annual meeting. I am delighted that this meeting, which is held in conjunction with the 127th annual session of the American Dental Association, will be hosted by the city of Miami.

We all know of the valuable contributions to the public health made by the dental profession and its auxiliary chapters. While leadership in the efforts to fluoridate our water supplies may be the most visible of these efforts, I was pleased to learn of many other initiatives which greatly benefit the public.

For example, dental spouses, through the national auxiliary organizations, have been extremely active and effective in support of seatbelt laws and in educating the public on the benefits of seatbelt use.

Both the auxiliary and the American Dental Association itself have developed and implemented comprehensive programs to educate dentists to identify and properly handle cases of child abuse.

The dental auxiliary organization has developed a Scouting merit badge program based on knowledge of prevention oriented health behavior. Stressing prevention to our youth may be one of the most effective ways available to help insure healthier adults.

As we all know, drug abuse is our Nation's No. 1 health and social problem. This problem must be addressed in a multitude of ways. One of the most important requirements is that those who are addicted to drugs be treated with understanding. The dental profession is aware of this need and, in 38 States so far, has established special programs to help identify and provide needed support for those dentists who unfortunately have fallen victim to drug abuse. This type of program is vital if these dentists are to return to fully productive professional and personal lives.

The profession has committed significant resources and expertise to the perfection of forensic dentistry techniques. These are most useful in aiding in the identification of victims of mass disasters.

The auxiliary has been extremely active in assisting the dental profession in the development of programs to treat handicapped patients.

This is an organization, in brief, that, year after year, pursues the public good.

I offer my sincere congratulations to the dentists of this country and their spouses for their commitment to so many programs which are helping all of us.●

NAUM AND INNA MEIMAN: BONNER'S LAST REQUEST

● Mr. SIMON. Mr. President, in the September 15, 1986 issue of Alert, a publication from the Union of Councils for Soviet Jews, I read an account of Elena Bonner's return to Gorky where here husband Andrei Sakharov resides. One of her escorts, Rick Sobol, recalled that Elena's last request was to do all that could be done for Naum and Inna Meiman.

Soviet dissidents Naum and Inna Meiman are good friends of mine. They live in internal exile, barred from all human contact. Inna suffers from a rare form of cancer. After the removal of four tumors from her neck, the Soviet doctors feel they can do no more for the fifth and most recent tumor. Inna is seeking permission to emigrate to the West where there is experimental treatment available.

I strongly urge the Soviet Union to allow the Meimans to emigrate to Israel.

ORDERS FOR WEDNESDAY, OCTOBER 15, 1986

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I understand this request I am about to make has been cleared with the distinguished minority leader.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Wednesday, October 15, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At 11 a.m., under the provisions of rule XXII, a live quorum will begin, to be followed by a cloture vote on the Dole amendment to the drug bill. If cloture is invoked, it will be the majority leader's intention to remain on the House message until disposed of. Regardless of the outcome of the cloture vote, the Senate could be asked to turn to any of the following items:

Reconciliation conference report; continuing resolution conference report; Debt limit conference report; Calendar No. 1007, H.R. 5465, the appliance bill; House Concurrent Resolution 375, correcting the enrollment of the tax conference report; any other legislative and executive calendar items cleared; immigration conference report.

Therefore, votes will occur tomorrow. I anticipate a late session, probably, tomorrow evening.

Again, I apologize to many of my colleagues who came back thinking there would be a number of votes today. Our problem has been that the key items are in conference. There is not much we can do about it until the House or the Senate, depending on who acts first, or at least until the conference is completed. So I hope that tomorrow we can sort of break the logjam and start everything rolling. Once it starts, I foresee hopefully a rather quick conclusion of this session, but we did not make many points today.

I am also hopeful now that with the disposition of the Malone nomination, we can reach agreement on all others on the Executive Calendar. If we can try that again tomorrow, that would, in effect, clean up the calendar. I understand there may be a request for a vote on one nominee. But whatever, it is my hope that we can do that. That would be 15 to 20 nominations at least, that can be disposed of in rather short order.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until 10 a.m. tomorrow, October 15.

The motion was agreed to and, at 10 p.m., the Senate recessed until tomorrow, October 15, 1986, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 14, 1986:

DEPARTMENT OF DEFENSE

James F. McGovern, of Virginia, to be Under Secretary of the Air Force.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, October 14, 1986*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. RANGEL).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 10, 1986.

I hereby designate the Honorable CHARLES B. RANGEL to act as Speaker pro tempore on Tuesday, October 14, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May God be gracious to us and bless us and make His face to shine upon us, that Thy way may be known upon earth, Thy saving power among all nations.—Psalm 67:1,2

We pray, O God, that Your saving power will be visited upon the nations and upon each of us. Open our hearts, our minds, our souls, our very beings, to hear Your still small voice that calls us to repentance and to new and renewed life. May Your abundant spirit lift us from the ordinary to the vision of a new day for You judge the peoples with equity and You guide the nations upon Earth. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1390. An act to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, CA, and for other purposes;

H.R. 3614. An act to restrict the use of government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes;

H.R. 4961. An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal year 1987, 1988, 1989, and for other purposes; and

H.R. 5495. An act to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1200) "An act to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. SIMPSON, Mr. DENTON, Mr. MATHIAS, Mr. KENNEDY, Mr. SIMON, and Mr. METZENBAUM, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 2391. An act to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes;

S. 2534. An act to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, SC, and for other purposes; and

S. 2864. An act to provide for a Deputy Secretary of Labor for an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following message from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 14, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 8:57 p.m. on Friday, October 10, 1986, the following message from the Secretary of the Senate: That the Senate passed, without amendment, H.J. Res. 751.

With kind regards, I am
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled joint resolution on Friday, October 10, 1986:

H.J. Res. 751. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

IN HONOR OF ELIE WIESEL

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, all of us in the Congress are overjoyed today that Elie Wiesel is the recipient this year of the Nobel Peace Prize. This was a brilliant and timely selection, suggested to the Nobel Committee by hundreds of us in the Congress and by countless others around the globe.

In the history of the Nobel Peace Prize, no individual is more profoundly deserving of this high honor than is Elie Wiesel—a survivor and the chronicler of the Holocaust and the conscience of mankind.

His basic message is the paramount message of our age: Human rights are indivisible. The violation of human rights in Hitler's Germany, in the Soviet Union, in South Africa, in the Iran of the Ayatollah, is a violation of our human rights. His message is clear: The fundamental precondition of peace is the respect of individual human rights on all continents by all governments.

We salute Elie Wiesel and we wish him many more productive years so he may carry on his work for peace.

THE PRESIDENT WAS RIGHT

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, the President was right, and all Americans owe him a debt of gratitude. It isn't easy and it isn't popular to walk away from a dramatic, surprise agreement. But the President saw it for what it was—a bad deal.

Mr. Gorbachev's demands in Iceland meant that we essentially had to give up SDI. Gorbachev forced us to make a stark choice as to what would be the final guarantee of our Nation's security: A Soviet signature on a piece of parchment or our own technology and resourcefulness. The beauty of SDI is that it puts the responsibility for our defense where it should be—in our own hands.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

71-059 O-87-28 (Pt. 21)

Even the most hopeful must acknowledge a Soviet propensity to violate agreements. With new small, mobile missiles that are easily camouflaged, are we to trust that they will not cheat this time?

As long as we hold firm to research, testing, and development of SDI, we will have an opportunity to defend our people and the Soviets will have an incentive to work with us.

Mr. Speaker, the President was right.

THE SOVIETS KNOW IT WILL WORK, AND THEY DO NOT LIKE IT

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I commend President Reagan for backing off of the Soviet proposal of so many deep cuts in offensive missiles, provided we are prepared to give up the strategic defense initiative.

Frankly, it looks to me as though the President was deliberately set up for a big letdown. But one thing is perfectly clear. So many of the experts here in the Congress and in the left-wing scientific community have been telling us that SDI is a dream, it will not work. But the fundamental reason that the Soviets don't want it is that they are precisely afraid that it will do exactly what it is supposed to do. They know it will work, and they do not like it, and they do not like to see us get ahead of them.

As a matter of fact, on television last night on ABC, the Soviet chief spokesman said on television that the thing that they were most afraid of is that we would get a technological breakthrough.

THE INTERNATIONAL CHESS GAME

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, and Members of the House, in the international chess game that is called the Summit, Gorbachev attempted to intimidate the President of the United States to remove from the chess board the President's most powerful piece, SDI. That piece is aglow with possibilities for achieving peace in our time. Yet, Gorbachev, in attempting to have the President sacrifice that piece, failed to do so. Thus, it allowed for a good draw to take place in Iceland. That draw leaves the possibilities for further matches with which the cause of peace can be won.

So we commend the President for standing firm and holding back that powerful move, that piece of chess mastery called SDI for further use in the cause of world peace.

ARMS CONTROL OPPORTUNITY LOST

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, imagine for a moment if the President had come back with an arms control agreement. Before his term of office would be finished, we would be carving his face into Mount Rushmore with the other immortal Presidents. Instead of that monument, there is the rush to point fingers of blame. That is a tragedy for the United States and for the world.

Mr. Speaker, ballistic missiles are the most dangerous nuclear weapons. They are the only ones quick enough for a surprise first strike.

Last weekend, President Reagan could have created a world free of these weapons. It would have been a world in which star wars wasn't needed, because there would be no missiles to defend against. Instead, he chose a world with both nuclear missiles and star wars.

It wasn't even a matter of accepting a Soviet offer. The plan to abolish ballistic missiles over 10 years was offered by the American side. All we had to do was admit there's no point in spending trillions of dollars to defend against a threat that would no longer exist.

The administration negotiators had their chance, and they failed. They went into the negotiations with untied hands, and they dropped the ball. We sent them to bring back arms control, and they brought us excuses.

Now we've learned our lesson. Never again can we, in Congress, be swayed from our duty to help control nuclear weapons.

Arms control is a joint responsibility shared by the executive and legislative branches.

□ 1210

RONALD REAGAN ONE; MEDIA ZERO

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I would just like to say that as I kept score, I would say Ronald Reagan one; media, zero.

Yesterday, on TV, the media stars were floundering around looking for excuses to blame Ronald Reagan for coming back from the summit, with no agreement, and that is what he did. Ronald Reagan was not going to go there and give up SDI which is the cornerstone of the defense of the United States of America and the other free people, and indeed, enslaved peoples of this world.

On the contrary. But I heard our media folks yesterday beating up on Pat Buchanan; well, he is a tough fellow, he can take it. I also heard the press fawning all over Arbatov. Now, if you know Mr. Arbatov, as many of us do in here, the guy is a clown; he really is. What was he saying? Star wars cannot work; it is a dream of your President. It is not real; it cannot work. You see it in the movies. An inpenetrable shield just won't work, he said.

If that is the case, why are they so deathly afraid of it? They came to the summit looking, with all sorts of things on the table, for the one thing that we would not accept and properly so: The elimination of technological prowess and progress of the United States of America embodied in the strategic defense initiative.

I am glad the President kept that option.

DEEP AND VERIFIABLE CUTS IN NUCLEAR WEAPONS INVENTORIES REMAINS THE ULTIMATE GOAL

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, last week, we joined in announcing a bipartisan agreement on outstanding arms control issues. We did so in an effort to support the President in his pre-summit meeting with General Secretary Gorbachev in Iceland in the hopes of furthering the cause of peace.

Today, it would appear that remarkable progress was made in many of the arenas of United States-Soviet military competition. Nevertheless, it seems equally clear that the United States delegation went to Iceland ill-prepared and empty handed, and returned to the United States confused and empty handed. It seems that we were caught flatfooted and as such, may well have passed up the deal of the century—the prospect of achieving deep cuts in the respective strategic and tactical nuclear weapons inventories of the world's superpowers. Such cuts have been the stated goal of the President since day one of his administration, but precisely at the moment when such cuts seemed attainable the United States balked, and at what price?

The price was a 10-year imposition and limitation on development and testing of the theoretical concept of star wars. To me, the realities of achieving deep cuts in nuclear weapons today, far outweigh the illusions of a leaky 21st century space shield tomorrow. Mr. President, we all recog-

nize your extraordinary communicative skills. Now is the time to use the skills you employed in Iceland to achieve the ultimate goal of your administration—"deep and verifiable cuts in United States and Soviet nuclear weapons inventories."

VALID INTEGRITY IN THE ELECTORAL PROCESS

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, perhaps it is no coincidence that Halloween occurs just 5 days prior to the general election. I guess it is not a coincidence in Indiana.

Consider these ghoulish facts: Earl Diech of English, IN, died over 2 years ago. His neighbors, Faye Miller and Joseph Boyer, also of English, died over 2 years ago as well.

Mary Wilson of Taswell, IN, passed away on June 23, 1984. Yet all of these dead people did the dutiful thing in the general election of 1984. Their dutiful thing was to go to the polls and vote. They voted in the Eighth District of Indiana, and why do I mention these four dead people voting in Indiana? Because a majority of this House told us that the current encumbent of the Eighth District of Indiana won fair and square. By how many votes? Four votes, Mr. Speaker, in this campaign and Halloween season.

I hope all of us are willing to work together to make sure that dead people do not vote; that there is integrity in the electoral process.

WE MUST REDOUBLE OUR EFFORTS ON ARMS CONTROL

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, arms control opponents are describing the events in Iceland as this Nation's finest hour. By their standards, I suppose it was. It is not every day you get to spend $1 trillion to block arms control.

For most of my constituents, Mr. Speaker, Iceland can only be seen as a very deep disappointment. It may be that even Mr. Reagan will see it in that vein too. The arms agreement should have been reached, Mr. Speaker. By getting at nuclear ballistic missiles, the only weapons quick enough for a first strike, we could have radically reduced the chance of nuclear war. The bargain would not even have had to hurt the SDI Program.

Scientists today are telling us that SDI might even benefit by staying put in the laboratory and away from publicity stunts for the next 10 years.

The agreement was not struck. Mr. Reagan could not understand why the Soviets feared SDI if there were not going to be any ballistic missiles. Mr. Gorbachev could not understand why the United States wanted SDI if there would be no missiles to defend against.

For my part, Mr. Speaker, I do not know if the Iceland deadlock can be worked out or not in the next 2 years, but I do know this: That is that we in the Congress who have worked so hard to put constructive pressure on all sides for genuine arms control must now redouble our efforts.

If we fail, arms control will not be done at all, and this must be our first order of business in the next Congress.

ELIE WIESEL WINS NOBEL PEACE PRIZE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, every American and, indeed, people throughout this globe have reason to be overjoyed today at the announcement that Elie Wiesel has become the recipient of the Nobel Peace Prize.

A number of Members of this House, on both sides of the aisle, were among those who encouraged the Nobel Committee to award the peace prize to Elie Wiesel. There could be no more fitting or no more appropriate recipient of this prize.

Mr. Speaker, this is a man who is perhaps the most eloquent and the most spiritual writer of our age. This is a man, through his own profound and personal sorrow and tragedy, who has been able to capture the essence and the despair that he and his generation suffered—and, through that despair, to inspire people throughout this world who wish to fight for human rights and those who fight against human pain and human suffering.

Indeed, Elie Wiesel and his writing serve as testimony, perhaps the most eloquent testimony today, of Albert Camus' admonition that "the hottest places in Hell are reserved for those people who remain neutral in a time of crisis."

Mr. Speaker, there has been no more eloquent champion of human rights, there has been no more eloquent champion against human suffering. I am proud, on a personal level, to call him my friend, but much more significantly than that, Mr. Speaker, people throughout the world who are the friends of justice and the foes of suffering have been rewarded today by the announcement that Elie Wiesel—and the causes he represents—have been honored by the Nobel Peace Prize.

A PRESIDENT WHO CAN SAY NO TO THE RUSSIANS

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, Mikhail Gorbachev and Ronald Reagan met in Iceland and Gorbachev went for a first round knockout. The people of the Western world should be grateful that he did not succeed.

Gorbachev carefully timed the summit to precede American congressional elections, and there is no doubt but that Ronald Reagan could have sent this Nation and the rest of the Western world into preelection euphoria by making an agreement with the Soviet Union. But to do that, he would have had to surrender the right of Americans to defend themselves against incoming nuclear missiles. He refused, to his great credit, to surrender our right to defense, and Gorbachev did not get his first round knockout.

Thank God, Mr. Speaker, for a President who can say "no" to the Russians.

AS WE REDUCE THE RISK OF NUCLEAR WAR, WE MUST REDUCE THE RISK OF CONVENTIONAL WAR

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, last weekend the world watched for 36 hours as President Ronald Reagan and General Secretary Gorbachev discussed the historic arms control proposals. The great powers were near an arms control deal that could be a central event in human history. But if we slash offensive nuclear weapons, and we should, we need stability and deterrence in our conventional forces in Europe. To achieve this, the Soviet Union must make major reductions in European conventional forces as part of a larger bargain.

As we reduce the risk of nuclear war, we must reduce the risk of conventional war. I am saying to Mr. Reagan and Mr. Gorbachev: Keep talking, keep negotiating, keep trying, be bold, be flexible, be courageous, and most important, be wise. The future of mankind will be dramatically affected by your decisions.

□ 1220

THE PRESIDENT'S REFUSAL TO CUT A DEAL

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, though I shared the hope of a major arms breakthrough at the recent Iceland summit, at the same time I feel the President did what he had to do. To agree to the Soviet's terms would have been the easy and politically popular thing to do; but the President acted prudently not politically in refusing to cut a deal. It was in my judgment a courageous decision on his part; one marked by his strong conviction that our country's best interests would not have been served by surrendering our options on the strategic defense initiative.

We hear his critics saying that he surrendered a golden opportunity to reach a monumental arms agreement. I personally feel that by refusing to surrender our options for the development of the promising defensive system known as SDI, a system I might add that the Soviets appear extremely eager to scuttle, that the President has come away from Iceland with the admiration of the American public for standing his ground, for not negotiating away our future security for the benefit of a short-term settlement that could have long-term consequences.

EXPRESSION OF CONCERN FOR PRESIDENT'S APPROACH AT REYKJAVIK

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, the main consequence of Reykjavik is that SDI has become the linch pin of American nuclear arms policy.

For the President SDI is a vision; for mumerous scientists, a variety of European officials, and many of us in Congress it is more likely a mirage.

The more the President has embraced SDI, the more his basic justification for it has shifted. At first, it seemed a perfect defense; then a partial system to protect key offensive weapons; now, SDI is said to be required as an insurance policy against cheating by the Soviet Union and against a possible use of nuclear weapons by a third party.

Both of these concerns are real ones. Indeed, vital issues of verification against violations by the Soviets remained unsettled at Reykjavik. But that pointed to a need at Reykjavik to recess for further consultation and negotiations, not to adjourn abruptly under the cloud of stalemate.

Deeply troubling questions are raised by the President's putting all our eggs in a single, SDI basket.

What if, as many scientists believe, SDI would turn out to be impractical? The implication is that we could never reach an arms reduction treaty with the Soviet Union because there would be no other way to handle potential cheating or possession of nuclear weapons by a third party.

The President urges that the Soviet Union came to the bargaining table because of SDI. If true, does it not follow that there will be no comprehensive agreements at the bargaining table until the United States is willing to move on SDI?

One can question another's wisdom, but not at all their sincerity. In this case, I join many others in respectfully raising the deepest concern about the President's ultimate approach at Reykjavik.

PEACE THROUGH STRENGTH DOES WORK

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I join many of my colleagues in applauding the efforts of the President at the Iceland summit.

As we listen to the speeches being made here on the House floor today. Again we're told America is wrong and the Soviets can do no wrong. They say that we failed because President Reagan did not come back with an agreement. I would like to point out that many of these America bashers are the same people who are working right now to restrict U.S. weapon systems without gaining any concessions from the Soviets. For these Members of Congress, arms control is easy. You just control U.S. arms and then hope and pray that the good Soviet dictator will follow suit. These are the same people who fought the MX missile, who fought the B-1 bomber, and who are fighting antisatellite weapons and SDI today. These are the people who would like to slash the defense budget to fund their agenda of social programs.

My question is this: Would President Reagan have a chance of striking an arms control agreement that will ensure the security of the Free World if this Congress had already taken all his bargaining chips away? Of course not. He wouldn't have a prayer.

The President has been telling us for 6 years that we have to be able to negotiate from strength. We are finally seeing the fruits of the strength that we have been rebuilding. Peace through strength does work and I am confident that in the near future it will work to bring us an arms control agreement that will truly protect the security of our Nation and all the Free World. But it will only work if this Congress shows the Soviet Union that we will back up our President every step of the way.

FAILURE AT THE ICELAND SUMMIT

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, last night President Reagan said that SDI [star wars] was an insurance policy for America, but he forgot to tell us that it has $1 trillion dedutcible to be paid by the American taxpayer, $4 billion annual premium, and like most insurance policies, if you read the fine print you'll find it doesn't cover you in the event of nuclear war.

The American people will now see SDI for what is really is: an invulnerable guard all shield against meaningful control agreements.

Ronald Reagan's failure at Reykjavik proves that star wars will never again be looked upon as bargaining leverage for arms negotiation. You can't say on the one hand that star wars brought the Soviets back to the bargaining table and, on the other hand, that it is nonnegotiable. A nonnegotiable bargaining chip is an oxymoron, a contradiction in terms.

Last weekend the President had a chance to show us whether he is a star wars ideolog or an arms control pragmatist. Now the whole world knows where he stands—with his feet planted firmly in the clouds.

Your hands weren't tied Mr. President when you went to Iceland. Your bargaining leverage was at its height. But this President likes to rush headlong into contradictions. He wants massive military spending and no deficit, he wants star wars and arms reductions. You can't have it both ways Mr. President. The choice is clear and easy—and if you don't make it, the American people and Congress will make it for you.

THE REYKJAVIK SUMMIT

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, while much has been said in the press, and on the floor of the House, about what President Reagan should and should not have done in his meeting with the Soviet ruler, I wish to address my remarks to activities a little closer to home.

This House is the focus of my complaints.

If all the world is a stage, then Members of the House have been trying to play the wrong role. In 1984, 49 States chose the one man they wanted to be their spokesman in foreign affairs.

Why then at a time when the President faces an aggressive and cunning adversary do certain Members of this House equivocate on giving our leader their unqualified support?

Of course the reasons are obvious. In this election year, Members are under the scrutiny of keen observers at home. It is important to be seen as for peace.

But let me remind my colleagues that our words and actions are studied by a group of men far from these shores. Mikhail Gorbachev and his Politburo cronies are well aware of the fact that they have levers and tools of negotiation not available to an American President.

They play to and exploit Western public opinion. Our views get no equivalent and fair representation to the Russian people.

Gorbachev goes to Iceland and makes an offer—the sincerity of which is suspect—knowing that if he ties it to our efforts to research strategic defense, we are committed to reject it.

Would the General Secretary have been discouraged from making such a grandstand play if he thought Ronald Reagan was truly the last word in U.S. arms negotiations? We will never know. But it cannot have helped the President's bargaining power to have the House talking about unilaterally giving away things for which we could get concessions from the Soviets.

Mr. Speaker, it's not as if we don't have enough of our own work to do. Therefore, I ask my colleagues to let the President do the job the people chose him to do; and let all of us concentrate on the job we were elected to do.

STANLEY COHEN OF VANDERBILT AWARDED NOBEL PRIZE IN MEDICINE

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, amidst the reports about the summit in Iceland, I am pleased to share with my colleague the news that Stanley Cohen, professor of biochemistry at Vanderbilt University in Nashville, was awarded the Nobel Prize in medicine yesterday.

Professor Cohen shares his prize with Rita Levi-Montalcini for the pioneering work they began in the 1950's researching how cells grow normally and how they may go astray to cause disease.

Their collaboration resulted in the discoveries of two potent natural substances—called growth factors—that regulate the growth of nerve and skin cells. Their exciting research opened new fields of widespread importance to science which, as a direct consequence, has increased our understanding of numerous disorders, including birth defects, cancers, muscular distrophy, the delayed healing of wounds, and Alzheimer's disease.

Though their research was begun while both Professors Cohen and Levi-Montalcini were at Washington University in St. Louis, since 1959 Professor Cohen has continued his valuable research at Vanderbilt University, where he is currently the American Cancer Society research professor of biochemistry.

I know my colleagues join me and the Nashville community in congratulating Stanley Cohen. We also send our best wishes to Professor Levi-Montalcini, who is director of Rome's Laboratory of Cell Biology.

Their collaborative work demonstrates the great human potential to explore the very basic building blocks of life for the benefit of all mankind. I hope this message will not be forgotten amidst the weekend's other important news events.

□ 1230

THE CONVICTION AND DETERMINATION OF PRESIDENT REAGAN

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, Ronald Reagan this weekend had every incentive to conclude an arms control agreement with the Soviet Union, however flawed. Politically, it would have been a boon for the President's party. For the President himself, it could have been his legacy; yet President Reagan stood above those personal concerns and negotiated with the best interest of the Nation in mind. There are those who have and will criticize the President's action. There will be many right here in this Chamber who will say the President passed up a good deal. Well, they were not at the table. They can afford to be concerned about political considerations, because they do not bear the responsibility for the needs of everyone—Democrat and Republican alike.

Mr. Speaker, this body must recognize the conviction and determination of President Reagan, his resolve in the face of overwhelming temptation to cut a deal, however flawed; then we will merit the mantle of leadership the public has bestowed upon us, and the future of this Nation will be in good hands.

THE FUTURE OF SALT II

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, we are all disappointed that the United States and the Soviet Union were not able to reach final agreement on what was an historic opportunity for drastic reductions in strategic nuclear arms. We hope that despite the disagreements of Iceland, that efforts to reduce nuclear arms will continue.

But, clearly the prospects for such an agreement in the immediate future are not good. The disagreement between the administration and the Soviets over the proper role of SDI and the ABM Treaty is fundamental and will not be resolved overnight.

This means that the President's decision to break out of the numerical sublimits of the SALT II Treaty takes on even more significance. Supporters of the President's position argued that we would soon have a better agreement, and so continuation of SALT restraints was not important. Regretfully, this has not come to pass. In this delicate time in United States-Soviet relations, it is more important than ever that we not add another impediment to agreement by throwing out the only limits that exist on strategic nuclear weapons.

A fragile understanding was reached immediately before the summit that the House would not insist on binding language on SALT II in order to put to rest any concern that we were somehow tying the President's hands. But both bodies remain convinced that it is in our defense interests to maintain the interim restraint policy the President has followed up to now. I hope that the President will see the wisdom of this course, especially in light of the outcome in Iceland. We are waiting to see how deep the President's commitment to arms control really is.

RIGHT ON, MR. PRESIDENT

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the President returned from Iceland having said "no" to the leader of Russia. Why this should be seen as a defeat for our country I can't understand; unless, it is that we have become too accustomed as a nation to never say "no" to any foreign country.

The responsible use of power requires that every now and then a mighty nation draws a line beyond which it cannot and will not go. It must be heartening to many of our fellow Americans that this President shows the strength to walk away from a negotiating table with less than what the media demands.

What occurred inside the bargaining sessions, we do not know. We bestow upon the Executive the power to make the ultimate judgment. In this instance, this Executive had the courage to say "no." If it was not a victory for world peace—with the position of the Russians as they occupy Afghanistan, as they continue to fill the gulags inside their own nation and create

havoc across the Third World—we should only be surprised that the failure is automatically blamed on the United States and President Reagan.

I think we should take another look at the players and their interests.

IN SUPPORT OF PRESIDENT REAGAN AND SDI

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I support the President in his action at the summit. SDI is his idea and it brought the Soviets back to the negotiating table.

At this summit we are talking about reduction of weapons. What is wrong with that?

Mr. Speaker, I have been to my district this weekend and I found that the people back home are supporting the President's position at the Iceland summit.

I say and I suggest to my colleagues, talk to the folks back home.

COMMENDING THE PRESIDENT FOR HIS COURAGE AND WISDOM

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I wish to commend the President for his courage and vision in refusing to surrender SDI to the Soviets in Iceland. The strategic defense initiative offers us our only hope for escaping a policy based on mutual destruction. It does not force us to rely on good will in the Kremlin, but depends only on the skill and ingenuity of our own scientists and engineers. With the SDI, we will at last free the world from nuclear terror and pave the way for the abolition of those terrible weapons of mass destruction.

The truth is that the administration had no choice but to hold firmly to SDI. The President has a constitutional obligation to provide for the common defense. That requires him to protect our people from being vaporized by Soviet H-bombs.

The liberals in Congress may prefer to leave the world on the brink of nuclear annihilation, but the President does not.

Mr. Speaker, I strongly support the President's commitment to a defense that defends and I urge all my colleagues to do the same.

Mr. Speaker, the President went to Iceland to negotiate for a lasting peace and he went the extra mile. He did not go there to negotiate a surrender.

Furthermore, Mr. Speaker, how about those Cowboys?

ELIMINATE NUCLEAR MISSILES BY TECHNOLOGY, NOT EMPTY PROMISES

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, there seems to be a misconception in Congress that arms control and the strategic defense initiative are mutually exclusive. There will be many other opportunities for arms control agreements.

In the meantime, we must continue to deal from a position of strength. We cannot abandon our future technological capability for empty promises by the Soviets to dismantle their ballistic missiles.

The sad fact is that the nuclear genie is already out of the bottle and has been since 1945. We can eliminate nuclear missiles only by making them technologically obsolete, not by agreeing simply to eliminate them.

In the meantime, we can reduce the danger of a nuclear holocaust by meaningful, verifiable, arms reduction talks, and with fewer deadly nuclear missiles.

IN DEFENSE OF PRESIDENT REAGAN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I rise in defense of our President, who I think made an absolutely splendid and courageous effort for the Free World against tough odds during the quickie summit in the capital of our NATO ally country of Iceland.

The prior Member of this House, in speaking here in the well, may stay here because of his hard work and skills, but remember, please, that he came to this Chamber because his predecessor, our friend and colleague Congressman Larry MacDonald, was murdered by Communist Soviet fighter aircraft in a mind-numbering rocket attack on a jumbo jet commercial airliner carrying 269 innocent grandparents and children and men and women including dozens of American citizens.

Mr. Speaker, there is carved into this beautiful central first-tier desk front on our side of the aisle two words, "peace" and here right behind me, "liberty." Trying to serve both goals with balance is a very delicate quest in these increasingly dangerous times.

I, personally, can hear a faint bugle call echoing down through 210 years of American history * * * a challenge. A challenge that calls out to all Americans, "Defend your homeland, defend the west, defend Judeo-Christian ethical standards, defend Western civilization * * * defend liberty."

Now, Mr. Speaker a shrill cry has gone up from the privy council chambers of the Labor Party in London, from the privy council chambers of the Democratic Study Group here in Congress. From Harare to Havana, from Managua to Martha's Vineyard. That self-hating cry is that "the President blew it in Iceland."

He simply did not. He stood tall. History will judge him a strong and righteous figure. Every schoolchild knows that our national symbol, the heroic American eagle holds both arrows and olive branches in its outstretched talons.

On this Democrat side of the aisle in this Chamber, some Members want that American eagle to drop the arrows, to give a strong defense, in particular strategic defense. I say, never. We, in this Congress, have a sworn constitutional mandate to "provide for the common defense." We must honor that oath.

SOMETHING ROTTEN IN ICELAND

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, there is something rotten in Iceland. Initially, it was difficult to identify just where the odor was, but soon enough the rot was exposed.

This entire summit was manipulated to culminate in the demand to end the SDI. The Soviets are rather brilliant, because some in this Congress and some in America are falling for that Soviet scam.

We should wake up. Are we willing to yield to what the Soviets demand just because they are demanding it?

Why is it a defeat when we refuse to buckle under, when our President refuses to buckle under to what the Soviets want us to do? Why is that a defeat?

I say congratulations to President Ronald Reagan for standing tall and not giving up American security. This Congress should stand behind President Reagan, not behind Premier Gorbachev.

WHY GIVE AWAY SDI?

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, returning from my district, the people of the Sixth District of Missouri want to know why the President of the United States had to negotiate with the leadership of the House of Representatives over arms control matters before he went to Iceland to negotiate with Mr. Gorbachev.

In fact, did this whole process that we were involved with last week help or hurt the President? Did it strengthen him or lessen his ability to get an agreement?

I think we have recognized now that, yes, people were disappointed that no agreement was arrived at, but truly we were not disappointed that a bad agreement was not signed.

The President has been strong enough to stand up and just say no.

Why would we want to give an opportunity to leave the world free from nuclear terrorism, from madmen and third countries or from the Soviets if they are so inclined to cheat on a treaty? Why would we want to give up that opportunity and give away SDI?

The real question the American people ought to ask is why is SDI so important to the Soviets that they are willing to practically do anything to insure that we give it up, while they themselves continue research and development of their own SDI program?

PRESIDENT REAGAN MADE THE RIGHT DECISION IN ICELAND

(Mr. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER. Mr. Speaker, President Reagan made the right decision at the summit meeting in Iceland when he refused to give up SDI in return for Soviet promises to make drastic reductions in nuclear weapons. SDI has been the subject of much criticism and discussion. It has been belittled as being an impractical star wars sort of concept.

The eagerness of the Soviet to stop SDI development shows that they believe it to be practical.

Can anyone really believe that SDI is some sort of unworkable, visionary, foolish idea if the Soviets are so anxious to stop it that they would make many drastic and unprecedented concessions to destroy SDI?

If SDI works, the Soviet's offensive weapons will be largely nullified, and this means a drastic reduction of Soviet power which is based upon military capabilities.

It is crucial that the United States be able to defend itself if the Soviets lo not comply with any future arms reduction agreements. The President was right not to give up a defensive system that may well be indispensable for America's safety.

PRESIDENT'S EFFORTS TO STRENGTHEN AMERICA'S DEFENSE NOW PAYING OFF

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise today to praise our President for standing up for America at Reykjavik. For the first time in history, we have reached far-ranging proposals for arms reduction not just arms control. Of the Washington naysayers, who would have thought Ronald Reagan would be the President under whom Mikhail Gorbachev would say, "never had our positions been so close."

There is no one who can deny that the President's efforts to strengthen America's defenses, are now paying off. It may be a nonexistent weapons system to the Washington Post, but the Soviets think SDI is real enough to offer a 50-percent reduction in the number of missiles pointed at the United States.

Mr. Speaker, once the current propaganda battle ceases, we will find substantial and permanent progress has been made toward a safer world and we have Ronald Reagan to thank for it.

□ 1245

DON'T CRITICIZE THE PRESIDENT FOR REJECTING BAD DEAL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, at his postsummit news conference, Mr. Gorbachev encouraged the left throughout the world to endorse his stand in Reykjavik. That is one reason why I am disturbed to hear a parade of liberal Members come before the House today and indicate that President Reagan should have taken a bad agreement with the Soviets rather than walk away from that agreement. President Reagan, they say, should have given up our potential for defending ourselves in the future for a chance to trust Mr. Gorbachev and the Soviets.

Have we not learned anything? Should we not know by now that no agreement predicated on trusting the Soviets is worth anything? The President was right to walk away from a bad agreement. The American people want us to be tough dealing with the Soviets, not patsies who look for new and novel ways to surrender. If anyone wonders why we were so concerned about the liberal Democratic attempts to get President Reagan to unilaterally adopt Soviet positions prior to the summit, listen to what is being said on the floor today. Too many Congressmen say that those positions are reasonable and responsible.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2638, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1987

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill, (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.

The SPEAKER pro tempore (Mr. RANGEL). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VOTE FRAUD AND BOGUS REGISTRATION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, in a recent issue of election administration reports, it was reported that the Missouri Secretary of State said double voting will no longer be tolerated. As noted in the article, in the 1984 Presidential election, there were about a dozen instances where the same person voted twice in the St. Louis area. There was one person who was recorded as voting in every general election in both jurisdictions since 1972.

Evidently the fraud was uncovered because two election boards, headed by a Republican and a Democrat, cross-referenced their computerized voter registration lists from the two different jurisdictions. This check produced the names of 3,500 persons who apparently are registered in both jurisdictions.

In comparing voting records, they found more than 200 who had voted in one jurisdiction after having registered in the other jurisdiction and more than 12 were recorded as apparently voting in both jurisdictions on the same election day. The records have been turned over to the U.S. attorney's office for the Eastern District of Missouri.

Mr. Speaker, opportunity for fraud and bogus registration lists exists today in 1986. No person's voting rights are secure if his or her vote can be nullified by a tombstone.

ARMS CONTROL FOR THE REAL WORLD

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise to ask for an explanation from the administration in terms of the position and the policy that they have adopted with regards to the Iceland conference.

Mr. Speaker, I am dismayed and disappointed that in fact the administration seem to have walked away from a substantial reduction in terms of both ICBM and INF warheads. I think that after the election rhetoric has cleared, hopefully we can come back and revisit these decisions in a clear light, because indeed I believe that such agreements would have represented substantial progress in reducing the ICBM warheads by at least half, eliminating the INF forces from Europe.

The fact of the matter is, I think, that trying to retain the SDI system that exists only in theory today, and demanding that the United States test and deploy SDI, that in attaining the objective we should not throw away the opportunity for substantial progress with regards to nuclear arms control and reduction in the real world for such a hypothetical system that does not exist today except in someone's dream world.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken after debate has been completed on all the motions to suspend the rules.

MARITIME PROGRAMS AUTHORIZATION, 1987

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 4175) to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

That funds are authorized to be appropriated for the use of the Maritime Administration for fiscal year 1987 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $320,000,000;

(2) for expenses necessary for research and development activities, not to exceed $3,500,000; and

(3) for expenses necessary for operations and training activities, not to exceed $64,693,000, including not to exceed—

(A) $29,413,000 for maritime education and training expenses, including not to exceed $19,278,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $9,000,000 for financial assistance to State maritime academies, and $1,135,000 for expenses necessary for additonal training;

(B) $9,566,000 for national security support capabilities, including not to exceed $8,048,000 for Reserve Fleet expenses and $1,518,000 for emergency planning operations; and

(C) $25,714,000 for other operations and training expenses.

SEC. 2. Funds are authorized to be appropriated for the use of the Federal Maritime Commission in the amount of $11,940,000 for fiscal year 1987.

SEC. 3. (a) Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)) is amended—

(1) in paragraph (1)(B), by striking "and" the second time it appears;

(2) in paragraph (1), by striking subparagraph (C) and inserting in lieu thereof the following:

"(C) paid by the Secretary for the first complete academic year of attendance to the individual in a lump sum of $1,200 after its successful termination and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary for the following academic years as the Secretary shall prescribe while the individual is attending the academy.";

(3) in paragraph (2), by striking "apply for midshipman" and substitute "accept midshipman and enlisted reserve"; and

(4) in paragraph (3)(D), by striking "to apply for an appointment as,".

(b) The amendments made by this section shall apply only with respect to individuals who commence attendance at a State maritime academy in accordance with section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c) beginning with the entering class of calendar year 1986.

SEC. 4. The sum of $1,000,000, if available, is authorized to be reprogrammed, from the sum of $9,350,000 previously appropriated for the replacement of a State maritime academy training ship and for fuel, for the general administration and operation of the Maritime Administration for fiscal year 1987.

SEC. 5. Section 5 of the Act entitled "An Act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes", approved October 7, 1980 (46 App. U.S.C. 1121-1) is amended by striking "until June 30, 1987.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have before us H.R. 4175, a bill to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

It is vitally important to the United States that we maintain a U.S. merchant marine for both defense and commerce purposes. H.R. 4175 authorizes $388 million for the programs administered by the Maritime Administration. This includes: $320 million for operating-differential subsidy; $3.5 million for research and development; $9.5 for national security support; $19.2 for the U.S. Merchant Marine Academy; and $9 million for training at State maritime academies.

The totals are identical as between administration's request and H.R. 4175.

The $11.9 million authorization level for the Federal Maritime Commission is identical to the administration's request.

Mr. Speaker, this legislation is almost identical to the bill the House passed on June 17 by a vote of 167 to 29. The only difference is that the Senate deleted a provision that imposed for purposes of sequestration under Gramm-Rudman-Hollings, an obligation of $500 million in fiscal years 1986 and 1987 for new guaranteed loan commitments under the Merchant Marine Act, 1936. The House is receding to that position.

Mr. Speaker, I believe that the legislation we have before us is routine and noncontroversial. Therefore, I urge my colleagues' support for this legislation to authorize funds for the small maritime program we have left to support our strategic needs.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the measure to authorize funds for the Maritime Administration of the Department of Transportation and the independent Federal Maritime Commission.

On June 17 of this year, the House passed our version of this legislation by a vote of 367 to 29. We are now considering that same bill as approved by the other body—with some minor changes.

The key elements of this legislation—the funding levels for the various programs of the Maritime Administration—are the same in both bills. The total authorization for both agencies under the legislation is $400,133,000. That dollar total is iden-

tical to the administration's request. However, in the House-passed bill, that has now been accepted by the other body, we made some minor adjustments in the categories of funding for the Maritime Administration. The primary difference between the House-passed bill and the administration request was to continue funding for the six State maritime academies.

The Merchant Marine and Fisheries Committee believed it was essential to continue providing some level of Federal support to the six State maritime academies. Consequently, we took some funding from several of the other categories and came up with a total of $9 million for these academies. This amount is $3 million less than the six schools received last year. We continue to believe that it is important for the six State schools to continue, along with the Federal Merchant Marine Academy, to graduate students trained in maritime affairs who would be available if we ever have a national emergency and need to call up our Reserve Forces. The six schools graduate around 600 students each year. The Federal Academy graduated 233 students in 1985.

The changes made by the other body are rather technical in nature, with one exception—they deleted section 4 of the House-passed bill. That section imposed, for the purposes of the Gramm-Rudman-Hollings sequestration requirement only, a ceiling of $500 million on the amount of loans that could be guaranteed under MARAD's Title XI Loan Guarantee Program. By deleting this section, we do not have any statutory protection for the title XI program, but I understand that MARAD may not be guaranteeing many loans under this program during the coming year so this should not create a problem for the industry.

I believe that the legislation which we are now considering today—as previously passed by this House and now approved by the other body—is an appropriate level of Federal support for the maritime industry. I urge my colleagues to join me in enacting this important legislation which will assist in the continuing effort to provide our Nation with a viable merchant marine industry.

Mr. DAVIS. Mr. Speaker, I rise in support of House passage of H.R. 4175. This bill, previously passed by the House of Representatives on June 17, 1986, has now been approved by the other body with some minor changes which necessitate our reconsideration.

This bill provides funding for the Maritime Administration of the Department of Transportation and the Federal Maritime Commission. The combined efforts of these two Federal agencies represent virtually the entire effort of the Federal Government to provide support and leadership for the U.S. maritime industry.

This authorization bill provides a little over $400 million for two Federal agencies. The total amount of funding contained in the legislation is identical to the request of the administration.

The House Merchant Marine and Fisheries Committee, when it was considering H.R. 4175 earlier this year, made some adjustments in the funding levels of the various budget categories for the Maritime Administration. The primary changes involved taking small amounts of funding from some of the categories in order to continue Federal financial support to the six State maritime academies. The administration has proposed to eliminate direct Federal funding to these six schools but the Merchant Marine and Fisheries Committee felt that the academies provided an essential service to our maritime industry and our national defense and, therefore, deserve to have continued Federal support.

Even though our U.S. merchant marine fleet is now demanding fewer trained graduates from the State schools and the Federal Merchant Marine Academy, the trained graduates are still available to the United States to provide support for our Reserve forces in a time of war or national emergency. These educational institutions provide virtually the only reliable and continuing source of education for individuals interested in the maritime industry.

The U.S. merchant marine is in difficult times these days. The answers to these problems are not necessarily just increased Federal funding. What is essential, however, is to ensure the continued existence of a viable Federal program to oversee the various laws and regulatory programs in effect that are designed to provide Federal support for the U.S. maritime industry. This authorization bill provides the level of Federal funding necessary to maintain that Federal effort to support the U.S.-flag merchant marine.

This fiscal year 1987 authorization request is a little over $9 million more than the similar request for fiscal year 1986, but it is over $77 million less than the same request for fiscal year 1985.

Mr. Speaker, the legislation before us today, as passed by the other body, is an appropriate level of funding for these very important Federal maritime activities, and I urge my colleagues to join me and other members of the Merchant Marine and Fisheries Committee in enacting this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4175.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

□ 1255

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore (Mr RANGEL). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SIKES ACT REAUTHORIZATIONS

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1352) to enhance the carrying out of fish and wildlife conservation and natural resource management programs on military reservations, and for other purposes.

The Clerk read as follows:

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) Subsections (b) and (c) of section 106 of the Sikes Act (16 U.S.C. 670f (b) and (c)) are each amended by striking out "and 1985," and inserting in lieu thereof "1985, 1986, 1987, and 1988,".

(b) Subsections (a) and (b) of section 209 of the Sikes Act (16 U.S.C. 670o (a) and (b)) are each amended by striking out "and 1985," and inserting in lieu thereof "1985, 1986, 1987, and 1988,".

SEC. 2. NATURAL RESOURCES, AND FISH AND WILDLIFE MANAGEMENT ON MILITARY RESERVATIONS; REPORT ON MILITARY EXPENDITURES FOR FISH AND WILDLIFE MANAGEMENT.

(a) NATURAL RESOURCES MANAGEMENT.—The Secretary of each military department shall manage the natural resources of each military reservation within the United States that is under the jurisdiction of the Secretary—

(1) so as to provide for sustained multipurpose uses of those resources; and

(2) to provide the public access that is necessary or appropriate for those uses;

to the extent that those uses and that access are not inconsistent with the military mission of the reservation.

(b) FISH AND WILDLIFE MANAGEMENT SERVICES.—The Secretary of each military department shall ensure, to the extent feasible, that the services necessary for the development, implementation, and enforcement of fish and wildlife management on each military reservation within the United States under the jurisdiction of Secretary are provided by the Department of Defense personnel who have professional training in those services.

(c) FISH AND WILDLIFE MANAGEMENT REPORT.—The Secretary of each military department shall submit to each House of the Congress, before the close of the 180-day period occurring after the close of fiscal year 1986, a detailed report setting forth the amount and purpose of all expenditures made during fiscal year 1986 for fish and wildlife management on each military reservation in the United States under the jurisdiction of the Secretary.

(d) DEFINITIONS.—As used in this section—

(1) The term "military department" means the Department of the Army, the Department of the Navy, the Department of the Air Force.

(2) The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 3. SIKES ACT AMENDMENTS.

(a) COOPERATIVE PLANS.—(1) Section 101 of the Act of September 15, 1960 (commonly referred to as the "Sikes Act"; 16 U.S.C. 670a) is amended to read as follows:

"SEC. 101. (a) The Secretary of Defense is authorized to carry out a program of planning for, and the development, maintenance, and coordination of, wildlife, fish, and game conservation and rehabilitation in each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior, and the appropriate State agency designated by the State in which the reservation is located.

"(b) Each cooperative plan entered into under subsection (a)—

"(1) shall provide for—

"(A) fish and wildlife habitat improvements or modifications,

"(B) range rehabilitation where necessary for support of wildlife,

"(C) control of off-road vehicle traffic, and

"(D) specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered;

"(2) must be reviewed as to operation and effect by the parties thereto on a regular basis, but not less often than every 5 years;

"(3) shall, if a multiuse natural resources management plan is applicable to the military reservation, be treated as the exclusive component of that management plan with respect to wildlife, fish, and game conservation and rehabilitation; and

"(4) may stipulate the issuance of special State hunting and fishing permits to individuals and require payment of nominal fees therefor, which fees shall be utilized for the protection, conservation, and management of fish and wildlife, including habitat improvement and related activities in accordance with the cooperative plan; except that—

"(A) the Commanding Officer of the reservation or persons designated by that Officer are authorized to enforce such special hunting and fishing permits and to collect the fees therefor, acting as agent or agents for the State if the cooperative plan so provides, and

"(B) the fees collected under this paragraph may not be expended with respect to other than the military reservation on which collected.

"(c) After a cooperative plan is agreed to under subsection (a)—

"(1) no sale of land, or forest products from land, that is within a military reservation covered by that plan may be made under section 2665 (a) or (b) of title 10, United States Code; and

"(2) no leasing of land that is within the reservation may be made under section 2667 of such title 10;

unless the effects of that sale or leasing are compatible with the purposes of the plan.

"(d) With regard to the implementation and enforcement of cooperative plans agreed to under subsection (a)—

"(1) neither Office of Management and Budget Circular A-76 nor any successor circular thereto applies to the procurement of services that are necessary for that implementation and enforcement; and

"(2) priority shall be given to the entering into of contracts for the procurement of such implementation and enforcement services with Federal and State agencies having responsibility for the conservation or management of fish or wildlife.

"(e) Cooperative plans agreed to under the authority of this section and section 102 shall not be deemed to be, nor treated as, cooperative agreements to which the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) applies.".

(2) Subsection (d)(1) of such section 101 (as added by paragraph (1)) shall not affect any contract entered into before the date of the enactment of this Act for the provision of services of implement or enforce a cooperative plan under this Act on any military installation; but shall apply to the renewal, after such date of enactment, of any such contract.

(b) FUNDS COLLECTED UNDER PLANS.—Subsection (a) of section 106 of the Sikes Act of (16 U.S.C. 670f(a)) is amended by adding at the end thereof the following new sentence "All funds that are so collected shall remain available until expended.".

SEC. 4. FOREST PRODUCTS ON MILITARY RESERVATIONS.

Section 2665 of title 10, United States Code, is amended as follows:

(1) Subsection (d) is amended—

(A) by striking out "available for operation and maintenance during a fiscal year.";

(B) by striking out "expenses" and inserting in lieu thereof "costs" ; and

(C) by striking out "during such fiscal year.

(2) Subsection (e)(1) is amended by striking out "for all expenses of production of forest products.

(3) Subsection (f) is amended—

(A) by striking out "expenses" in the matter preceding subparagraph (A) in paragraph (1) and inserting in lieu thereof "costs",

(B) by amending paragraph (1)(C) to read as follows:

"(C) for natural resources management that implements approved plans and agreements.", and

(C) by amending paragraphs (2) and (3) to read as follows:

"(2) There shall be deposited into the reserve account the total amount received by the United States as proceeds from the sale of forest products sold under subsections (a) and (b) less—

"(A) reimbursements of appropriations made under subsection (d), and

"(B) payments made to States under subsection (e).

"(3) The reserve account may not exceed $4,000,000 on December 31 of any calendar year. Unobligated balances exceeding $4,000,000 on that date shall be deposited into the United States Treasury.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1352 reauthorizes the Sikes Act which provides for fish and wildlife conservation programs on military reservations and public lands through fiscal year 1988. S. 1352, as passed by the other body, was modeled after H.R. 1202, a bill with strong bipartisan support in both the Merchant Marine and Fisheries and Armed Services Committees of the House. The bill requires that the Secretary of each military department manage the fish and wildlife resources under his jurisdiction with trained professionals. It also mandates the development of wildlife conservation plans for each military reservation in cooperation with Federal and State fish and wildlife agency personnel, as well as with other interested parties. The bill also makes other technical changes to improve the administration of the act and to enhance the opportunities for wildlife conservation on military lands.

The House previously passed virtually identical legislation, H.R. 1202, under suspension of the rules, and I would strongly urge my colleagues to once again support the reauthorization of the Sikes Act by voting favorably on S. 1352. I would also like to express my deep appreciation to the distinguished gentleman from Alaska, Mr. DON YOUNG, who more than any other individual has been the driving force behind the Sikes Act reauthorization. Without his constant support and hard work, this bill would not be before us today and we owe him our deepest thanks for his efforts.

Mr. YOUNG OF Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from North Carolina, chairman of the committee, for his compliments. He has been a leader in this area and has given me the responsibility.

Mr. Speaker, I rise in support of S. 1352, a bill to enhance fish and wildlife conservation and natural resource management programs on military reservations and public lands through fiscal year 1988.

As my colleagues recall, the Sikes Act was enacted by Congress in 1960 and last amended in 1982. The act originally authorized the Secretary of Defense to carry out a program of planning, development, maintenance, and coordination of fish and wildlife conservation on military reservations. These installations encompass over 25 million acres. The programs were to be in accordance with a cooperative plan mutually agreed upon by the Secretary of the Defense, the Secretary of

the Interior, and the appropriate agency in the State in which the installation is located. Department of Defense regulations require that fish and wildlife management plans be executed for all military installations which contain land and water areas suitable for the conservation and management of fish and wildlife resources. To date, more than 19 million acres of fish and wildlife habitat have been covered by these cooperative plans. Certainly, these lands represent a substantial portion of our Nation's wildlife, fish, and game resources and must, to the extent practicable with the primary mission of national defense, be managed as effectively as possible for the protection of these resources.

In April 1984, the U.S. Army invited a three-member review team to assess the status of natural resource management programs carried out on U.S. Army lands and to formulate recommendations for improving these programs. Many of these recommended changes, which involve improved planning and coordination for multipurpose use, have been incorporated into the legislation.

During the first session of this Congress, H.R. 1202, a bill that I sponsored, was passed by the Merchant Marine and Fisheries Committee, House Armed Services Committee, and unanimously by the House of Representatives. It amended the Sikes Act in the following way:

First. Requires the secretary of each military department to manage the wildlife and fishery resources under his jurisdiction with trained professionals and to provide sustained multipurpose use and public access.

Second. Requires that priority in the contracting out for fish and wildlife conservation activities be given to Federal and State fish and wildlife agencies in order to secure the services of trained professionals.

Third. Requires that cooperative fish and wildlife plans be reviewed by all parties on a regular basis and not less than once every 5 years.

Fourth. Requires the preparation of a detailed report setting forth the amount and purpose of all expenditures during fiscal year 1986 for fish and wildlife management on each military reservation.

In addition, the legislation amends section 2665 of title 10, United States Code, in three ways. It would:

First, modify the existing timber reserve account managed by the Department of Defense to provide for the deposit therein of the total amount, instead of one-half of the net proceeds from the sale of forest products on military installations;

Second, require that the funds in the reserve account be available for all natural resource management rather than just forestry as permitted now; and

Third, establish that the reserve account may not exceed $4 million on December 31 of any calendar year.

This bill as passed by the House of Representatives was referred to the Senate Committee on Armed Services on July 31, 1985. Just last month, in fact, September 23, the Senate Military Construction Subcommittee met to mark up this legislation adopting two minor amendments which we supported. The first provision ensures that the goals and objectives of the fish and wildlife management plan receive adequate consideration in relation to timber harvest, agriculture, and other natural resource uses on military lands. It simply requires in the development and review of multiuse natural resource management plans for the appropriate military reservation that the cooperative fish and wildlife plan be treated as the exclusive component of that plan for managing wildlife, fish and game conservation and rehabilitation.

In no way does this prohibit or require the termination of existing fish and wildlife enhancement, management, or restoration that is being done on military reservations though not identified in the fish and wildlife cooperative plan. It is the intent of the second provision to clarify the authority of the Department of Defense to use receipts of the Commercial Forestry Program to fund all costs of operating that program.

While annual expenditures from the commercial forestry reserve account have never approached the maximum funds available in that account—approximately $1.2 million—there is concern that some portion of these receipts must remain available for fish and wildlife programs on military reservations. In amending 10 U.S.C. 2665, we have been given assurances that equipment and other purchases will not deplete the reserve account and that funds of a reasonable amount will remain available for fish and wildlife management.

Due to the limited time left in this Congress, it was decided that if any bill was to be obtained before we adjourn, the language found in H.R. 1202 would have to be incorporated into another bill. I provide this legislative history to reassure my colleagues that everything that has passed by the House in H.R. 1202, plus the two minor amendments adopted by the Senate Armed Services Subcommittee, are found in S. 1352.

I would like to extend a note of appreciation to Senator CHAFEE, chairman of the Senate Environment and Public Works Committee, in adopting these amendments to S. 1352. This action was also supported by the Senate Armed Services Committee Chairman, Senator GOLDWATER. The House Armed Services Committee has also been informed of this action and has no objection.

Mr. Speaker, this bill is a fine example of the bipartisan effort of many Members and their staffs. Their assistance and perseverance in moving this legislation has been greatly appreciated.

As my colleagues know, I have been a strong proponent over the years in bringing about a greater emphasis for proper wildlife and fishery management on our military lands. I strongly believe that S. 1352 provides this assistance.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 1352.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on S. 1352, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EMERGENCY WETLANDS RESOURCES ACT OF 1986

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 740) to extend until October 1, 1995, the authority for appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands and other essential habitat, and for other purposes.

The Clerk read as follows:

S. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Wetlands Resources Act of 1986".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood con-

trol, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens of the Nation;

(2) wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering and ultimate survival of a major portion of the migratory and resident fish and wildlife of the Nation; including migratory birds, endangered species, commercially and recreationally important finfish, shellfish and other aquatic organisms, and contain many unique species and communities of wild plants;

(3) the migratory bird treaty obligations of the Nation with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere require Federal protection of wetlands that are used by migratory birds for breeding, wintering or migration and needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(4) wetlands, and the fish, wildlife, and plants dependent on wetlands, provide significant recreational and commercial benefits, including—

(A) contributions to a commercial marine harvest valued at over $10,000,000,000 annually;

(B) support for a major portion of the Nation's multimillion dollar annual fur and hide harvest; and

(C) fishing, hunting, birdwatching, nature observation and other wetland-related recreational activities that generate billions of dollars annually;

(5) wetlands enhance the water quality and water supply of the Nation by serving as groundwater recharge areas, nutrient traps, and chemical sinks;

(6) wetlands provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property;

(7) wetlands constitute only a small percentage of the land area of the United States, are estimated to have been reduced by half in the contiguous States since the founding of our Nation, and continue to disappear by hundreds of thousands of acres each year;

(8) certain activities of the Federal Government have inappropriately altered or assisted in the alteration of wetlands, thereby unnecessarily stimulating and accelerating the loss of these valuable resources and the environmental and economic benefits that they provide; and

(9) the existing Federal, State, and private cooperation in wetlands conservation should be strengthened in order to minimize further losses of these valuable areas and to assure their management in the public interest for this and future generations.

(b) PURPOSE.—It is the purpose of this Act to promote, in concert with other Federal and State statutes and programs, the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere by—

(1) intensifying cooperative efforts among private interests and local, State, and Federal governments for the management and conservation of wetlands; and

(2) intensifying efforts to protect the wetlands of the Nation through acquisition in fee, easements or other interests and methods by local, State, and Federal governments and the private sector.

SEC. 3. DEFINITIONS.

For the purpose of this Act:

(1) The term "Committees" means the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(2) The term "designated unit" means a unit of the National Wildlife Refuge System designated by the Secretary under section 201(a)(2).

(3) The term "hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(4) The term "hydrophytic vegetation" means a plant growing in—

(A) water; or

(B) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(5) The term "wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

TITLE I—EXTENSION OF WETLANDS LOAN ACT

SEC. 101. EXTENSION OF WETLANDS LOAN ACT.

(a) AVAILABILITY OF APPROPRIATIONS.—The first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands, and for other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k-3), is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988".

(b) REPAYMENT PROVISIONS.—Section 3 of such Act (16 U.S.C. 715k-5) is amended by striking out the first three sentences.

TITLE II—REVENUES FOR REFUGE OPERATIONS AND THE MIGRATORY BIRD CONSERVATION FUND

SEC. 201. SALE OF ADMISSION PERMIT AT CERTAIN REFUGE UNITS.

(a) SALE OF ADMISSION PERMITS.—(1) Notwithstanding the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), in order to provide additional revenues for the conservation of wetland resources of the Nation and for the operation and maintenance of refuges—

(A) the Secretary of the Interior may, at units of the National Wildlife Refuge System designated by the Secretary under paragraph (2)—

(i) charge fees for admission permits;

(ii) sell Golden Eagle passports and Golden Age passports; and

(iii) issue at no charge lifetime admission permits as authorized in section 4(a)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4061-4—4601-11); and

(B) the amounts collected by the Secretary as a result of the activities described in subparagraph (A) shall be distributed as provided in subsection (c).

(2) The Secretary shall designate a unit of the National Wildlife Refuge System for purposes of this Act if the Secretary determines, with respect to such unit, that—

(A) The level of visitation for recreational purposes is high enough to justify the collection of fees for admission permits for economic reasons.

(B) There is a practical mechanism in existence for implementing and operating a system of collecting fees for admission permits.

(C) Imposition of a fee for admission permits is not likely to result in undue economic hardship for a significant number of visitors to the unit.

(b) EXCEPTIONS.—(1) The Secretary may not require an admission permit under subsection (a)(1) for entry by a person into a designated unit if such person is the holder of—

(A) a valid migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) (commonly known as the Duck Stamp Act);

(B) a valid Golden Eagle Passport issued under section 4(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(1));

(C) a valid Golden Age Passport issued under section 4(a)(4) of such Act.

(D) a valid lifetime admission permit as authorized in section 4(a)(5) of such Act.

(2) Permits for a single visit to any designated unit shall be made available by the Secretary of the Interior for a reasonable fee, but not to exceed $3 for individuals or $7.50 per vehicle. For purposes of this subsection, the term "single visit" means a more or less continuous stay within a designated unit by a person or group described in subsection (d). Payment of a single visit fee and issuance of a single visit permit shall authorize exits from and re-entries to a single designated unit for a period of from one to fifteen days. Such period shall be defined for each designated unit by the Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.

(3) Special admission permits for uses such as group activities may be issued in accordance with procedures and at fees established by the Secretary.

(4) A person may not be required to purchase an admission permit under subsection (a)(1) in order to travel by private noncommercial vehicle over any road or highway—

(A)(i) established as part of the National Federal Aid System (as defined in section 101 of title 23, United States Code); and

(ii) commonly used by the public as a means of travel between two places which are outside the designated unit; or

(B) to any land in which such person has a property interest if such land is within any designated unit.

(5) A person may not be required to purchase an admission permit under subsection (a)(1) for entrance or admission to a unit of the National Wildlife Refuge System created, expanded, or modified by Public Law 96-487.

(c) DISTRIBUTION OF AMOUNTS COLLECTED.—Amounts collected from the sale of admission permits under this section and from fees collected at any unit of the National Wildlife Refuge System under subsections (b) and (c) of section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b), (c)) shall be distributed as follows:

(A) Thirty per centum shall be available to the Secretary of the Interior until expended. The Secretary shall use such amount—

(i) first, to defray the cost of collection;

(ii) next, for operation and maintenance of the collecting unit; and

(iii) next, for operation and maintenance of all units within the National Wildlife

Refuge System, except those units created, expanded, or modified by Public Law 96-487.

(B) Seventy percent shall be deposited into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d).

(d) PERSONS ACCOMPANYING PERMITTEES.—A person who holds a stamp, passport, or permit described in subsection (b) shall be entitled to general entrance into any designated unit, along with—

(1) any persons accompanying such person in a single, private, noncommercial vehicle; or

(2) where entry to the area is by any means other than single, private, noncommercial vehicle, the person and any accompanying spouse, children, or parents.

(e) RESTRICTIONS.—A permit issued under this section is nontransferable. Such a permit may not authorize any uses for which fees are charged under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.).

(f) ESTABLISHMENT OF FEES; POSTING OF NOTICES.—(1) All fees established pursuant to this section shall be fair and equitable. In establishing such fees, the Secretary shall consider the following:

(A) The direct and indirect cost to the Government.

(B) The benefits to the permit holder.

(C) The public policy or interest served.

(D) The comparable fees charged by non-Federal public agencies.

(E) The economic and administrative feasibility of fee collection and other pertinent factors.

(2) The Secretary shall require that notice that a fee has been established under this section—

(A) be prominently posted at each designated unit and at appropriate locations in each such unit; and

(B) to the extent practicable, be included in publications distributed at such units.

(g) VOLUNTEERS.—The Director of the United States Fish and Wildlife Service may accept services of volunteers to sell admission permits under this section or to sell Golden Eagle and Golden Age Passports or Migratory Bird Hunting and Conservation Stamps. The Director may use funds appropriated or otherwise made available to the Service to cover the cost of any surety bond that may be required of a volunteer performing the services authorized under this subsection.

SEC. 202. PRICE OF MIGRATORY BIRD HUNTING AND CONSERVATION STAMP.

Section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718(b)), is amended in the first sentence—

(1) by striking out "$7.50" and inserting in lieu thereof "$10.00";

(2) by striking out "any hunting year" and inserting in lieu thereof "hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, and $15.00 for each hunting year thereafter,"; and

(3) by inserting "available for obligation and" before "attributable".

SEC. 203. TRANSFERS TO MIGRATORY BIRD CONSERVATION FUND.

Notwithstanding any other provision of law, an amount equal to the amount of all import duties collected on arms and ammunition, as specified in subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States, shall, beginning with the next fiscal year quarter after the date of enactment of this Act, be paid quarterly into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d).

TITLE III—STATE AND FEDERAL WETLAND ACQUISITION

SEC. 301. NATIONAL WETLANDS PRIORITY CONSERVATION PLAN.

(a) IN GENERAL.—The Secretary shall establish, and periodically review and revise, a national wetlands priority conservation plan which shall specify, on a region-by-region basis or other basis considered appropriate by the Secretary, the types of wetlands and interests in wetlands which should be given priority with respect to Federal and State acquisition.

(b) CONSULTATION.—The Secretary shall establish the plan required by subsection (a) after consultation with—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Commerce;

(3) the Secretary of Agriculture; and

(4) [the chief executive officer of] each State.

(c) FACTORS TO BE CONSIDERED.—The Secretary, in establishing the plan required by subsection (a), shall consider—

(1) the estimated proportion remaining of the respective types of wetlands which existed at the time of European settlement.

(2) the estimated current rate of loss and the threat of future losses of the respective types of wetlands; and

(3) the contributions of the respective types of wetlands to—

(A) wildlife, including endangered and threatened species, migratory birds, and resident species;

(B) commercial and sport fisheries;

(C) surface and ground water quality and quantity, and flood control;

(D) outdoor recreation; and

(E) other areas or concerns the Secretary considers appropriate.

SEC. 302. REMOVAL OF RESTRICTION ON ACQUISITION.

Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)) is amended by striking out "national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s)" and inserting in lieu thereof "national wildlife refuge areas under section 7(a)(4) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(f)(a)(4)) and wetlands acquired under section 304 of the Emergency Wetlands Resources Act of 1986".

SEC. 303. INCLUSION OF WETLANDS IN COMPREHENSIVE STATEWIDE OUTDOOR RECREATION PLANS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8) is amended—

(1) In subsection (d), by adding at the end thereof the following new paragraph:

"For fiscal year 1988 and thereafter each comprehensive statewide outdoor recreation plan shall specifically address wetlands within that State as an important outdoor recreation resource as a prerequisite to approval, except that a revised comprehensive statewide outdoor recreation plan shall not be required by the Secretary, if a State submits, and the Secretary, acting through the Director of the National Park Service, approves, as a part of and as an addendum to the existing comprehensive statewide outdoor recreation plan, a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources and consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act or, if such national plan has not been completed, consistent with the provisions of that section";

(2) in subsection (e)(1), by inserting, in the first sentence thereof, after "For the acquisition of land, waters, or interests in land or waters" the following: ", or wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan"; and

(3) in subsection(f)(3), by adding at the end thereof the following: ": *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary, acting through the Director of the National Park Service, shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.".

SEC. 304. FEDERAL ACQUISITION.

The Secretary is authorized to purchase wetlands or interests in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715s), consistent with the wetlands priority conservation plan established under section 301.

SEC. 305. RESTRICTION ON USE OF EMINENT DOMAIN IN ACQUISITIONS.

The powers of condemnation or eminent domain shall not be used in the acquisition of wetlands under any provision of this Act where such wetlands have been constructed for the purpose of farming or ranching, or result from conservation activities associated with farming or ranching.

TITLE IV—WETLANDS INVENTORY AND TREND ANALYSIS

SEC. 401. NATIONAL WETLANDS INVENTORY PROJECT.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall continue the National Wetlands Inventory Project and shall—

(1) produce, by September 30, 1988, National Wetlands Inventory maps for the areas that have been identified by the Service as top priorities for mapping, including—

(A) the entire coastal zone of the United States;

(B) floodplains of major rivers; and

(C) the Prairie Pothole region;

(2) produce, by September 30, 1998, National Wetlands Inventory maps for those portions of the contiguous United States for which final maps have not been produced earlier;

(3) produce, as soon as practicable, National Wetlands Inventory maps for Alaska and other noncontiguous portions of the United States; and

(4) produce, by September 30, 1990, and at ten-year intervals thereafter, reports to update and improve the information contained in the report dated September 1982 and entitled "Status and Trends of Wetlands and Deepwater Habitat in the Coterminous United States, 1950's to 1970's".

(b) NOTICE.—The Secretary shall notify the appropriate State and local units of government at such time as he proposes to begin map preparation under subsection (a) in an area. Such notice shall include, but is not limited to, the identification of the area to be mapped, the proposed schedule for

completion, and the identification of a source for further information.

SEC. 402. REPORTS TO CONGRESS.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Secretary of Agriculture, shall prepare and submit to the committees—

(1) by March 30, 1987, a report regarding the status, condition, and trends of wetlands in the lower Mississippi alluvial plain and the prairie pothole regions of the United States; and

(2) by September 30, 1987, a report regarding trends of wetlands in all other areas of the United States.

(b) CONTENTS OF REPORTS.—The reports required under subsection (a) shall contain—

(1) an analysis of the factors responsible for wetlands destruction, degradation, protection and enhancement;

(2) a compilation and analysis of Federal statutory and regulatory mechanisms, including expenditures, financial assistance, and tax provisions which—

(A) induce wetlands destruction or degradation; or

(B) protect or enhance wetlands;

(3) a compilation and analysis of Federal expenditures resulting from wetlands destruction, degradation, protection or enhancement;

(4) an analysis of public and private patterns of ownership of wetlands;

(5) an analysis of the environmental and economic impact of eliminating or restricting future Federal expenditures and financial assistance, whether direct or indirect, which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including—

(A) public works expenditures;

(B) assistance programs such as price support programs, commodity loans and purchase programs and disaster assistance programs;

(C) soil conservation programs; and

(D) certain income tax provisions;

(6) an analysis of the environmental and economic impact of failure to restrict future Federal expenditures, financial assistance, and tax provisions which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including—

(A) assistance for normal silviculture activity (such as plowing, seeding, planting, cultivating, minor drainage, or harvesting for the production of fiber or forest products);

(B) Federal expenditures required incident to studies, evaluations, design, construction, operation, maintenance, or rehabilitation of Federal water resource development activities, including channel improvements;

(C) the commodity loans and purchases program and cotton, feed grain, wheat, and rice production stabilization programs administered by the Department of Agriculture; and

(D) Federal expenditures for the construction of publicly owned or publicly operated highways, roads, structures, or facilities that are essential links in a larger network or system; and

(7) recommendations for the conservation of wetlands resources based on an evaluation and comparison of all management alternatives, and combinations of management alternatives, such as State and local actions, Federal actions, and initiatives by private organizations and individuals.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. MIGRATORY BIRD TREATY ACT.

Section 6(b) of the Act of July 3, 1918 (16 U.S.C. 707(b)) is amended by deleting "shall" the first place it appears therein and by inserting in lieu thereof "shall knowingly".

SEC. 502. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) PURPOSES OF REFUGE.—The purposes of the Bayou Sauvage Urban National Wildlife Refuge are—

(1) to enhance the populations of migratory, shore, and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to protect the endangered and threatened species and otherwise to provide for the conservation and management of fish and wildlife within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish wildlife;

(5) to protect the archeological resources of the refuge;

(6) to provide opportunities for scientific research and environmental education, with emphasis being given to the ecological and other values of wetlands; and

(7) to provide opportunities for fish and wildlife oriented public uses and recreation in an urban setting.

(b) ACQUISITION AND ESTABLISHMENT OF REFUGE.—

(1) ACQUISITION.—Within four years after the effective date of this section the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire the approximately nineteen thousand acres of lands and waters, and interests therein, located in Orleans Parish, Louisiana, that are depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge", dated September 15, 1988, and on file at the United States Fish and Wildlife Service, Department of the Interior. The lands and waters, and interests therein, acquired under this paragraph comprise the Bayou Sauvage Urban National Wildlife Refuge. The acquisition shall be made through donation, purchase with donated or appropriated funds, or exchange, or through any combination of the foregoing.

(2) ESTABLISHMENT.—At such time as sufficient lands and waters, and interests therein, have been acquired under paragraph (1) to constitute an initial area that can be administered to carry out the purposes set forth in subsection (a), the Secretary shall establish the Bayou Sauvage Urban National Wildlife Refuge by publication of notice to that effect in the Federal Register.

(3) BOUNDARY ADJUSTMENTS.—The Secretary may make such adjustments with respect to the boundary of the Bayou Sauvage Urban National Wildlife Refuge as may be necessary to facilitate the acquisition of lands and waters, and interests therein, for the refuge and to facilitate the administration of the refuge.

(c) ADMINISTRATION OF REFUGE.—The Secretary shall administer all lands and waters, and interests therein, acquired under subsection (b) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to carry out the purposes set forth in subsection (a). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive environmental education as he considers appropriate to carry out such purposes. Within two years after the effective date of this section, the Secretary shall complete a master plan for the development of the Bayou Sauvage Urban National Wildlife Refuge.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior—

(1) from funds not otherwise appropriated from the Land and Water Conservation Fund, such sums as may be necessary for the acquisition of lands and waters, and interests therein, for the Bayou Sauvage Urban National Wildlife Refuge; and

(2) $5,000,000 for the development of the refuge. The moneys appropriated under subparagraphs (1) and (2) shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 740, the Emergency Wetlands Resources Act, is very similar to legislation that passed the House of Representatives in the last Congress, and H.R. 1203, legislation that has been reported by both the Committee on Merchant Marine and Fisheries and the Interior and Insular Affairs Committee.

The House bill was the result of a number of years of hearings by the Subcommittee on Fisheries and Wildlife Conservation and the Environment on the problem of loss and degradation of wetlands in this country. As you know, wetlands are those periodically inundated areas that we once believed were wastelands. We have since learned of their value, not only for fish and wildlife, but also for flood control, ground water recharge and pollution control. Studies done by a number of scientists tell us that the value of preserved wetlands is often many times greater than those that have been converted to agricultural or other uses.

There are a number of mechanisms that have been employed by both Federal and State governments to halt the destruction of wetlands, but the oldest and most successful method to date has been acquisition. In 1934, at the urging of J.N. "Ding" Darling, an ardent conservationist who was also a

talented political cartoonist, Congress passed the so-called Duck Stamp Act. This act requires hunters of migratory waterfowl to purchase and possess a Federal duck stamp. Proceeds from the sale of the stamps are placed in the migratory bird conservation account and used to purchase habitat for migratory waterfowl. The acquisitions are directed by a bipartisan commission made up of the Secretaries of Interior, Transportation, and Agriculture and two Members each from the House and the Senate. Since the program was established in 1934, more than $225 million has been spent for habitat acquisition and more than 3 million acres of waterfowl habitat have been purchased.

In 1961, Congress passed the Wetlands Loan Act to provide a means to accelerate the acquisition of migratory waterfowl habitat. This law, as amended, authorizes $200 million to be appropriated as a loan against future duck stamp revenues and can be used only for the purchase of migratory waterfowl habitat. The authorization, of which more than $185 million have been appropriated, expired on September 30 of this year.

Mr. Speaker, in spite of the contribution of waterfowl hunters, the fact is that we have not done enough to protect wetlands through acquisition. In the early 1950's, the Fish and Wildlife Service, the States, and the International Association of Fish and Wildlife Agencies set a goal for the protection of 12.5 million acres—8 million acres of the Federal Government and 4.5 million acres by the States—of waterfowl habitat needed to maintain populations that existed at that time. To date, 1.6 million acres of the Federal share remain to be acquired, with an estimated cost of approximately $1,000 per acre.

Both H.R. 1203 and S. 740 would increase the funds available for wetland acquisition in a number of ways. Our philosophy behind these bills was relatively simple—we should continue to expand the user pay concept and we should provide additional support from the Federal Government to match the contributions of those who have been supporting wildlife conservation for decades. To expand the user pay concept, these bills would make two changes in existing law. First, they would raise the price of the duck stamp from $7.50 to $15 over a 5-year period. The major waterfowl hunting groups, like Ducks Unlimited, have endorsed this proposal.

Second, both bills proposed that entrance fees be charged at refuges where it is feasible and that the proceeds of these fees be placed in the migratory bird conservation account. Persons holding valid duck stamps or golden eagle passports would be admitted to any refuge without additional charge. We should note that the Committee on Merchant Marine and Fisheries accepts the current language only with the understanding and expectation that the Secretary of the Interior's discretionary authority to designate refuges and impose access charges shall not be exercised so as to apply new or additional entrance fees to holders of special access permits to traverse the Back Bay National Wildlife Refuge. The terms and conditions regarding special access permits across the Back Bay National Wildlife Refuge has been the subject of past legislation and much debate and it is not our intent that this bill affect or modify the current arrangement in any way.

The philosophy behind the entrance fee proposal was that people other than hunters who benefited from refuges should also contribute to the expansion of the refuge system. While the House legislation would have placed all of the funds from entrance fees in the migratory bird conservation account and thus made them available for wetlands acquisition, S. 740 would provide that up to 30 percent of the resulting funds would be used for operation and maintenance of units of the national wildlife refuge system.

Third, while this provision was not included in the House bill, S. 740 would place an amount equal to the import duties on sporting arms and ammunition into the migratory bird conservation account. I would point out that hunters have been paying an 11-percent excise tax on sporting arms and ammunition for almost 50 years and that the proceeds of that tax have been used to fund State wildlife conservation programs. The excise taxes have provided over $100 million per year for conservation. Addition of an amount equal to the level of annual import duties would result in an increase of approximately $10 million for wildlife conservation.

Mr. Speaker, to match the support of conservationists, H.R. 1203 contained a special authorization of $75 million for wetlands acquisition from the land and water conservation fund [LWCF]. Up to two-thirds of these funds could have been used to provide matching funds for land acquisition by State fish and game agencies. The House bill also increased the authorization for the land and water conservation fund by $75 million per year and extended the land and water conservation fund through fiscal year 1995.

Responding to administration concerns, S. 740 sets no authorization level within the land and water conservation fund for wetlands acquisition but simply authorizes wetland acquisition from the fund. It also would require the States to include the acquisition of wetlands as part of their State comprehensive outdoor recreation plans. This would make matching money from the LWCF available for States to acquire wetlands. In addition, S. 740, like H.R. 1203, would direct the Secretary of the Interior, in consultation with other Federal agencies and State conservation agencies to develop a national wetlands priority conservation plan to identify the types of wetlands and interests in wetlands which should be given priority with respect to Federal and State acquisition. The last large contiguous tracts of bottomland hardwoods, such as those in the vicinity of the Tensas River National Wildlife Refuge in northeast Louisiana, the Boyles Island Area along the Altamaha River in Georgia, the Ray Property Area along the Ocmulgee River near Macon, GA, and the Roanoke River in North Carolina, are examples of areas that should receive consideration of funding. The wetlands in the Atchafalaya basin, those along the St. John River in Florida and riverside habitat in the west are additional examples that deserve priority consideration.

S. 740, provides that wetlands may be used as replacement for lands acquired with LWCFA money that are proposed for conversion to other uses. The other body amended the Environment and Public Works Committee reported bill to delete from section 303 the phrase "and shall be eligible without regard to location." I understand that this is intended to avoid the situation where a project in one portion of the State is proposed to be converted and unprotected wetlands in another area of that State are to be acquired as replacement lands. The wetlands to be acquired and the project area being converted should be in a reasonably equivalent location—or area—within the State. Further, in the event that funds had been transferred by the State to a political subdivision or other appropriate public agency for the original project, it is intended that the replacement wetlands should be within that jurisdiction unless there is agreement by that political subdivision or agency to the contrary.

Finally, S. 740, as amended in the other body, includes language identical to that contained in H.R. 5262, which passed the House unanimously on September 23 of this year. That legislation authorizes establishment of the Bayou Sauvage Urban National Wildlife Refuge in Louisiana.

Mr. Speaker, while S. 740 is not all we hoped for, it would be a major step in our efforts to protect wetlands. It carries on the tradition of user-pay that we have fostered and matches the commitment of sportsmen with additional funds to protect resources enjoyed by all of the public. It is a tribute to the sportsmen of this country that well over one-third of the budget of the U.S. Fish and Wildlife Service is

provided for by special excise taxes and the duck stamp. This legislation expands on that concept and provides the support needed to protect our wetlands. It has the support of the leadership of the House Committee on Interior and Insular Affairs who have been most cooperative and supportive of this wetland conservation initiative. I, therefore, urge all of my colleagues to support its adoption.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 740, the Emergency Wetlands Resources Act of 1986.

The loss of wetlands across our country is at an alarming rate. Because of the value of wetlands not only for wildlife but also for flood prevention, ground water recharge, and pollution control, this rate must be slowed. One way of doing this is through wetlands acquisition.

S. 740 would increase the funds available for wetlands acquisition in a number of ways. It would extend the Wetlands Loan Act and forgive repayment of advances made to the Duck Stamp Fund by that act. It would increase the price of the Federal duck stamp from $7.50 to $15 over 5 years to enhance the wetlands acquisition power of that program. It would authorize entry fees for certain national wildlife refuges from which 70 percent of the receipts would go for wetlands purchases and the remainder for refuge operation and maintenance. It would amend the Land and Water Conservation Fund Act to authorize Federal use of the fund for wetlands purchases that benefit migratory birds. Finally, it would change the LWCF Act of require State comprehensive outdoor recreational plans to include wetlands acquisition as a component.

Mr. Speaker, this legislation, dealing with saving our Nation's wetlands, has been an issue that the Merchant Marine and Fisheries Committee has dealt with for a number of years. Legislation similar to this passed the House in the 98th Congress. In this Congress, H.R. 1203, a similar bill dealing with the wetlands issue, was passed unanimously by our committee during the first session. The main theme of all of these bills has been primarily to accelerate the process of wetlands acquisition. S. 740 establishes this process and does so in a very concrete fashion.

I would like to point out the fine leadership that our Merchant Marine and Fisheries Committee chairman, Congressman WALTER JONES, ranking minority member; Congressman BOB DAVIS; along with Congressman JOHN BREAUX, chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, have shown with this legislation. I support the bill and urge its adoption by this body.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am trying to figure out just exactly what we are doing here. I do not think there is a problem, but do I understand that the Land and Water Conservation Fund, first established in 1964 for the first time, is going to be authorized to be used to acquire wetlands?

Mr. YOUNG of Alaska. I believe the gentleman is correct, yes.

Mr. WALKER. Does this mean that we are depriving some other environmental areas from use of those funds? Where is that money coming from? I do not see any indication here that we are going to increase the funds available to the LWCF, so where is the money going to come from that we are now going to put into the wetlands?

Mr. YOUNG of Alaska. In the first place, there is a surplus of money already established, already in position that has not been used, so there will not be the taking of any moneys away from any other existing programs or moneys that have been applied for. So it is our belief that this will, in fact, by using the funds, acquire lands that we think right now should be acquired, and if we do not have the moneys they will not be acquired and we will lose them.

Mr. WALKER. The Land and Water Conservation Fund is presently in surplus?

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. WALKER. So we would be using surplus money out of that trust fund for wetlands purchase?

Mr. YOUNG of Alaska. The gentleman is correct, subject to appropriation. This gives the authorization to do so, but it is subject to appropriation.

Mr. WALKER. I thank the gentleman.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, a significant portion of the subject matter in S. 740, specifically those provisions dealing with the Land and Water Conservation Fund Act, fall within the jurisdiction of the Committee on Interior and Insular Affairs. As such, the committee would be within its rights and responsibilities to have requested a referral of this legislation. However, we did not object and demand consideration of this measure by the Interior and Insular Affairs Committee based on that point, but I do want to make it clear that the Committee on Interior and Insular Affairs will certainly continue to maintain its jurisdictional responsibilities with regard to the Land and Water Conservation Fund Act.

H.R. 1203, a bill similar to S. 740 is currently pending before the House. The House measure, after being reported by the Merchant Marine and Fisheries Committee in May 1985 was sequentially referred to the Committee on Interior and Insular Affairs. The committee discharged H.R. 1203 only after reaching agreement with the Merchant Marine and Fisheries Committee regarding those matters within the Interior Committee's jurisdiction.

I would note that the measure before the House today (S. 740) departs from the agreement reached by the two House committees of jurisdiction. Nevertheless, because of the circumstances I am willing to support this measure and see it proceed because I believe the overall thrust of the bill will achieve an important public policy purpose; Namely, the important conservation and enhancement of our vital wetlands resources.

As many Members are aware, wetlands are disappearing, because of development, at an alarming rate. Wetlands are a vital resource to our wildlife and plant species, and their continued loss bodes ill for the health of our environment.

Mr. Speaker, while I do have serious concerns about some of the provisions of S. 740, I believe the bill as a whole is important, to stem the decline in our wetlands resources and support the measure.

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Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 740.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 740, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WETLANDS LOAN ACT EXTENSION

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 589) to provide for the concurrence of the House to the amendment of the Senate to the bill (H.R. 4531) to extend the Wetlands Loan Act, and for other purposes, with amendments.

The Clerk read as follows:

Senate amendment: page 3, after line 2, insert:

SEC. 4. CONVEYANCE OF FISH HATCHERY TO THE STATE OF NEW HAMPSHIRE.

Notwithstanding any other law, the Secretary of the Interior and the Secretary of Agriculture shall convey, without reimbursement, to the State of New Hampshire no later than December 31, 1986, all of the right, title, and interest including the water rights, of the United States in and to the fish hatchery property located in the northwest corner of Berlin township in the White Mountain National Forest, New Hampshire, and known as the Berlin National Fish Hatchery, consisting of 510 acres, more or less, of land together with any improvements and related personal property thereon. The property conveyed shall be used by the New Hampshire Fish and Game Department as a part of the New Hampshire fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

H. RES. 589

Resolved, That upon the adoption of this resolution the bill (H.R. 4531) to extend the Wetlands Loan Act, and for other purposes, be and is hereby taken from the Speaker's table to the end that the Senate amendment be and is hereby agreed to with the following amendments:

Strike out section 1 of the bill and insert the following:

SECTION 1. TRANSLOCATION OF CALIFORNIA SEA OTTERS.

(a) DEFINITIONS.—For purposes of this section—

(1) The term "Act" means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) The term "agency action" has the meaning given that term in section 7(a)(2) of the Act.

(3) The term "experimental population" means the population of sea otters provided for under a plan developed under subsection (b).

(4) The phrase "parent population" means the population of sea otters existing in California on the date on which proposed regulations setting forth a proposed plan under subsection (b) are issued.

(5) The phrase "prospective action" refers to any prospective agency action that—

(A) may affect either the experimental population or the parent population; and

(B) has evolved to the point where meaningful consultation under section 7(a) (2) or (3) of the Act can take place.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "Service" means the United States Fish and Wildlife Service.

(b) PLAN SPECIFICATIONS.—The Secretary may develop and implement, in accordance with this section, a plan for the relocation and management of a population of California sea otters from the existing range of the parent population to another location. The plan, which must be developed by regulation and administered by the Service in cooperation with the appropriate State agency, shall include the following:

(1) The number, age, and sex of sea otters proposed to be relocated.

(2) The manner is which the sea otters will be captured, translocated, released, monitored, and protected.

(3) The specification of a zone (hereinafter referred to as the "translocation zone") to which the experimental population will be relocated. The zone must have appropriate characteristics for furthering the conservation of the species.

(4) The specification of a zone (hereinafter referred to as the "management zone") that—

(A) surrounds the translocation zone; and

(B) does not include the existing range of the parent population or adjacent range where expansion is necessary for the recovery of the species.

The purpose of the management zone is to (i) facilitate the management of sea otters and the containment of the experimental population within the translocation zone, and (ii) to prevent, to the maximum extent feasible, conflict with other fishery resources within the management zone by the experimental population. Any sea otter found within the management zone shall be treated as a member of the experimental population. The Service shall use all feasible non-lethal means and measures to capture any sea otter found within the management zone and return it to either the translocation zone or to the range of the parent population.

(5) Measures, including an adequate funding mechanism, to isolate and contain the experimental population.

(6) A description of the relationship of the implementation of the plan to the status of the species under the Act and to determinations of the Secretary under section 7 of the Act.

(c) STATUS OF MEMBERS OF THE EXPERIMENTAL POPULATION.—(1) Any member of the experimental population shall be treated while within the translocation zone as a threatened species for purposes of the Act, except that—

(A) section 7 of the Act shall only apply to agency actions that—

(i) are undertaken within the translocation zone,

(ii) are not defense-related agency actions, and

(iii) are initiated after the date of the enactment of this section; and

(B) with respect to defense-related actions within the translocation zone, members of the experimental population shall be treated as members of a species that is proposed to be listed under section 4 of the Act.

For purposes of this paragraph, the term "defense-related agency action" means an agency action proposed to be carried out directly by a military department.

(2) For purposes of section 7 of the Act, any member of the experimental population shall be treated while within the management zone as a member of a species that is proposed to be listed under section 4 of the Act. Section 9 of the Act applies to members of the experimental population; except that any incidental taking of such a member during the course of an otherwise lawful activity within the management zone, may not be treated as a violation of the Act or the Marine Mammal Protection Act of 1972.

(d) IMPLEMENTATION OF PLAN.—The Secretary shall implement the plan developed under subsection (b)—

(1) after the Secretary provides an opinion under section 7(b) of the Act regarding each prospective action for which consultation was initiated by a Federal agency or requested by a prospective permit or license applicant before April 1, 1986; or

(2) if no consultation under section 7(a)(2) or (3) regarding any prospective action is initiated or requested by April 1, 1986, at any time after that date.

(e) CONSULTATION AND EFFECT OF OPINION.—A Federal agency shall promptly consult with the Secretary, under section 7(a)(3) of the Act, at the request of, and in cooperation with, any permit or license applicant regarding any prospective action. The time limitations applicable to consultations under section 7(a)(2) of the Act apply to consultations under the preceding sentence. In applying section 7(b)(3)(B) with respect to an opinion on a prospective action that is provided after consultation under section 7(a)(3), that opinion shall be treated as the opinion issued after consultation under section 7(a)(2) unless the Secretary finds, after notice and opportunity for comment in accordance with section 553 of title 5, United States Code, that a significant change has been made with respect to the action or that a significant change has occurred regarding the information used during the initial consultation. The interested party may petition the Secretary to make a finding under the preceding sentence. The Secretary may implement any reasonable and prudent alternatives specified in any opinion referred to in this subsection through appropriate agreements with any such Federal agency, prospective permit or license applicant, or other interested party.

(f) *Construction.*—For purposes of implementing the plan, no act by the Service, an authorized State agency, or an authorized agent of the Service or such an agency with respect to a sea otter that is necessary to effect the relocation or management of any sea otter under the plan may be treated as a violation of any provision of the Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

Amend the title of the bill so as to read: "An Act to improve the operation of certain fish and wildlife programs.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4531, as amended by the other body, contains a number

of noncontroversial changes in laws affecting the U.S. Fish and Wildlife Service. Our committee amendment would add a provision that is necessary to allow the service to carry out conservation efforts to bring back the threatened California sea otter and would delete a provision that is the same as contained in legislation we have just passed and is therefore now unnecessary.

Mr. Speaker, H.R. 4531, with our amendment, contains the following legislative items. First, it contains special provisions relating to the translocation of the threatened California sea otter. These provisions were contained in H.R. 1027, the Endangered Species Act reauthorization, which passed the House in July 1985, and have been endorsed by both the friends of the sea otter and the Western Oil and Gas Association, as well as the U.S. Fish and Wildlife Service.

Second, H.R. 4531 contains language authorizing a boundary adjustment of a wildlife refuge in Louisiana to facilitate acquisition.

Third, H.R. 4531 would make a clarifying technical change in the Migratory Bird Conservation Act made necessary by the provisions of Gramm-Rudman-Hollings.

Fourth, H.R. 4531 would transfer the Berlin national fish hatchery in New Hampshire to the New Hampshire Fish and Game Department. This hatchery is currently being operated by the New Hampshire Fish and Game Department under a memorandum of agreement with the U.S. Fish and Wildlife Service and the Service does not object to this transfer.

Finally, the committee amendment deletes unnecessary language extending the Wetlands Loan Act because an identical provision was contained in S. 740, the comprehensive wetlands bill which has just passed the House and has been sent to the President.

As the Members can see, these are all noncontroversial provisions and I urge the adoption of H.R. 4531 as amended.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 589, providing concurrence of the House to the amendment of the Senate to the bill H.R. 4531 with amendments. The bill includes technical changes to the Atchafalaya National Wildlife Refuge concerning its boundary and to the Duck Stamp Act concerning unobligated funds due to the Gramm-Rudman-Hollings sequestration. It also provides for the conveyance of the Berlin national fish hatchery to the State of New Hampshire.

As I understand the resolution, the section of H.R. 4531 dealing with the Wetlands Loan Act will be deleted since that provision is now a part of S. 740 which this body just adopted. The resolution also calls for the addition of a new section dealing with a provision to encourage the development and protection of an experimental population of California sea otters. This provision had previously been adopted by the House of Representatives during the first session of the Congress with the passage of H.R. 1027, reauthorization of the Endangered Species Act. The provision represents a consensus among the various entities involved on how best to provide for the establishment and management of an experimental population of this species. The administration is very supportive of this action.

Mr. Speaker, I would like to commend the chairman of the Merchant Marine and Fisheries Committee, Congressman WALTER JONES, ranking minority member, Congressman BOB DAVIS, as well as Congressman JOHN BREAUX, chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, in dealing with these vitally important issues.

I support the resolution and urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and agree to the resolution, House Resolution 589.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 589, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 3113, PROVIDING FOR COORDINATED OPERATION OF THE CENTRAL VALLEY PROJECT AND THE STATE WATER PROJECT IN CALIFORNIA

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 3113) providing for the coordinated operation of the Central Valley project and the State water project in California.

CONFERENCE REPORT (H. REPT. 99-991)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3113) entitled the "Providing for the Coordinated Operation of the Central Valley Project and the State Water Project in California", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—COORDINATED OPERATIONS

PROJECT OPERATION POLICY

SEC. 101. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by—

(a) inserting at the beginning "(a)"; and

(b) inserting the following new subsection:

"(b)(1) Unless the Secretary of the Interior determines that operation of the Central Valley project in conformity with State water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta and Estuary is not consistent with the congressional directives applicable to the project, the Secretary is authorized and directed to operate the project, in conjunction with the State of California water project, in conformity with such standards. Should the Secretary of the Interior so determine, then the Secretary shall promptly request the Attorney General to bring an action in the court of proper jurisdiction for the purpose of determining the applicability of such standards to the project.

"(2) The Secretary is further directed to operate the Central Valley project, in conjunction with the State water project, so that water supplied at the intake of the Contra Costa Canal is of a quality equal to the water quality standards contained in the Water Right Decision 1485 of the State of California Water Resources Control Board, dated August 16, 1978, except under drought emergency water conditions pursuant to a declaration by the Governor of California. Nothing in the previous sentence shall authorize or require the relocation of the Contra Costa Canal intake.".

REIMBURSABLE COSTS

SEC. 102. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by inserting the following new subsection:

"(c)(1) The costs associated with providing Central Valley project water supplies for the purpose of salinity control and for complying with State water quality standards identified in exhibit A of the 'Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project' dated May 20, 1985 shall be allocated among the project purposes and shall be reimbursed in accordance with existing Reclamation law and policy. The costs of providing water for salinity control and for complying with State water quality stnadards above those standards identified in the previous sentence shall be nonreimbursable.

"(2) The Secretary of the Interior is authorized and directed to undertake a cost allocation study of the Central Valley project, including the provisions of this Act, and to

implement such allocations no later than January 1, 1988.".

COORDINATED OPERATIONS AGREEMENT

SEC. 103. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by inserting the following new subsection:

"(d) The Secretary of the Interior is authorized and directed to execute and implement the "Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985: Provided, That—

"(1) the contract with the State of California referred to in subarticle 10(h)(1) of the agreement referred to in this subsection for the conveyance and purchase of Central Valley project water shall become final only after an Act of Congress approving the execution of the contract by the Secretary of the Interior; and,

"(2) the termination provisions of the agreement referred to in this subsection may only be exercised if the Secretary of the Interior or the State of California submits a report to Congress and sixty calendar days have elapsed (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which said report has been submitted to the Speaker of the House of Representatives and the President of the Senate for reference to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report must outline the reasons for terminating the agreement and, in the case of the report by the Secretary of the Interior, include the views of the Administrator of the Environmental Protection Agency and the Governor of the State of California on the Secretary's decision.".

REFUGE WATER SUPPLY INVESTIGATION

SEC. 104. The Secretary of the Interior shall not contract for the delivery of more than 75 percent of the firm annual yield of the Central Valley project not currently committed under long-term contracts until one year after the Secretary has transmitted to the Congress a feasibility report, together with his recommendations, on the "Refuge Water Supply Investigations, Central Valley Basin, California.".

ADJUSTMENT OF RATES AND ABILITY TO PAY

SEC. 105. The Secretary of the Interior shall include in all new or amended contracts for the delivery of water from the Central Valley project a provision providing for the automatic adjustment of rates by the Secretary of the Interior if it is found that the rate in effect may not be adequate to recover the appropriate share of the existing Federal investment in the project by the year 2030. The contracts shall also include a provision authorizing the Secretary of the Interior to adjust determinations of ability to pay every five years.

OPERATION AND MAINTENANCE DEFICITS

SEC. 106. The Secretary of the Interior shall include in each new or amended contract for the delivery of water from the Central Valley project provisions ensuring that any annual deficit (outstanding or hereafter arising) incurred by a Central Valley project water contractor in the payment of operation and maintenance costs of the Central Valley project is repaid by such contractor under the terms of such new or amended contract. together with interest on any such deficit which arises on or after October 1, 1985, at a rate equal to the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent.

TITLE II—SUISUN MARSH PRESERVATION AGREEMENT

AUTHORITY TO ENTER AGREEMENT

SEC. 201. The Secretary of the Interior is authorized to execute and implement the agreement between the Department of the Interior, the State of California and the Suisun Resources Conservation District (dated November 1, 1985).

COST-SHARING PROVISIONS

SEC. 202. The costs of implementing the agreement provided in section 201 of this title shall be shared by the Bureau of Reclamation and the California Department of Water Resources in strict accordance with article 12 of that agreement: Provided, That—

(a) payments made by the Secretary of the Interior shall not exceed 40 percent of the construction costs incurred under articles 6, 7, and 8 of the agreement, or $50,000,000, whichever is less, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein;

(b) the Federal share of continuing annual operation and maintenance costs, including monitoring, shall not exceed 40 percent of the actual operation and maintenance costs; and,

(c) the costs incurred by the United States for construction and for annual operation and maintenance in connection with the implementation of said agreement shall constitute an integral part of the cost of the Central Valley project. The Secretary shall allocate such costs to the reimbursable and nonreimbursable purposes served by the project.

COSTS INCURRED

SEC. 203. Costs incurred both before and after the date of execution of the agreement herein authorized are to be included in the total for determining the Federal share of construction, operation, and maintenance costs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. There are authorized to be appropriated for the implementation of the agreement referred to in Section 201 of this title $50,000,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, in accordance with subsection 201(b) of this title, such sums as may be required for operation and maintenance: Provided, That no Federal funds may be expended pursuant to this title in advance of appropriations therefor: Provided further, That appropriations pursuant to this title shall remain available until expended without any fiscal year limitation.

TITLE III—SMALL RECLAMATION PROJECTS ACT

REFERENCE TO SMALL PROJECTS ACT

SEC. 301. As used in this title, the term "the Act" means the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a et seq.).

REHABILITATION AND BETTERMENT

SEC. 302. Section 1 of the Act is amended by inserting after the word "laws" ", with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purposes of water quality control,".

FILING FEE

SEC. 303. The second sentence of section 3 of the Act is amended by striking "$1,000" and inserting in lieu thereof "$5,000".

COST SHARING

SEC. 304. (a) Section 4(b) of the Act is amended by inserting "(1)" after (b) and by striking "by loan and grant under this Act" and inserting in lieu thereof "by loan and grant of Federal funds".

(b) Section 4(b) of the Act is amended by adding the following new paragraph at the end thereof:

"(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: Provided, That the Secretary at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: Provided further, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the $5,000 fee described in section 3 of this Act. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 5(b).".

SOIL SURVEY

SEC. 305. Section 4(c) of the Act is amended by inserting the following after the first sentence: "Each project proposal transmitted by the Secretary to the Congersss shall include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.".

COMPATIBILITY WITH CROPS PROJECTS

SEC. 306. Section 5(b) of the Act is amended by striking everything after the words "joint use facilities properly allocable to fish and wildlife enhancement or public recreation;" and substituting the following in lieu thereof:

"(5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation

project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.".

REPAYMENT AND INTEREST

SEC. 307. (a) Section 5(c)(1) of the Act is amended by striking "fifty" and inserting in lieu thereof "forty".

(b) Section 5(c)(2) of the Act is amended to read as follows: "interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan:

"(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres; or,

"(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear on interest.".

(c) the remainder of Section 5(c) of the Act is stricken in its entirety.

FISH AND WILDLIFE FUNDING

SEC. 308. Section 8 of the Act is amended by adding at the end thereof the following sentence: "The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this Act, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.".

AUTHORIZATION AND LIMITATION

SEC. 309. (a) Section 10 of the Act is amended in the first sentence by inserting before ": Provided" "and, effective October 1, 1986, not to exceed an additional $600,000,000".

(b) Section 10 of the Act is further amended by adding at the end thereof the following: "Not more than 20 percent of the total amount of additional funds authorized to be appropriated effective October 1, 1986, for loans and grants pursuant to this Act shall be for projects in any single State: Provided, That beginning five years after the date of enactment of this Act, the Secretary is authorized to waive the 20 percent limitation for loans and grants which meet the purposes set forth in section 1 of this Act: Provided further, That the decision of the Secretary to waive the limitation shall be submitted to the Congress together with the project proposal pursuant to section 4(c) of this Act and shall become effective only if the Congress has not, within 60 legislative days, passed a joint resolution of disapproval for such a waiver.".

TRANSITION RULES

SEC. 310. The provisions of Sections 303 and 308 of this title shall take effect upon enactment of this title. The provisions of sections 304(a) and 305 of this title shall be applicable to all proposals for which final applications are received by the Secretary after January 1, 1986. The provisions of Sections 302, 304(b), 306, and 307 shall be applicable to all proposals for which draft applications are received by the Secretary after August 15, 1986.

SURPLUS CROPS REPORT

SEC. 311. The Secretary of the Interior and the Secretary of Agriculture shall review the effect of the Small Reclamation Projects Act of 1956, as amended, on the operation and objectives of the programs of the Department of Agriculture dealing with the production of surplus commodities as determined by the Secretary of Agriculture pursuant to the Agriculture Act of 1949, as amended, and shall jointly submit a report of their findings to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives no later than 120 days from the date of enactment of this Act together with their recommendations, if any, for any changes to either or both programs to better achieve the objectives of such programs.

TITLE IV—VALIDATION OF CONTRACTS

SEC. 401. The Federal Power Act (Act of June 10, 1920, 41 Stat. 1063; 16 U.S.C. 791a et. seq., and acts amendatory thereof and supplementary thereto) is amended in section 10(e) (16 U.S.C. 803(3)) by deleting "Commission." and inserting in lieu thereof; "Commission: Provided however, That no charge shall be assessed for the use of any Government dam or structure by any licensee if, before January 1, 1985, the Secretary of the Interior has entered into a contract with such licensee that meets each of the following requirements:

"(A) The contract covers one or more projects for which a license was issued by the Commission before January 1, 1985.

"(B) The contract contains provisions specifically providing each of the following:

"(i) A powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States.

"(ii) The powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned.

"(iii) All revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee.

"(C) The contract is an amendatory, supplemental and replacement contract between the United States and: (i) the Quincy-Columbia Basin Irrigation District (Contract No. 14-06-100-6418); (ii) the East Columbia Basin Irrigation District (Contract No. 14-06-100-6419); or, (iii) the South Columbia Basin Irrigation District (Contract No. 14-06-100-6420).

"This paragraph shall apply to any project covered by a contract referred to in this paragraph only during the term of such contract unless otherwise provided by subsequent act of Congress.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and insert the following: "An Act to implement the Coordinated Operations Agreement, the Suisun Marsh Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes".

MO UDALL,
GEORGE MILLER,
TONY COELHO,
RICHARD H. LEHMAN,
DON YOUNG,
CHARLES PASHAYAN, Jr.,
Managers on the part of the House.

JAMES A. MCCLURE,
PETE V. DOMENICI,
MALCOLM WALLOP,
FRANK H. MURKOWSKI,
DANIEL J. EVANS,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
HOWARD M. METZENBAUM,
JOHN MELCHER,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3113) entitled "Providing for the Coordinated Operation of the Central Valley Project and the State Water Project in California", submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text of the bill with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—COORDINATED OPERATION AGREEMENT

SECTION 101—PROJECT OPERATION POLICY

Project operation policy

House bill.—The House bill amends the Act of August 26, 1937 (50 State. 850), the basic Central Valley Project (CVP) authorization, by authorizing and directing the Secretary of the Interior to operate the CVP, in conjunction with the State water project, in compliance with State water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta and Estuary unless the Secretary determines that new standards are not consistent with the Confressional directives applicable to the project. If the Secretary so determines, he or she must promptly request the Attorney General to bring an action in the court of proper jurisdiction for purpose of determining the applicability of any new standards to the project.

Senate bill.—The Senate bill has no such provision.

Conference agreement.—The conference agreement retains the House language with a clarifying amendment.

Contra Costa Canal water quality

House bill.—The House included a provision to require the Secretary to operate the CVP so that water supplied at the intake of the Contra Costa Canal is of a quality equal

to the municipal and industrial water quality standards contained in the California State Water Resources Control Board water quality standards Decision 1485 (August 16, 1978). This provision must be met except under drought emergency conditions pursuant to a declaration by the Governor of the State of California.

Senate bill.—The Senate bill has no such provision.

Conference agreement.—The conference agreement retains the House language with one addition. The conference agreement adds a new sentence to make it clear that this provision does not authorize or require the relocation of the Contra Costa Canal intake.

SECTION 102—REIMBURSABLE COSTS

Compliance with standards

House bill.—The House bill provides that the costs associated with providing CVP water supplies for the purpose of salinity control and for complying with State water quality standards over and above existing water quality objectives identified in the water rights exchange contract dated February 14, 1968 (the so-called "Tracy Standards") shall be considered nonreimbursable project costs.

Senate bill.—The Senate bill has no such provision.

Conference agreement.—The conference agreement modifies the language in the House provision. The conference agreement provides that the costs associated with providing CVP water supplies for the purpose of salinity control and for complying with the State water quality standards contained in Decision 1485 shall be reimbursed in the following manner: The Secretary will calculate those costs and then allocate them among all of the project purposes in accordance with existing Reclamation law and policy for purposes of repayment. Thus, all project purposes (e.g., irrigation, power, navigation, flood control, fish and wildlife, etc.) will share in reimbursing these costs in accordance with the law and policies now in effect. Finally, all costs associated with complying with salinity control and State water quality standards established in the future by the State Water Resources Control Board which are determined to be consistent with the Congressional directives and that exceed the costs of the D-1485 standards shall be considered nonreimbursable.

Cost allocation study

House bill.—The House bill authorizes and directs the Secretary to undertake a cost allocation study of the Central Valley Project, and to implement the new allocations no later than January 1, 1987.

Senate bill.—The Senate bill has no such provision.

Conference agreement.—The conference agreement retains the House language, but changes the date for the implementation of the new allocations to January 1, 1988.

SECTION 103—COORDINATED OPERATIONS AGREEMENT

Authority to enter into agreement

Conference agreement.—The conference agreement retains the language in the House bill.

Congressional review of conveyance and purchase contract

Conference agreement.—The conference agreement retains the House language.

Apportioning water supplies

House bill.—The House bill provides that if the Secretary determines there is a shortage in the quantity of project water available to meet the project's contractual commitments and the State water quality standards implemented pursuant to Article 11, then the Secretary shall apportion available water among all the water users capable of receiving water by reducing deliveries to all water users by the same percentage, unless the Secretary is prohibited by then existing contract or law from doing so, or has determined that some other method of apportionment is required to prevent undue hardship.

Senate bill.—The Senate bill contains no such provision.

Conference agreement.—The conference agreement is to delete the House language.

Exercising termination provisions

House bill.—The House bill allows the Secretary to exercise the termination provisions of the agreement only after the Secretary has submitted a report to the Congress and 180 legislative days have elapsed. The report must outline the Secretary's reasons for terminating the agreement, and include the views of the Administrator of the Environmental Protection Agency and the Governor of the State of California on the Secretary's proposed decision to withdraw from the agreement.

Senate bill.—The Senate bill contains no such provision.

Conference agreement.—The conference agreement retains the House language with two exceptions. First, if either the Secretary or the State of California desires to terminate the agreement, that party must submit a report to the Congress stating the reasons for exercising the termination provisions. And second, the conference agreement reduces the time for Congressional review from 180 to 60 days (not including days on which either the House or Senate is not in session because of an adjournment of more than 3 days to a day certain).

SECTION 104—REFUGE WATER SUPPLY INVESTIGATION

Conference agreement.—The conference agreement is to adopt the Senate provision.

SECTION 105—ADJUSTMENT OF RATES AND ABILITY TO PAY

Conference agreement.—The conference agreement is to adopt the Senate provision. The conferees intend that the automatic rate adjustment will take place on an annual basis.

SECTION 106—OPERATION AND MAINTENANCE DEFICITS

House bill.—The House bill contains no such provision.

Senate bill.—The Senate bill provides that new or amended contracts for the delivery of water from the CVP include provisions ensuring that operation and maintenance (O&M) deficits of the project be repaid with interest. The section provides that interest would be charged at a rate equal to the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project.

Conference agreement.—The conference agreement modifies the Senate language to provide that each new or amended contract for CVP water must ensure that any O&M deficits incurred by an individual contractor must be repaid by that contractor, with interest. The conferees believe the revised language provides a more equitable arrangement for repayment of O&M deficits.

TITLE II—SUISUN MARSH PRESERVATION AGREEMENT

Conference agreement.—The conference agreement is to accept Title II of the Senate bill in its entirety.

TITLE III—SMALL RECLAMATION PROJECTS ACT AMENDMENTS

SECTION 301—REFERENCE TO SMALL PROJECTS ACT

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 302—REHABILITATION AND BETTERMENT

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 303—FILING FEE

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 304—COST SHARING

Conference agreement.—The conference agreement is to adopt the Senate language. The conferees expect that the Secretary will exercise the authority to waive the cost-sharing requirements only in the most unusual of instances and based on thorough documentation sufficient to convince a prudent person of the unavailability of financing.

SECTION 305—SOIL SURVEY

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 306—COMPATIBILITY WITH CORPS PROJECT

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 307—REPAYMENT AND INTEREST

Conference agreement.—The conference agreement is to adopt the Senate language. It is the conferees' intent that the ownership limitation of 320 acres is to be considered on a loan-by-loan basis, rather than by examining ownership by a recipient throughout the West

SECTION 308—FISH AND WILDLIFE FUNDING

Conference agreement.—The conference agreement is to adopt the Senate language.

SECTION 309—AUTHORIZATION AND LIMITATION

House bill.—The House bill contains no such provision.

Senate bill.—This provision amends section 10 of the Act to authorize the appropriation of $600 million, effective October 1, 1986. This section was also amended to require that no more than 20 percent of the newly authorized $600 million may be spent for projects located in a single State.

Conference agreement.—The conference agreement retains the Senate language in a modified form. The conference agreement would impose the 20 percent limitation for a period of 5 years. After that time period, the Secretary may waive the limitation if it is determined that a loan or grant has met the purposes of the Act (as amended). The Secretary must send the reasons for waiving the limitation to the Congress and allow Congress 60 legislative days in which to pass a joint resolution of disapproval.

The Conferees expect that from available Fiscal Year 1987 funds, the Bureau of Reclamation will allocate funding to the Upper Yampa Water Conservancy District's proposed Stagecoach Project, in accordance with the District's pending application; provided, however, that the project meets all the requirements of the Bureau in accordance with standard application procedures.

SECTION 310—TRANSITION RULES

Conference agreement.—The conference agreement retains the Senate language, except that section 302, 304(b), 306 and 307 shall apply to all draft applications received after August 15, 1986.

SECTION 311—SURPLUS CROPS REPORT

Conference agreement.—The conference agreement retains the Senate language. The Conferees consider the study required by this section to be of critical importance to the future of the loan program. It is expected that the study will be thoroghly and promptly conducted, and that practical solutions to the surplus crop issue in relation to the Small Reclamation Projects Act program will be included in the recommendations submitted by the Secretaries.

TITLE IV—VALIDATION OF CONTRACTS

House bill.—The House bill contains no such provision.

Senate bill.—The Senate bill amends the Federal Power Act to provide that no charge shall be assessed for the use of any government dam or structure if the Secretary has entered into a contract with such licensee which covers one or more projects for which a license was issued by the Federal Energy Regulatory Commission prior to January 1, 1985, and if the contract contains provisions specifically providing each of the following: a powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States; the powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned; and, all revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee. The section applies to any project covered by such a contract only during the term of such contract unless otherwise provided by subsequent Act of Congress.

Conference agreement.—The conference agreement retains the Senate language with one clarification. The conferees have added a provision specifically identifying the contracts eligible to utilize the provisions of this section.

MO UDALL,
GEORGE MILLER,
TONY COELHO,
RICHARD H. LEHMAN,
DON YOUNG,
CHARLES PASHAYAN, Jr.,
Managers on the part of the House.
JAMES A. MCCLURE,
PETE V. DOMENICI,
MALCOLM WALLOP,
FRANK H. MURKOWSKI,
DANIEL J. EVANS,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
HOWARD M. METZENBAUM,
JOHN MELCHER,
Managers on the part of the Senate.

KOREAN WAR MEMORIAL ACT

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and take from the Speakers table the bill (H.R. 2205) to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read as follows:

Senate amendments: strike out all after the enacting clause and insert:

AUTHORIZATION OF MEMORIAL

SECTION 1. The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Services of the United States who served in the Korean War, parcularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

ESTABLISHMENT OF KOREAN WAR VETERANS MEMORIAL ADVISORY BOARD

SEC. 2. There is hereby established a Korean War Veterans Memorial Advisory Board which shall consist of twelve veterans who served in the Korean war. The members of the Board shall be appointed by the President within one hundred and twenty calendar days of enactment of this Act.

(b) The Korean War Veterans Memorial Advisory Board shall be responsible for:

(1) recommending the site and selecting the design for the memorial, subject to the approval of the American Battle Monuments Commission and in accordance with section 7(a) of H.R. 4378, as approved by the House of Representatives on September 29, 1986; and

(2) promoting the establishment of the memorial and encouraging the donation of private funds for the construction and maintenance of the memorial.

FEDERAL AUTHORIZATION AND PRIVATE FUNDING

SEC. 3. (a) The American Battle Monuments Commision shall establish the memorial with private funds except as provided in subsection (b) of this section. For the purpose of carrying out this Act, the American Battle Monuments Commission is authorized to solicit and accept private contributions. The Commission is directed to establish an account into which these private funds shall be deposited and to maintain documentation of such contributions.

(b) There are hereby authorized to be appropriated:

(1) $500,000 for site preparation, design, planning, and associated administrative costs for the establishment of the memorial; and

(2) $500,000 for construction of the memorial, to be available only after a construction permit has been issued for the memorial.

(c) Private funds donated in excess of the cost of construction and maintenance of the memorial shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (b) of this section.

Amend the title so as to read: "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I am proud to be a cosponsor of H.R. 2205, the "Korean War Memorial" bill. This bill originally passed in the House unanimously (406–0) on November 6, 1985. The resolution was referred to the other body and was reported favorably, as amended, on September 19, 1986. On October 9, 1986, H.R. 2205 passed in the other body, as amended.

Mr. Speaker, there were 54,000 Americans killed and 103,000 wounded in Korea. Today, there are approximately 5 million living United States veterans who fought in Korea. During the Korean war, which lasted 3 years, there were nearly as many lives lost as in the 10-year Vietnam conflict. This memorial would serve as a timely reminder of the important sacrifices made by these veterans some 32 years ago. Their service to their country was no less important than those who fought in World War I, World War II, or the conflict in Vietnam. It is therefore appropriate to have a Korean War Memorial to honor those "forgotten soldiers" who fought in the "forgotten war."

Mr. Speaker, I am proud to be a cosponsor of H.R. 2205, legislation that will authorize the erection of a memorial on Federal land in the District of Columbia and its environs to the millions of Americans who served in the Korean conflict. H.R. 2205 was introduced by my distinguished colleague, Representative JAMES FLORIO along with the distinguished chairman of the House Veterans Affairs Committee, the Honorable G.V. "SONNY" MONTGOMERY and the ranking minority member of that committee, the Honorable JOHN PAUL HAMMERSCHMIDT.

H.R. 2205 passed the House of Representatives as amended on November 6, 1985, in a historic yea-nay vote of 406 to 0—rollcall vote No. 392. This bill was referred to the other body and was reported out of committee as amended on September 19, 1986.

The display of bipartisan leadership and cosponsors in both bodies of Congress is indicative of the importance and the enthusiastic support for this bill.

The Korean conflict lasted officially from 1950 to 1953. During these 3 years, American soldiers experienced casualties that were catastrophic in proportion to previous conflicts. The United States alone lost 54,246 lives during that period—103,284 were

wounded and 4,675 were captured. The U.S. Defense Department concluded that more than 6,000 American troops and 5,500 other soldiers had perished after falling into the hands of the enemy. Approximately half of those 11,500 soldiers were victims of atrocities perpetrated by the North Koreans and the other half died in prisons. The Army shows that 1,036 American soldiers had been murdered after their capture.

This international police action as it was commonly called, was a war in every sense of the word. This war became the testing ground for the militarization of American diplomacy. War strategy was transferred from the hands of the military to the formulators of foreign policy. Rules applied to traditional warfare were disregarded in most instances.

The Korean conflict marked a major turning point in post-1945 American military policy. It provided the political context for rearmament and the development of NATO. It would also draw the United States into a policy that would have long-range consequences in the future of active military participation in Asia.

This Memorial will serve as a timely reminder of the important sacrifices made by these veterans some 32 years ago. Their service to their country was no less important than those who fought in World War I, World War II, or the conflict in Vietnam that was to follow. It is, therefore, appropriate to have a Korean War Memorial to honor those forgotten soldiers who fought in the forgotten war.

Mr. Speaker, I reserve the balance of my time.

□ 1315

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SOLOMON] also a veteran of the Korean war.

Mr. SOLOMON. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to congratulate the gentlewoman from Ohio [Ms. OAKAR].

Mr. Speaker, I rise in strong support of this legislation.

Some like to sanitize it by calling it a police action. But to the men who knew best, those who fought and died, it was war, plain, and simple. An undeclared hell in a small place faraway.

The Korean war—and let's not whitewash it by calling it anything else—began on June 26, 1950, when North Korean forces burst across the 38th parallel. American ground forces fighting with the U.N. Command were pushed as far south as Pusan, but rallied after Gen. Douglas MacArthur staged a daring amphibous landing at Inchon. Our troops broke the North Korean offensive, freeing Seoul and pushing the enemy north to toward the Yalu River.

Then the Red Chinese entered the fray, and Korea became a whole new war. It didn't end so much as it ground to a halt. The armistice fixed the border between North and South at about the same point it was when the war began 37 months earlier. Some Americans wanted to forget this limited, undeclared war, a stepchild war fought in the shadows of World War II.

Yet we must never allow the record of bravery purchased in blood by that war's veterans to be overshadowed. Nearly 55,000 Americans gave their lives in Korea. Today, after 35 years, there are 389 American troops still missing and unaccounted for, that were thought to be alive at the end of that war.

Are these to be our forgotten warriors? Knowing America, I say no. Americans found the moral courage to face up to their duty to honor the veterans of Vietnam, and I am certain they are ready to do the same for those who fought in Korea, the war that stopped the spread of deadly communism dead in its tracks!

General MacArthur was right in calling Korea a whole new war. The Red Chinese attacked at night, overrunning our troops with waves of assaults, showing no quarter. The rules of Western civilization seemed not to apply.

The withdrawal of American marines from the Chosin Reservoir, for instance, was marked by some of the bloodiest fighting ever seen. The marines had to battle through every foot, pounding again and again against the Red Chinese.

When it was all over, however, the history books recorded that the bleak Chosin landscape was the scene of some of the most courageous acts in U.S. military history. Some things do not change.

Our Memorial is meant to serve as an everlasting reminder of this steadfast valor and as a vigil to the ever-present danger of the spread of atheistic communism that threatens the free world in which we live. I urge support of this legislation.

Ms. OAKAR. Mr. Speaker, I yield 5 minutes to one of the major sponsors of this legislation, the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I appreciate the time being yielded on this very important piece of legislation.

Mr. Speaker, in April 1985, on behalf of the distinguished chairman of the House Veterans' Affairs Committee and the ranking minority member of the Veterans' Affairs Committee, Mr. HAMMERSCHMIDT, I introduced H.R. 2205, the Korean War Memorial Act.

Last November, the Korean War Memorial passed the House 405 to 0. At that time I held up a computer printout of the names of those 54,000 Americans who died in Korea during the war. In those brief 36 months of war our Nation lost over 54,000 American military personnel. Contrast this figure to the 11-year Vietnam conflict which resulted in the deaths of over 58,000 Americans. The severe brutality and fierceness of the fighting in Korea is a matter of record. The numbers speak for themselves.

The time for a Korean War Memorial is long overdue. The war has been over for more than 30 years. The memory of that war is slowly eroding in the minds of many Americans who have forgotten, or were not alive, when the United States was forced, in a far-off corner of the world, to preserve freedom. And, Mr. Speaker, this response came after the supreme effort of World War II, coming only 5 years after that sacrifice seemingly guaranteed world peace for much longer than those brief 5 years.

Mr. Speaker, the bill before us is a good one. It is stronger than the bill which we sent to the Senate last November. Senators ARMSTRONG, GLENN, and DENTON have done well with it and I commend them for their work.

Let me briefly review what the bill now includes.

Provides $1 million for initial site preparation and design selection.

Construction of the Memorial by the American Battle Monument Commission—staffed by active U.S. Army personnel, and eligible to receive tax-deductible contributions from individuals, companies and foundations to defray the cost of construction.

The establishment of a Korean War Memorial Advisory Board to be composed of 12 Korean war veterans who will promote and encourage private donations to the American Battle Monument Commission.

Any surplus funds which are received from donors over and above what is used for construction of the memorial will be turned over to the Treasury to reimburse the Government for the $1 million expended. Thus there does exist the possibility that the Government might receive back every cent it expends.

Mr. Speaker, this is a good bill and one which deserves passage. There are many millions of Korean veterans who are watching what we do today and hoping that this long-ignored wrong will be made a right. Today, we have the chance to do that for these people. Let's not fail them, now that we've brought it this far. Today is the day that we will end the era of the forgotten veteran of Korea. Today, we will remember them.

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this bill passed the House of Representatives unanimously in a different form. All of us were strong in its support at that time.

At the time, there was no Federal money involved in the bill. When the bill went over to the Senate, it was amended to provide for a $1 million authorization of the taxpayers' money to help launch the memorial. Half a million dollars was for planning and site preparation and half a million dollars for construction.

At that point, Mr. Speaker, I, as a veteran of the Korean war, am obliged to oppose the bill.

I have served on this House Committee on House Administration for 16 years. I cannot remember ever authorizing a memorial in which the Federal Government put up the money.

When the Vietnam veterans arranged for their own memorial, they got the money to build it. When other groups, the black patriots, the women heroes and others have come to the Congress, they have said, "We will put up the money to build our own memorial."

It comes as a great embarrassment to me that the other body believes that there is one privileged group of American veterans who must have the Federal Government help to get their memorial going.

Yes, Mr. Speaker, there is in the bill a provision that if private funds are raise, the Government can be compensated for the money that it has put forward. But in my judgment this is a very dangerous kind of precedent that will cause every group that comes to us now for a memorial to demand that the Federal Government put up the front money and therefore make it easier for it to raise its own money to repay back.

I would remind all Members that there is no provision that is forcing on any group or the group which builds this Memorial to repay money to the Federal Government.

So, it is with great pride I hail the fact that there will finally be a long overdue memorial erected to Americans who justly earned that honor in the Korean war. At the same time I am filled with terrible sadness and embarrassment to note that it will be planned and built with the taxpayers' money, in stark contrast to all other memorials.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. RANGEL). The gentlewoman from Ohio has 15 minutes remaining.

Ms. OAKAR. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I want to thank the leadership first for giving us the opportunity to bring this bill to the floor today. The bill has been introduced well over a year, but problems did develop and that is why the bill is being brought up today. It is very important, as has been said earlier, that we do have a national memorial for the Korean veterans. I am very, very proud to be a sponsor, as my colleagues have spoken of here today, of this H.R. 2205.

I want to commend the gentleman, the main sponsor of this bill, the gentleman from New Jersey [Mr. FLORIO] for the work he has done. There have been many people involved.

I am proud that I am a Member of Congress who served in the Korean conflict. We probably have more Members of Congress now who participated in the Korean conflict than did in World War II.

So it is an important matter.

I am really especially grateful to the gentlewoman from Ohio for the work she has done. She chairs the subcommittee which handled this legislation and has really given strong support.

As has been said, for a year now we have been having problems on this memorial, something that should have been done years ago.

MARY ROSE OAKAR was right there working all the time. She never wavered for a moment.

I thank her for standing up for the Korean veteran. The chairman of the House Committee on House Administration, Mr. ANNUNZIO, is very helpful in letting us bring this bill to the floor. As has been mentioned before, JOHN PAUL HAMMERSCHMIDT, as well as Congressman PARRIS, Congressman SOLOMON on this side of the aisle, have all been totally supportive of this legislation.

Now let me touch on a subject that my good friend from Minnesota mentioned about the cost of this bill. What we tried to do, Mr. Speaker, in bringing up this legislation that we will vote on today is to not make the mistakes that were made in raising the private funds to build the Vietnam Memorial. We tried to find out where those mistakes were made and not let it happen in bringing this Memorial forward to the people of this country.

We found out that $10 million was raised for the Vietnam Memorial by private funds handled in the private manner and only $6 million really got into the Memorial. The rest, the $4 million went into raising the funds to do this Memorial. That is too much.

We did not want that to happen to the Korean Memorial. So the Federal Government, yes, does put up $1 million, but it will be paid back and not one penny can be spent until private funds have come into the Government, to the Treasury to cover that $1 million.

Also I think the Government will end up getting a large amount of money over the $1 million from private sources. We know of one group that already basically has said they will give $1 million. So we are on the right track. The American Battle Monuments Commission, a comission of the Federal Government, will watch and control what kind of memorial, what kind of monument we get. So there is plenty of protection to see that the money is spent wisely. We thought it was not a smart idea to take and spend $4 million or $5 million, to raise $2 million or $3 million. So we just tried to do, to find out the mistakes made in the Vietnam Memorial and correct them in this bill. We certainly hope Members will give their support. The Korean veteran needs to be honored.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the chairman of the subcommittee, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for his explanation because it is, I think, a legitimate concern on the part of the minority leader that there are funds in the other body's version which were not in the House version. But when we did have our hearing, we did notice there were some problems with some few groups who were collecting money that may not be as reliable.

The gentleman was concerned and there will be established a Korean War Veterans Memorial Advisory Board consisting of 12 veterans who served in the Korean war, and members of this board will be appointed by the President within 100 calendar days of enactment of this act.

□ 1330

And they will recommend the site and the design, and they will also oversee the moneys that do come in. And when the private funds collected are in excess of the cost of construction and maintenance of the Memorial, they will then be given back to the Treasury as the funds are appropriated today.

It is a kind of convoluted way to do this, but it is because this Memorial has attracted a lot of attention, and you are attempting to learn from the problems that were had. As a result, this is the version we are bringing up today.

But I do want to say on behalf of my friend from Minnesota, the fact that the gentleman is floor managing the bill along with myself is a very, very important step, and I really respect that kind of cooperation very, very much.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman from Minnesota for yielding this time to me.

Mr. Speaker, much has been said already with regard to the merits of this

measure, and I want to extend to the gentlewoman from Ohio [Ms. OAKAR] and my friend, the gentleman from New Jersey [Mr. FLORIO] and others my appreciation for all of their hard work on this legislation.

For those of us who had the opportunity to serve in the Korean war, and for the balance of the Nation as well this is an important measure.

Mr. Speaker, I submit that as much respect as I have for my friend, the gentleman from Minnesota [Mr. FRENZEL], who opposes this measure because it provides $1 million from the Federal Government for the planning, design, and construction of this facility, I take exception to that position in spite of my high regard for the gentleman, because the gentleman makes the point that the Federal Government cannot, and perhaps should not, finance all of the memorials that all of us, the mind of man runneth to the contrary not, can think of that ought to be constructed in the District of Columbia. I agree with that point of view. But the exception that I make to that point of view, Mr. Speaker, is that I as one Member of the Congress will be willing to vote for any reasonable sum of money to commemorate the sacrifices made by American military personnel in every single war in which this Nation is engaged for the protection of freedom in this country and around the world.

When you stop to think that this appropriation is only 18 cents for every person who served in the Korean war, $180 for every American young man who gave his life in the defense of freedom in that contest, I do not think that is an exorbitant expenditure of Federal taxpayers' moneys for this purpose.

The thing that I regret most of all, Mr. Speaker, is that in some bizarre way, history has jumped over those of us who served in the Korean war. We have the Iwo Jima Memorial and other monuments for World War II, Vietnam and other conflicts, but we have no recognition of the sacrifices of the 5.7 million Americans who served in that conflict. I think it is a terrible oversight. We can correct it with this bill, which I hope my colleagues will agree is a fundamental matter of justice. And the million dollars that we are considering out of a trillion dollar budget is of no real consequence when compared with the magnitude of the sacrifices that have been made by so many.

So I would hope that my colleagues would support the adoption of this proposal and get on with the approval of the creation of this monument, which I know will be a tribute to this city and to those young Americans who sacrificed so much.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would merely remind my friend, the gentleman from Virginia, of Benjamin Franklin's comment: "If you watch out for the millions, the trillions will take care of themselves."

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important memorial. It is long overdue. I think many of us have had members of our family who served in this conflict. I myself, have a brother who served and a brother-in-law who served.

The Senator from Ohio, Senator GLENN, was one of our most forceful witnesses.

I hope we pass this bill.

One of the things that I would like to say that has been somewhat unfortunate is the very same day that we passed this bill unanimously, we also passed two other memorial bills unanimously on this floor as well. These were also long overdue. One was House Joint Resolution 36, the Women's Veterans Memorial, which would honor women who served historically since the Revolutionary War time; and House Joint Resolution 142, the Black Revolutionary War Patriots, to honor the minority people who had served, black revolutionary patriots. The Speaker pro tempore himself [Mr. RANGEL] has served as a major sponsor of the bill, along with NANCY JOHNSON. These bills are awaiting floor consideration in the other body.

I think it would be most inappropriate if the other body holds up the bills relating to women and minorities. As enthusiastic as I am for the Korean war vets bill, and I really am a strong advocate and compliment all the people who have done such a great job in bringing this bill to fruition, I must say that I am anxiously awaiting the other body to take further action. The bills were passed out of committee. It does not appear that anybody is in disagreement, but the other body should pass these two memorial bills. I urge immediate consideration of these bills.

Mr. FRENZEL. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I must agree with the gentlewoman. The committee's three highest priorities were the black patriots, the women patriots, and the Korean War Memorial. For reasons that we cannot fathom, the two of these three very high priority bills could not move in the other body.

The gentlewoman has agreed to move the Korean Memorial mostly as a sign of good faith that those other bills will be coming along soon. I join the gentlewoman in suggesting that it is very important that those two bills be passed in this session, because almost everybody in both bodies wants to see all these passed this year.

I join the gentlewoman in reiterating, and restressing, the importance and the priority of those two bills.

Ms. OAKAR. Mr. Speaker, I urge passage of this very important bill.

Mr. GALLO. Mr. Speaker, I strongly support this measure, H.R. 2205, establishing a memorial in our Nation's Capital for those brave individuals who served their country and the cause of free nations everywhere during the Korean conflict.

This significant effort to honor those fine Americans and to give them a permanent place in history is long overdue.

The Korean conflict will stand in our history and in the history of the United Nations as an effort to stop the spread of aggression at a time when uncertainty and fear for the future of free nations were at their height.

Less than a decade before, we had fought to stop the spread of aggression on a world scale on virtually every continent, and we were, for the most part, successful.

Then, as we slipped into a cold war, we found ourselves losing the peace we fought so hard for in a series of small conflicts and continued aggression.

The Korean conflict was a watershed event. The relative stability between world powers and smaller nations during the past 30 years can be traced to our commitment in Korea.

Without question, there have been acts of aggression in many parts of the world since the end of the Korean conflict. Without question, we have been involved in a number of efforts to fight aggression since that time. The threat of war was not erased in Korea.

But, those who served in Korea can take pride in the fact that their service effectively stopped the type of wholesale aggression that was becoming a fact of life during the postwar period.

Their service changed the course of history in ways that may not be fully understood for years to come. We cannot and should not wait for the full measure of history to be taken. We must honor these brave men and women now for their service and their sacrifice to the cause of peace and freedom.

Specifically, this bill authorizes the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the U.S. Armed Forces who served in the Korean conflict.

The bill also gives the responsibility for site selection, design, and plans for the construction of such memorial to the National Commission of Fine Arts and the National Capital Planning Commission.

This is truly a grassroots effort on the part of all Americans who are committed to honoring these brave men and women. I think it is a worthy cause that deserves our support and our continuing efforts to commemorate this record of service and to honor in this way those who have gone unrecognized for 30 years. I strongly support this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 2205, a bill to establish a memorial to veterans of the Korean war.

Mr. Speaker, as the original sponsor of legislation to create such a memorial, I am extremely pleased that the Congress is finally about to pass this bill. Our action, while long overdue, nevertheless will not send a message of national tribute to some 8 million Americans who served this Nation well and honorably during the time of the Korean war. Actually, 1.6 million served there; 40,000 were killed, and 103,000 were wounded. Many of these veterns have since died but several million still live. We honor each of them—the living and the dead—by our action here today.

Our Nation stands tallest when it honors its defenders. Our Warriors despise wars; but they despise tyranny more. They march off to serve a national will and purpose. They endure hardship and suffer deprivation. Purely and simply, they willingly answer their Nation's call and do their duty.

Mr. Speaker, H.R. 2205 says thank you to our citizen soldiers who nobly served our Nation during the Korean war. It tells them that our memories of their service will always be bright and loving memories. We do ourselves proud this day as we begin to establish a perpetual memorial in their name.

Mr. Speaker, I congratulate our colleague, Mrs. OAKAR, and her associates for their superb efforts on the bill before us. This has been a labor of love in a cause that is dear to all of us.

Thank you, Mr. Speaker.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2205.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

SMALL BUSINESS ADMINISTRATION PILOT PROGRAMS EXTENSION

Mr. MITCHELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2914) to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act.

The Clerk read as follows:

S. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Subparagraph (3) of section 8(a)(1) of the Small Business Act is amended by striking out "(other than the Department of Defense or any component thereof)".

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

SEC. 2. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after September 30, 1988.".

SEC. 3. The last sentence of section 8(a)(2) is amended to read as follows: "The authority to waive bonds provided in this paragraph (2) may not be exercised after September 30, 1988.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland [Mr. MITCHELL] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. COBEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2914.

This bill is identical to H.R. 2787 as passed by the House under Suspension of the Rules on December 16, 1985. The Senate amended the bill by adding an authorization for the appropriation of $10 million for the establishment of a new Technology Transfer Institute in Bridgeport, CT. Subsequently the House agreed to tne Senate amendment on September 19, 1986, but the President vetoed the bill on October 7, 1986. The new Senate bill, which is identical to H.R. 5677 which I introduced for myself and Mr. MCDADE on October 8, does not include the Bridgeport authorization.

The purpose of this bill is to extend through September 30, 1988 two pilot programs administered by the Small Business Administration [SBA]. These pilots are intended to promote the competitive viability of firms owned and controlled by disadvantaged individuals who are participating in SBA's capital ownership and development program.

Under the Procurement Pilot Program the President is to designate an agency that will participate with the SBA in an effort to secure a steady stream of contracts for small businesses owned by the socially and economically disadvantaged.

The Surety Bond Pilot Program is intended to help startup firms owned and controlled by disadvantaged individuals to obtain a "track record" needed to secure bonds in the private sector.

Both pilot programs have been extended twice before by the Congress. The extension proposed by S. 2914 is needed to obtain more empirical evidence necessary to evaluate properly these approaches to running the Capital Ownership and Development Program.

This measure enjoys the strong bipartisan support of our committee which ordered the bill favorably reported by a vote of 38 to 1. I also want to thank all of the committee members who supported and worked to secure the passage of this legislation, particularly my ranking minority member, JOE MCDADE, who cosponsored an identical measure, H.R. 5677, which I introduced October 8.

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Mr. Speaker, I reserve the balance of my time.

Mr. COBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend our very distinguished chairman from Maryland for bringing this legislation to the floor and I rise in strong support.

As the gentleman from Maryland has stated this legislation would extend through fiscal year 1988 two Small Business Administration [SBA] pilot programs designed to aid in the development of business concerns owned by socially or economically disadvantaged persons. Both programs expired on September 30, 1985. This legislation is identical to title I of H.R. 2787 which was passed unanimously by both bodies. President Reagan vetoed this bill on October 7, 1986.

The President focused his veto message on title II of H.R. 2787, which authorized funding for a technology institute at the University of Bridgeport. The legislation we are considering today contains only the reauthorization of the SBA pilot programs and does not contain funding for the University of Bridgeport.

The bill extends the Pilot Procurement Program established by the SBA to set aside Government contracts for minority-owned businesses. This allows SBA to select contracts for inclusion in the 8(a) program beyond those volunteered by the procuring agency and to obtain more sophisticated contracts.

The Department of Transportation was designated the pilot agency under the most recent program.

The second pilot program extended by this legislation is the Surety Bond Waiver Pilot Program. Under this program, SBA is allowed to waive, in certain specific circumstances, Federal bonding requirements for 8(a) contractors who are startups and in the program for 1 year or less.

This legislation has been supported by the Latin American Manufacturers

Association, the National Association of Minority Contractors, the National Federation of 8(a) companies, and the Black Presidents' Roundtable.

Mr. Speaker, I urge passage of this legislation to continue our support for this country's minority entrepreneurs.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MITCHELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. MITCHELL] that the House suspend the rules and pass the Senate bill, S. 2914.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2914, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

EXPORT ADMINISTRATION ACT OF 1979 AUTHORIZATION

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2245) to authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities, as amended.

The Clerk read as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPORT ADMINISTRATION ACT.

(a) IN GENERAL.—Section 18(b) of the Export Administration Act of 1979 (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $35,935,000 for each of the fiscal years 1987 and 1988, of which $12,746,000 shall be available for each such year only for enforcement, $2,000,000 shall be available for each such year only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and $21,189,000 shall be available for each such year only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and $21,189,000 shall be available for each such year for all other activities under this Act; and

"(2) such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

(b) ENFORCEMENT ACTIVITIES OF THE CUSTOMS SERVICE.—Section 12(a)(6) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(a)(6)) is amended by striking "$12,000,000 in the fiscal year 1985 and not more than $14,000,000 in the fiscal year 1986" and inserting "$14,000,000 in the fiscal year 1987 and not more than $14,000,000 in the fiscal year 1988".

SEC. 2. EXPORT PROMOTION

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended by striking "$113,273,000 for each of the fiscal years 1985 and 1986" and inserting "$123,922,000 for each of the fiscal years 1987 and 1988".

The SPEAKER pro tempore. Is a second demanded?

Mr. ROTH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MICA asked and was given permission to revise and extend his remarks, and include extraneous matter.)

Mr. MICA. Mr. Speaker, today the House considers S. 2245, a bill to authorize funds to the Department of Commerce to carry out export administration and export promotion activities for 1987 and 1988. The amendment which the House takes up today is identical to provisions that already passed the House on May 22 as part of H.R. 4800, the omnibus trade bill.

The House amendment to S. 2245 authorizes appropriations for fiscal years 1987 and 1988 of $35.9 million for the export administration and export enforcement activities, and $123.922 million for export promotion activities of the Department of Commerce. The House amendment also authorizes appropriations of $14 million in fiscal years 1987 and 1988 for the export enforcement activities of the U.S. Customs Service. All of these authorized amounts are at the levels requested by the administration.

Mr. Speaker, the House amendment to S. 2245 is identical to provisions contained in H.R. 4800, the omnibus trade bill, which passed the House on May 22, with the exception that the previously passed authorization was $5 million greater than the administration's request. While the committee still believes that additional funds are warranted to carry out the critical tasks of export enforcement and export licensing, it is improbable that the higher figure will be appropriated.

I would note that as we take up this authorization bill, our colleagues on the Appropriations Committee are putting the finishing touches on the continuing resolution, which contains the funding for these export administration and export promotion programs. I urge our colleagues to consider the critical importance of these commerce functions and to appropriate funds at the administration's requested level.

The Senate passed S. 2245 on July 22, authorizing the same overall amounts of $35.9 million for export administration, and $123.922 million for export promotion programs. The House amendment to S. 2245 differs however, from the Senate-passed authorization in two aspects. First, the Senate bill did not contain an authorization for the export enforcement activities of the Customs Service. Section 12(a)(6) of the Export Administration Act of 1979, as amended, authorized $14 million for Customs Service export enforcement activities for fiscal year 1985 and 1986. Consistent with the administration's request, the House amendment authorizes $14 million for each of the fiscal years 1987 and 1988 to the Customs Service.

The second difference concerns the earmark contained in existing law for foreign availability assessments under subsections (f) and (h)(6) of section 5 of the Export Administration Act. The House amendment continues the existing earmark of $2 million for foreign availability assessments. Just last week, the Subcommittee on Internal Economic Policy and Trade of the Committee on Foreign Affairs held an oversight hearing to review implementation of the foreign availability provisions of the act. The committee was extremely disappointed to find only one decontrol proposal to date based on foreign availability. I am inserting in the RECORD for the attention of my colleagues an article contained in the recent issue of INC. magazine detailing the problems of Silicon Technology Corp., a New Jersey company involved in this first foreign availability determination on automatic wafering saws. Although the foreign availability program has not yielded as quickly or as extensively the results Congress intended, the first decontrol proposal on automatic wafering saws is nearing completion, and a viable process for decontrolling items on the basis of foreign availability is underway. Continuation of the earmark is necessary to ensure that adequate funds are devoted to this important aspect of our export control policy.

Mr. Speaker, I include the following article for purposes of clarification.

KACHAJIAN'S REBELLION

THE STORY OF HOW ONE SMALL MANUFACTURER SPENT SIX YEARS FIGHTING TO SAVE HIS BUSINESS FROM THE DEADENING HAND OF GOVERNMENT EXPORT CONTROLS—AND WON—SORT OF

(By Lucien Rhodes)

Welcome to George Kachajian's Theater of the Absurd.

You will know you have arrived when you see the marquee, there above the front door of his corporate headquarters at the end of Spruce Street in Oakland, N.J. No, it wasn't planned that way, but it does capture the spirit and essence of the whole long, involved, and contentious drama that's been six years in the making and not finished yet.

Once, those large blue letters announced the company he started 16 years ago as Silicon Technology Corp. (STC). But some months ago, this sign broke in the middle, as if unable to stand the weight of the company's aching frustration any longer: The letters spelling "TECH" fell and shattered on the parking lot below. Now each morning when Kachajian sees this symbol of his plight, he cannot help but mentally review the script as he's lived it thus far. In a rising spiral of incredulity, he will recall how an abrupt shift in American foreign policy suddenly denied him access to foreign markets, and how a foreign competitor used the opportunity both to fill the vacuum overseas and to raid his market in the United States. And he will remember with bitterness the layoffs of workers in Oakland, and the mounting financial losses, and his long hegira through the federal bureaucracy in search of relief.

So it is that George Kachajian comes to work, his $10-million company still dangerously close to collapse. Looking at the marquee, he asks himself, "Who took the 'tech' from my technology?" to which he answers, amazed at the improbability of his own response: "My own government, that's who."

But please come inside: The featured attraction has a lot more to offer—senators, congressional subcommittees, the Western Alliance; also the Soviet Union and the Warsaw Pact. You will see that the story of George Kachajian's quest for an export license is really only a small vignette played out against a vast backdrop of international trade deficits, East-West competition, and political feuding within the Reagan Administration. Still, it is a vignette that raises disturbing questions: Do the complex controls regulating U.S. exports sacrifice the international competitiveness of American companies, particularly high-tech companies? If our export-control system causes our companies to lose markets, and worse yet, industries, to foreign competitors, then, in the long run are they really protecting our national security? With a trade deficit of $170 billion, can the United States afford to forgo exports that surely run into the billions of dollars that are lost each year to export controls?

The controversy has by no means spent its force, although George Kachajian has now won a victory of sorts against the deadening hand of the Export Administration Act—the first of its kind in history. And as the news of this victory spreads through the high-tech community, he is being praised as the underdog who beat city hall. But Kachajian never wanted to star in his own melodrama. He wanted to be a businessman.

For 18 years, George S. Kachajian had worked for Dow Corning Corp. in various sales and marketing jobs, first selling silicones for oils, greases, and paint resins, and then solicon, the pure crystalline element used exclusively in the manufacture of semiconductors. His contacts within this new, rapidly growing industry were broad, he was well paid, and his prospects were very promising. But in 1969, he decided to quit. That fall, at a company plant in Hemlock, Mich., Kachajian watched an employee at work on an internal diameter wafering saw, which cuts silicon ingot into thin wafers, one of the first steps in creating semiconductors. For a second, the operator looked away from his work and the saw's diamond blade sliced through the back of his hand and cut off his fingers. Horrified and splattered with blood, Kachajian pulled the man away from the machine and applied a tourniquet. Then and there he decided that "there had to be a better way."

With almost $20,000 in personal savings, Kachajian turned to a machine-tool company in Massachuetts and financed the development of a prototype for a new saw that changed the orientation of the cutting blade, added a protective shield, and rearranged the work flow. In the fall of 1970, funded by $220,000 from friends and relatives and the refinancing of his house, he began to manufacture and sell his new machine. And it was not long before Kachajian realized that he would have to comply with U.S. export regulations, the vagaries of which could hardly be factored into any rational business plan or production schedule.

These days, business on the international level is rarely "strictly business," especially when it involves high tech. During World War II, export controls were used to ensure an adequate supply of various goods and commodities needed to sustain the war effort. But contrary to the original expectations, those controls were left in place long after peace had been declared—a weapon of the Cold War. The Export Control Act of 1949 finally made official what had been administrative practice, banning the export to communist countries of not only bona fide military equipment, but also dual-use commodities that might have military as well as commercial value. Beginning in 1969, Congresses and Presidents began relaxing those export restrictions, turning a more congenial and expansive face to trade with the Soviet Union and its allies. But this period of détente came to an abrupt halt with the Soviet invasion of Afghanistan in 1980. Caught up in the ebb and flow of the tensions between the superpowers was a small machine-tool company at the end of Spruce Street in Oakland, N.J.

During the 1970s, STC had prospered, controlling 80% of the domestic market in wafering saws. At the same time, Kachajian, encouraged by the prevailing attitude toward open East-West trade, had turned his attention to the demand coming from foreign markets, particularly from the Eastern Bloc, to which he traveled more than 20 times from 1974 to 1980. Because his saw is an integral part of the semiconductor manufacturing line whose end products are, in turn, essential to sophisticated weapons systems the saws were classified as dual-use commodities requiring a validated export license. In those days, however, the only problems Kachajian encountered in the licensing procedure were delays—after a wait of up to nine months, his applications, were all approved. As a result, he sold 53 wafering saws to the Soviet Union and 4 to Poland, machines that today go for $100,000 apiece.

Then suddenly, in August 1980, the U.S. Department of Commerce, for the first time, denied an export license application from STC. "One minute I was selling," Kachajian recalls, "and the next minute I was screwed. And there you are. You don't want to break the law, so you have to live with it." During the next year and a half, he made one futile call after another to the Commerce Department, only to be told cryptically that his licenses were being denied for national security reasons. Kachajian allowed himself brief interludes of optimism in which he fantasized making up his lost sales with redoubled efforts in the U.S. market. But these, it turned out, were tranquil delusions, only possible because he had not yet heard all the bad news.

By mid-1981, Kachajian discovered that STC was losing not just overseas business, but domestic customers as well. His major competitor, Meyer & Burger A.G., in Switzerland, had suddenly appeared in the United States offering comparable wafering saws for less then STC's cost of production. At first, Kachajian could not understand how the Swiss firm could sustain such suicidal dumping, but he soon learned: lacking any competitive restraint, the Swiss company was selling saws in the Eastern Bloc for prices as much as triple those that had prevailed before the export controls went into effect. "They were using those excess profits to buy market share here and drive me out of business—and I couldn't fight back," Kachajian says. "It was absurd. It was outrageous. My hands were being tied by my own government."

What's more, Kachajian could not see how the country's national-security interests were served by denying him export licenses on a product that the Soviets could get in comparable quality and quantity from the Swiss. Instead, he felt he was the victim of capricious regulations, which in effect, doomed him to extinction. Determined to correct the obvious illogic of his situation, Kachajian screwed up his courage and marched directly into the maw of the nether world of export licensing.

What he found was a forbiding tangle of categories and classifications, of processes and procedures, of laws, regulations, and inscrutable interpretations. At its center was the Commodity Control List (CCL), which presents those commodities, goods, and technologies requiring export licenses for any of five criteria national security, foreign policy, short supply, human rights, and nuclear nonproliferation. In many instances, the CCL is constructed not of products, per se, but of entries calculated according to general technical or performance standards. As a result, no one really knows how many specific products are, in fact, controlled, although estimates range to the hundred thousands. While nobody would argue that critical high technology should be sold to the Soviet Bloc, critics from industry, academia, and Congress have charged that the list is far too broad and that it includes items long since rendered technologically obsolete.

The complexity and ungainly sprawl of the CCL is replicated in the bureaucracy that has grown up around it. Today, an application to export a product that might be covered by the CCL is scrutinized not only by several divisions within the Department of Commerce, but frequently by several intelligence agencies and the Departments of State, Defense, and Energy. Nor is that the end of it. Even after applications for certain items have been reviewed by the appropriate roster of U.S. authorities, licenses still cannot be granted unless they are also ap-

proved by the 15 allies of the Coordinating Committee for Multilateral Export Controls (COCOM), a regulatory body headquartered in Paris. The intent of COCOM is to coordinate export controls with our allies, which is certainly understandable. But exporters complain that it adds yet another layer of uncertainty to the licensing system, causing delays that drive customers to the arms of competitors, either in non-COCOM countries or, even worse, in COCOM countries that interpret its restrictions more liberally than the United States. In fact, some American businesspeople charge that our allies have, on occasion, used the licensing apparatus to give a competitive advantage to their own manufacturers.

Admittedly, it is unclear how any government bureaucracy can effectively administer such a convoluted system. The General Accounting Office, the investigative arm of the Congress, once described the export controls as a "licensing system characterized more as a paper exercise than as an instrument of control." But should you get caught shipping items on the CCL without a valid license, the penalties for violating the export regulations are very real indeed: up to five years in jail, a minimum fine of $50,000, and the loss of all export privileges.

It was this phantasmagoria of licensing that nearly overwhelmed Kachajian's sensibilities. But the more he learned about it, the more he knew he was fighting for a cause that was not only empirically just, but one that was defensible under the law as well. Provisions of the Export Administration Act of 1979 had instructed the Commerce Department to establish a division of foreign availability. If this division were to determine that a product manufactured by a U.S. company was also available to proscribed countries in comparable quality and quantity, it could decontrol that product and the exporter could ship without a license. If there ever were a case of foreign availability, Kachajian, figured, his was it. What he did not figure was that it would take him nearly four more years to get the government to admit it.

Looking back, George Kachajian's plan of attack now seems fairly obvious: compiling the information needed to prove the matter of foreign availability; seeking the testimony of industry colleagues who found themselves in similar straits; enlisting the political support of the New Jersey congressional delegation. But at the time, the process was confusing, unpredictable, and enormously frustrating. When he has the need, Kachajian will arrange on the top of his office conference table, in eight indexed stacks, seemingly every piece of correspondence he has ever sent or received to or from anybody regarding some aspect of his case. If this collection were put under one cover, it's more than 1,000 pages would tell a story roughly comparable, in its own way, to the voyage of Ulysses. In Kachajian's Bureaucrats' Baedeker, there are letters addressed to the chief of the policy division of the munitions control directorate, the deputy assistant secretary of commerce for export administration, the deputy to the deputy assistant secretary for export administration, the licensing officer of the electronic instrumentation branch of the office for export administration, the special assistant to the President for public liaison, the U.S. special trade representative, the special assistant to the President for intergovernmental affairs, the director of the office of International Economic Affairs, the director of the office of Investigations of the U.S. International Trade Commission, and the undersecretary of state for political affairs—to name just a few. Then, of course, there were all those phone calls beyond counting and some 30 trips to Washington, which cost him nearly $20,000 in hotel and travel expenses. And throw in maybe $60,000 in legal fees.

But Kachajian's odyssey was much more than inconvenient and expensive. It was also desperate. While the whole involved process—the dead-end leads, the false promises, the interminable discussions—dragged on and on, Kachajian's company was slowly bleeding to death, the victim of Meyer & Burger's persistent dumping. After a decade of growth in sales and profits, STC began to lose money—nearly a million dollars to date. In 1983, Kachajian was forced to lay off almost half his employees, and even as late as July 1986, he had to sell an acre and a quarter of land the company owned across the street just to bolster cash flow. "For six years," he says, "the upside of my business has been survival and the downside was bankruptcy. I never even thought about growth."

What he was thinking about most often was the Pentagon, which had persistently raised the national-security issue in connection with the export of his wafering saws. Between 1982 and 1984, Kachajian had half a dozen meetings with various Defense Department officials, including Stephen D. Bryen, the deputy undersecretary for trade security policy. At each meeting, Kachajian would lay out his case, a Swiss competitor driving him out of business with the help of Eastern Bloc profits and counterproductive U.S. government restrictions. And at each meeting, Defense officials would tell him that an export license would jeopardize "national security." Kachajian was prepared to meet their argument head-on. He would first point out that his saws were really "glorified salami slicers" whose technology was so well known that they could hardly be considered a threat to national security. And furthermore that the Eastern Bloc could already get as many saws as it wanted from the Swiss. Then he would go on to say that the United States was in danger of losing its semiconductor manufacturing capability to foreign companies—where there were once five companies manufacturing saws in the States, now only two remained. That, he concluded, was the real threat to national security.

The Pentagon was not impressed, however, and Kachajian finally gave up in disgust. Says Wesley E. Charles, STC's president, who attended one such meeting: "They don't care about anything else, just don't give the Soviet Union anything. They wouldn't sell them a handful of sand. And if they could control that, they would."

Fortunately, as one door closed, another one opened. In the fall of 1984, Kachajian got a call from an investigator in the division of foreign availability, which only then had finally been staffed and funded as Congress had ordered back in 1979. Kachajian, hearing for the first time that a study was ecstatic. "Man, that was exciting," he says. "I had someone who was interested. I mean the guy asked questions for two hours." During the six months that it took the investigator to complete the study, Kachajian peppered the Commerce Department with information and stumped around Washington. "Because of George's involvement," says Toli Welihozkiy of the Office of Foreign Availability (OFA), "everybody became aware that this was an agenda item that needed to be moved quickly." But "quickly" has a special meaning in Washington. It was the spring of 1985, more than five years after the rejection of his first license, that the OFA determined that there was, in fact, foreign availability of wafering saws and that the item should be decontrolled.

With the OFA determination, Kachajian had established a beachhead within the bureaucracy, but the battle had only just begun. Under the procedures of the Export Administration Act of 1985. OFA sent a draft of its report detailing its findings to the Department of Defense for review and comment, and, not surprisingly, Defense disagreed strongly with the specific findings, with their interpretation, and particularly with the impulse to decontrol the saws. The reaction touched off a fierce interagency squabble within an Administration equally committed to fighting back the Russians and fighting back government restrictions on business.

"Our view," explained deputy undersecretary Bryen, "is that we have very good intelligence, incontrovertible intelligence, that the items . . . will be put to use by the Soviets directly in military. You know, in the '70s we had this great experiment: we were going to trade with the Russians and try to improve relations. But the basic bottom line is that the bulk of this stuff went right to the Soviet military, and it was used by them to modernize their military forces."

Replied Paul Freedenberg, assistant secretary of Commerce for trade administration: "The Commerce Department sees to it that you have to make a balance in these types of cases. You have to decide to balance off immediate national security against the long-term loss of the defense-industrial base, which, in itself, has a national security implication. If you lose, for example, your semiconductor manufacturing capability, ultimately you're undermined, because you no longer have that defense base to build semiconductors. Now we're just talking in this case about one specific company, but it's a microcosm of a danger—not something that's immediate, but certainly something that, long range, could be very deleterious."

Confronted with implacable opposition from Defense once again, Kachajian's spirits wilted, but only for a moment. In September 1985, his forces were joined by fresh troops. Stanley T. Myers, president and chief executive officer of California-based Siltec Corp. and a member of the Semiconductor Technical Advisory Committee (TAC), one of nine such committees advising the Commerce Department in various high-tech areas wrote a letter about STC's predicament to his fellow members. Myers, whose company uses wafering saws, knew firsthand about Meyer & Burger's tactics. And in his letter, he carefully outlined STC's plight and urged the committee to action on STC's and all U.S. manufacturers' behalf, ending with: "Unless we act quickly and decisively, we will face the ironic circumstance of having controlled an American technology into extinction."

The Advisory Committee did act quickly, using its powers under the Export Administration Act to force a decision on Kachajian's case, supposedly within 90 days. Kachajian responded by redoubling his lobbying efforts, enlisting New Jersey's two senators, Bill Bradley and Frank R. Lautenberg, and Representative Marge Roukema to put pressure on Commerce Secretary Malcolm Baldrige and his aides. "I was in the wilderness for four years," Kachajian recalls, "and now I had big names."

Commerce was leaning toward a favorable decision, both because of the merits of Kachajian's case and because a positive decision was important to the credibility of the Office of Foreign Availability. Up to that point, the OFA had not produced one single case leading to the decontrol of any item or technology listed on the CCL. The business community was becoming openly critical. So was Congress, which had ordered the establishment of the office six years earlier. But there was still the problem of the Pentagon's unrelenting opposition. Finally, the standoff between an immovable object and an irresistible force had reached an impasse, and the case of George Kachajian and his little company at the end of Spruce Street in Oakland, N.J., was taken all the way to the White House.

On May 15 at 10:30 a.m., Kachajian was attending a meeting of the Semiconductor Technical Advisory Committee in the huge Commerce building on Pennsylvania Avenue. As Kachajian remembers it, the 20 members of TAC were in their places around a large conference table while assorted guests and observers chatted from their seats around the edges of the room. Suddenly, assistant secretary Freedenberg came in and everyone fell silent as he announced that, earlier that morning, he had recommended to the National Security Council at the White House that wafering saws be decontrolled for reasons of foreign availability. "Everybody turned to look at me," Kachajian says. "Then they got up and started to congratulate me. I just sat there like the cat who swallowed a canary, but I was afraid to smile. I still couldn't believe it. . . . This happened after six years of busting my chops. When I left that place, I thought I was walking on air."

For the next month, Kachajian kept up his pressure with telephone, calls, visits, and a letter campaign that involved all 45 employees of his company. Then, in later June, he got a call from a staff person in Representative Roukema's office. The congresswoman had just received a letter, the caller said, from John M. Poindexter, the assistant to the President for national-security affairs, which stated that the council had agreed with the Commerce Department's position that the internal diameter saws should be immediately decontrolled.

Kachajian's first reaction was to shout for joy, but he knew better. Long experience with the government had taught him that seldom were problems that easily dispatched. And he was right. The saws, the letter continued, would, in fact, be decontrolled immediately for sale only to noncommunist countries such as Sweden and South Korea. The letter went on to say that, "Subsequently, we will begin working with our allies to arrive at a mutually agreed upon and orderly removal of COCOM controls on these saws to controlled countries."

In short, Kachajian, who views the reopening of Eastern Bloc markets as the key to the survival of his company, still could not sell his saws to the one market he wanted in the first place. And, at this moment, that is still where he is: one hand clutching the collar of his company to keep it from going under, the other with all its fingers crossed while he waits for COCOM to consider the issue sometime this year.

Yet as painful as it is for him, Kachajian's current limbo is entirely expressive of the lack of consensus that the current Administration brings to the issue of export controls. And it is particularly expressive of a regulatory environment in which the word "resolution" seems oddly to imply a more or less permanent state of contentiousness.

At the Commerce Department, for example, James K. Pont, the director of the OFA, speaks for many of his colleagues when he says that the Kachajian case establishes an important precedent. Claiming that the OFA has finally "found a path through the bureaucratic jungle," he predicts that over the next three to six months there may be several most positive findings.

But at the Defense Department, the feeling is that if there is any kind of precedent involved, it is only of the worst possible kind. Pointing out that the Kachajian case involves "the most sensitive technology that the Bloc can acquire," deputy undersecretary Bryen sees the handling of the issue as an example of "poor leadership" that ignored "the national interest." In his opinion, Commerce should have negotiated aggressively with the Swiss to get them to stop sales in the Eastern Bloc rather than decontrolling U.S. shipments. "There are plenty of things the Swiss want from us," he argues, "and it's outrageous that what we have is the Commerce Department laying back and saying, 'Well, we informally asked them and they said no.' I mean, that's nonsense. They [the Swiss] don't informally ask when they want something.

Bryen also makes it quite clear that George Kachajian's long ordeal is far from over, at least as far as the Pentagon is concerned. "Some of them [the saws] he will be allowed to sell," he says, "but there will be restrictions, at least if we have anything to say about it on what types of saws he will be able to sell, and for what size ingot, and so on. It won't be any open door."

Thus, while George Kachajian's victory has drawn the attention of the export community, it has not engendered much hope for a signficantly more balanced export-control policy. If anything, many of Kachajian's fellow exporters look at his six-year ordeal and wonder if it only confirms their worst fears about controls and the future competitiveness of American manufacturers abroad. Larry L. Hansen, executive vice-president of Varian Associates Inc., manufacturers of such items as ion implanters and chemical vapor deposition reactors, responds to the Kachajian case with a mixture of admiration and horror: "George put in an enormous amount of effort to get that and that's a very mundane piece of equipment. I mean who in the hell can't make a crystal slicer? For him to have had to put in that much effort, and get that many people involved to get the relief that he got is an incredible thing absolutely incredible."

"Sometimes there's a little voice inside me," says Kachajian, "that asks: 'What are you so happy about? All this means is that you can do what you should've been able to do all along.' " Maybe.

Mr. Speaker, I reserve the balance of my time.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2245 as amended to reauthorize appropriations for the Export Administration Act of 1979 and export promotion activities.

The bill authorizes $35.9 million for the purposes of conducting our technology security program under the Department of Commerce. This amount, which represents a 22-percent budget increase over fiscal year 1986, is authorized for each of the fiscal years 1987 and 1988.

The Soviet Union has undertaken a massive, well-organized campaign to acquire Western technology illegally and legally for its military weapons systems. Its objective is to narrow the technology gap with the West, thereby eroding the technological superiority on which United States and allied security depends.

To thwart the Soviets' collection effort, Congress enacted last year over 100 changes to the Export Administration Act, the law which governs the control of United States exports. Improving export control efforts is clearly a top priority of this administration, and one which is supported by Congress. Automation in the export licensing process is significantly improving the quality of license reviews and is cutting the redtape often associated with export controls. While vast strides have been made in recent years, there remains much to be done. Our goal must be to obtain a technology security program which safeguards Western security, yet does not threaten U.S. competitiveness. Enhancing our Technology Security Program must continue to be a top priority for Congress.

The bill also authorizes $123.9 million for export promotion activities. With a trade deficit which hits new records practically every month, a small investment in trade promotion is one of the better uses of taxpayer dollars. The United States is facing a possible $200 billion trade deficit this year. And, like a barge heading full steam down the river, it's going to take a lot of time and effort to turn the trade deficit around.

We have talented men and women in the United States and foreign commercial service who are on the front lines tasked with the mission of breaking down trade barriers and promoting American products overseas. The International Trade Administration, headed by Under Secretary Bruce Smart, provides the critical backup support for our commercial missions abroad and the necessary focus in Washington. According to a recent internal study by the Commerce Department entitled "A Review of Certain Competitor Nations Export Promotion Programs and Policies," Japan spends six times as much as the United States on export promotion. Japan's Government has committed 5,000 commercial officers to help promote Japan's exports. In comparison, the U.S. fields less than 200 officers. Japan spends $5.22 per person each year on export promotion. The United States spends 56 cents. Canada spends $7.52 on export promotion on a per capita basis. The United States spends 56 cents. The United Kingdom spends

$4.07 per person on export promotion. We spend 56 cents. Clearly other nations are vastly outspending the United States to promote their exports. Providing the necessary resources for an effective trade promotion strategy must be a priority for this Congress.

I therefore urge my colleagues to adopt S. 2245 as amended.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the Senate bill, S. 2245, as amended.

The question was taken.

Mr. BLILEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1350

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER pro tempore (Mr. RANGEL). Is there objection to the request of the gentleman from Florida?

There was no objection.

EL PORTAL ADMINISTRATION SITE LONG-TERM LEASES AUTHORIZATION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 1390) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, CA, and for other purposes; with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read as follows:

Senate amendments: Page 4, line 5, strike out "section" and insert: "sections".

Page 4, line 12, after "sublease," insert: "the process to be used in establishing fees for such leases and subleases,".

Page 4, strike out all after line 19 over to and including line 11 on page 5.

Page 5, after line 11, insert:

"SEC. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment or rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed this bill by voice vote on July 15, 1985.

The other body has made some relatively minor amendments to H.R. 1390 in order to insulate the Park Superintendent from any appearance of personal influence in executing the authorities of the act, to delete a reporting requirement originally contained in the House version and to allow certain Forest Service land purchases from willing sellers to proceed.

Mr. Speaker, this bill was introduced by my friend and colleague on the Committee on Interior and Insular Affairs, TONY COELHO. I wish to compliment the gentleman from California for his persistent efforts to craft legislation to induce a public-private sector cooperative effort which will result in the removal of some of the incompatible development from Yosemite Valley and at the same time make money for the Federal Government.

Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 1390 before us today. As the subcommittee chairman has explained, this bill will assist in moving nonessential housing and administrative facilities out of Yosemite Valley by encouraging private financial assistance for the construction of these facilities in the El Portal site.

This body originally passed H.R. 1390 in July 1985. The Senate recently approved an amended version. I believe the Senate amendments improve this legislation. Furthermore, I feel that this bill represents an innovative approach to the Yosemite problem. Therefore, I urge all of my colleagues to support the amended version of H.R. 1390.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure, as I indicated in my opening statements, did receive consideration in the House almost a year ago now, and has passed it overwhelmingly.

The fact is that El Portal is an area of land outside of Yosemite National Park, and all of us who have visited Yosemite are familiar with the problems that occur on the Yosemite valley floor, especially with the amount of housing both for concessionaire employees and by the public employees that serve this park.

The fact is that some of the conditions of the housing in the valley floor were such that they were among the poorest housing, the poorest public housing, in all of California. It was really a scandal. In the late 1950's, the U.S.N.P.S. actually purchased some land outside of the park where we would construct public housing for the park employees and for concessionaires. The fact of the matter is, though, that the law only provided for 55-year leases. This legislation provides for 99-year leases, that the banks and other financial entities suggest will be adequate in order to actually finance and to loan the money for any type of housing that might be built.

The hope today is that with the amendments that have been made in this measure we are considering and the way this measure is written, once and finally, we will really move some of the housing out of the floor so that the Yosemite valley can be unimpeded and available to the tourists and the many other hundreds of thousands of people who enter that valley floor each year, visiting the park.

Mr. COELHO. Mr. Speaker, I rise in support of the Senate amendments to H.R. 1390. Efforts to address the long-term housing needs in El Portal outside of Yosemite National Park have been ongoing for several years now. The House passed H.R. 1390 in 1985 and I am pleased that we are finally sending a bill to the President to be signed into law.

The El Portal administrative site was established adjacent to Yosemite National Park in 1958 to help move nonessential employee housing and administrative facilities out of Yosemite Valley. However, development of the area has been hampered because the maximum lease term is presently 55 years and

banking institutions in the area require longer lease terms before loaning money.

This legislation authorizes the length of the term for leases at the El Portal administrative site to be increased to 99 years. It also broadens the class of lessees to include Federal employees and employees of the park concessionaire.

As amended in the Senate, H.R. 1390 would insure that no undue influence is exercised in the awarding of leases by making an agent of the Secretary responsible for the selection of lessees and sublessees, the issuance of leases and subleases, the establishment of rental values and the acquisition of any unexpired term of any lease or sublease.

Finally, I am pleased that the Senate retained the language in the bill allowing the proceeds from the leases to be earmarked for the management of the El Portal community. I felt this was an essential part of the House bill as the Park Service has not been successful in obtaining funds in the past for adequate housing or administrative facilities at the El Portal site. By using the lease funds for the site, we will insure that El Portal will be properly maintained for the local residents and it will not again deteriorate to the position it is in today because of the lack of adequate improvements.

The residents of Yosemite National Park and El Portal have been waiting for this legislation for a long time. By passing this bill, it should encourage development at the El Portal administrative site and ensure the removal of housing and support services outside of Yosemite Valley. I urge my colleagues to support H.R. 1390 today so we can sent the bill to the President to be signed into law.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to H.R. 1390.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONSTITUTION DAY

Mr. GARCIA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2216) to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day", and to make such day a legal public holiday.

The Clerk read as follows:

S. 2216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) the United States Constitution is the cornerstone of our system of Government under law;

(2) September 17, 1987, commemorates the bicentennial of the signing of the United States Constitution;

(3) the bicentennial of the signing of the United States Constitution serves as a reminder and a celebration of the rights, privileges, and responsibilities of citizenship;

(4) the United States Constitution signifies the importance of the rule of law and affirms our dedication to freedom and justice; and

(5) the United States Constitution provides the framework for our law, our spirit, and our beliefs as a Nation.

DESIGNATION

SEC. 2. September 17, 1987, is designated as "Constitution Day".

TREATMENT AS A LEGAL PUBLIC HOLIDAY

SEC. 3. September 17, 1987, shall be treated as if it were a legal public holiday under section 6103(a) of title 5, United States Code, for purposes of—

(1) any statute relating to pay or leave of employees (as defined by section 2105 of title 5, United States Code);

(2) section 2(d) of the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", approved June 22, 1942 (36 U.S.C. 174(d));

(3) section 15(a) of the Federal Contested Election Act (2 U.S.C. 394(a)); and

(4) any other law.

Sec. 4. (a) Section 6103 of title 5, United States Code, is amended—

(1) by inserting in subsection (a) immediately after the item relating to Labor Day, the following new item:

"Constitution Day, September 17.";

(2) by striking out "For" in subsection (b) and inserting in lieu thereof "Except as provided for in subsection (d), for"; and

(3) by adding at the end thereof the following new subsection:

"(d) For purposes of statutes relating to pay and leave of employees, Constitution Day shall not be observed as a legal public holiday in calendar years beginning after December 31, 1987.".

(b) The amendments made by this section shall apply to calendar years beginning after December 31, 1987.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. GARCIA] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand before you today to ask support for S. 2216, establishing a one-time legal public holiday in honor of the signing of the U.S. Constitution.

The U.S. Constitution not only serves as the cornerstone of our Government, but signifies the importance of the law and affirms our dedication to freedom, liberty, and justice. Never before in the history of this country has any one single document proved to have such immense and invaluable importance to this country. Although there have been amendments to our Constitution, the basic form of our Government has remained unchanged. It has set a standard by which other countries have measured their own governments.

I believe it is only fitting that we celebrate the signing of the Constitution by enacting a one-time Federal holiday to commemorate its 200th anniversary and to show the importance and significance of this great document.

Mr. HORTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of S. 2216, legislation which would create a one-time holiday by designating September 17, 1987, as Constitution Day, as a legal, public holiday.

Our Constitution is perhaps the single most important document in modern history. It has provided the framework for the successful continuation of the world's oldest democracy.

Mr. Speaker, I know this might be quite controversial to ask for a legal public holiday. Everybody wants to do away with legal public holidays. That means all offices would be closed, and, of course, there is a lot of cost associated with that. I understand it would be in the vicinity of approximately $4.5 billion in the private sector alone. I realize that.

But on the other hand, we are celebrating the 200th anniversary of this great document, which has been the guidepost for us in the way in which this country has developed.

So I think it would be appropriate to have a one-time legal, public holiday to commemorate this great document, the Constitution of the United States.

Mr. Speaker, I urge the Members to adopt this bill and I urge that this bill designating September 17, 1987, as Constitution Day, be accepted.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I do not think that there is anyone in this body, certainly not this gentleman, and I cannot imagine that there is anyone who does not believe that the historical significance of the Constitution is such that we ought to be setting aside some way to commemorate the Constitution. However, the bill we have before us is a billion-dollar bill.

This bill will cost the taxpayers $1 billion. It will cost small businesses and industries across this country $4.5 billion.

□ 1400

You are talking about a $5.5 billion cost to the economy for 1 day next September. I suggest that is a little expensive and that we ought not be on this floor suggesting that what we need in order to celebrate the founding of our Constitution is a vacation, and that is exactly what this is. This is a $5.5 billion vacation we are talking about out here. We are not talking about something to commemorate the Constitution.

Let us commemorate the Constitution, set aside a Sunday—it does not cost money for Federal pay if you set aside a Sunday, do something like that. We have already set aside a bicentennial commission that is going to spend some $26 million over the next several years as a way of celebrating our Constitution. That is entirely appropriate. It is already costing the taxpayers that kind of money, but a billion-dollar bill to the taxpayers for this celebration is just too much money; $4.5 billion of cost to small businesses across this country is just too much money.

I suggest that we turn down this bill. We cannot afford it at a time that we are cutting programs for education, cutting programs in other domestic areas, cutting our defense programs and so on, to come around and suggest that we spend $1 billion for a vacation.

Mr. Speaker, I suggest that the House turn down this particular proposal.

Mr. GARCIA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I have the honor of serving on the U.S. Commission for the Celebration of the Bicentennial of the Constitution, as does our colleague, the gentleman from Illinois [Mr. CRANE], who unfortunately cannot be with us today.

In the Commission's very first report to the President of the United States on September 17, 1985, Chief Justice Burger, the Chairman of the Commission, in the very first article of their report, had this to say:

> Delegates of all twelve States represented in Philadelphia voted to approve the Constitution. Thirty-nine of the forty-two delegates present signed the engrossed copy, and a letter of transmittal to the Continental Congress was drafted.
>
> September 17 has traditionally been celebrated as "Constitution Day." The Commission supports the creation of a one-time National Holiday on this date and considers it the appropriate date for the main national observance during the 1987 Bicentennial year. This day should involve special programs across America.

Mr. Speaker, never in the history of the world have four pages had such an impact on the lives of so many. Our Constitution has been the model for so many nations gaining their freedom.

It is appropriate that we take 1 day out of the 72,000 days that have passed since September 17, 1787, to observe the heritage of our Constitution.

As well-informed a nation as we are, it is appropriate that we focus more attention on the Constitution.

Yearly we celebrate Independence Day, the anniversary of the American Revolution; however, it is the Constitution that proved that the American people had the wisdom and ability to make something of that Revolution. The Constitution established the United States as a nation and enabled the people to govern themselves and to preserve their freedoms.

Constitution Day, 1987, will give the American people the opportunity to reflect on and celebrate the existence of our basic charter. This will be the only opportunity in the lifetime of those of us here today to devote our Nation for 1 day to that great document.

Mr. Speaker, we have had a great deal of research done by the legal counsel of the U.S. Commission on the Bicentennial of the Constitution, and a legal national holiday does not impose upon the small businesses or other businesses or this Nation that they should have to close their doors of their businesses for that day unless they so desire; so it will not be such a terrible heavy burden upon the businesses of this country for us to have a legal national holiday to celebrate the signing of our Constitution.

The Federal Government has been referred to, that it would cost in the neighborhood of $88 million perhaps to close down the government services for 1 day, but I do not believe that it would be taken as a vacation. It will be a day of observance with magnificent programs all over the United States in every village and hamlet and big city and every State.

Mr. Speaker, I would urge the passage of S. 2216 to create a one-time national holiday to celebrate the signing of the Constitution.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, around here whenever somebody has a good idea to memorialize an occasion, or a person, the very first thought that occurs is that we charge it to the taxpayers by giving the Federal employees an extra day off.

I would have thought from my studies of the Constitution, and its framers, and of the Revolution and its movers, that if those people could come back to life today from the 18th century, they would be more likely to say, "Let's have a holiday for the taxpayers, not for the bureaucrats."

This bill says that the taxpayer should pony up another half a billion dollars, so a rather privileged group of Americans, that is, Federal employees, including all of us in this room, will get an extra day off with pay. I say rather privileged only in the sense that Federal employees on average get more days off with pay than people in the private sector.

It is quite true that probably private businesses will not give the day off. Therefore the day of contemplation, or merrymaking, or whatever we are going to do to honor the Constitution, is going to have to be confined to Federal employees, rather than to the public at large.

I believe the Constitution is bigger than this bill. I believe the Constitution should be an object of honor, not a means of featherbedding. It ought to be honored by all citizens at all times.

There are going to be plenty of serious, justified celebrations in 1987. We do not have to set aside a special day on which the taxpayers of the United States will pay monetary tribute to a special class of employees of the United States by giving them a free day off with pay.

Mr. Speaker, this bill should be defeated soundly and unanimously.

Mr. GARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker——

The SPEAKER pro tempore (Mr. RANGEL). The Chair would like to remind the gentleman from New York that specific comments or references to the Members of the Senate should be omitted from his remarks.

Mr. GARCIA. Well, let me just say, Mr. Speaker, with permission of the Chair, I would like to have those words stricken.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. GARCIA. Mr. Speaker, I would just like to say, according to the Congressional Budget Office, which reviewed S. 2216, there would be an additional expenditure; there is no question about that. However, they estimate that expenditure to be $27 million. It is not the $4.5 billion that my colleague from Pennsylvania indicated. I might add that this estimate would be further reduced since the holiday does not include the postal employees.

It just seems to me that $27 million for something that has kept 200 years of peace and prosperity, has given us the strongest Nation in the world, a document that was written at a time when horses and carriages were the means of transportation, instead of rockets to the Moon, and here we are still living by that Constitution. This is to the credit of the great genius or geniuses of those who put that Constitution together. It would seem to me that $27 million is a very small price to pay for what I consider to be a very

71-059 O-87-29 (Pt. 21)

significant day, because without that Constitution God knows where this country would be today.

So it is to that end that I ask that we support this measure. I think it is important. I know that come 1987 that we are going to have a big celebration in the city of Philadelphia.

I might add, Mr. Speaker, that the person who really has been instrumental on this side is the Congressman from Philadelphia, Mr. FOGLIETTA, who could not be with us today because he has some business pertaining to his district, but it was the gentleman from Pennsylvania [Mr. FOGLIETTA] who got over 218 signatures together, working with the gentlewoman from Louisiana [Mrs. BOGGS] who is a member of the Bicentennial Commission.

It just seems to me that this is a very small price to pay to celebrate what I consider to be one of the most important documents in the world.

Mr. HORTON. Mr. Speaker, I yield myself 1 minute to point out that in addition to the gentleman from Pennsylvania [Mr. FOGLIETTA], the bill is also sponsored, of course, by the gentlewoman from Louisiana [Mrs. BOGGS], and then also by the gentleman from Illinois [Mr. CRANE], a Republican.

It is a bipartisan bill. I want to agree with what the chairman, the gentleman from New York [Mr. GARCIA] has said, that this is a one-time proposition. It is a one-time legal holiday in commemoration of a very historical document, a document that most people do not have a chance to see, that most people realize we have the Constitution, but if you check with the Archivist at the Archives, you will find very few of them actually get in to see the Constitution, which is on display there.

Mr. Speaker, I think it is appropriate when we are only going to do this once every 200 years that we set aside this special day; so I would urge my colleagues to vote for the bill.

Mr. CRANE. Mr. Speaker, as a member of the President's Commission on the Bicentennial of the U.S. Constitution, I rise in strong support of S. 2216. This legislation, identical to that introduced by Representatives FOGLIETTA, BOGGS, and myself, would make September 17, 1987, a one-time national holiday to commemorate the 200th anniversary of the U.S. Constitution.

James Madison once boasted that the "American Constitution would accomplish a revolution which has no parallels in the annals of human society." The Constitution has lived up to Madison's expectation. The document which provides the framework for our laws and beliefs has matured and met the challenges of a growing nation without infringing on individual freedoms.

In 1983, I introduced the original House legislation to create a Commission on the Bicentennial of the U.S. Constitution. The purpose of the Commission, as described in section 3 of Public Law 98–101, is to "promote and coordinate activities to commemorate the bicentennial of the Constitution." The Commission hopes that it will be able to stimulate thousands of organizations at the grassroots level to educate the public on the Constitution and the unique aspects of this document which ensures freedom under law.

In an effort to facilitate this grassroots celebration, the 23-member Bicentennial Commission, chaired by Chief Justice Burger, unanimously approved a resolution endorsing the one-time holiday bill. Following Senate passage on a bipartisan basis, it is now up to the House of Representatives to determine whether or not the 200th anniversary of our Constitution receives the celebration that it so richly deserves. I hope that the House of Representatives will fall in line in this patriotic legislative effort.

In closing, it should be remembered that while our Nation may be one of the younger nations in the world, it has the oldest, relatively unchanged, form of government in the entire world. The U.S. Constitution is considered such an act of genius that it is the most frequently used constitutional model for developing and restructuring countries. Almost 200 years ago, the framers of our Constitution fashioned a nearly perfect instrument of government, one that has demonstrated the remarkable capacity to adapt to a changing world. The Commission on the Bicentennial of the Constitution of the United States desperately needs the support of the 99th Congress to ensure that proper recognition and tribute is paid to this truly great achievement. I urge a yes vote on S. 2216.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. GARCIA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GARCIA] that the House suspend the rules and pass the Senate bill, S. 2216.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 3113, PROVIDING FOR COORDINATED OPERATION OF THE CENTRAL VALLEY PROJECT AND THE STATE WATER PROJECT IN CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3113) providing for the coordinated operation of the Central Valley project and the State water project in California.

The Clerk read the title of the conference report.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Is a second demanded?

Mr. PASHAYAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. PASHAYAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 3113, a bill which would authorize the Secretary of the Interior to execute the Coordinated Operations and the Suisun Marsh Preservation Agreements, and reauthorize the Small Reclamation Loan Program.

I strongly urge my colleagues to support this legislation.

Mr. Speaker, title I of H.R. 3113, which authorizes the Secretary of the Interior to enter into the Coordinated Operations Agreement [COA], is the culmination of nearly two decades of negotiations on an agreement to coordinate the operation of the Federal Central Valley project [CVP] and the California State water project.

This legislation is a historic peace treaty which can help to end the water wars which have crippled our States' water resource activities for over a decade.

For the citizens of northern California, and Contra Costa County in particular, this bill includes the legislative guarantees we have sought for decades to insure improved water quality for San Francisco Bay and the Sacramento-San Joaquin Delta.

In 1960, California prepared to launch its State water project and the Federal Government had just approved a substantial expansion of the Central Valley project. My father, then a State senator, wrote the State delta protection act which clarified the obligation of the State project to protect the delta by preventing the intrusion of ocean salinity which degrades the quality of delta water supplies.

Today, 26 years later, H.R. 3113 finally establishes as a mandate of Federal law that the CVP also must be operated to protect the water quality of the San Francisco Bay and the Sacramento-San Joaquin Delta, before surplus waters are diverted to users in other areas of the State.

Mr. Speaker, water resource policy in California has been in a state of paralysis for over a decade. When there is disagreement, nothing can happen. Now, a new generation of political leaders is demonstrating that we can work together and we can make great progress on behalf of our entire State.

This bill would not have been possible without the active involvement and the honest determination of my colleagues, Congressmen TONY COELHO and RICK LEHMAN.

Mr. Speaker, the fundamental objective of this legislation is to resolve, once and for all, the obligation of the Federal project to meet State water quality standards for the bay and the delta.

This bill clarifies that the Secretary of the Interior, at a minimum, must operate the CVP to meet the standards established from time to time for the bay and delta by the State water resources control board.

It is particularly noteworthy that this provision includes the San Francisco Bay. Protection of the bay has been too long overlooked by the State board. Recent hearings held by the Water and Power Subcommittee clearly demonstrated the need for such standards. High levels of toxic contamination have been found in shellfish, selenium in migratory waterfowl, and stripped bass populations have dropped.

The conference bill makes it clear that the Federal project must be operated to meet those bay standards should they be promulgated.

It is also important to note that the Federal obligation to meet State water quality standards will exist even if the COA becomes inoperative for some reason. Thus, we have, for the first time, firm statutory assurances that bay and delta water quality standards will be met regardless of the future of the COA.

Mr. Speaker, H.R. 3113 also contains important safeguards to the 300,000 customers of the Contra Costa Water District. The bill provides to these customers a guarantee they have never before enjoyed under Federal law: An assurance that specific water quality standards, at least as good as those contained in D-1485, will be maintained at the district's intake at Rock Slough.

Those standards may not be waived unless we confront a catastrophic drought of the sort which affected California in 1976-77, and then, only after complying with California State law and following an emergency drought declaration by the Governor where no prudent alternative exists to meeting the State water quality standards.

Maintaining and improving delta water quality benefits a wide variety of other interests, including fish and wildlife, salinity control, and river and harbor maintenance. It is impossible to enumerate all of the beneficiaries or to send a bill to them for the benefits provided by the project. As a result, the House version of H.R. 3113 made nonreimbursable all costs associated with providing salinity control and for complying with State water quality standards in excess of the so-called Tracy standards.

The conference committee has changed that formula. The conference bill provides that the costs associated with providing CVP water supplies for the purpose of salinity control and for complying with the State water quality standards contained in decision 1485 shall be reimbursed in the following manner. The Secretary will calculate those costs and then allocate them among all of the project purposes in accordance with existing reclamation law and policy for purposes of repayment.

Thus, all project purposes—such as irrigation, power, navigation, flood control, fish and wildlife—will share in these costs in accordance with the law and policies now in effect. Finally, all costs associated with complying with salinity control and State water quality standards established in the future by the State board which are determined to be consistent with the congressional directives and that exceed the costs of the D-1485 standards shall be considered nonreimbursable.

Mr. Speaker, H.R. 3113 authorizes and directs the Secretary to execute and implement the COA under two statutory conditions.

The first statutory provision provides that the conveyance and purchase contract referred to in article 10(h)(1) of the agreement will become final only after an act of Congress. We believe this contract will be critical to the long-term resolution of the controversies addressed by the agreement and H.R. 3113. It will also fundamentally affect the future of water resource development and management in California for decades. It is for these reasons that H.R. 3113 provides that Congress must approve the contract before its execution.

The second statutory provision provides that the secretary or the State of California may exercise the termination provisions of the agreement only after submitting a report to the Congress and 60 legislative days have elapsed. In the case of the secretary, the report must outline the reasons for terminating the agreement, and include the views of the Administrator of the Environmental Protection Agency and the Governor of California on the secretary's decision.

The conference bill includes important protections for California waterfowl. Section 104 of the conference bill provides that the secretary may not sign long-term contracts for more than 75 percent of the available water supplies until a feasibility report on solutions to this problem has been submitted to the Congress. This provision will insure that sufficient water is available to protect fish and wildlife resources.

The conference bill includes two important changes in CVP contracting procedures. The first requires that the secretary include automatic rate increases in all new water contracts. This will mean the elimination of 40-year, fixed-rate contracts that have bankrupted the CVP. The second change requires realistic interest rates to be changed on all operations and maintenance deficits.

Mr. Speaker, I am also pleased that the conferees have agreed to language authorizing the Secretary to implement the Suisun March Preservation Agreement. This legislation, which was first introduced by my colleagues, Congressman VIC FAZIO, will result in construction of facilities to restore the marsh area which is vital to the California flyway.

Finally, the conference bill provides an additional $600 million in authorization for the Small Reclamation Loan Program. I am pleased the conference agreed to the Senate reforms in this program. While the authorization figure of $600 million is greater than I would prefer, the new emphasis on rehabilitation, betterment, and conservation projects should help improve this program.

Mr. Speaker, this bill lays a new foundation for water policy in the California. I believe the time has come to move forward to end the suspicion and the stagnation which has impeded sound water policy in California for too long.

I firmly believe H.R. 3113 provides the framework for accomplishing that goal, and I hope my colleagues will join me in supporting the bill.

□ 1415

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, do I understand correctly that the provisions of the Senate-passed bill that stipulated that all recipients of irrigation benefits whose farm lands exceed 320 acres will be obligated to pay full cost for water are included in H.R. 3113 as it comes before us?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, the gentleman from Pennsyl-

vania is correct. The conference report reflects that change.

Mr. PASHAYAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Speaker, I rise in support of the conference report.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I am rising in support of the conference report on H.R. 3113. As a House member of the conference committee, I believe that all interests have had the opportunity to express their views concerning this measure. Although each of us did not receive everything that we wanted, I believe that the agreement reached between the House and Senate conferees is fair and is in the best interest of the general public.

I want to personally thank the chairman of the Interior Committee, Mr. UDALL, for his guidance and assistance on this measure. I would also like to express my appreciation to the chairman of the Water and Power Subcommittee, GEORGE MILLER, who has shown a keen willingness to work with all California water interests and concerns. I am very pleased that this landmark agreement has been reached. California has long been known for statewide water wars, and it is a rare occasion when California is united on a water issue. The negotiations and compromises that took place in finalizing this measure are the first steps in building a workable relationship between all parties, and I would hope that such alliances will continue so that future water concerns can be mutually resolved and addressed. I would like to commend Mr. MILLER for his leadership, and thank his staff for their dedication, and long hours in working on this important measure.

In particular, I want to make sure that the intent and purpose of section 102, reimbursable costs, of title I of this measure is clarified. I would appreciate the author and manager of H.R. 3113 addressing my concerns and clarifying for the record that my statements concerning this provision clearly and accurately define the intent of section 102 as agreed to by the House and Senate conferees. This provision required a tremendous amount of negotiation and compromise from a range of interests, and in particular, on the part of my constituents.

I would appreciate Mr. MILLER confirming that this provision is to be implemented by the Secretary of the Interior in the specific manner, as authorized by this conference report. The conference agreement provides that the costs associated with providing CVP water supplies for the purpose of salinity control and for complying with the State water quality standards contained in California State Water Resources Control Board water quality standards decision 1485, dated August 16, 1978; shall be reimbursed in a specific manner. This specific manner is to require that the Secretary shall allocate those costs among all project purposes. In particular, I want to make sure that the Secretary of the Interior has clear direction that the allocation of these costs will be among all project purposes including irrigation and domestic water uses, such as municipal and industrial uses, power, navigation, flood control, river regulation which includes fish and wildlife obligations in the Bay-Delta Estuary. Could the gentleman inform me if this is a correct interpretation of the requirement of the Secretary of the Interior?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from California.

Mr. MILLER of California. Section 102 of this agreement requires the Secretary to allocate the costs of meeting the D-1485 water quality standards to all project purposes, specifically those purposes which you reviewed in your remarks. This allocation shall be performed in accordance with reclamation law and policy.

Mr. COELHO. Mr. Speaker, in determining the allocation of the costs associated with D-1485, all project functions are required to share in these costs. Furthermore, I would like to make sure that it is clear that the water users are required and obligated to pay for and reimburse only the proportion of the costs that are allocated to the water users in the allocation process that I specified in my previous statement. Is this correct?

Mr. MILLER of California. The conference agreement is very specific. It requires the Secretary to allocate the costs to the project purposes, in a proportionate manner, as specified by the allocation process, and every project purpose will be allocated a certain cost.

Mr. COELHO. Finally, the conference agreement states that any costs which are incurred as a result of meeting water quality standards which are above D-1485 shall be nonreimbursable. Therefore, water users shall not be responsible for any costs which would result if standards which exceeded D-1485 were implemented. Is this a correct interpretation of the agreement?

Mr. MILLER of California. Yes, this is an accurate interpretation. The measure is very clear in this regard and states that any costs above D-1485 standards are nonreimbursable.

□ 1425

Mr. COELHO. Mr. Speaker, I thank the gentleman from California and urge my colleagues to support this historic bill.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I did 13 months ago, I rise in support of H.R. 3113, but a difference today being that two other issues are equally resolved by the conference report on this legislation.

This legislation initiative enjoys my support today for many of the reasons I stated on September 9, 1985, when this body initially approved H.R. 3113. I remain as hopeful now as I did then that passage and subsequent approval of this legislation will lead to prompt and serious consideration by the Water and Power Resources Subcommittee of other worthwhile proposals of water project development.

For those of us representing areas south of the San Francisco-Sacramento-San Joaquin Delta, there remains the question of authorization of the midvalley unit of the Central Valley project. There remains the question of poor quality water drainage, reauthorization and indexing for the San Luis unit of the CVP, and a host of other issues.

For those in the Sacramento area north of the San Joaquin Valley there remains the question of Auburn Dam on the American River, of the Oat Reservoir at the terminus of the Tehama-Colusa Canal, and some needed legislation for the El Dorado Irrigation District.

For those in the reclamation States I feel it necessary to address section 203(b) of the Reclamation Reform Act of 1982 because undue hardship will visit upon those who were in compliance prior to reclamation reform; they now face the dilemma of uncertainty.

I should hope that now that we are at this step in solving a problem unique to California that the promises made 13 months ago will today be renewed in the same spirit of cooperation I see between farmers and the environmental community, between southern Californians and northern Californians, and between those in the delta region and the central valley.

The residents of the San Joaquin Valley that I represent have placed their good faith and hopes for the future in this agreement, and in those who have and are participating in forwarding the promise of this legislation.

I do not intend now or in the future to state uncategorically that the legislation embodied in H.R. 3113 is perfect. It is not. But acknowledging the fact that both sides have given a little here and there, it is an equitable compromise.

The issue of reimbursability will likely take a great deal of patience, as will the time required to complete the refuge water supply investigation re-

quired by section 104. Some of my water users question the need to mandate in this legislation the various cost increases that are already required by the Reclamation Reform Act of 1982. And others worry that the amendments to the Small Reclamation Project Act will thwart any efforts at utilizing the program. I appreciate those concerns.

In closing I should like to borrow a statement made by the chairman of the Water and Power Resources Subcommittee, the gentleman from California, Mr. MILLER, who stated:

The time has come to move forward to end the suspicion and stagnation which has impeded sound water policy in California for too long.

I urge my colleagues to join in helping to remove that suspicion and stagnation by supporting the conference report on H.R. 3113, and trust that the chairman will expedite the consideration of the questions I have outlined above.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I would like to thank my colleagues who have worked so hard, the gentleman from California, [Mr. COELHO], and the gentleman from central valley of California [Mr. LEHMAN], along with the gentleman from California, [Mr. PASHAYAN]. As was said earlier, this legislation is a rather historic agreement, and to arrive at this point required that all of us, those from the north and those from the south and those from the central valley all gave a little bit of our traditional ground so that we could go forward and engage in an atmosphere of planning and rational water development for the future of our State of California. I would just like to make sure that they all get recognized.

I would also like to thank the gentleman from Arizona, [Mr. UDALL], my chairman, for all of the help and the encouragement that he has given to me and to other members of the committee to get this problem resolved, because, as was witnessed, as so many in this Congress as Members of the California delegation have fought over these projects, and had their disagreements, we have seen the State of California fall further and further behind in the rational development of its resources that are so essential to its economic growth.

Mr. Speaker, I move the passage of the bill.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Speaker, I agree with the statement of the gentleman that there was a whole host of problems and projects out there in California that needed to be solved. The gentleman will be in a key position to get those going, and I look forward to working with the gentleman on a lot of these projects and other problems, some of them in the Reclamation Reform Act. I imagine the gentleman will be occupying the time of the members of the subcommittee for quite some time in the Congress to come with hearings and various considerations of various bills.

Would the gentleman like to talk a little about that a little bit and as a general matter?

Mr. MILLER of California. I do not like to get the cart before the horse. You know we all have a November 4 deadline here. What I would expect to do is to sit down with the members of the subcommittee right after the election and start asking them for suggestions for the agenda.

As the gentleman knows, the list of concerns certainly in our own State, but elsewhere in the West is as long as our arm, and I want to make sure that while we address the issues concerning California that we do not get so parochial that we close out other Members of the Congress.

Mr. PASHAYAN. I take it when the gentleman makes those remarks, he makes them in the spirit of a bipartisan effort to solve the problems because water is as wet for a Democrat as it is for a Republican.

Mr. MILLER of California. The gentleman would not know how else to act.

Mr. PASHAYAN. I am sure that is correct. When the gentleman is in the right mood, I am sure that is correct.

Does the gentleman have anything else to say, I wonder, about the agenda that might be on for next year?

□ 1435

Mr. MILLER of California. I really do not, no.

Mr. PASHAYAN. Well, in that case, neither does this gentleman.

Mr. FAZIO. Mr. Speaker, this legislation providing authority for the Bureau of Reclamation to meet water quality standards in the Sacramento-San Joaquin Delta culminates a process that began well before I first held public office in 1975. It is a milestone in the evolution in California water issues, representing new links between all the parties which have combined, split, recombined and resplit over the years to wage California's famous water wars.

All our constituents will benefit from its passage, especially the urban water users of Sacramento who are pressed hard to find long-term solutions to the region's water supplies.

Constituents will also benefit from two other major elements of H.R. 3113, one pertaining to the Suisun Marsh and the other to a $600 million increase in the authorization ceiling for the Bureau of Reclamation's Small Project Program.

Both these sections of H.R. 3113 were originally bills which I introduced in the House: the Marsh bill with the cosponsorship of Mr. MILLER and the small projects authorization with myself as the principal cosponsor with Interior Chairman MORRIS UDALL. I am very greatful to both of them and their staffs for the effort and diligence they devoted to the eventual compromises that allowed these measures to be part of H.R. 3113.

The Coordinated Operating Agreement sections of this bill represent peace between the north, the center, and the south in California, between the Federal water project and the State water project, and between water consumers and environmentalists.

Such a multiple junction of interests occurred only in part because historical forces lead us to a common point of view. It also occurred because of the legislative skill of my colleague, GEORGE MILLER of California, chairman of the House Interior Subcommittee on Water and Power, as well as of his committee members, TONY COELHO, RICK LEHMAN, and CHIP PASHAYAN. These members all feel acutely the political forces involved in the compromise and they held fast to a common approach when it would have been easy for any of them to hold back.

It should not go unsaid, either, that the technical and political package which this legislation implements was the product of years of painstaking negotiations between officials of the Bureau of Reclamation under both current regional Director Dave Houston, and his predecessor, Mike Catino, and officials of the California Department of Water Resources under both current Director Dave Kennedy and his predecessor, Ron Robie.

The Congress made significant changes in their work, changes which some of them opposed rather vigorously. Nonetheless, our agreement today is largely theirs in origin.

What does this agreement mean? It means in the immediate sense that the Bureau of Reclamation can now lift an 8-year moratorium on new water supply contracts, because the operational coordination the bill allows will result in another 1 million acre-feet of safe yield for the Central Valley project.

For my constituents particularly, this new water would mean the Bureau could begin to negotiate a water contract for the Yolo Zamora Water District in northern Yolo County, a district which has been waiting for a water supply from the Tehama-Colusa Canal for over 20 years.

Lifting the moratorium would also mean that the Bureau could begin to meet the growing requirement for urban water supplies in the Sacramento area. Both the city of Folsom and the San Juan Water District have proposals on the table for new water supplies out of Lake Folsom in order to meet pressing urban needs. I know from frequent contact with aggressive city officials at Folsom that they will quickly approach the Bureau about signing a contract for supplemental supplies out of the lake at their feet.

In the case of the San Juan District, new surface supplies could help implement its visionary plan for the entire tier of north Sacramento County extending from Lake Folsom as far west as McClellan Air Force Base. The needs in this region are to avoid ground water overdraft, mitigate worsening ground water quality because of overdraft, avoid increasing

pumping costs, and, in several cases, offset ground-water pollution.

It is difficult to predict the exact shape of Sacramento's future water systems. Many other difficult issues must be negotiated first. But no matter what eventually happens, this bill will prove to have been one of the major steps toward the solution.

H.R. 3113 also means that for the frist time, the Bureau of Reclamation has a clear mandate to meet water quality standards in the Sacramento-San Joaquin Delta. This issue has divided the two water projects in California from each other, divided the north from the south, and divided water users from environmentalists.

There have always been grounds for arguing that the Bureau has an obligation to meet water quality standards in the delta, unless doing so would clearly conflict with congressional mandates for the Federal Central Valley project. However, with passage of this legislation what has been arguable is now a certainly, and what was once a source of division can now become common point of departure for future water policy decisions.

It is particularly satisfying to me that the other body chose to append to the COA bill two pieces of legislation in which I have had a long and direct interest:

The Suisun Marsh in my district in Solano County will now receive an adequate quality water supply;

And the authorization ceiling on small distribution system loans has been increased by $600 million, enabling water districts up and down the Central Valley of California to expand their systems to make better use of their existing facilities.

The Treasury will gain from this bill in several ways: The interest rates for repayment are market level; the subsidies for irrigation interest will apply only to 320 acres per farm, not the 960 acres in the new farm bill.

Last year, I introduced a bill to authorize the Bureau of Reclamation to participate with the State of California and the Suisun Resources Conservation District in a $120 million program to improve water quality for the Suisun Marsh. A similar bill was introduced in the Senate by Senators ALAN CRANSTON and PETE WILSON. The Federal share of this program would amount to 40 percent of this total, or $50 million, whichever is less.

Hopefully, all this money will not be needed, should an earlier of the five stages of water quality facilities contemplated by the bill result in water quality meeting the prescribed standards.

This is the latest in a series of bills I have had the honor of carrying since I first took public office as a California State assemblyman in 1975. At that time, we began work on a land use bill to preserve the 85,000 acres of marshland and surrounding buffer from encroaching urbanization.

Even then, however, we understood that preservation of this largest contiguous fresh water marsh in the United States would entail more legislation to ensure that it gets the quality of water it needs to sustain its wildlife values. It was again my privilege as a freshman Member of Congress to carry legislation authorizing the Bureau to participate in an initial set of facilities for marsh water quality. Though the amount of money was small, $2.5 million, the pattern of Federal-State-local cooperation was set at that time and is reflected in this larger bill.

Barring unforeseen problems, and assuming that the State and Federal water agencies hold to the overall cooperative course set by the COA itself. I think this bill is the last chapter in this protracted effort to preserve one of the Pacific coast flyway's most important link.

As well as being of great interest to the State of California as a whole, the COA, Suisun Marsh, and small project provisions are of particular interest to me. I thank all those involved for their assistance.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of H.R. 3113 and would like to acknowledge the role that Congressman GEORGE MILLER, chairman of the Housing Water and Power Resources Subcommittee, played in approving this important California water legislation. Because titles I and III are particularly important to my constituents, I will confine my remarks to these titles.

Title I of the bill provides for the implementation of the Coordinated Operations Agreement. This agreement not only provides for the operation of the Federal Central Valley project and the State water project, but it also ensures water quality standards for the San Francisco Bay and Sacramento-San Joaquin Delta. The agreement and this legislation end years of dispute regarding water quality standards in the delta and San Francisco Bay region with respect to the operation of the State and Federal water projects. Furthermore, title I of H.R. 3113 will enhance the manner in which the State and Federal Government operate their respective water projects and provide for a more efficient use of existing facilities and resources. Most importantly, approval of this legislation will lift the moratorium currently in place on the marketing of available Bureau of Reclamation water.

The compromise reflected in title I of the bill includes the important provisions agreed to by both State and Federal water users, as well as representatives of the delta-bay and environmental communities. It also provides adequate assurances for the Federal Government to be able to terminate its obligations if meeting the water quality standards in the bay-delta are inconsistent with congressional directives.

I would like to take this opportunity to acknowledge the many months of hard work, negotiations, and compromise by the representatives for the groups who share an interest in both the water quality standards of the delta and bay, as well as the needs of the water users throughout the State of California. Without their commitment and the guidance of GEORGE MILLER and others, this historic California water agreement would not have been possible.

Title III of H.R. 3113 authorizes $600 million for the Small Reclamation Loan Program, an important program for the development and rehabilitation of water delivery systems. The changes in the program as provided by title III address the concerns which have been expressed by various parties and I applaud the conference committee language.

Mr. Speaker, the conference committee report on H.R. 3113 reflects many weeks of negotiations and hard work on several very important and controversial issues. The resolution of these issues has not been easy nor is the compromise perfect.

However, as a member of the House-Senate conference committee, I still have reservations about several specific provisions in this package. The 20 percent per State cap included in title III of bill may be restrictive to States which have relied on the Small Reclamation Projects Loan Program and there are other issues which do not fully meet my satisfaction. However, in the spirit of compromise and acknowledging that approval of this pivotal legislation will allow us in California to move ahead on other needed water development issues, I urge the House to expeditiously approve H.R. 3113.

Mr. UDALL. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 3113.

Mr. MILLER, chairman of the Interior Committee's Water and Power Resources Subcommittee, deserves great credit for his work on this legislation. So too do Mr. COELHO, Mr. LEHMAN, and other members of the subcommittee.

Mr. Speaker, this legislation is fraught with virtue.

It provides for implementation of a cooperative agreement by which the two largest water projects in California—the Federal Central Valley project and the State water project—can be operated more efficiently and effectively.

By so doing, this agreement will assure that water quality will be maintained in the vital Sacramento-San Joaquin delta, and that the State water project will remain viable in water short years.

This legislation will thus further national policy of promoting wise use of our water resources, while providing a major advance toward ending the so-called water wars in California.

H.R. 3113 will also provide significant benefits to fish and wildlife.

It sets aside project waters for California wildlife refuges, pending completion of a study and recommendations on refuge water supply needs.

And, it would implement a major agreement between the Interior Department and California providing for the protection and management of a national environmental treasure, the Suisun Marsh.

This marsh encompasses more than 10 percent of California's remaining wetlands. It is home to more than 250 species of fish and wildlife, and is a wintering ground for much of the waterfowl that ply the Pacific flyway.

The agreement provides for the State and Federal Government to share the costs of constructing facilities necessary to maintain the quantity and quality of water needed to sustain the marsh.

As amended by the Senate, H.R. 3113 would extend and reform the very successful Small Reclamation Projects Loan Program administered by the Bureau of Reclamation.

As the principal sponsor of separate House legislation dealing with this program, I support the Senate amendments.

These amendments would authorize $600 million, enough to maintain the program for 12 to 15 years.

They would emphasize use of the program for rehabilitation and betterment of existing small irrigation projects for water and energy conservation and water quality control.

They increase requirements for cost sharing and require a shorter repayment period for project beneficiaries;

They would require beneficiaries to pay market interest on that portion of any loan used to provide benefits to lands in excess of 320 acres.

Finally, the amendments ensure that potential impacts on fish, wildlife, and the environment, especially with respect to toxic or hazardous potential irrigation return flows, are evaluated in connection with any project loan.

Mr. Speaker, H.R. 3113 is far reaching, farsighted legislation that is clearly in the national interest. I strongly support it and urge the House to adopt the conference report.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the conference report on the bill, H.R. 3113.

The question was taken.

Mr. WALKER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 3113, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5546) to amend the Public Health Service Act to establish a National Vaccine Program for the development of new vaccines and the improvement of existing vaccines and a program to compensate the victims of vaccine-related injuries and deaths, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Childhood Vaccine Injury Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—VACCINES

Sec. 101. Amendment to Public Health Service Act.

"TITLE XXI—VACCINES

"Subtitle 1—National Vaccine Program

"Sec. 2101. Establishment.
"Sec. 2102. Program responsibilities.
"Sec. 2103. Plan.
"Sec. 2104. Report.
"Sec. 2105. Committees.
"Sec. 2106. Authorizations.

"Subtitle 2—National Vaccine Injury Compensation Program

"PART A—PROGRAM REQUIREMENTS

"Sec. 2110. Establishment.
"Sec. 2111. Petitions for compensation.
"Sec. 2112. Court jurisdiction.
"Sec. 2113. Determination of eligibility and compensation.
"Sec. 2114. Vaccine Injury Table.
"Sec. 2115. Compensation.
"Sec. 2116. Limitations of actions.
"Sec. 2117. Subrogration.
"Sec. 2118. Increase for inflation.
"Sec. 2119. Advisory Commission on Childhood Vaccines.

"PART B—ADDITIONAL REMEDIES

"Sec. 2121. Authority to bring actions.
"Sec. 2122. Standards of responsibility.
"Sec. 2123. Trial.

"PART C—ASSURING A SAFER CHILDHOOD VACCINATION PROGRAM IN THE UNITED STATES

"Sec. 2125. Recording and reporting of information.
"Sec. 2126. Vaccine information.
"Sec. 2127. Mandate for safer childhood vaccines.
"Sec. 2128. Manufacturer recordkeeping and reporting.

"PART D—GENERAL PROVISIONS

"Sec. 2131. Citizen's actions.
"Sec. 2132. Judicial review.
"Sec. 2133. Definition.

Sec. 102. Related studies.
Sec. 103. Study of other vaccine risks.
Sec. 104. Review of warnings, use instructions, and precautionary information.
Sec. 105. Recall authority.

TITLE II—MISCELLANEOUS

Sec. 201. Waiver of paperwork reduction.
Sec. 202. Nonseverability.

TITLE I—VACCINES

SEC. 101. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

(a) NEW TITLE.—The Public Health Service Act is amended by redesignating title XXI as title XXIII, by redesignating sections 2101 through 2116 as sections 2301 through 2316, respectively, and by inserting after title XX the following new title:

"TITLE XXI—VACCINES

"Subtitle 1—National Vaccine Program

"ESTABLISHMENT

"SEC. 2101. The Secretary shall establish in the Department of Health and Human Services a National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Program shall be administered by a Director selected by the Secretary.

"PROGRAM RESPONSIBILITIES

"SEC. 2102. (a) The Director of the Program shall have the following responsibilities:

"(1) VACCINE RESEARCH.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for research carried out in or through the National Institutes of Health, the Centers for Disease Control, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development on means to induce human immunity against naturally occurring infectious diseases and to prevent adverse reactions to vaccines.

"(2) VACCINE DEVELOPMENT.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for activities carried out in or through the National Institutes of Health, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development to develop the techniques needed to produce safe and effective vaccines.

"(3) SAFETY AND EFFICACY TESTING OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for safety and efficacy testing of vaccines carried out in or through the National Institutes of Health, the Centers for Disease Control, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development.

"(4) LICENSING OF VACCINE MANUFACTURERS AND VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for the allocation of resources in the implementation of the licensing program under section 353.

"(5) PRODUCTION AND PROCUREMENT OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, ensure that the governmental and non-governmental production and procurement of safe and effective vaccines by the Public Health Service, the Department of Defense, and the Agency for International Development meet the needs of the United States population and fulfill commitments of the United States to prevent human infectious diseases in other countries.

"(6) DISTRIBUTION AND USE OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction to the Centers for Disease Control and assistance to States, localities, and health practitioners in the distribution and use of vaccines, including efforts to encourage public acceptance of immunizations and to make health practitioners and the public aware of potential adverse reactions and contraindications to vaccines.

"(7) EVALUATING THE NEED FOR AND THE EFFECTIVENESS AND ADVERSE EFFECTS OF VACCINES AND IMMUNIZATION ACTIVITIES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction to the National Institutes of Health, the Centers for Disease Control,

the Office of Biologics Research and Review of the Food and Drug Administration, the National Center for Health Statistics, the National Center for Health Services Research and Health Care Technology Assessment, and the Health Care Financing Administration in monitoring the need for and the effectiveness and adverse effects of vaccines and immunization activities.

"(8) COORDINATING GOVERNMENTAL AND NONGOVERNMENTAL ACTIVITIES.—The Director of the Program shall, through the plan issued under section 2103, provide for the exchange of information between Federal agencies involved in the implementation of the Program and non-governmental entities engaged in the development and production of vaccines and in vaccine research and encourage the investment of non-governmental resources complementary to the governmental activities under the Program.

"(9) FUNDING OF FEDERAL AGENCIES.—The Director of the Program shall make available to Federal agencies involved in the implementation of the plan issued under section 2103 funds appropriated under section 2106 to supplement the funds otherwise available to such agencies for activities under the plan.

"(b) In carrying out subsection (a) and in preparing the plan under section 2103, the Director shall consult with all Federal agencies involved in research on and development, testing, licensing, production, procurement, distribution, and use of vaccines.

"PLAN

"SEC. 2103. The Director of the Program shall prepare and issue a plan for the implementation of the responsibilities of the Director under section 2102. The plan shall establish priorities in research and the development, testing, licensing, production, procurement, distribution, and effective use of vaccines, describe an optimal use of resources to carry out such priorities, and describe how each of the various departments and agencies will carry out their vaccine functions in consultation and coordination with the Program and in conformity with such priorities. The first plan under this section shall be prepared not later than January 1, 1987, and shall be revised not later than January 1 of each succeeding year.

"REPORT

"SEC. 2104. The Director shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1, 1988, and annually thereafter on the implementation of the Program and the plan prepared under section 2103.

"NATIONAL VACCINE ADVISORY COMMITTEE

"SEC. 2105. (a) There is established the National Vaccine Advisory Committee. The members of the Committee shall be appointed by the Director of the Program, in consultation with the National Academy of Sciences, from among individuals who are engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies or public health organizations.

"(b) The Committee shall—

"(1) study and recommend ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States,

"(2) recommend research priorities and other measures the Director of the Program should take to enhance the safety and efficacy of vaccines,

"(3) advise the Director of the Program in the implementation of sections 2102, 2103, and 2104, and

"(4) identify annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104.

"AUTHORIZATIONS

"SEC. 2106. (a) To carry out this subtitle other than section 2102(9) there are authorized to be appropriated $2,000,000 for fiscal year 1987, $2,500,000 for fiscal year 1988, $3,000,000 for fiscal year 1989, $3,500,000 for fiscal year 1990, $4,000,000 for fiscal year 1991.

"(b) To carry out section 2102(9) there are authorized to be appropriated $20,000,000 for fiscal year 1987, $22,500,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, $27,500,000 for fiscal year 1990, $30,000,000 for fiscal year 1991.

"Subtitle 2—National Vaccine Injury Compensation Program

"PART A—PROGRAM REQUIREMENTS

"ESTABLISHMENT OF PROGRAM

"SEC. 2110. (a) PROGRAM ESTABLISHED.—There is established the National Vaccine Injury Compensation Program to be administered by the Secretary under which compensation may be paid for a vaccine-related injury or death.

"(b) ATTORNEY'S OBLIGATION.—It shall be the ethical obligation of any attorney who is consulted by an individual with respect to a vaccine-related injury or death to advise such individual that compensation may be available under the Program for such injury or death.

"PETITIONS FOR COMPENSATION

"SEC. 2111. (a) GENERAL RULE.—

"(1) A proceeding for compensation under the Program for a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition with the United States district court for the district in which the petitioner resides or in which the injury or death occurred.

"(2)(A) No person may bring a civil action for damages in an amount greater than $1,000 or in an unspecified amount against a vaccine manufacturer in a State or Federal court for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle, and no such court may award damages in an amount greater than $1,000 in a civil action for damages for such a vaccine-related injury or death, unless—

"(i) a petition has been filed, in accordance with section 2116, under subsection (b) for compensation under the Program for such injury or death,

"(ii) a district court of the United States has issued a judgment under section 2112 on such petition, and

"(iii) such person elects under section 2121(a) to file such an action.

"(B) If a civil action which is barred under subparagraph (A) is filed in a State or Federal court, the court shall dismiss the action. If a petition is filed under this section with respect to the injury or death for which such civil action was brought, the date such dismissed action was filed shall, for purposes of the limitations of actions prescribed by section 2116, be considered the date the petition was filed if the petition was filed within one year of the date of the dismissal of the civil action.

"(3) No vaccine manufacturer may be made a party to a civil action (other than a civil action which may be brought under paragraph (2)) for damages for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle.

"(4) If in a civil action brought against a vaccine manufacturer before the effective date of this subtitle damages were denied for a vaccine-related injury or death or if such civil action was dismissed with prejudice, the person who brought such action may file a petition under subsection (b) for such injury or death.

"(5)(A) A plaintiff who on the effective date of this subtitle has pending a civil action for damages for a vaccine-related injury or death may, at any time within 2 years after the effective date of this title or before judgment, whichever occurs first, elect to withdraw such action without prejudice and file a petition under subsection (b) for such injury or death.

"(B) If a plaintiff who on the effective date of this subtitle had pending a civil action for damages for a vaccine-related injury or death does not withdraw the action under subparagraph (A), such person may not file a petition under subsection (b) for such injury or death.

"(6) If a person brings a civil action after the effective date of this subtitle for damages for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this subtitle, such person may not file a petition under subsection (b) for such injury or death.

"(7) If in a civil action brought against a vaccine manufacturer for a vaccine-related injury or death damages are awarded under a judgment of a court or a settlement of such action, the person who brought such action may not file a petition under subsection (b) for such injury or death.

"(b) PETITIONERS.—

"(1)(A) Except as provided in subparagraph (B), any person who has sustained a vaccine-related injury, the legal representative of such person if such person is a minor or is disabled, or the legal representative of any person who died as the result of the administration of a vaccine set forth in the Vaccine Injury Table may file a petition for compensation under the Program.

"(B) No person may file a petition for a vaccine-related injury or death associated with a vaccine administered before the effective date of this subtitle if compensation has been paid under this subtitle for 3500 petitions for such injuries or deaths.

"(2) Only one petition may be filed with respect to each administration of a vaccine.

"(c) PETITION CONTENT.—A petition for compensation under the Program for a vaccine-related injury or death shall contain—

"(1) an affidavit, and supporting documentation, demonstrating that the person who suffered such injury or who died—

"(A) received a vaccine set forth in the Vaccine Injury Table or, if such person did not receive such a vaccine, contracted polio, directly or indirectly, from another person who received an oral polio vaccine,

"(B)(i) if such person received a vaccine set forth in the Vaccine Injury Table—

"(I) received the vaccine in the United States or in its trust territories,

"(II) received the vaccine outside the United States or a trust territory and at the time of the vaccination such person was a citizen of the United States serving abroad as a member of the Armed Forces or other-

wise as an employee of the United States or a dependent of such a citizen, or

"(III) received the vaccine outside the United States or a trust territory and the vaccine was manufactured by a vaccine manufacturer located in the United States and such person returned to the United States not later than 6 months after the date of the vaccination,

"(ii) if such person did not receive such a vaccine but contracted polio from another person who received an oral polio vaccine, was a citizen of the United States or a dependent of such a citizen,

"(C)(i) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table in association with the vaccine referred to in subparagraph (A) or died from the administration of such vaccine, and the first symptom or manifestation of the onset or of the significant aggravation of any such illness, disability, injury, or condition or the death occurred within the time period after vaccine administration set forth in the Vaccine Injury Table, or

"(ii)(I) sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by a vaccine referred to in subparagraph (A), or

"(II) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine referred to in subparagraph (A),

"(D)(i) suffered the residual effects or complications of such illness, disability, injury, or condition for more than 1 year after the administration of the vaccine, (ii) incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than $1,000, or (iii) died from the administration of the vaccine, and

"(E) has not previously collected an award or settlement of a civil action for damages for such vaccine-related injury or death,

"(2) all available relevant medical records (including autopsy reports, if any) relating to the person who suffered such injury or who died from the administration of the vaccine and an identification of any unavailable records known to the petitioner and the reasons for their unavailability, and

"(3) appropriate assessments, evaluations, and prognoses and such other records and documents as are reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the person who suffered such injury or who died from the administration of the vaccine.

"COURT JURISDICTION

"SEC. 2112. (a) GENERAL RULE.—The district courts of the United States shall have jurisdiction (1) over proceedings to determine if a petitioner under section 2111 is entitled to compensation under the Program and the amount of such compensation, and (2) to issue and enforce such orders as the courts deem necessary to assure the prompt payment of any compensation awarded.

"(b) PARTIES.—

"(1) The Secretary shall be named as the respondent in all proceedings brought by the filing of a petition under section 2111(b). Except as provided in paragraph (2), no other person may intervene in any such proceeding.

"(2) Within 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the Federal Register. The special master designated with respect to such petition under subsection (c) shall afford all interested persons an opportunity to submit relevant, written information—

"(A) relating to the existence of the evidence described in section 2113(a)(1)(B), or

"(B) relating to any allegation in a petition with respect to the matters described in section 2111(c)(1)(C)(ii).

"(c) SPECIAL MASTERS.—

"(1) Following receipt of a petition under subsection (a), the district court of the United States in which the petition is filed shall designate a special master to carry out the functions authorized by paragraph (2).

"(2) A special master shall serve as an adjunct to the court and may—

"(A) require such evidence as may be appropriate for the preparation of proposed findings of fact and conclusions of law with respect to whether compensation is to be provided under the Program and the amount of any such compensation,

"(B) require the submission of such information as may be reasonable and necessary to determine if the petitioner is entitled to compensation,

"(C) require the testimony of any person and the production of any document as may be reasonable and necessary to determine if the petitioner is entitled to compensation,

"(D) conduct such hearings as may be appropriate, and

"(E) prepare and submit to the court proposed findings of fact and conclusions of law.

Information submitted to a special master in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express, written consent of the person who submitted the information. There may be no discovery in a proceeding on a petition other than the discovery required under this paragraph.

"(d) ACTION BY THE COURT.—

"(1) Upon objection by the petitioner or respondent to the proposed findings of fact or conclusions of law prepared by the special master or upon the court's own motion, the court shall undertake a review of the record of the proceedings and may thereafter make a de novo determination of any matter and issue its judgment accordingly, including findings of fact and conclusions of law, or remand for further proceedings.

"(2) If no objection is filed under paragraph (1) or if the court does not choose to review the proceeding, the court shall adopt the proposed findings of fact and conclusions of law of the special master as its own and render judgment thereon.

"(3) The court shall render its judgment on any petition filed under the Program as expeditiously as practicable but not later than 365 days after the date on which the petition was filed.

"(e) ADMINISTRATION OF AWARD.—The Program shall administer the payments of such compensation. The Program shall audit the payments of compensation under a judgment. A petitioner awarded compensation shall notify the Program of any changes which significantly affect the compensation to be paid.

"(f) REVISION OF AWARD.—

"(1) If the court issues a judgment awarding to a petitioner compensation described in section 2115(a)(1)(A) for unreimbursable expenses and the compensation is insufficient to meet such expenses, such petitioner may petition the court to (A) review such award, and (B) increase the award to make it sufficient to meet such expenses or amend the periodic payment schedule established under section 2115, or both.

"(2) If an audit conducted under subsection (e) discloses the improper use of compensation awarded under a judgment or the termination of a need for an item of compensation, the Program shall petition the court which awarded the compensation to make an appropriate revision in the compensation.

"(g) APPEALS.—The findings of fact and conclusions of law of a district court of the United States on a petition shall be final determinations of the matters involved, except that the Secretary or any petitioner aggrieved by the findings or conclusions of the court may obtain review of the judgment of the court in the United States court of appeals for the circuit in which the court is located upon petition filed with such court of appeals.

"DETERMINATION OF ELIGIBILITY AND COMPENSATION

"SEC. 2113. (a) GENERAL RULE.—

"(1) Compensation shall be awarded under the Program to a petitioner if the court finds on the record as a whole—

"(A) that the petitioner has demonstrated by a preponderance of the evidence the matters required in the petition by section 2111(c)(1), and

"(B) that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition.

The court may not make such a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.

"(2) For purposes of paragraph (1), the term 'factors unrelated to the administration of the vaccine'—

"(A) does not include any idiopathic, unexplained, unknown, hypothetical, or undocumentable cause, factor, injury, illness, or condition, and

"(B) may, as documented by the petitioner's evidence or other material in the record, include infection, toxins, trauma (including birth trauma and related anoxia), or metabolic disturbances which have no known relation to the vaccine involved, but which in the particular case are shown to have been the agent or agents principally responsible for causing the petitioner's illness, disability, injury, condition, or death.

"(b) MATTERS TO BE CONSIDERED.—

"(1) In determining whether to award compensation to a petitioner under the Program, the court shall consider, in addition to all other relevant medical and scientific evidence contained in the record—

"(A) any diagnosis, conclusion, medical judgment, or autopsy or coroner's report which is contained in the record regarding the nature, causation, and aggravation of the petitioner's illness, disability, injury, condition, or death, and

"(B) the results of any diagnostic or evaluative test which are contained in the record and the summaries and conclusions.

Any such diagnosis, conclusion, judgment, test result, report, or summary shall not be binding on the court. In evaluating the weight to be afforded to any such diagnosis, conclusion, judgment, test result, report, or summary, the court shall consider the entire record and the course of the injury, disability, illness, or condition until the date of the judgment of the court.

"(2) The court may find the first symptom or manifestation of onset or significant aggravation of an injury, disability, illness, condition, or death described in a petition occurred within the time period described in the Vaccine Injury Table even though the occurrence of such symptom or manifestation was not recorded or was incorrectly recorded as having occurred outside such period. Such a finding may be made only upon demonstration by a preponderance of the evidence that the onset or significant aggravation of the injury, disability, illness, condition, or death described in the petition did in fact occur within the time period described in the Vaccine Injury Table.

"(c) RECORD DEFINED.—For purposes of this section, the term 'record' means the record established by a district court of the United States in a proceeding on a petition filed under section 2111.

"VACCINE INJURY TABLE

"SEC. 2114. (a) INITIAL TABLE.—The following is a table of vaccines, the injuries, disabilities, illnesses, conditions, and deaths resulting from the administration of such vaccines, and the time period in which the first symptom or manifestation of onset or of the significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths is to occur after vaccine administration for purposes of receiving compensation under the Program:

"VACCINE INJURY TABLE

Illness, disability, injury, or condition covered:	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration:
I. DTP; P; DTP/Polio Combination; or Any Other Vaccine Containing Whole Cell Pertussis Bacteria, Extracted or Partial Cell Bacteria, or Specific Pertussis Antigen(s).	
A. Anaphylaxis or anaphylactic shock.	24 hours
B. Encephalopathy (or encephalitis) ..	3 days
C. Shock-collapse or hypotonic-hyporesponsive collapse.	3 days
D. Residual seizure disorder in accordance with subsection (c)(2).	3 days
E. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable
II. Measles, mumps, rubella, or any vaccine containing any of the foregoing as a component; DT; Td; or Tetanus Toxoid.	
A. Anaphylaxis or anaphylactic shock.	24 hours
B. Encephalopathy (or encephalitis) ..	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
C. Residual seizure disorder in accordance with subsection (c)(2).	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
D. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable
III. Polio Vaccines (other than Inactivated Polio Vaccine).	
A. Paralytic polio	
—in a non-immunodeficient recipient.	30 days
—in an immunodeficient recipient.	6 months
—in a vaccine-associated community case.	Not applicable
B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable

"VACCINE INJURY TABLE—Continued

IV. Inactivated Polio Vaccine.	
A. Anaphylaxis or anaphylactic shock.	24 hours
B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable

"(b) QUALIFICATIONS AND AIDS TO INTERPRETATION.—The following qualifications and aids to interpretation shall apply to the Vaccine Injury Table in subsection (a):

"(1) A shock-collapse or a hypotonic-hyporesponsive collapse may be evidenced by indicia or symptoms such as decrease or loss of muscle tone, paralysis (partial or complete), hemiplegia or hemiparesis, loss of color or turning pale white or blue, unresponsiveness to environmental stimuli, depression of consciousness, loss of consciousness, prolonged sleeping with difficulty arousing, or cardiovascular or respiratory arrest.

"(2) A petitioner may be considered to have suffered a residual seizure disorder if the petitioner did not suffer a seizure or convulsion unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit Before the first seizure or convulsion after the administration of the vaccine involved and if—

"(A) in the case of a measles, mumps, or rubella vaccine or any combination of such vaccines, the first seizure or convulsion occurred within 15 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit, and

"(B) in the case of any other vaccine, the first seizure or convulsion occurred within 3 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit.

"(3)(A) The term 'encephalopathy' means any significant acquired abnormality of, or injury to, or impairment of function of the brain. Among the frequent manifestations of encephalopathy are focal and diffuse neurologic signs, increased intracranial pressure, or changes lasting at least 6 hours in level of consciousness, with or without convulsions. The neurological signs and symptoms of encephalopathy may be temporary with complete recovery, or may result in various degrees of permanent impairment. Signs and symptoms such as high pitched and unusual screaming, persistent unconsolable crying, and bulging fontanel are compatible with an encephalopathy, but in and of themselves are not conclusive evidence of encephalopathy. Encephalopathy usually can be documented by slow wave activity on an electroencephalogram.

"(B) If in a proceeding on a petition it is shown by a preponderance of the evidence that an encephalopathy was caused by infection, toxins, trauma, or metabolic disturbances the encephalopathy shall not be considered to be a condition set forth in the table. If at the time a judgment is entered on a petition filed under section 2111(b) for a vaccine-related injury or death it is not possible to determine the cause, by a preponderance of the evidence, of an encephalopathy, the encephalopathy shall be considered to be a condition set forth in the table. In determining whether or not an encephalopathy is a condition set forth in the table, the court shall consider the entire medical record.

"(4) For purposes of paragraphs (2) and (3), the terms 'seizure' and 'convulsion' include grand mal, petit mal, absence, myoclonic, tonic-clonic, and focal motor seizures and signs. If a provision of the table to which paragraph (1), (2), (3), or (4) applies is revised under subsection (c) or (d), such paragraph shall not apply to such provision after the effective date of the revision unless the revision specifies that such paragraph is to continue to apply.

"(c) ADMINISTRATIVE REVISION OF THE TABLE.—

"(1) The Secretary may promulgate regulations to modify in accordance with paragraph (3) the Vaccine Injury Table. In promulgating such regulations, the Secretary shall provide for notice and opportunity for a public hearing and at least 180 days of public comment.

"(2) Any person (including the Advisory Commission on Childhood Vaccines) may petition the Secretary to propose regulations to amend the Vaccine Injury Table. Unless clearly frivolous, or initiated by the Commission, any such petition shall be referred to the Commission for its recommendations. Following—

"(A) receipt of any recommendation of the Commission, or

"(B) 180 days after the date of the referral to the Commission,

whichever occurs first, the Secretary shall conduct a rulemaking proceeding on the matters proposed in the petition or publish in the Federal Register a statement of reasons for not conducting such proceeding.

"(3) A modification of the Vaccine Injury Table under paragraph (1) may add to, or delete from, the list of injuries, disabilities, illnesses, conditions, and deaths for which compensation may be provided or may change the time periods for the first symptom or manifestation of the onset or the significant aggravation of any such injury, disability, illness, condition, or death.

"(4) Any modification under paragraph (1) of the Vaccine Injury Table shall apply only with respect to petitions for compensation under the Program which are filed after the effective date of such regulation.

"(d) ROLE OF COMMISSION.—Except with respect to a regulation recommended by the Advisory Commission on Childhood Vaccines, the Secretary may not propose a regulation under subsection (c) or any revision thereof, unless the Secretary has first provided to the Commission a copy of the proposed regulation or revision, requested recommendations and comments by the Commission, and afforded the Commission at least 90 days to make such recommendations.

"(e) RECOMMENDATION.—The Secretary may recommend to Congress revisions of the table to change the vaccines covered by the table.

"COMPENSATION

"SEC. 2115. (a) GENERAL RULE.—Compensation awarded under the Program to a petitioner under section 2111 for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle shall include the following:

"(1)(A) Actual unreimbursable expenses incurred from the date of the judgment awarding such expenses and reasonable projected unreimbursable expenses which—

"(i) result from the vaccine-related injury for which the petitioner seeks compensation,

"(ii) have been or will be incurred by or on behalf of the person who suffered such injury, and

"(iii)(I) have been or will be for diagnosis and medical or other remedial care determined to be reasonably necessary, or

"(II) have been or will be for rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

The amount of unreimbursable expenses which may be recovered under this subparagraph shall be limited to the amount in excess of the amount set forth in section 2111(c)(1)(D)(ii).

"(B) Subject to section 2116(a)(2), actual unreimbursable expenses incurred before the date of the judgment awarding such expenses which—

"(i) resulted from the vaccine-related injury for which the petitioner seeks compensation,

"(ii) were incurred by or on behalf of the person who suffered such injury, and

"(iii) were for diagnosis, medical or other remedial care, rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

The amount of unreimbursable expenses which may be recovered under this subparagraph shall be limited to the amount in excess of the amount set forth in section 2111(c)(1)(D)(ii).

"(2) In the event of a vaccine-related death, an award of $250,000 for the estate of the deceased.

"(3)(A) In the case of any person who has sustained a vaccine-related injury after attaining the age of 18 and whose earning capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded, compensation for actual and anticipated loss of earnings determined in accordance with generally recognized actuarial principles and projections.

"(B) In the case of any person who has sustained a vaccine-related injury before attaining the age of 18 and whose earning capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded and whose vaccine-related injury is of sufficient severity to permit reasonable anticipation that such person is likely to suffer impaired earning capacity at age 18 and beyond, compensation after attaining the age of 18 for loss of earnings determined on the basis of the average gross weekly earnings of workers in the private, non-farm sector, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.

"(4) For actual and projected pain and suffering and emotional distress from the vaccine-related injury, an award not to exceed $250,000.

Payments for projected expenses shall be paid on a periodic basis (but no payment may be made for a period in excess of 1 year). Payments for pain and suffering and emotional distress and incurred expenses may be paid in a lump sum.

"(b) VACCINES ADMINISTERED BEFORE THE EFFECTIVE DATE.—Compensation awarded under the Program to a petitioner under section 2111 for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this subtitle shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a).

"(c) RESIDENTIAL AND CUSTODIAL CARE AND SERVICE.—The amount of any compensation for residential and custodial care and service expenses under subsection (a)(1) shall be sufficient to enable the compensated person to remain living at home.

"(d) TYPES OF COMPENSATION PROHIBITED.—Compensation awarded under the Program may not include the following:

"(1) Punitive or exemplary damages.

"(2) Except with respect to compensation payments under paragraphs (2) and (3) of subsection (a), compensation for other than the health, education, or welfare of the person who suffered the vaccine-related injury with respect to which the compensation is paid.

"(e) ATTORNEYS' FEES.—

"(1) The judgment of a court on a petition filed under section 2111 awarding compensation shall include an amount to cover—

"(A) reasonable attorneys' fees, and

"(B) other costs,

incurred in any proceeding on such petition. If the judgment of a court on such a petition does not award compensation, the court may include in the judgment an amount to cover petitioner's reasonable attorneys' fees and other costs incurred in any proceeding on such petition if the court determines that the civil action was brought in good faith and there was a reasonable basis for the claim for which the civil action was brought.

"(2) If the petitioner, before the effective date of this title, filed a civil action for damages for any vaccine-related injury or death for which compensation may be awarded under the Program, and elected under section 2111(a)(4) to withdraw such action and to file a petition for compensation under the Program, the judgment of the court on such petition may include an amount limited to the costs and expenses incurred by the petitioner and the attorney of the petitioner before the effective date of this subtitle in preparing, filing, and prosecuting such civil action (including the reasonable value of the attorney's time if the civil action was filed under contingent fee arrangements).

"(3) No attorney may charge any fee for services in connection with a petition filed under section 2111 which is in addition to any amount included under paragraph (1) in a judgment on such petition.

"(f) PAYMENT OF COMPENSATION.—

"(1) Except as provided in paragraph (2), no compensation may be paid until an election has been made, or has been deemed to have been made, under section 2121(a) to receive compensation.

"(2) Compensation described in subsection (a)(1)(A)(iii) shall be paid from the date of the judgment of the district court of the United States under section 2112 awarding the compensation. Such compensation may not be paid after an election under section 2121(b) to file a civil action for damages for the vaccine-related injury or death for which such compensation was awarded.

"(3) Payments of compensation shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(f) PROGRAM NOT PRIMARILY LIABLE.—Payment of compensation under the Program shall not be made for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program, or (2) by an entity which provides health services on a prepaid basis.

"(g) LIABILITY OF HEALTH INSURANCE CARRIERS, PREPAID HEALTH PLANS, AND BENEFIT PROVIDERS.—No policy of health insurance may make payment of benefits under the policy secondary to the payment of compensation under the Program and—

"(1) no State, and

"(2) no entity which provides health services on a prepaid basis or provides health benefits,

may make the provision of health services or health benefits secondary to the payment of compensation under the Program.

"LIMITATIONS OF ACTIONS

"SEC. 2116. (a) GENERAL RULE.—In the case of—

"(1) a vaccine set forth in the Vaccine Injury Table which is administered before the effective date of this title, if a vaccine-related injury or death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury or death after the expiration of 24 months after the effective date of this title,

"(2) a vaccine set forth in the Vaccine Injury Table which is administered after the effective date of this title, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury, and

"(3) a vaccine set forth in the Vaccine Injury Table which is administered after the effective date of this title, if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death and no such petition may be filed more than 48 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.

"(b) EFFECT OF REVISED TABLE.—If at any time the Vaccine Injury Table is revised and the effect of such revision is to permit an individual who was not, before such revision, eligible to seek compensation under the Program, such person may file a petition for such compensation not later than 2 years after the effective date of the revision, except that no compensation may be provided under the Program with respect to a vaccine-related injury or death covered under the revision of the table if—

"(1) the vaccine-related death occurred more than 8 years before the date of the revision of the table, or

"(2) the vaccine-related injury occurred more than 8 years before the date of the revision of the table.

"(c) STATE LIMITATIONS OF ACTIONS.—If a petition is filed under section 2111(b) for a vaccine-related injury or death, limitations

of actions under State law shall be stayed with respect to a civil action brought for such injury or death for the period beginning on the date the petition is filed and ending on the date a final judgment is entered on the petition.

"SUBROGRATION

"SEC. 2117. (a) GENERAL RULE.—

"(1) Upon payment of compensation to any petitioner under the Program, the trust fund which has been established to provide such compensation shall be subrograted to all rights of the petitioner with respect to the vaccine-related injury or death for which compensation was paid, except that the trust fund may not recover under such rights an amount greater than the amount of compensation paid to the petitioner.

"(2) In any case in which it deems such action appropriate, a district court of the United States may, after entry of a final judgment providing for compensation to be paid under section 2115 for a vaccine-related innjury or death, refer the record of such proceeding to the Secretary and the Attorney General with such recommendation as the court deems appropriate with respect to the investigation or commencement of a civil action by the Secretary under paragraph (1).

"(b) DISPOSITION OF AMOUNTS RECOVERED.—Amounts recovered under subsection (a) shall be collected on behalf of, and deposited in, the trust fund which has been established to provide compensation under the Program.

"INCREASE FOR INFLATION

"SEC. 2118. The compensation under subsections (a)(2) and (a)(4) of section 2115 and the civil penalty under section 2127(b) shall, effective December 1 of each year beginning 1 year after the effective date of this title, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest ⅒ of 1 percent. For purposes of this section, the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

"ADVISORY COMMISSION ON CHILDHOOD VACCINES

"SEC. 2119. (a) ESTABLISHMENT.—There is established the Advisory Commission on Childhood Vaccines. The Commission shall be composed of:

"(1) Nine members appointed by the Secretary as follows:

"(A) Three members who are health professionals, who are not employees of the United States, and who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, of whom at least two shall be pediatricians.

"(B) Three members from the general public, of whom at least two shall be legal representatives of children who have sufferea a vaccine-related injury or death.

"(C) Three members who are attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and of whom one shall be an attorney whose specialty includes representation of vaccine manufacturers.

"(2) The Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control, and the Commissioner of Food and Drugs (or the designees of such officials), each of whom shall be a nonvoting ex officio member.

The Secretary shall select members of the Commission within 90 days of the effective date of this subtitle. The members of the Commission shall select a Chair from among the members.

"(b) TERM OF OFFICE.—Appointed members of the Commission shall be appointed for a term of office of 3 years, except that of the members first appointed, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as determined by the Secretary.

"(c) MEETINGS.—The Commission shall first meet within 60 days after all members of the Commission are appointed, and thereafter shall meet not less often than four times per year and at the call of the chair. A quorum for purposes of a meeting is 5. A decision at a meeting is to be made by a ballot of a majority of the voting members of the Commission.

"(d) COMPENSATION.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall be compensated at a rate not to exceed the daily equivalent of the rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for employees serving intermittently.

"(e) STAFF.—The Secretary shall provide the Commission with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Commission in carrying out effectively its functions under this section.

"(f) FUNCTIONS.—The Commission shall—

"(1) advise the Secretary on the implementation of the Program,

"(2) on its own initiative or as the result of the filing of a petition, recommend changes in the Vaccine Injury Table,

"(3) advise the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions,

"(4) survey Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advise the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and

"(5) recommend to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out this subtitle.

"PART B—ADDITIONAL REMEDIES

"AUTHORITY TO BRING ACTIONS

"SEC. 2121. (a) ELECTION.—After the judgment of a district court of the United States under section 2111 on a petition filed for compensation under the Program for a vaccine-related injury or death has become final, the person who filed the petition shall file with the court—

"(1) if the judgment awarded compensation, an election in writing to receive the compensation or to file a civil action for damages for such injury or death, or

"(2) if the judgment did not award compensation, an election in writing to accept the judgment or to file a civil action for damages for such injury or death.

An election shall be filed under this subsection not later than 90 days after the date of the entry of the court's judgment with respect to which the election is to be made. If a person required to file an election with a court under this subsection does not file the election within the time prescribed for filing the election, such person shall be deemed to have filed an election to accept the judgment of the court. If a person elects to receive compensation under a judgment of a court or is deemed to have accepted the judgment of a court, such person may not bring or maintain a civil action for damages against a vaccine manufacturer for the vaccine-related injury or death for which the judgment was entered.

"(b) LIMITATIONS OF ACTIONS.—A civil action for damages arising from a vaccine-related injury or death for which a petition was filed under section 2111 shall, except as provided in section 2116(c), be brought within the period prescribed by limitations of actions under State law applicable to such civil action.

"STANDARDS OF RESPONSIBILITY

"SEC. 2122. (a) GENERAL RULE.—Except as provided in subsections (b), (c), and (e) State law shall apply to a civil action brought for damages for a vaccine-related injury or death.

"(b) UNAVOIDABLE ADVERSE SIDE EFFECTS; WARNINGS.—

"(1) No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings.

"(2) For purposes of paragraph (1), a vaccine shall be presumed to be accompanied by proper directions and warnings if the vaccine manufacturer shows that it complied in all material respects with all requirements under the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act (including regulations issued under such provisions) applicable to the vaccine and related to vaccine-related injury or death for which the civil action was brought unless the plaintiff shows—

"(A) that the manufacturer engaged in the conduct set forth in subparagraph (A) or (B) of section 2123(d)(2), or

"(B) by clear and convincing evidence that the manufacturer failed to exercise due care notwithstanding its compliance with such Act and section (and regulations issued under such provisions).

"(c) DIRECT WARNINGS.—No vaccine manufacturer shall be liable in a civil action for

damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle solely due to the manufacturer's failure to provide direct warnings to the injured party (or the injured party's legal representative) of the potential dangers resulting from the administration of the vaccine manufactured by the manufacturer.

"(d) CONSTRUCTION.—The standards of responsibility prescribed by this section are not to be construed as authorizing a person who brought a civil action for damages against a vaccine manufacturer for a vaccine-related injury or death in which damages were denied or which was dismissed with prejudice to bring a new civil action against such manufacturer for such injury or death.

"(e) PREEMPTION.—No State may establish or enforce a law which prohibits an individual from bringing a civil action against a vaccine manufacturer for damages for a vaccine-related injury or death if such civil action is not barred by this subtitle.

"TRIAL

"SEC. 2123. (a) GENERAL RULE.—A civil action against a vaccine manufacturer for damages for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle which is not barred by section 2111(a)(2) shall be tried in three stages.

"(b) LIABILITY.—The first stage of such a civil action shall be held to determine if a vaccine manufacturer is liable under section 2122.

"(c) GENERAL DAMAGES.—The second stage of such a civil action shall be held to determine the amount of damages (other than punitive damages) a vaccine manufacturer found to be liable under section 2122 shall be required to pay.

"(d) PUNITIVE DAMAGES.—

"(1) If sought by the plaintiff, the third stage of such an action shall be held to determine the amount of punitive damages a vaccine manufacturer found to be liable under section 2122 shall be required to pay.

"(2) If in such an action the manufacturer shows that it complied, in all material respects, with all requirements under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act applicable to the vaccine and related to vaccine injury or death with respect to which the action was brought, the manufacturer shall not be held liable for punitive damages unless the manufacturer engaged in—

"(A) fraud or intentional withholding of information from the Secretary during any phase of a proceeding for approval of the vaccine under section 351,

"(B) intentional and wrongful withholding of information relating to the safety or efficacy of the vaccine after its approval, or

"(C) other criminal or illegal activity relating to the safety and effectiveness of vaccines which activity related to the vaccine-related injury or death for which the civil action was brought.

"(e) EVIDENCE.—In any stage of a civil action, the Vaccine Injury Table, any finding of a district court of the United States or a master appointed by such court in a proceeding on a petition filed under section 2111 and the final judgment of a district court of the United States on such a petition shall not be admissible.

"PART C—ASSURING A SAFER CHILDHOOD VACCINATION PROGRAM IN THE UNITED STATES

"RECORDING AND REPORTING OF INFORMATION

"SEC. 2125. (a) GENERAL RULE.—Each health care provider who administers a vaccine set forth in the Vaccine Injury Table to any person shall record, or ensure that there is recorded, in such person's permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) with respect to each such vaccine—

"(1) the date of administration of the vaccine,

"(2) the vaccine manufacturer and lot number of the vaccine,

"(3) the name and address and, if appropriate, the title of the health care provider administering the vaccine, and

"(4) any other identifying information on the vaccine required pursuant to regulations promulgated by the Secretary.

"(b) REPORTING.—

"(1) Each health care provider and vaccine manufacturer shall report to the Secretary—

"(A) the occurrence of any event set forth in the Vaccine Injury Table, including the events set forth in section 2114(b) which occur within 7 days of the administration of any vaccine set forth in the Table or within such longer period as is specified in the Table or section,

"(B) the occurrence of any contraindicating reaction to a vaccine which is specified in the manufacturer's package insert, and

"(C) such other matters as the Secretary may by regulation require.

Reports of the matters referred to in subparagraphs (A) and (B) shall be made beginning 90 days after the effective date of this subtitle. The Secretary shall publish in the Federal Register as soon as practicable after such date a notice of the reporting requirement.

"(2) A report under paragraph (1) respecting a vaccine shall include the time periods after the administration of such vaccine within which vaccine-related illnesses, disabilities, injuries, or conditions, the symptoms and manifestations of such illnesses, disabilities, injuries, or conditions, or deaths occur, and the manufacturer and lot number of the vaccine.

"(3) The Secretary shall issue the regulations referred to in paragraph (1)(C) within 180 days of the effective date of this subtitle.

"(c) RELEASE OF INFORMATION.—

"(1) Information which is in the possession of the Federal Government and State and local governments under this section and which may identify an individual shall not be made available under section 552 of title 5, United States Code, or otherwise, to any person except—

"(A) the person who received the vaccine, or

"(B) the legal representative of such person.

"(2) For purposes of paragraph (1), the term 'information which may identify an individual' shall be limited to the name, street address, and telephone number of the person who received the vaccine and of that person's legal representative and the medical records of such person relating to the administration of the vaccine, and shall not include the locality and State of vaccine administration, the name of the health care provider who administered the vaccine, the date of the vaccination, or information concerning any reported illness, disability, injury, or condition resulting from the administration of the vaccine, any symptom or manifestation of such illness, disability, injury, or condition, or death resulting from the administration of the vaccine.

"(3) Except as provided in paragraph (1), all information reported under this section shall be available to the public.

"VACCINE INFORMATION

"SEC. 2126. (a) GENERAL RULE.—Not later than 1 year after the effective date of this subtitle, the Secretary shall develop and disseminate vaccine information materials for distribution by health care providers to the legal representatives of any child receiving a vaccine set forth in the Vaccine Injury Table. Such materials shall be published in the Federal Register and may be revised.

"(b) DEVELOPMENT AND REVISION OF MATERIALS.—Such materials shall be developed or revised by rule—

"(1) after notice to the public, opportunity for a public hearing, and 90 days of comment thereon, and

"(2) in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care providers and parent organizations, the Centers for Disease Control, and the Food and Drug Administration.

"(c) INFORMATION REQUIREMENTS.—The information in such materials shall be presented in understandable terms and shall include—

"(1) the frequency, severity, and potential long-term effects of the disease to be prevented by the vaccine,

"(2) the symptoms or reactions to the vaccine which, if they occur, should be brought to the immediate attention of the health care provider,

"(3) precautionary measures legal representatives should take to reduce the risk of any major adverse reactions to the vaccine that may occur,

"(4) early warning signs or symptoms to which legal representatives should be alert as possible precursors to such major adverse reactions,

"(5) a description of the manner in which legal representatives should monitor such major adverse reactions, including a form on which reactions can be recorded to assist legal representatives in reporting information to appropriate authorities,

"(6) a specification of when, how, and to whom legal representatives should report any major adverse reaction,

"(7) the contraindications to (and bases for delay of) the administration of the vaccine,

"(8) an identification of the groups, categories, or characteristics of potential recipients of the vaccine who may be at significantly higher risk of major adverse reaction to the vaccine than the general population,

"(9) a summary of relevant State and Federal laws concerning the vaccine, including information on—

"(A) the number of vaccinations required for school attendance and the schedule recommended for such vaccinations, and

"(B) the availability of the Program, and

"(10) such other relevant information as may be determined by the Secretary.

"(d) HEALTH CARE PROVIDER DUTIES.—On and after a date determined by the Secretary which is—

"(1) after the Secretary develops the information materials required by subsection (a), and

"(2) not later than 6 months after the date such materials are published in the Federal Register,

each health care provider who administers a vaccine set forth in the Vaccine Injury Table shall provide to the legal representatives of any child to whom such provider intends to administer such vaccine a copy of the information materials developed pursuant to subsection (a), or other written information which meets the requirements of this section. Such materials or other information shall be provided prior to the administration of such vaccine.

"MANDATE FOR SAFER CHILDHOOD VACCINES

"SEC. 2127. (a) GENERAL RULE.—In the administration of this subtitle and other pertinent laws under the jurisdiction of the Secretary, the Secretary shall—

"(1) promote the development of childhood vaccines that result in fewer and less serious adverse reactions than those vaccines on the market on the effective date of this subtitle and promote the refinement of such vaccines, and

"(2) make or assure improvements in, and otherwise use the authorities of the Secretary with respect to, the licensing, manufacturing, processing, testing, labeling, warning, use instructions, distribution, storage, administration, field surveillance, adverse reaction reporting, and recall of reactogenic lots or batches, of vaccines, and research on vaccines, in order to reduce the risks of adverse reactions to vaccines.

"(b) REPORT.—Within 2 years after the effective date of this subtitle, and periodically thereafter, the Secretary shall prepare and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the actions taken pursuant to subsection (a) during the preceding 2-year period.

"MANUFACTURER RECORDKEEPING AND REPORTING

"SEC. 2128. (a) GENERAL RULE.—Each vaccine manufacturer of a vaccine set forth in the Vaccine Injury Table or any other vaccine the administration of which is mandated by the law or regulations of any State, shall, with respect to each batch, lot, or other quantity manufactured or licensed after the effective date of this subtitle—

"(1) prepare and maintain records documenting the history of the manufacturing, processing, testing, repooling, and reworking of each batch, lot, or other quantity of such vaccine, including the identification of any significant problems encountered in the production, testing, or handling of such batch, lot, or other quantity,

"(2) if a safety test on such batch, lot, or other quantity indicates a potential imminent or substantial public health hazard is presented, report to the Secretary within 24 hours of such safety test which the manufacturer (or manufacturer's representative) conducted, including the date of the test, the type of vaccine tested, the identity of the batch, lot, or other quantity tested, whether the batch, lot, or other quantity tested is the product of repooling or reworking of previous batches, lots, or other quantities (and, if so, the identity of the previous batches, lots, or other quantities which were repooled or reworked), the complete test results, and the name and address of the person responsible for conducting the test,

"(3) include with each such report a certification signed by a responsible corporate official that such report is true and complete, and

"(4) prepare, maintain, and upon request submit to the Secretary product distribution records for each such vaccine by batch, lot, or other quantity number.

"(b) SANCTION.—Any vaccine manufacturer who intentionally destroys, alters, falsifies, or conceals any record or report required under paragraph (1) or (2) of subsection (a) shall—

"(1) be subject to a civil penalty of up to $100,000 per occurrence, or

"(2) be fined $50,000 or imprisoned for not more than 1 year, or both.

Such penalty shall apply to the person who intentionally destroyed, altered, falsified, or concealed such record or report, to the person who directed that such record or report be destroyed, altered, falsified, or concealed, and to the vaccine manufacturer for which such person is an agent, employee, or representative. Each act of destruction, alteration, falsification, or concealment shall be treated as a separate occurrence.

"PART D—GENERAL PROVISIONS

"CITIZEN'S ACTIONS

"SEC. 2131. (a) GENERAL RULE.—Except as provided in subsection (b), any person may commence in a district court of the United States a civil action on such person's own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this subtitle.

"(b) NOTICE.—No action may be commenced under subsection (a) before the date which is 60 days after the person bringing the action has given written notice of intent to commence such action to the Secretary.

"(c) COSTS OF LITIGATION.—The court, in issuing any final order in any action under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

"JUDICIAL REVIEW

"SEC. 2132. A petition for review of a regulation under this subtitle may be filed in a court of appeals of the United States within 60 days from the date of the promulgation of the regulation or after such date if such petition is based solely on grounds arising after such 60th day.

"DEFINITIONS

"SEC. 2133. For purposes of this subtitle:

"(1) The term 'health care provider' means any licensed health care professional, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities) under whose authority a vaccine set forth in the Vaccine Injury Table is administered.

"(2) The term 'legal representative' means a parent or an individual who qualifies as a legal guardian under State law.

"(3) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any vaccine set forth in the Vaccine Injury Table, except that, for purposes of section 2128, such term shall include the manufacturer of any other vaccine covered by that section. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(4) The term 'significant aggravation' means any change for the worse in a preexisting condition which results in markedly greater disability, pain, or illness accompanied by substantial deterioration of health.

"(5) The term 'vaccine-related injury or death' means an illness, injury, condition, or death associated with one or more of the vaccines set forth in the Vaccine Injury Table, except that the term does not include an illness, injury, condition, or death associated with an adulterant or contaminant intentionally added to such a vaccine.

"(6)(A) The term 'Advisory Commission on Childhood Vaccines' means the Commission established under section 2119.

"(B) The term 'Vaccine Injury Table' means the table set out in section 2114.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 217(c), 465(f), and 497 of the Public Health Service Act (42 U.S.C. 218(c), 286(f), 289(f)) are each amended by striking out "2101" and inserting in lieu thereof "2301".

(2) Section 305(h) of such Act (42 U.S.C. 242c(h)) is amended by striking out "2113" each place it occurs and inserting in lieu thereof "2313".

SEC. 102. RELATED STUDIES.

(a) REVIEW OF PERTUSSIS VACCINES AND RELATED ILLNESSES AND CONDITIONS.—Not later than 3 years after the effective date of this Act, the Secretary of Health and Human Services shall complete a review of all relevant medical and scientific information (including information obtained from the studies required under subsection (e)) on the nature, circumstances, and extent of the relationship, if any, between vaccines containing pertussis (including whole cell, extracts, and specific antigens) and the following illnesses and conditions:

(1) Hemolytic anemia.
(2) Hypsarrhythmia.
(3) Infantile spasms.
(4) Reye's syndrome.
(5) Peripheral mononeuropathy.
(6) Deaths classified as sudden infant death syndrome.
(7) Aseptic meningitis.
(8) Juvenile diabetes.
(9) Autism.
(10) Learning disabilities.
(11) Hyperactivity.
(12) Such other illnesses and conditions as the Secretary may choose to review or as the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act recommends for inclusion in such review.

The review under this subsection shall include notice and opportunity for a public hearing, consideration of written information submitted by the public, and consultation with such Advisory Commission.

(b) FINDINGS WITH RESPECT TO PERTUSSIS.—Not later than 3 years after the effective date of this Act, the Secretary shall make, and publish in the Federal Register, the following specific findings:

(1) Whether each of the illnesses or conditions set forth in subsection (a) can reasonably be determined in some circumstances to be caused or significantly aggravated, by pertussis-containing vaccines.

(2) For each illness or condition for which a finding of causation or aggravation related to vaccines containing pertussis is made under paragraph (1), the circumstances under which such causation or aggravation can reasonably be determined to occur.

(3) For each illness or condition for which a finding of causation or aggravation related to vaccines containing pertussis is made under paragraph (1), and for each illness or condition set forth in the Vaccine Injury Table under section 2114 of the Public Health Service Act, the time periods within which the first symptom or manifestation of onset or aggravation of each such illness

or condition can reasonably be determined to occur after pertussis vaccination.

(c) REVISION OF TABLE WITH RESPECT TO PERTUSSIS VACCINES.—At the same time the Secretary publishes in the Federal Register findings under subsection (b), the Secretary shall propose regulations to amend the Vaccine Injury Table under section 2114 of the Public Health Service Act as a result of such findings. Not later than 42 months after the effective date of this Act, the Secretary shall promulgate such proposed regulations with such modifications as may be necessary after opportunity for public hearing.

(d) REVIEW OF MMR VACCINES AND RELATED ILLNESSES AND CONDITIONS.—Not later than 3 years after the effective date of this Act, the Secretary of Health and Human Services shall complete a review similar to the review conducted under subsection (a) with respect to the potential relationship between vaccines containing rubella (including MMR) and radiculoneuritis. The review under this subsection shall include notice and opportunity for a public hearing, consultation with the Advisory Commission on Childhood Vaccines and consideration of written information submitted by the public. Not later than 3 years after the effective date of this Act, the Secretary shall make and publish in the Federal Register findings similar to those required by subsection (b) and shall, if appropriate, propose similar regulations (and thereafter promulgate such regulations) to those required by subsection (c), with respect to compensation under the National Vaccine Injury Compensation Program established under section 2110 of the Public Health Service Act for radiculoneuritis caused, contributed to, or significantly aggravated by vaccines containing rubella.

(e) PERTUSSIS AND MMR STUDIES.—

(1) In order to assist the Secretary in making the findings required under subsections (b) and (d), the Secretary shall, in accordance with subparagraph (B), arrange for the conduct of studies of—

(A) the relationship between vaccines containing pertussis (including whole cell, extracts, and specific antigens) and the illnesses or conditions set forth in paragraphs (1) through (11) of subsection (a),

(B) the relationship between vaccines containing pertussis and any other illnesses and conditions, as selected by the Secretary or the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act, and

(C) the relationship between vaccines containing rubella (including MMR) and radiculoneuritis.

(2)(A) The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the studies required by paragraph (1) under an arrangement by which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary.

(B) If the Institute of Medicine is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in paragraph (3).

(C) The Institute of Medicine or other group or association conducting the studies required by paragraph (1) shall conduct such studies in consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act.

(3) Reports on the results of the studies required by paragraph (1) shall be completed and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary not later than 32 months after the effective date of this Act. Upon submission to the Secretary, the reports shall be made available to the public.

(4) There are authorized to be appropriated such sums as are necessary for the purpose of making payments for the conduct of the studies required under this subsection.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "medical and scientific information" includes epidemiologic, clinical, biostatistical, pathological, toxicologic, and other laboratory data and case study information, observations, studies, and reports in peer-reviewed literature or official Government publications, as well as relevant unpublished information, data, studies, and observations.

(2) The term "MMR" means a vaccine containing material intended to prevent or confer immunity against measles, mumps, and rubella disease.

SEC. 103. STUDY OF OTHER VACCINE RISKS.

(a) STUDY.—

(1) Not later than 3 years after the effective date of this Act, the Secretary shall, after consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act—

(A) arrange for a broad study of the risks (other than the risks considered under section 102) to children associated with each vaccine set forth in the Vaccine Injury Table under section 2114 of such Act, and

(B) establish guidelines, after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, respecting the administration of such vaccines which shall include—

(i) the circumstances under which any such vaccine should not be administered,

(ii) the circumstances under which administration of any such vaccine should be delayed beyond its usual time of administration, and

(iii) the groups, categories, or characteristics of potential recipients of such vaccine who may be at significantly higher risk of major adverse reactions to such vaccine than the general population of potential recipients.

(2)(A) The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (1) under an arrangement by which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary.

(B) If the Institute of Medicine is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study.

(C) The Institute of Medicine or other group or association conducting the study required by paragraph (1) shall conduct such studies in consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act.

(b) REVISION OF GUIDELINES.—The Secretary shall periodically, but at least every 3 years after establishing guidelines under subsection (a), review and revise such guidelines after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, unless the Secretary finds that on the basis of all relevant information no revision of such guidelines is warranted and publishes such finding in the Federal Register.

(c) FACTORS AFFECTING GUIDELINES.—Guidelines under subsection (a) shall take into account—

(1) the risk to potential recipients of the vaccines with respect to which the guidelines are established,

(2) the medical and other characteristics of such potential recipients, and

(3) the risks to the public of not having such vaccines administered.

(d) DISSEMINATION.—The Secretary shall widely disseminate the guidelines established under subsection (a) to—

(1) physicians and other health care providers,

(2) professional health associations,

(3) State and local governments and agencies, and

(4) other relevant entities.

SEC. 104. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION.

Not later than 1 year after the effective date of this Act and after consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act and with other appropriate entities, the Secretary of Health and Human Services shall review the warnings, use instructions, and precautionary information presently issued by manufacturers of vaccines set forth in the Vaccine Injury Table set out in section 2114 of the Public Health Service Act and shall by rule determine whether such warnings, instructions, and information adequately warn health care providers of the nature and extent of dangers posed by such vaccines. If the Secretary determines that any such warning, instruction, or information is inadequate for such purpose in any respect, the Secretary shall at the same time require the manufacturers to revise and reissue such warning, instruction, or information as expeditiously as practical, but not later than 18 months after the effective date of this Act.

SEC. 105. RECALL AUTHORITY.

Subsection (d) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) by inserting "(1)" after "(d)", and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Upon a determination that a batch, lot, or other quantity of a product licensed under this section presents an imminent or substantial hazard to the public health, the Secretary shall issue an order immediately ordering the recall of such batch, lot, or other quantity of such product. An order under this paragraph shall be issued in accordance with section 554 of title 5, United States Code.

"(B) Any violation of subparagraph (A) shall subject the violator to a civil penalty of up to $100,000 per day of violation. The amount of a civil penalty under this subparagraph shall, effective December 1 of each year beginning 1 year after the effective date of this subparagraph, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest ⅒ of 1 percent. For purposes

of this subparagraph, the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.".

SEC. 106. STUDY OF IMPACT ON SUPPLY OF VACCINES.

On June 30, 1987, and on June 30 of each second year thereafter, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) an assessment of the impact of the amendments made by this Act on the supply of vaccines listed in the Vaccine Injury Table under section 2114 of the Public Health Service Act, and

(2) an assessment of the ability of the administrators of vaccines (including public clinics and private administrators) to provide such vaccines to children.

TITLE II—MISCELLANEOUS

SEC. 201. WAIVER OF PAPERWORK REDUCTION.

Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this Act and implementing the amendments made by this Act.

SEC. 202. NONSEVERABILITY.

If any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid by reason of a violation of the Constitution, the entire Act shall be considered invalid.

SEC. 203. EFFECTIVE DATE.

(a) GENERAL RULE.—Subtitle 1 of title XXI of the Public Health Service Act shall take effect on the date of the enactment of this Act and subtitle 2 of such title and this Act shall take effect on the effective date of a tax enacted after the date of the enactment of this Act to provide funds for compensation paid under such subtitle 2.

(b) INSUFFICIENCY OF FUNDS.—If at any time there are insufficient funds to pay all of the claims payable under subtitle 2 of title XXI of the Public Health Service Act for 180 days, such subtitle shall cease to be in effect until sufficient funds to pay all of the claims under such subtitle become available.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5546, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5546 is designed to achieve two goals: first, to protect the adequacy of the Nation's supply of vaccines against such diseases as polio and measles; and second, to compensate those children who are injured by side effects or adverse reactions to those vaccines.

This bipartisan legislation is strongly supported by a coalition of groups representing parents, health professionals, and industry. Supporters include the National PTA, the American Academy of Pediatrics, Merck & Co., the American Nurses' Association, Dissatisifed Parents Together, and others.

This legislation is necessary because the vaccines that protect us from epidemics of childhood diseases also cause injuries to a small number of children. Many of the families of these children have been turning to the courts for relief. Some of them have won—sometimes millions of dollars. Many more have lost. Those who lose are left to fend for themselves on Medicaid or disability or whatever else may be available.

But the litigation costs and the occasional large award have made pharmaceutical firms nervous about the vaccine market. One result, they say, is that they are forced to increase prices drastically or simply to get out of the market. Prices on some vaccines have risen 500 percent in the past 2 years.

We cannot afford to be without a supply of vaccines for childhood illnesses.

H.R. 5546 would establish a no-fault compensation system to pay for the medical, rehabilitation, and education costs of those children who are injured. If the injuries were particularly severe, the program would pay for lost earnings of the disabled child and for the pain and suffering that he or she endures.

In turn, the bill would limit that child's ability to sue the manufacturer of the vaccine. If an injury is the result of a bad vaccine or one inadequately researched or warned of, then the courts could still make awards. But those children who are the innocent statistics of the necessary war on such diseases as polio or whooping cough would not have to go to court to get their medical bills paid.

The original bill provided that the compensation program was to be paid for through an excise tax on vaccines, set on the basis of how many reactions each type of vaccine causes. Unfortunately, the Committee on Ways and Means has not considered the tax portions of the bill, and the substitute bill to be considered today contains no excise tax. I hope that in the few days remaining in this Congress that the Ways and Means Committee will still consider legislation to create a vaccine injury tust fund and excise tax to fund it. This tax legislation is needed to make the programs effective and the need for the programs is urgent. The substitute instead specifies that the compensation program and the tort limitations are to become effective when a tax is enacted to pay for compensation expenses. Whenever this tax is made law, we can act expeditiously to begin the work of this important system.

I urge your support of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. TAUKE], a member of the committee, who has been most instrumental in developing this legislation.

Mr. TAUKE. Mr. Speaker, I rise in strong support of the National Childhood Vaccine Injury Act. As a new father I have a personal interest in ensuring that our Nation has an adequate supply of safe, effective, and affordable childhood vaccines. Members of the Subcommittee on Health and the Environment are aware of repeated crises and threats of crises in vaccine supplies. I have received testimony from many families struggling to provide for children who have been injured by vaccines.

Our passage of the National Childhood Vaccine Injury Act today will help to ensure this Nation's supply of safe, effective, affordable childhood vaccines. It will provide assistance to those who have been injured by vaccines without forcing them to go through a lengthy, costly, and unpredictable court proceeding.

As this bill was reported by the Energy and Commerce Committee, its provisions extended assistance to those injured by vaccines only up to 8 years before enactment. A number of individuals brought to my attention their interest in modifying this legislation to cover individuals older than 8 years of age. I am pleased to report that these modifications have been made. The legislation before you extends coverage retrospectively to all individuals who can demonstrate vaccine-related injuries. To achieve this broader coverage, those injured before the enactment of the legislation will generally be eligible for economic damages only. Those injured after enactment will be eligible for a fuller range of compensation.

This is a carefully crafted, much needed bill. Please join me in voting for a strong National Childhood Vaccination Program and for much-needed assistance for those who have been injured by vaccines.

Mr. Speaker, I commend the gentleman from California [Mr. WAXMAN] and the gentleman from Illinois [Mr.

MADIGAN] for their leadership in bringing this legislation to the floor.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, vaccines to prevent human disease are the critical element of the most effective health programs in the world: Immunization. Unfortunately, a combination of circumstances has come together to make it difficult for the Nation and the world to take full advantage of vaccines. Vaccine prices have risen rapidly; the number of vaccine manufacturers has fallen steadily. The most disturbing fact is that vaccine development and commercialization have failed to keep pace with the new scientific opportunities to produce new and improved vaccines.

H.R. 5546 meets the competing needs of compensation for vaccine injury and tort reform. It strikes a balance between profit and public health, between doctors and lawyers, between insurance companies and injured children.

The establishment of a National Vaccine Program will help ensure a full commitment by the Federal Government to the research, development and delivery of vaccines.

This is timely and needed legislation. I urge my colleagues to support it.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I would like to ask a question of the distinguished ranking member of the committee: As I understand this bill, because of the absence of funding because the Committee on Ways and Means did not take action, the portion of the bill that refers to damages and claims, et cetera, will not take effect; and so most of this bill will not be effective. Is that true?

Mr. MADIGAN. Mr. Speaker, if the gentleman will yield, the statement of the gentleman from Minnesota is correct.

There is a provision in the bill for the establishment of a commission that would take effect; but the other things within the bill would not take effect until the Committee on Ways and Means has brought out a bill to provide for the funding mechanism required in the bill.

Mr. FRENZEL. I thank the distinguished gentleman from Illinois.

□ 1445

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the gentleman.

I would just like to say that I want to congratulate both Mr. WAXMAN and others for putting together the coalition on this vaccination bill. I think it is a far-reaching piece of legislation, a piece of legislation that should indeed become law.

Mr. Speaker, I want to commend all of the people who worked on this legislation. I know how difficult it was to put this coalition together and to maintain it.

As a member of the Committee on Ways and Means, I am still hopeful that in the last few days of this session we will be able to get a hearing and hopefully be able to get a markup on this bill because I frankly think we really cannot wait for another year or 6 months to go by because of the need to provide a liability standard for many of the drug manufacturers and also for the young people who are inoculated on a mandatory basis. At the same time, I would say if we cannot get this legislation out of the Committee on Ways and Means this year, I am hopeful we will be able to do it in early 1987. Too much effort and time and involvement have gone into this legislation to see this part of it, that is the excise tax part of it, not be part of the bill itself. So I would just like to commend the gentleman from California [Mr. WAXMAN] and others who worked on this legislation.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ECKERT] a member of the committee.

Mr. ECKERT of New York. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the ranking member of the committee, and I want to join in congratulating my friend and colleague from California, Mr. WAXMAN, also Chairman DINGELL, Mr. MADIGAN, the ranking member, for the work that has come forth today on this very important piece of legislation. I am proud to be a cosponsor of this measure.

Back in my district in Rochester, NY, we have just recently had some startling news stories about the crisis in vaccine availability.

I remember back in July participating in our hearings with Chairman WAXMAN about this critical issue, this very important public health issue that is facing the country, about which there has been little notice in the press, in the news media generally.

I am proud of our subcommittee and proud of our full committee for bringing this important issue to the floor. It is an issue that will be of benefit to the children of my district, the children of America and their families, and it is an insurance policy for our country against the reoccurance of some dangerous threats to the health and safety of children.

I am proud to have been a participant, proud to be a cosponsor of this legislation and look forward to the Committee on Ways and Means completing its work on its share of the package so that we do have a comprehensive system that will benefit our children and all American families.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

In closing, I want to point out there are many people who should be commended for this legislation coming to the House today: Mr. MADIGAN, the ranking Republican member of our subcommittee, has worked diligently on this legislation; Mr. TAUKE; Mr. ECKERT of New York; and I particularly want to single out Chairman DINGELL. His Oversight Subcommittee looked into the problems of encouraging new vaccine development, and part of this legislation has incorporated their recommendations.

That part of the legislation, I think will benefit American people for many, many years to come as we give new incentives for new vaccines to be developed that will prevent diseases which can be prevented from occurring.

I want to thank our staff, Tim Westmoreland, Ruth Katz, Bob Adler, and our staff director Karen Nelson.

Mr. Speaker, I yield back the balance of our time.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Speaker, I want to commend Mr. WAXMAN, Mr. MADIGAN, the chairman of the full committee, Mr. DINGELL, and all the others who have brought this bill before us today.

This bill does address a real problem, one that does have a Federal interest and one that needs to be solved.

I think while most people would agree that this bill of itself will not solve the problem, it sure is a good step in the right direction and hopefully the other steps will be taken and we can solve this problem which is so important to our Nation's children.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to rise and acknowledge the diligent work of Mr. DINGELL, Mr. WAXMAN, Mr. TAUKE, Mr. WYDEN, Mr. ECKERT of New York, and others, and I also want to acknowledge the valuable assistance particularly with regard to the staff level negotiations which was provided to us by Mr. Mason, Mr. Allen, and Ms. Riker.

Mr. Speaker, I rise in strong support of H.R. 5546.

Mr. BIAGGI. Mr. Speaker, I rise in strong support of this bill, H.R. 5546, the National Childhood Vaccine Injury Act.

Our Nation is now facing a grave dilemma. On the one hand, we require our children to be vaccinated against a number of life-threat-

ening illnesses. These vaccines have significantly reduced the incidence of serious childhood diseases. However, with the increased use of these vaccines has also come a growing concern about vaccine-related injuries and deaths. Particularly troubling, are the decisions by some vaccine-producing pharmaceutical companies to get out of the business rather than face potential high-dollar legal penalties for vaccine-related injuries or deaths. The result has been the decreased availability of vaccines; as much as a 500-percent increase in the cost of vaccines over the last few years; and a continuing concern about the safety of vaccines.

The legislation before us today offers us a solution to this dilemma. This is clearly demonstrated by the fact that H.R. 5546 has the support of parents, health professionals, and the vaccine industry—and for good reason. The bill establishes a fair compensation system for children injured by vaccines, without unduly burdening the vaccine manufacturer; and it establishes a recordkeeping and research mechanism aimed at improving the effectiveness and safety of future vaccines. I want to also point out that this is a perfected version of legislation introduced earlier this year.

The major provisions of H.R. 5546 would:

Establish a Federal "no fault" system of compensation, to be administered by the Health and Human Services Department, for persons injured as a result of routine childhood vaccinations. Compensation under the new system would be available for the costs of medical and rehabilitative care, lost earnings, and pain and suffering. Death benefits would also be available. The legislation fixes death benefits at $250,000, and sets a limit of $250,000 on awards for pain, suffering, and emotional distress. Compensation would also be available for attorneys' fees. These dollar limits would be adjusted for inflation.

Establish a national vaccine injury compensation trust fund to provide money for the new compensation program. The trust fund would be comprised of receipts from an excise tax on the sale of childhood vaccines, amounts recovered from third parties for vaccine-related injuries, and loans from the general fund of the U.S. Treasury.

Limit the number of lawsuits against vaccine manufacturers. Once a final decision has been made under the new compensation system, the claimant would have 90 days to decide whether to accept or reject the award. If the compensation award is accepted, the claimant may not brng a separate lawsuit for damages against the vaccine manufacturer. Otherwise, claimants would be allowed to pursue legal action against the manufacturer. However, the bill provides that manufacturers will not be liable for injuries or deaths resulting from unavoidable side effects if the vaccine was properly prepared and accompanied by the proper directions and warnings.

Create a National Vaccine Program within the Department of Health and Human Services. This program would seek to coordinate Federal efforts in the areas of research, development, testing, licensing, production and distribution, and for development of a national vaccine plan.

Require both health care providers and vaccine manufacturers to report to the Department of Health and Human Services on the occurrence of any adverse vaccine reactions.

Require the Department of Health and Human Services to develop and disseminate informational materials for various vaccines describing their purposes, the potential for adverse reactions, and the reporting mechanisms that should be followed if adverse reactions do occur.

Mr. Speaker, this is a carefully crafted solution to a very difficult and serious problem. It provides compensation when appropriate. It imposes reasonable limits on the liability of vaccine manufacturers. And, most importantly of all, it establishes a National Vaccine Program, which seeks to make future vaccines safer. Clearly, this is a bill worthy of our overwhelming support.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of this vaccine compensation legislation.

We have all witnessed the enormous impact immunization has had on the health of children in this country, virtually eliminating many childhood diseases that had plagued us.

Some children are undoubtedly injured by vaccines, but childhood immunizations have proven their value, and deserve to be protected.

Currently, insurance, liability, and manufacturer's pricing structures are threatening to price vaccines out of the market.

Additionally, as a result of tort law restrictions and adversary proceedings, many of those children who are injured by vaccines are never compensated.

We in Congress must act to preserve the vaccine market and provide for those who have adverse reactions to vaccines.

The value of vaccines is such that to do any less would be irresponsible.

This legislation takes the necessary steps to address these concerns.

The bill will: First, assure parents of a safe, adequate and affordable supply of childhood vaccines; second, provide for a fair system of compensation for children who are inadvertently injured; and third, promote vaccine research for new and improved vaccines.

Passage of this bill is necessary so that our children will have continued access to these required vaccines in both public and private sectors of medicine.

The current jump in vaccine prices is compromising both systems, and the losers in this process will ultimately be our children.

This legislation represents a major step towards securing a future that is free of preventable disease, and I commend the efforts of Representative WAXMAN for bringing this bill to the floor today.

The bill has broad, bipartisan support.

In addition, the bill is supported by pediatricians, parent groups, public health groups, trial attorneys, and the largest of the vaccine manufacturers.

I urge its passage.

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RANGEL). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5546, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HEALTH CARE QUALITY IMPROVEMENT ACT OF 1986

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5540) to encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Quality Improvement Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TABLE OF CONTENTS

TITLE I—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES

Sec. 101. Professional review.
Sec. 102. Standards for professional review actions.
Sec. 103. Payment of reasonable attorneys' fees and costs in defense of suit.
Sec. 104. Guidelines of the Secretary.
Sec. 105. Construction.
Sec. 106. Effective date.

TITLE II—REPORTING OF INFORMATION

Sec. 201. Requiring reports on medical malpractice payments.
Sec. 202. Reporting of sanctions taken by boards of medical examiners.
Sec. 203. Reporting of certain professional review actions taken by health care entities.
Sec. 204. Form of reporting.
Sec. 205. Duty of hospitals to obtain information.
Sec. 206. Disclosure and correction of information.
Sec. 207. Miscellaneous provisions.

TITLE III—DEFINITIONS AND REPORTS

Sec. 301. Definitions.
Sec. 302. Reports and memoranda of understanding.

TITLE I—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES

SEC. 101. PROFESSIONAL REVIEW.

(a) IN GENERAL.—

(1) LIMITATION ON DAMAGES FOR PROFESSIONAL REVIEW ACTIONS.—If a professional review action (as defined in section 301(9)) of a professional review body meets all the standards specified in section 102(a), except as provided in subsection (b)—

(A) the professional review body,

(B) any person acting as a member or staff to the body,

(C) any person under a contract or other formal agreement with the body, and

(D) any person who participates with or assists the body with respect to the action,

shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to any matter that constitutes a violation of any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., and the Civil Rights Acts, 42 U.S.C. 1981, et seq. Nothing in this paragraph shall prevent the United States or any Attorney General of a State from bringing an action, including an action under section 4C of the Clayton Act, 15 U.S.C. 15C, where such an action is otherwise authorized.

(2) PROTECTION FOR THOSE PROVIDING INFORMATION TO PROFESSIONAL REVIEW BODIES.—Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to a professional review body regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

(b) EXCEPTION.—If the Secretary has reason to believe that a health care entity has failed to report information in accordance with section 203(a), the Secretary shall conduct an investigation. If, after providing notice of noncompliance, an opportunity to correct the noncompliance, and an opportunity for a hearing, the Secretary determines that a health care entity has failed substantially to report information in accordance with section 203(a), the Secretary shall publish the name of the entity in the Federal Register. The protections of subsection (a)(1) shall not apply to an entity the name of which is published in the Federal Register under the previous sentence with respect to professional review actions of the entity commenced during the 3-year period beginning 30 days after the date of publication of the name.

(c) TREATMENT UNDER STATE LAWS.—

(1) PROFESSIONAL REVIEW ACTIONS TAKEN ON OR AFTER OCTOBER 14, 1989.—Except as provided in paragraph (2), subsection (a) shall apply to State laws in a State only for professional review actions commenced on or after October 14, 1989.

(2) EXCEPTIONS.—

(A) STATE EARLY OPT-IN.—Subsection (a) shall apply to State laws in a State for actions commenced before October 14, 1989, if the State by legislation elects such treatment.

(B) STATE OPT-OUT.—Subsection (a) shall not apply to State laws in a State for actions commenced on or after October 14, 1989, if the State by legislation elects such treatment.

(C) EFFECTIVE DATE OF ELECTION.—An election under State law is not effective, for purposes of subparagraphs (A) and (B), for actions commenced before the effective date of the State law, which may not be earlier than the date of the enactment of that law.

SEC. 102. STANDARDS FOR PROFESSIONAL REVIEW ACTIONS.

(a) IN GENERAL.—For purposes of the protection set forth in section 101(a), a professional review action must be taken—

(1) in the reasonable belief that the action was in the furtherance of quality health care,

(2) after a reasonable effort to obtain the facts of the matter,

(3) after adequate notice and hearing procedures are afforded to the physician involved or after such other procedures as are fair to the physician under the circumstances, and

(4) in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the requirement of paragraph (3).

A professional review action shall be presumed to have met the standards necessary for the protection set out in section 101(a) unless the presumption is rebutted by a preponderance of the evidence.

(b) ADEQUATE NOTICE AND HEARING.—A health care entity is deemed to have met the adequate notice and hearing requirement of subsection (a)(3) with respect to a physician if the following conditions are met (or are waived voluntarily by the physician):

(1) NOTICE OF PROPOSED ACTION.—The physician has been given notice stating—

(A)(i) that a professional review action has been proposed to be taken against the physician,

(ii) reasons for the proposed action,

(B)(i) that the physician has the right to request a hearing on the proposed action,

(ii) any time limit (of not less than 30 days) within which to request such a hearing, and

(C) a summary of the rights in the hearing under paragraph (3).

(2) NOTICE OF HEARING.—If a hearing is requested on a timely basis under paragraph (1)(B), the physician involved must be given notice stating—

(A) the place, time, and date, of the hearing, which date shall not be less than 30 days after the date of the notice, and

(B) a list of the witnesses (if any) expected to testify at the hearing on behalf of the professional review body.

(3) CONDUCT OF HEARING AND NOTICE.—If a hearing is requested on a timely basis under paragraph (1)(B)—

(A) subject to subparagraph (B), the hearing shall be held (as determined by the health care entity)—

(i) before an arbitrator mutually acceptable to the physician and the health care entity,

(ii) before a hearing officer who is appointed by the entity and who is not in direct economic competition with the physician involved, or

(iii) before a panel of individuals who are appointed by the entity and are not in direct economic competition with the physician involved;

(B) the right to the hearing may be forfeited if the physician fails, without good cause, to appear;

(C) in the hearing the physician involved has the right—

(i) to representation by an attorney or other person of the physician's choice,

(ii) to have a record made of the proceedings, copies of which may be obtained by the physician upon payment of any reasonable charges associated with the preparation thereof,

(iii) to call, examine, and cross-examine witnesses,

(iv) to present evidence determined to be relevant by the hearing officer, regardless of its admissibility in a court of law, and

(v) to submit a written statement at the close of the hearing; and

(D) upon completion of the hearing, the physician involved has the right—

(i) to receive the written recommendation of the arbitrator, officer, or panel, including a statement of the basis for the recommendations, and

(ii) to receive a written decision of the health care entity, including a statement of the basis for the decision.

A professional review body's failure to meet the conditions described in this subsection shall not, in itself, constitute failure to meet the standards of subsection (a)(3).

(c) ADEQUATE PROCEDURES IN INVESTIGATIONS OR HEALTH EMERGENCIES.—For purposes of section 101(a), nothing in this section shall be construed as—

(1) requiring the procedures referred to in subsection (a)(3)—

(A) where there is no adverse professional review action taken, or

(B) in the case of a suspension or restriction of clinical privileges, for a period of not longer than 14 days, during which an investigation is being conducted to determine the need for a professional review action; or

(2) precluding an immediate suspension or restriction of clinical privileges, subject to subsequent notice and hearing or other adequate procedures, where the failure to take such an action may result in an imminent danger to the health of any individual.

SEC. 103. PAYMENT OF REASONABLE ATTORNEYS' FEES AND COSTS IN DEFENSE OF SUIT.

In any suit brought against a defendant, to the extent that a defendant has met the standards set forth under section 101 and the defendant substantially prevails, the court shall, at the conclusion of the action, award to a substantially prevailing party defending against any such claim the cost of the suit attributable to such claim, including a reasonable attorney's fee, if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith. For the purposes of this paragraph, a defendant shall not be considered to have substantially prevailed when the plaintiff obtains an award for damages or permanent injunctive or declaratory relief.

SEC. 104. GUIDELINES OF THE SECRETARY.

The Secretary may establish, after notice and opportunity for comment, such voluntary guidelines as may assist the professional review bodies in meeting the standards described in section 102(a).

SEC. 105. CONSTRUCTION.

(a) IN GENERAL.—Except as specifically provided in this title, nothing in this title shall be construed as changing the liabilities or immunities under law.

(b) SCOPE OF CLINICAL PRIVILEGES.—Nothing in this title shall be construed as requiring health care entities to provide clinical privileges to any or all classes or types of physicians or other licensed health care practitioners.

(c) TREATMENT OF NURSES AND OTHER PRACTITIONERS.—Nothing in this title shall be construed as applying, or modifying any provision of Federal or State law, with respect to activities of professional review bodies regarding nurses, other licensed

health care practitioners, or other health professionals who are not physicians.

(d) TREATMENT OF PATIENT MALPRACTICE CLAIMS.—Nothing in this title shall be construed as limiting in any manner the rights and remedies afforded patients under any provision of Federal or State law to seek redress for any harm or injury suffered as a result of negligent treatment or care by any physician, health care practitioner, or health care entity, or as limiting any defenses or immunities available to any physician, health care practitioner, or health care entity.

SEC. 106. EFFECTIVE DATE.

This title shall apply to professional review actions commenced on or after the date of the enactment of this Act.

TITLE II—REPORTING OF INFORMATION

SEC. 201. REQUIRING REPORTS ON MEDICAL MALPRACTICE PAYMENTS.

(a) IN GENERAL.—Each entity (including an insurance company) which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report, in accordance with section 204, information respecting the payment and circumstances thereof.

(b) INFORMATION TO BE REPORTED.—The information to be reported under subsection (a) includes—

(1) the name of any physician or licensed health care practitioner for whose benefit the payment is made,

(2) the amount of the payment,

(3) the name (if known) of any hospital with which the physician or practitioner is affiliated or associated,

(4) a description of the acts or omissions and injuries or illnesses upon which the action or claim was based, and

(5) such other information as the Secretary determines is required for appropriate interpretation of information reported under this section.

(c) SANCTIONS FOR FAILURE TO REPORT.—Any entity that fails to report information on a payment required to be reported under this section shall be subject to a civil money penalty of not more than $10,000 for each such payment involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected under that section.

(d) REPORT ON TREATMENT OF SMALL PAYMENTS.—The Secretary shall study and report to Congress, not later than two years after the date of the enactment of this Act, on whether information respecting small payments should continue to be required to be reported under subsection (a) and whether information respecting all claims made concerning a medical malpractice action should be required to be reported under such subsection.

SEC. 202. REPORTING OF SANCTIONS TAKEN BY BOARDS OF MEDICAL EXAMINERS.

(a) IN GENERAL.—

(1) ACTIONS SUBJECT TO REPORTING.—Each Board of Medical Examiners—

(A) which revokes or suspends (or otherwise restricts) a physician's license or censures, reprimands, or places on probation a physician, for reasons relating to the physician's professional competence or professional conduct, or

(B) to which a physician's license is surrendered,

shall report, in accordance with section 204, the information described in paragraph (2).

(2) INFORMATION TO BE REPORTED—The information to be reported under paragraph (1) is—

(A) the name of the physician involved,

(B) a description of the acts or omissions or other reasons (if known) for the revocation, suspension, or surrender of license, and

(C) such other information respecting the circumstances of the action or surrender as the Secretary deems appropriate.

(b) FAILURE TO REPORT.—If, after notice of noncompliance and providing opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (a), the Secretary shall designate another qualified entity for the reporting of information under section 203.

SEC. 203. REPORTING OF CERTAIN PROFESSIONAL REVIEW ACTIONS TAKEN BY HEALTH CARE ENTITIES.

(a) REPORTING BY HEALTH CARE ENTITIES.—

(1) ON PHYSICIANS.—Each health care entity which—

(A) takes a professional review action that adversely affects the clinical privileges of a physician for a period longer than 30 days;

(B) accepts the surrender of clinical privileges of a physician—

(i) while the physician is under an investigation by the entity relating to possible incompetence or improper professional conduct, or

(ii) in return for not conducting such an investigation or proceeding; or

(C) in the case of such an entity which is a professional society, takes a professional review action which adversely affects the membership of a physician in the society,

shall report to the Board of Medical Examiners, in accordance with section 204(a), the information described in paragraph (3).

(2) PERMISSIVE REPORTING ON OTHER LICENSED HEALTH CARE PRACTITIONERS.—A health care entity may report to the Board of Medical Examiners, in accordance with section 204(a), the information described in paragraph (3) in the case of a licensed health care practitioner who is not a physician, if the entity would be required to report such information under paragraph (1) with respect to the practitioner if the practitioner were a physician.

(3) INFORMATION TO BE REPORTED.—The information to be reported under this subsection is—

(A) the name of the physician or practitioner involved,

(B) a description of the acts or omissions or other reasons for the action or, if known, for the surrender, and

(C) such other information respecting the circumstances of the action or surrender as the Secretary deems appropriate.

(b) REPORTING BY BOARD OF MEDICAL EXAMINERS.—Each Board of Medical Examiners shall report, in accordance with section 204, the information reported to it under subsection (a) and known instances of a health care entity's failure to report information under subsection (a)(1).

(c) SANCTIONS.—

(1) HEALTH CARE ENTITIES.—A health care entity that fails substantially to meet the requirement of subsection (a)(1) shall lose the protections of section 101(a)(1) if the Secretary publishes the name of the entity under section 101(b).

(2) BOARD OF MEDICAL EXAMINERS.—If, after notice of noncompliance and providing an opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (b), the Secretary shall designate another qualified entity for the reporting of information under subsection (b).

(d) REFERENCES TO BOARD OF MEDICAL EXAMINERS.—Any reference in this title to a Board of Medical Examiners includes, in the case of a Board in a State that fails to meet the reporting requirements of section 202(a) or subsection (b), a reference to such other qualified entity as the Secretary designates.

SEC. 204. FORM OF REPORTING.

(a) TIMING AND FORM.—The information required to be reported under sections 201, 202(a), and 203 shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date (not later than one year after the date of the enactment of this Act) specified by the Secretary.

(b) TO WHOM REPORTED.—The information required to be reported under sections 201, 202(a), and 203(b) shall be reported to the Secretary, or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of the information under this title.

(c) REPORTING TO STATE LICENSING BOARDS.—

(1) MALPRACTICE PAYMENTS.—Information required to be reported under section 201 shall also be reported to the appropriate State licensing board (or boards) in the State in which the medical malpractice claim arose.

(2) REPORTING TO OTHER LICENSING BOARDS.—Information required to be reported under section 203(b) shall also be reported to the appropriate State licensing board in the State in which the health care entity is located if it is not otherwise reported to such board under subsection (b).

SEC. 205. DUTY OF HOSPITALS TO OBTAIN INFORMATION.

(a) IN GENERAL.—It is the duty of each hospital to request from the Secretary (or the agency designated under section 204(b)), on and after the date information is first required to be reported under section 204(a))—

(1) at the time a physician or licensed health care practitioner applies to be on the medical staff (courtesy or otherwise) of, or for clinical privileges at, the hospital, information reported under this title concerning the physician or practitioner, and

(2) once every 2 years information reported under this title concerning any physician or such practitioner who is on the medical staff (courtesy or otherwise) of, or has been granted clinical privileges at, the hospital. A hospital may request such information at other times.

(b) FAILURE TO OBTAIN INFORMATION.—With respect to a medical malpractice action, a hospital which does not request information respecting a physician or practitioner as required under subsection (a) is presumed to have knowledge of any information reported under this title to the Secretary with respect to the physician or practitioner.

(c) RELIANCE ON INFORMATION PROVIDED.—Each hospital may rely upon information provided to the hospital under this Act and shall not be held liable for such reliance in the absence of the hospital's knowledge that the information provided was false.

SEC. 206. DISCLOSURE AND CORRECTION OF INFORMATION.

With respect to the information reported to the Secretary (or the agency designated under section 204(b)) under this title respecting a physician or other licensed health care practitioner, the Secretary shall, by regulation, provide for—

(1) disclosure of the information, upon request, to the physician or practitioner, and

(2) procedures in the case of disputed accuracy of the information.

SEC. 207. MISCELLANEOUS PROVISIONS.

(a) PROVIDING LICENSING BOARDS AND OTHER HEALTH CARE ENTITIES WITH ACCESS TO INFORMATION.—The Secretary (or the agency designated under section 204(b)) shall, upon request, provide information reported under this title with respect to a physician or other licensed health care practitioner to State licensing boards, to hospitals, and to other health care entities (including health maintenance organizations) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner or to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.

(b) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Information reported under this title is considered confidential and shall not be disclosed (other than to the physician or practitioner involved) except with respect to professional review activity, with respect to medical malpractice actions, or in accordance with regulations of the Secretary promulgated pursuant to subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

(2) PENALTY FOR VIOLATIONS.—Any person who violates paragraph (1) shall be subject to a civil money penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected under that section.

(3) USE OF INFORMATION.—Subject to paragraph (1), information provided under section 205 and subsection (a) is intended to be used solely with respect to activities in the furtherance of the quality of health care.

(c) RELIEF FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made under this title without knowledge of the falsity of the information contained in the report.

(d) INTERPRETATION OF INFORMATION.—In interpreting information reported under this title, a payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.

TITLE III—DEFINITIONS AND REPORTS

SEC. 301. DEFINITIONS.

In this Act:

(1) The term "adversely affecting" includes reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges or membership in a health care entity.

(2) The term "Board of Medical Examiners" includes a body comparable to such a Board (as determined by the State) with responsibility for the licensing of physicians and also includes a subdivision of such a Board or body.

(3) The term "clinical privileges" includes privileges, membership on the medical staff, and the other circumstances pertaining to the furnishing of medical care under which a physician or other licensed health care practitioner is permitted to furnish such care by a health care entity.

(4)(A) The term "health care entity" means—

(i) a hospital that is licensed to provide health care services by the State in which it is located,

(ii) an entity (including a health maintenance organization or group medical practice) that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care (as determined under regulations of the Secretary), and

(iii) subject to subparagraph (B), a professional society (or committee thereof) of physicians or other licensed health care practitioners that follows a formal peer review process for the purpose of furthering quality health care (as determined under regulations of the Secretary).

(B) The term "health care entity" does not include a professional society (or committee thereof) if, within the previous 5 years, the society has been found by the Federal Trade Commission or any court to have engaged in any anti-competitive practice which had the effect of restricting the practice of licensed health care practitioners.

(5) The term "hospital" means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

(6) The terms "licensed health care practitioner" and "practitioner" mean, with respect to a State, an individual (other than a physician) who is licensed or otherwise authorized by the State to provide health care services.

(7) The term "medical malpractice action or claim" means a written claim or demand for payment based on a health care provider's furnishing (or failure to furnish) health care services, and includes the filing of a cause of action, based on the law of tort, brought in any court of any State or the United States seeking monetary damages.

(8) The term "physician" means a doctor of medicine or osteopathy or a doctor of dental surgery or medical dentistry legally authorized to practice medicine and surgery or dentistry by a State (or any person illegally posing as a physician).

(9) The term "professional review action" means an action or recommendation of a professional review body which is taken or made in the conduct of professional review activity, which is based on the competence or professional conduct of an individual physician, which affects or could adversely affect the health or welfare of a patient or patients, and which affects (or may affect) adversely the clinical privileges, or membership in a professional society, of the physician. Such term includes a formal decision of a professional review body not to take an action or make a recommendation described in the previous sentence and also includes professional review activities relating to a professional review action. In this Act, an action is not considered to be based on the competence or professional conduct of a physician if the action is based on—

(A) the physician's association, or lack or association, with a professional society or association,

(B) the physician's fees or the physician's advertising or engaging in other competitive acts intended to solicit or retain business,

(C) the physician's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services whether on a fee-for-service or other basis,

(D) a physician's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice with, a member or members of a particular class of health care practitioner or professional.

(E) the intent to retaliate illegally against a physician who, prior to the commencement of an investigation regarding the physician's competence or professional conduct, raised legitimate questions regarding the quality of health care of the health care entity, or

(F) any other matter that does not relate to the competency or professional conduct of a physician.

(10) The term "professional review activity" means an activity of a health care entity with respect to an individual physician—

(A) to determine whether the physician may have clinical privileges with respect to, or membership in, the entity,

(B) to determine the scope or conditions of such privileges or membership, or

(C) to change or modify such privileges or membership.

(11) The term "professional review body" means a health care entity and the governing body or any committee of a health care entity which conducts professional review activity, and includes any committee of the medical staff of such an entity when assisting the governing body in a professional review activity.

(12) The term "Secretary" means the Secretary of Health and Human Services.

(13) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(14) The term "State licensing board" means, with respect to a physician or health care provider in a State, the agency of the State which is primarily responsible for the licensing of the physician or provider to furnish health care services.

SEC. 302. REPORTS AND MEMORANDA OF UNDERSTANDING.

(a) ANNUAL REPORTS TO CONGRESS.—The Secretary shall report to Congress, annually during the three years after the date of the enactment of this Act, on the implementation of this Act.

(b) MEMORANDA OF UNDERSTANDING.—The Secretary of Health and Human Services shall seek to enter into memoranda of understanding with the Secretary of Defense and the Administrator of Veterans' Affairs to apply the provisions of title II of this Act to hospitals and other facilities and health care providers under the jurisdiction of the Secretary or Administrator, respectively. The Secretary shall report to Congress, not later than two years after the date of the enactment of this Act, on any such memoranda and on the cooperation among such officials in establishing such memoranda.

(f) MEMORANDUM OF UNDERSTANDING WITH DRUG ENFORCEMENT ADMINISTRATION.—The Secretary of Health and Human Services shall seek to enter into a memorandum of understanding with the Administrator of Drug Enforcement relating to providing for the reporting by the Administrator to the Secretary of information respecting physicians and other practitioners whose registration to dispense controlled substances has been suspended or revoked under sec-

tion 304 of the Controlled Substances Act. The Secretary shall report to Congress, not later than two years after the date of the enactment of this Act, on any such memorandum and on the cooperation between the Secretary and the Administrator in establishing such a memorandum.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House H.R. 5540, the Health Care Quality Improvement Act of 1986. This legislation is designed to encourage physicians to identify and discipline other physicians who are incompetent or who engage in unprofessional behavior. Although the number of bad doctors is probably small, we know from numerous examples that they can be very harmful.

Under H.R. 5540, hospitals and physicians that conduct peer review will be protected from damages in suits by physicians who lose their hospital privileges provided the peer review actions meet the standards established in the bill. In addition, hospitals and physicians that discipline doctors will be required to report these disciplinary actions to the State medical boards, who then must forward this information to the Secretary of Health and Human Services. The bill further requires hospitals to seek this information from the Secretary before granting clinical privileges to physicians. The bill also requires paid malpractice claims to be reported to the Secretary. All reports to the Secretary could be made instead to a qualified private entity; at the Secretary's discretion.

The immunity provisions do not apply to violations of the civil rights laws, or to actions brought by the Justice Department, the Federal Trade Commission, the Equal Employment Opportunity Commission, or State attorneys general.

An important aspect of the medical malpractice problem is the difficulty in identifying and disciplining incompetent and unprofessional physicians. Unfortunately, groups such as State licensing boards, hospitals, and medical societies that should be weeding out incompetent or unprofessional doctors often do not do so.

This bill focuses on those instances in which physicians injure patients through incompetent or unprofessional service, are identified as incompetent or unprofessional by their medical colleagues, but are dealt with in a way that allows them to continue to injure patients. The reporting system in this legislation would virtually end the ability of incompetent doctors to skip from one jurisdiction to another without detection.

The limited immunity provided under this bill is essential to encourage physicians and hospitals to participate in conducting effective peer review. The immunity provisions have been restricted so as not to protect illegitimate actions taken under the guise of furthering the quality of health care. Actions that violate civil rights laws or actions that are really taken for anticompetitive purposes will not be protected under this bill.

As floor manager for the bill H.R. 5540, the Health Care Quality Improvement Act of 1986, submits on behalf of the Committee on Energy and Commerce the following comments concerning changes in the bill made subsequent to the filing of the report (99-903, part I) on the bill by the Committee on Energy and Commerce. These amendments were developed largely in response to concerns raised by the Committee on the Judiciary.

AMENDMENT NO. 1

Page 2, line 8, insert "all" after "meets".

This amendment clarifies the requirement that the standards of section 102(a) must be met in full to receive the protections provided under section 101(a).

AMENDMENT NO. 2

Page 3, at the end of line 5, insert the following new sentences:

"The preceding sentence shall not apply to any matter that constitutes a violation of any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., this paragraph shall prevent the United States or any Attorney General of a State from bringing an action, including an action under section 4C of the Clayton Act, 15 U.S.C. 15C, where such an action is otherwise authorized.".

This amendment changes the bill to limit its protections under subsection 101(a)(1) to laws other than civil rights laws. The bill was never intended to shield racist disciplinary actions couched as intended to promote the quality of care. Nevertheless, because of concerns raised by the chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights, the Energy and Commerce Committee has agreed to this amendment in order to avoid any possibility of a misinterpretation.

Similar considerations with regard to possible abuse of professional review actions against health care professionals who are not physicians led to an earlier modification of the bill limiting its effect solely to peer reviews of individual physicians. In that case, the Committee on Energy and Commerce emphasized that the modification was not in any way intended to discourage legitimate actions against nonphysician practitioners who are incompetent or unprofessional.

Similarly, the exclusion of protection from civil rights suits is in no way intended to discourage professional review actions against incompetent or unprofessional physicians simply because they belong to a group protected under the civil rights laws. Moreover, nothing in their amendment expands in any way the substance or application of civil rights laws. Hospitals and professional reviewers should have no liability so long as their professional review actions are taken for appropriate reasons and do not constitute a violation of the civil rights laws.

This amendment further clarifies that nothing in H.R. 5540 is intended to affect the legal authority of the United States or any attorney general of a State to bring an action that is otherwise authorized. The bill neither expands nor narrows the authority of the United States and State attorneys general.

AMENDMENT NO. 3

Page 3, beginning on line 24, strike "shall suspend" and all that follows through page 4, line 4, and insert the following: "shall publish the name of the entity in the Federal Register. The protections of subsection (a)(1) shall not apply to an entity the name of which is published in the Federal Register under the previous sentence with respect to professional review actions of the entity commenced during the 3-year period beginning 30-days after the date of publication of the name.".

Page 14, line 23, strike "shall" and all that follows through line 24 and insert "shall lose the protections of section 101(a)(1) if the Secretary publishes the name of the entity under section 101(b).".

This amendment addresses concerns raised by the Judiciary Committee with regard to the provision for suspending health care entities from the protections of the bill. The amendment specifies that the Secretary of the Department of Health and Human Services shall make findings with respect to compliance by health care entities with the reporting requirements of section 203(a) and shall publish those findings in the Federal Register. Any entity that the Secretary determines has failed substantially to

report information in accordance with that section is automatically suspended from the protections of section 101(a) for a period of 3 years.

AMENDMENT NO. 4

Page 5, line 10, strike "10" and insert "30".
Page 5, line 18, strike "10" and insert "30".

This amendment extends from 10 days to 30 days the minimum period during which a physician has the right to request a hearing on a proposed professional review action, and similarly extends the minimum period between notice of a professional review action and the hearing date. It is expected that reasonable requests by the physician for extensions of these periods will be granted. This amendment is made in response to testimony before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights questioning the adequacy of the time periods specified in the bill as reported by the Committee on Energy and Commerce.

AMENDMENT NO. 5

Page 4, line 6, strike "The" and all that follows through "taken" on line 8 and insert: "For purposes of the protection set forth in section 101(a), a professional review action must be taken".

This amendment clarifies that the protections of section 101(a) are available only for professional review actions that meet the standards of section 102(a).

AMENDMENT NO. 6

Page 4, line 13, strike out "due process" and insert "notice and hearing procedures are afforded".

Page 4, line 14, insert before the comma the following: "or after such other procedures as are fair to the physician under the circumstances".

Page 4, line 17, strike "such due process" and insert "meeting the requirement of paragraph (3)".

Page 4, line 22, strike "DUE PROCESS PROCEDURES" and insert "NOTICE AND HEARING".

Page 4, line 23, insert "adequate notice and hearing" before "requirement".

Page 7, line 22, strike "DUE PROCESS" and insert "ADEQUATE PROCEDURES".

Page 8, line 1, strike "due process" and insert "procedures".

Page 8, beginning on line 11, strike "due process" and insert "notice and hearing or other adequate procedures".

This amendment responds to concerns raised by the Committee on the Judiciary with regard to references to "due process" in the bill. These provisions are now referred to in the amendment as "notice and hearing requirements." The substantive provisions remain unchanged. This change in terminology is intended to preclude the implication that the bill defines "due process" for any purpose beyond the purview of the bill.

The amendment further clarifies that procedures other than the ones specified in the bill, but which are generally recognized by courts to be fair to physicians under the circumstances shall also meet the standards of section 102(a). This clarification is to address the apparent confusion of several witnesses before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights as to whether any adequate procedures are in fact required by the bill. The bill establishes a set of notice and hearing procedures that, if met, are adequate for the purposes of meeting the standards of section 102(a). Any other procedures that are afforded to a physician must be those generally recognized by the courts to be fair to the physician under the circumstances. Procedures that do not meet either test would not satisfy the requirements of section 102(a).

AMENDMENT NO. 7

Page 4, amend lines 18 through 21 to read as follows:

A professional review action shall be presumed to have met the standards necessary for the protection set out in section 101(a) unless the presumption is rebutted by a preponderance of the evidence.

This amendment clarifies the requirements for the presumption that defendants are afforded with regard to professional review actions. As adopted by the Committee on Energy and Commerce, the presumption applied only to the requirement that a professional review action be taken in the reasonable belief that the action was in the furtherance of quality health care. The presumption could only be overcome by clear and convincing evidence to the contrary.

This approach generated substantial confusion during hearings before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights. A number of persons appeared to read this provision as applying a presumption that could only be overcome by clear and convincing evidence to all the standards of section 101(a), rather than simply to the single standard concerning quality of care.

As adopted by the Committee on Energy and Commerce, the legislative language also permitted another unintended interpretation, viz., that the other three standards would have to be pleaded and proved by the defendant as an affirmative defense. Such an interpretation would have shifted the normal burden of proof for civil trials and was never intended by the Committee on Energy and Commerce. Similarly, nothing in this bill is intended to expand or narrow current discovery rights under State or Federal laws.

This amendment is intended to clarify and simplify the requirements concerning the burden and standard of proof. All four standards are now treated similarly. The standard concerning whether the action was in furtherance of the quality of care still has the benefit of a presumption, but now that presumption is to be overcome by a preponderance of the evidence. Similarly, the amendment now makes clear that the burden of proof with respect to the other three standards is the same as that for subsection 102(a)(1) and rests on the plaintiff, not the defendant or defendants.

The amendment emphasizes the importance of resolving the issue of immunity in as expeditious a manner as possible, as noted by the Committee on Energy and Commerce on page 12 of the report accompanying H.R. 5540. The amendment simplifies the rules for determining whether a professional review action meets the standards required for immunity from damages, and should permit a court to make an early finding in that regard.

AMENDMENT NO. 8

Page 8, amend lines 17 through 24 to read as follows:

In any suit brought against a defendant, to the extent that a defendant has met the standards set forth under section 101 and the defendant substantially prevails, the court shall, at the conclusion of the action, award to a substantially prevailing party defending against any such claim the cost of the suit attributable to such claim, including a reasonable attorney's fee, if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith. For the purposes of this paragraph, a defendant shall not be considered to have substantially prevailed when the plaintiff obtains an award for damages or permanent injunctive or declaratory relief.

This amendment deletes any reference to awards of fees to a prevailing plaintiff. Such awards, if made, will arise under existing law. The amendment further establishes specific circumstances under which substantially prevailing defendants who can demonstrate that they have met the standards under section 101 are entitled to attorneys' fees and costs.

The amendment also clarifies circumstances in which a defendant shall not be considered to have substantially prevailed. This clarification is to address some confusion apparent during the hearings before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights. Some persons apparently read the bill as reported by the Committee on Energy and Commerce to permit award of attorneys' fees even when the plaintiff obtained substantial relief. H.R. 5540 was never intended to permit this interpretation, and this amendment should clarify that intention.

AMENDMENT NO. 9

Page 9, after line 19, insert the following new subsection:

(d) TREATMENT OF PATIENT MALPRACTICE CLAIMS.—Nothing in this title shall be construed as limiting in any manner the rights and remedies afforded patients under any provision of Federal or State law to seek redress for any harm or injury suffered as a result of negligent treatment or care by any physician, health care practitioner, or health care entity, or as limiting any defenses or immunities available to any physi-

cian, health care practitioner, or health care entity.

This amendment clarifies that the rights and remedies of patients, and the defenses and immunities of defendants with regard to malpractice claims are not affected by this legislation. This amendment is consistent with the related comments by the Committee on Energy and Commerce beginning on page 9 of the report on the bill.

AMENDMENT NO. 10

Page 23, amend lines 1 through 3 to read as follows:

(B) the physician's fees or the physician's advertising or engaging in other competitive acts intended to solicit or retain business,

Page 23, line 7, strike "or".

Page 23, line 13, before the period add the following:

"(E) the intent to retaliate illegally against a physician who, prior to the commencement of an investigation regarding the physician's competence or professional conduct, raised legitimate questions regarding the quality of health care of the health care entity, or

"(F) any other matter that does not relate to the competence or professional conduct of a physician."

This amendment clarifies the exclusions from matters that can be considered to be related to the competence or professional conduct of a physician. The change in paragraph (B) is to clarify that actions taken to enforce illegal price-fixing arrangements are not protected under the bill.

New paragraph (E) makes explicit that professional review actions taken in retaliation against whistleblowers are not protected under the bill. This exclusion is in response to concerns raised by a witness before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights about the problems facing whistleblowers in some hospitals. It is not intended to create a safe haven for incompetent or unprofessional physicians who seek to fend off legitimate professional review actions by suddenly questioning the competence or professional conduct of others. To qualify for this exclusion, a physician must convince a court that the professional review action was commenced after the physician had raised legitimate charges against the health care entity, and was initiated illegally in retaliation for the physician's having done so.

New paragraph (F) is intended to clarify that the list of exclusions is not exhaustive. This subsection reflects the concern that professionals review actions brought for illegitimate reasons may not appear as such on their face. Actions which specify, for example, that they are based on a physician's fees, or actions brought against a nonphysician practitioner, are clearly not eligible for protection under this bill. The more serious issues arise when actions are stated to be for legitimate reasons, but are challenged as not being genuinely based on the competence or professional conduct of an individual physician. It is, of course, the plaintiff physician's burden of pleading and proving to the court that the action was based on matters that do not relate to the physician's competence or professional conduct. The purpose of paragraph (F) is simply to avoid the inference that any matters not listed in this subsection are necessarily ones related to competence or professional conduct. For example, actions based solely on competitive considerations other than the ones enumerated in the bill would not qualify as being based on professional conduct or competence. For example, an action taken against a physician because of a style of practice or a pattern of patients that does not generate sufficient revenue for a hospital would not be covered by this bill.

On the other hand, competence and professional conduct should be interpreted in a way that is sufficiently broad to protect legitimate actions based on matters that raise concerns for patients or patient care. It would certainly include all specific conduct that could adversely affect the health or welfare of a patient or patients. This would include not only activities directly involving patients of the physician but also activities that raise the possibility of adversely affecting other patients. Such activities clearly would encompass felonies or crimes of moral turpitude. They would also include illicit transactions involving drugs, serious sexual offenses, violent behavior, and other similar acts.

AMENDMENT NO. 11

Page 22, line 6, before the period insert the following: "(or any person illegally posing as a physician)".

This amendment clarifies that the definition of "physician" for purposes of discipline or reporting under this bill encompasses persons illegally posing as a physician. This amendment recognizes that it would be paradoxical to provide protection for and require reporting of actions against legitimate physicians, while not doing so with regard to impostors.

Additional views regarding rept. 99-903, part 1:

First, page 21, first sentence of the third full paragraph: The sentence should read as follows: "Actions against practitioners who are not physicians also are not under the purview of this legislation."

Second, the report does not explain the word "call" as used in section 102(b)(3)(C)(iii) of H.R. 5540. One witness at the hearings before the Judiciary Committee questioned whether the word would permit a physician-respondent to compel the testimony of witnesses. Obviously, the bill cannot confer subpoena power on a private body. However, it is the intention of the committee that any witness who testifies for the hospital should be reasonably available to be called as a witness on an equal basis by the physician-respondent.

AMENDMENT NO. 12

Page 4, after line 4, insert the following:

(c) TREATMENT UNDER STATE LAWS.—

(1) PROFESSIONAL REVIEW ACTIONS TAKEN ON OR AFTER OCTOBER 14, 1989.—Except as provided in paragraph (2), subsection (a) shall apply to State laws in a State only for professional review actions commenced on or after October 14, 1989.

(2) EXCEPTIONS.—

(A) STATE EARLY OPT-IN.—Subsection (a) shall apply to State laws in a State for actions commenced before October 14, 1989, if the State by legislation elects such treatment.

(B) STATE OPT-OUT.—Subsection (a) shall not apply to State laws in a State for actions commenced on or after October 14, 1989, if the State by legislation elects such treatment.

(C) EFFECTIVE DATE OF ELECTION.—An election under State law is not effective, for purposes of subparagraphs (A) and (B), for actions commenced before the effective date of the State law, which may not be earlier than the date of the enactment of that law.

This amendment responds to the concerns of those who believe that the States should have a choice as to whether the protections afforded under this bill should apply with regard to State law.

Under this section, a State that chooses to adopt a different policy than that set forth in this legislation may freely do so. The amendment is extremely flexible. It provides States 2 years in which to choose whether or not to provide professional review bodies and personnel with immunity from damages in private actions under State law. If a State does not wish to participate, it may enact a law opting out from this provision. On the other hand, if a State wishes to participate immediately, it may do so by enacting a law to that effect.

The only restriction on State opt-outs or opt-ins is that they may not be made retroactive. This restriction is intended to prevent unfairness to those who might rely on the law at a particular moment. In such a case, those persons should not have their expectations undermined by a change in the law affecting them after they have already acted in reliance on a different legal standard.

Mr. LELAND. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Texas.

Mr. LELAND. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the gentleman in a colloquy. It has come to my attention that hearings before the Judiciary Committee's Subcommittee on Civil and Constitutional Rights raised questions about whether this bill might be used to discriminate against black and other minority phy-

sicians. How does the gentleman respond to that question?

Mr. WAXMAN. I am aware of that criticism, and the bill being considered today is amended to exclude any application in cases involving a violation of civil rights laws.

I would like to say that I believe that the bill as reported by the Committee on Energy and Commerce would not have protected any violations of the civil rights laws, and I would never have supported any bill that would have done so. Nevertheless, to avoid any lingering confusion about the effect of this bill, it has been amended so that the immunity provision simply does not apply to any matter that constitutes a violation of any Federal or State civil rights law.

Mr. LELAND. I thank the gentleman and I am very gratified by his response.

Mr. EDWARDS of California. Mr. Speaker, the distinguished chairman of the Subcommittee on Health and the Environment has, on this day, forwarded a letter to me outlining the several changes he has made in an effort to address the myriad concerns raised by the physicians, quality health care advocates, and health care attorneys in their testimony before the Judiciary Committee during the 2 days of hearings on H.R. 5540. I commend the gentleman for seeking to address some of those concerns. But I am compelled to say that the changes made do not address the fundamental legal and constitutional problems created by this bill—issues which fall within the jurisdiction of the Committee on the Judiciary.

On September 29, the Judiciary Committee obtained a sequential referral of this legislation. The initial referral ran through October 3. The referral was subsequently extended until today. The 2 days of hearings which the Judiciary Committee conducted were intended to provide a more complete record on the implications of the immunity and due process provisions set forth in title I of H.R. 5540, including immunity from individual damage claims brought under any Federal or State civil rights or antitrust laws. We felt this was especially important since the only primary issue addressed during the July 15 hearing conducted by the Subcommittee on Health and the Environment was the reporting mechanism established in title II of the proposed legislation.

Based upon the only CONGRESSIONAL RECORD to date on title I of the bill, I recommended the title be deleted from H.R. 5540, and that the distinguished chairman proceed with the reporting requirement set forth in title II of the bill. It is my belief that there is strong bipartisan support for title II and if title I were deleted, there would be prompt passage of the bill in both the House and Senate in this Congress.

My concern about the bill, as reported and with the changes now recommended, is based upon these conclusions, the immunity provision in title I does not create an incentive to more effective voluntary peer review, it would instead shield illegal peer review action from effective challenges brought by those doctors who find themselves improperly sanctioned by peer review committees. Under the scheme established by this proposed legislation, competent doctors, with limited financial resources, whose rights have been violated by illegal peer review actions will be driven from medical practice with no hope of redress from existing Federal and State laws which provide protections from such illegal acts. Competent doctors who have financial means will find that the cost of challenging illegal peer review—both to the challenging physician and to the peer review participants—will be more costly and the physician who has been wronged will be denied the full panoply of remedies currently available under existing law.

The committee report accompanying H.R. 5540, rests the damage immunity provision almost exclusively on the treble damage remedy available under the Federal antitrust law. The report cites as its compelling example a $2 million jury award made in an Oregon case, Patrick versus Astoria Clinic. Four days after the filing of the committee report, the ninth circuit joined the seventh and third circuits in determining peer review is not subject to Federal antitrust laws pursuant to the State action doctrine.

Mr. Speaker, each one of our witnesses agreed that more effective physician peer review should and must be encouraged. But they unanimously agreed that the bill fails to adequately protect competent physicians from abusive actions by illegal professional review. In light of the Judiciary Committee's review, the chairman of the Subcommittee on Health and the Environment has made some significant changes to improve this bill; however, the fundamental flaw of the bill in its present form continues to be that the immunities shield professional actions which are fair as well as actions which are illegal.

COMMITTEE ON THE JUDICIARY,
Washington, DC, October 10, 1986.

HENRY A. WAXMAN,
House Annex 1,
Washington, DC.

DEAR HENRY: On September 29, the Judiciary Committee obtained a sequential referral of H.R. 5540, the "Health Care Quality Improvement Act of 1986." The initial referral ran through October 3. The referral was subsequently extended until Tuesday, October 14.

The bill was referred to the Subcommittee on Civil and Constitutional Rights to consider issues raised by the bill that fall within the jurisdiction of the Judiciary Committee. The Subcommittee just concluded two days of hearings on the bill. It was our intention in holding these hearings to provide a more complete record on the implications of the immunities and due process provisions set forth in Title I of H.R. 5540. Our review would thus augment the hearing held on July 15, 1986 by the Subcommittee on Health and Environment. We felt this was especially important since the primary issue addressed during the July 15 hearing was the reporting mechanism established in Title II of the proposed legislation.

The several witnesses presenting testimony to Judiciary were physicians (3), attorneys (6) and quality health care advocates (3) who are familiar with the peer review process. Each witness agreed that effective review of physicians is necessary to assure the delivery of competent, quality health care to all Americans. However, they stressed that the privileges of physicians should not be adversely affected through professional review action for reasons unrelated to competency. They agreed that the bill, as reported, does not provide adequate protections to competent physicians from abusive actions by illegal professional review.

Overwhelmingly, the expert attorneys agreed that in light of existing rules of state and federal law applicable to peer review, the immunity provisions of the bill are too sweeping. Indeed, at least one witness, who has been following the various legislative proposals introduced on this subject since he began his career in anti-trust health law at the Federal Trade Commission, argued persuasively that the bill's attempt to insulate peer review from legal challenge is self-defeating, and would instead increase the disruption and costs to all parties in those instances where peer review actions are contested.

The legal and constitutional problems created by this bill are many. We will summarize the most serious examples which were revealed during the Judiciary Committee's review of H.R. 5540. We found:

1. The immunity from individual damage claims under any federal or state law is too sweeping and unwarranted. The perception that treble damages under federal anti-trust claims will bankrupt peer review participants is unsupported by the facts. The Ninth Circuit Court of Appeals reversal of the *Patrick* case just 4 days after the filing of your committee report again demonstrates that peer review is not subject to sections 1 and 2 of the Sherman Act.

The Ninth Circuit, in agreeing with both the Seventh and Third Circuits, found that peer review received the cloak of protection from the state action doctrine, because the state had a clear policy to displace competition in the certification and regulation of hospital health care. Such state involvement would defeat all potential anti-trust claims by private parties. Adding a statutory exemption would thus be a gratuitous exercise, with the only result that a dangerous precedent would be set for other groups seeking special treatment.

It should finally be noted that the national competition policy represents a hundred-year commitment to the notion that all economic players should have the opportunity to compete in an open, free-moving market system. Health care has moved into the realm of competitive enterprise, with many physicians competing for the right to provide medical treatment in diverse and often specialized markets. Where peer review poses the risk of preventing or discriminating against other health providers from full

economic participation in the market place, it is no different than any other illegal restraint of trade. As such, anti-trust immunity is a serious step, and the burden rests with those seeking special treatment to demonstrate that such protection is justified. It is our view that with respect to the instant legislation, such a burden has not been sustained, particularly where there are various state shield laws which already provide immunity for peer review.

Moreover, no justification has been shown for shielding peer review which violates federal or state civil rights laws. The testimony presented to the Judiciary Committee shows that peer review often has the result if not the intent of discriminating against minority and foreign born doctors. Effective civil rights enforcement is predicated on the ability of individuals to challenge such illegal acts. Restricting such enforcement to Federal and State Attorneys General would simply defeat the statutory scheme for our nation's civil rights laws.

It is very difficult, under existing state and federal law, to challenge fairly administered review actions, because courts are reluctant to second guess decisions by medical professionals as to the issue of "competency." Therefore, peer review participants' fear of damage claims is unfounded. Furthermore, the federal rules of civil procedure and a number of statues already provide for sanction, including monetary, against attorneys and individuals filing frivolous or nuisance claims. The view of several witnesses was, "if it ain't broke, don't fix it."

2. The bill establishes a statutory presumption that professional review actions are in the "furtherance of quality health care". It is a presumption which can only be overcome by "clear and convincing evidence." The presumption and burden of proof subvert exisitng law, with no compelling justification. Moreover, they would simply create additional legal issues to litigate in suits challenging review actions. A three-tiered system would result: one trial for injunctive relief, with one set of presumptions and burdens of proof and one trial to challenge the validity of the peer review action, with a different set of presumptions and burdens. If a physician were successful in the second suit, there would then be a third suit for damages. Such an approach is legally unsound, will add significant legal costs for both sides in an already costly proceeding, and frustrate the very purpose of the bill—effective peer review through voluntary reporting.

3. In a host of ways, the due process procedures set forth in the bill, fail to provide adequate safeguards to health care providers improperly before peer review committees. Notice is inadequate; there appear to be no mechanisms for compelling testimony or for providing the physician, in advance, with the evidence supporting the peer review action; and, in the end, the "due process" provisions of the bill are merely advisory, not obligatory.

4. The attorneys' fees section of the bill turns the Civil Rights Attorneys' Fees Act, as well as other attorneys fees provisions on its head. Section 103 of the bill states that the person challenging the peer review action may be required to pay the attorneys fees and costs of the health care entity, and all of the participants in the peer review process; whether the challenger wins or loses his or her complaint. Such an oppressive statutory scheme will most certainly have a chilling effect on health providers wronged by the review process. Contrary to public perceptions, not all physicians are wealthy. As our civil rights experts emphasized, health care providers with limited resources and earning capacity (for example, with privileges at fewer facilities) will be "unable to obtain counsel and their rights will be a dead letter."

In sum, for those with limited resources, the net result of Title I is that good faith suits backed by substantial evidence will simply not be brought and persons with means will be discouraged from redressing their grievances. In any event, illegal professional review actions will go unchecked. Clearly, no one wants such a result.

Mr. Chairman, with the help of health care advocates and legal experts, we considered the following issues which go to the very heart of this Committee's jurisdiction:

1. Is there a legal precedential harm to granting sweeping immunity from damage claims under any federal or state law solely on the basis of physician "perceptions" or "fears" of being sued for carrying out duties under professional review committees?

We must conclude there is.

2. Is there a factual record which shows that participants in professional reviews have been subjected to damage claims?

We must conclude there is not.

3. Can Title I of H.R. 5540 be sufficiently amended to address all of the legal imperfections raised by its contents?

We must conclude it can not.

As a result of our two days of hearings on H.R. 5540, we conclude that there is overwhelming support for effective peer review and support for voluntary reporting of professional review actions to a federal government controlled repository.[1] There is also a recognition that there must be meaningful incentives to encourage vigorous review and reporting. The provisions of Title I do offer incentives but they are incentives which shield professional actions which are fair as well as actions which are illegal. Under this Title, incompetent doctors will be unable, as they are under present law, to reverse fair peer reviews; and competent doctors whose rights have been violated by illegal peer review actions will be driven from medical practice with no hope of redress from existing federal and state laws which provide protections from such illegal acts.

We believe there is strong bipartisan support for Title II. However, given the myriad problems the Judiciary's limited review has identified, pursuant to our sequential referral, we recommend that you delete Title I of the bill. We believe this action would assure prompt passage of H.R. 5540 in both the House and Senate in the 99th Congress.

Please be assured that we will work with you in the next Congress to fashion immunities which are tailored to the factual record. As the experts we heard from have stressed, the "incentives" created by the bill may very well frustrate the laudable goals of effective peer review and reporting. In lieu of Title I, you may wish to direct the Secretary of Health and Human Services to report back to Congress with suggestions for incentives for effective professional review, and to identify those factors which the Department's enforcement efforts have determined are discriminatory or illegal or unrelated by quality health care.

[1] However, as reported, Title II does raise several constitutional and privacy issues with respect to confidentiality. These concerns could probably be easily corrected.

We urge you to accept the findings and recommendations of the Committee on the Judiciary.

With kind regards.

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

[From the Wall Street Journal, Oct. 10, 1986]

PEER REVIEW AMONG DOCTORS RECEIVES BOOST

(By Frank R. James)

At a time of increased public concern over physicians' competence, a principal tool for regulating doctors—peer review—has received a shot in the arm.

The process was attacked in court in 1984, prompting many doctors to temper criticisms of their colleagues and, some argue, allowing weak physicians to continue practicing. But a federal appeals court in San Francisco has now defended peer review. That decision, physicians say, will likely bring doctors back to the review table and strengthen the first line of defense against incompetent physicians.

"There's no question that once doctors are told about what's happened, they'll begin reacting," says James Kronenberg, associate executive director of the Oregon Medical Association. Because the appeals-court decision "potentially resolves the legal problems doctors feared," he says, "we think it will reverse" the trend among doctors toward refusing to take part in peer reviews.

INVOKING ANTITRUST LAWS

In 1981, Timothy A. Patrick, a surgeon in Astoria, Ore., sued a hospital peer-review panel after it appeared likely that he would receive an unsatisfactory evaluation. Dr. Patrick alleged that peer-review panel members were inattentive when he tried to defend himself during the review, with one tying fishing lures, another reading a magazine and others reading their medical journals or attending to paperwork unrelated to the review.

Invoking federal antitrust laws, Dr. Patrick charged that the physicians on the panel sought to put him out of business because he competed with them for patients. The district-court jury agreed, awarding him $650,000 in damages, which—under antitrust law—was trebled to $1.95 million.

As a result of the ruling, many doctors around the country began to mute their criticism of fellow physicians or to refuse to participate in peer reviews altogether, physicians say. Antitrust charges are difficult to defend against and the treble damages aren't covered by physicians' malpractice liability insurance.

REVERSED DECISION

Last week, however, the Ninth Circuit Court of Appeals reversed the Patrick decision. The court acknowledged that peer review can be anticompetitive. But it ruled that the peer-review panel members in this case were immune from prosecution because Oregon, as do most states, regulates its health-care industry through mandatory peer review. Federal law exempts state actions from antitrust challenges when those actions are deemed necessary for the public good.

Many members of the health profession have praised the ruling. Kirk Johnson, general counsel of the American Medical Association, says the original court decision "had a very major psychological effect on doc-

tors. It was an obstacle to the kind of vigorous peer review that everybody—physicians, the community and state governments—believes should be done." The AMA, the Joint Commission for the Accreditation of Hospitals and the Oregon Medical Association filed friend-of-the-court briefs with the appeals court arguing that antitrust law shouldn't be invoked against peer-review panel members.

After the original ruling in the Patrick case, many doctors "just said, 'The hell with it,'" says G. Craig Merhoff, a surgeon at Williamette Falls Community Hospital in Oregon City, Ore. "There's no question that a lot of the physicians who backed off in our hospital simply said: 'I'm not making recommendations on restricting anything. I'm not going to hang everything on the line because some guy's a bozo.'"

Dr. Merhoff adds that if the appeals-court decision means "we can conduct peer review like we did in the past, without the threat of restraint-of-trade (charges) being thrown at us, peer review will improve."

The appeals court did leave open the possibility that Dr. Patrick might sue in state court. He also might still invoke antitrust law in connection with the defendants' activities outside the peer-review process. The court cited evidence, for instance, that the defendants had sought to prevent emergency-room visitors who were asking for Dr. Patrick from being treated by him.

Barbee Lyon, an attorney for Dr. Patrick, says the appeals court removed "the strongest defense" for a "good doctor (who) finds himself opposed (by a peer-review panel) for base and disreputable motives." Mr. Lyon adds, "I would discourage doctors from getting into situations where they could find themselves at odds with the medical establishments." Dr. Patrick may appeal the latest ruling to the Supreme Court, Mr. Lyon says.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of our time.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. MADIGAN. Mr. Speaker, I rise in strong support of H.R. 5540, the Health Care Quality Improvement Act of 1986.

This legislation is needed to address a major factor contributing to the medical malpractice insurance crisis—incompetent and unprofessional physicians. Groups such as State licensing boards, hospitals, and medical societies which have the responsibility to weed out incompetent physicians, do so with alarming infrequency. In the limited number of instances when such bodies do act, physicians simply move on to other hospitals in other States and set up practices.

As a consequence, there have been several publicized situations in which physicians that had a history of incompetence or unprofessional conduct have continued to practice and cause injury to patients. One of the most recent of these tragedies occurred minutes from here at the Bethesda Naval Hospital.

This legislation would require that entities disciplining physicians report their findings and their disciplinary actions to a central repository. The legislation would also require hospitals to obtain this information before granting privileges to new applicants. This two-way reporting mechanism is the most important element of this legislation. At the present time, even the most diligent hospital cannot obtain adequate background about physicians applying for privileges at its facility.

Unfortunately, the reporting mechanism established by this legislation is likely to lead to more litigation as incompetent physicians who can no longer hide their pasts, must file suits in order to preserve their livelihoods. Therefore, in order to encourage physicians to act responsibly in reviewing the activities of their fellow physicians, this legislation would provide a very limited immunity from liability for allegations of antitrust violations by disciplined physicians. Physicians and hospitals that engage in responsible peer review deserve this very limited immunity.

I strongly believe that setting up a repository of information about all physicians to which hospital credentialing committees can have access will reduce significantly the ability of incompetent physicians to jump from facility to facility at will. That in turn will go a long way toward reducing the incidence of malpractice if not malpractice suits.

I urge my colleagues to support this legislation.

Mr. Speaker, I am pleased to rise in support of H.R. 5546, the National Childhood Vaccine Injury Act of 1986, which I introduced along with Chairman WAXMAN and several other members of the Committee on Energy and Commerce. This legislation represents an important step in assuring the continued viability of our National Childhood Immunization Program, a program which is crucial to the health of our children.

Mr. Speaker, every Federal, State, and private health expert that testified before the Subcommitee on Health and the Environment on this issue agreed that our National Childhood Immunization Program is the most important preventive health program in the country. In the past few decades, we have all but eradicated such deadly childhood diseases as polio, whopping cough, and diphtheria through nationwide immunizations. Unfortunately, the companies which manufacture these crucial vaccines for our children are faced with a terrible dilemma. They are being forced out of business because liability for the very few children that may have adverse reactions to vaccinations has resulted in the unavailability of liability insurance.

H.R. 5546 addresses this problem. It establishes a reasonable no-fault compensation program for injured children. This program puts caps on awards for pain and suffering and for death benefits, and bars the awarding of punitive damages. An injured party who is not happy with the compensation award can still go to court, but several new tort protections would be available that would lessen the chance of outrageous awards. For example, under this legislation, a manufacturer would not be liable if the injury or death resulted from side effects that were unavoidable, or if the vaccine were accompanied by proper directions and warnings. Furthermore, there would be a legal presumption that warnings were adequate if they were in compliance with Government standards. Finally, H.R. 5546 addresses a particular concern of several Republican Members in that it does not limit compensation to only those people injured by vaccines in the past few years, as did earlier legislation. There is no reason why the legislation should exclude those children injured in the past, especially if they were unaware at the time that their injury was vaccine-related. Yet are now banned from initiating an action by State statutes of limitation.

As Mr. WAXMAN has indicated, this bill does not contain a funding mechanism. I hope that we will pass this bill today and add a funding mechanism later so that we can preserve our Childhood Immunization Program.

I commend Mr. WAXMAN for his work on this measure and I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, I rise in strong support of the Health Care Quality Improvement Act.

All of us, I am confident, are committed to ensuring that each of our citizens receives high-quality health care services. One of the most effective ways of ensuring the quality of health care services is encouraging stringent physician peer review to identify, correct, and prevent further substandard care. A second way of ensuring the quality of health care services in our Nation is giving hospitals and other institutions employing, licensing, and accepting physicians as members the information they need to detect physicians who have a history of disciplinary actions for providing substandard care. The Health Care Quality Improvement Act provides us with both of these tools.

One of the major deterrents to effective peer review is the threat hanging over physicians or hospital administrators involved in peer review that they may be sued under State and Federal antitrust, defamation, and other statutes by a doctor they are planning to discipline or have disciplined, even when the review and disciplinary action are clearly motivated by concern over quality of care. Testimony we on the Subcommittee on Health and the Environment received indicates that these suits are having a chilling effect on effective peer review.

The Health Care Quality Improvement Act provides carefully defined immunity from antitrust, defamation, and other statutes for peer review actions undertaken with the clear motive of improving the quality of health care and carried out in a manner giving the physician under review every opportunity to defend his

or her record. In developing this legislation, we had well in mind the importance of antitrust, defamation, and civil rights statutes to the protection of physicians and other health professionals. This bill was drafted, redrafted, and then drafted again to provide that: First, the protection is afforded only to quality of care motivated reviews of physicians: The limited immunity is not provided for reviews of nurses or other health professions; second, the jurisdictions of the Federal Trade Commission and the Department of Justice to pursue suits against physician or hospital peer review activities are untouched; and third, civil rights protections for physicians under review are untouched.

The American Medical Association, medical specialty groups, the Federation of State Medical Boards, hospital organizations, and the inspector general of the Department of Health and Human Services all strongly support these carefully drawn immunity provisions, believing them to be essential to effective peer review.

Second, the Health Care Quality Improvement Act creates the centralized, comprehensive data bank we now lack in this Nation to ensure that physicians who are disciplined, who are the repeated subjects of serious malpractice suits, or who lose their licenses for providing substandard care cannot easily relocate and again establish practices. In order to receive immunity for physician review activities, hospitals and other organizations employing or licensing physicians are required to request information from this data bank upon initial employment or granting of staff privileges and periodically thereafter.

With these immunity, reporting, and referral provisions in place, we will no longer be reading with such disturbing frequency of physicians with long histories of incompetence or unprofessional conduct who have continued to cause needless deaths and injuries years after their damaging behavior was noted.

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Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to acknowledge the diligent efforts of the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. WAXMAN] on this very important piece of legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

Mr. Speaker, this is excellent legislation. I commend the chairman of the subcommittee and the gentleman from Illinois [Mr. MADIGAN], the gentleman from Oregon [Mr. WYDEN], and all the others who have made possible the movement of this legislation forward. It is a good piece of legislation. It will not solve all of the problems that beset us, but it will move us strides forward in addressing the problem of medical malpractice and associated difficulties that we face in connection with this matter.

Mr. Speaker, I urge my colleagues to vote for the legislation.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, the bill before us today will create an important first line of defense against malpractice: ridding the profession of bad doctors. As such, it is the first step toward a national malpractice strategy.

Medical malpractice harms all Americans. For consumers, it means higher health care bills and greater risks as doctors practice more defensive medicine, subjecting consumers to more tests and procedures. If you are a patient, this can actually threaten your life.

The malpractice problem doesn't lend itself to "quick fix" solutions. But the medical profession itself is a good place to start the process. Doctors are in the best position to do something about malpractice—because they see it happening around them. Most doctors are honest, hard-working, competent professionals. What's needed are new systems that encourage these doctors to bring cases of incompetence to disciplinary authorities.

We also need a system to keep track of doctors—one to prevent bad doctors from moving from State to State after their misdeeds have been discovered. Our legislation establishes a national data bank for hospitals, HMO's, and group practices to consult before granting privileges to physicians who apply to practice at their facility. The data bank will include information about malpractice claims, loss of hospital clinical privileges, licensing boards' disciplinary actions, and even voluntary resignations from medical staffs. No data bank presently keeps such comprehensive malpractice records. This would prevent incompetent doctors from moving from State to State and continuing to endanger patients' lives.

My bill does both of the things I've mentioned. It encourages physicians' to blow the whistle on malpracticing colleagues by protecting them from individual damage suits that might result from honest, fair peer review. And, it requires that all disciplinary actions be reported to the national clearinghouse, including plea bargains that result in doctors voluntarily leaving practice after disciplinary investigations have begun.

Mr. Speaker, it is too bad that we need this bill. It is unfortunate that physicians don't have the tools to effectively police themselves. And the absence of a reliable malpractice data bank has had regrettable consequences over the years. H.R. 5540 has become a necessity if we are going to take action against malpractice and its consequences.

Doctors participating in peer review face the tremendous risk these days that they will be sued for their actions against a colleague. According to testimony before the Subcommittee on Health and the Environment and the Subcommittee on the Courts and the Constitution, that risk is preventing the peer review participation of good, honest doctors. We must act to remove that risk, so that there is a better chance bad doctors will be weeded out of the system.

Mr. Speaker, testimony before the Health and Environment Subcommittee also indicated that 3 to 5 percent of the doctors in this country account for most of the malpractice. There are 450,000 physicians nationwide; in other words, a moderate calculation indicates there are 18,000 doctors regularly malpracticing.

Even if their colleagues have some evidence of malpracticing doctors' incompetence, there are tremendous barriers to getting a bad doctor out of our health-care system. We must prevent bad doctors from moving from State to State. And, we must insulate their honest, concerned colleagues from malicious suits. I urge all my colleagues to support H.R. 5540 and to bring us a step closer to protecting all Americans from the far-reaching effects of medical malpractice.

Mr. RODINO. Mr. Speaker, while I wholeheartedly applaud the intent behind H.R. 5540, I must state that I have several concerns about this legislation. Despite its laudatory goal of attempting to stimulate more peer review activities, the legislation chooses to do so by granting a sweeping and unnecessary exemption to the antitrust laws. It also runs the risk of not providing physicians subject to peer review adequate procedural safeguards to rebut evidence of incompetence. Perhaps most troubling, there is no mechanism in H.R. 5540 to guarantee that physicians will, in fact, participate in more peer review if the bill is passed. Thus, Congress is faced with the uncertain choice of granting doctors immunity from any damage actions under Federal or State law without predictable assurances that the doctors and hospitals will take the needed steps to weed out incompetent and harmful medical practitioners.

In the short period of the last 2 weeks, the Judiciary Committee conducted two hearings on the legislation on the basis of a sequential referral. As a result of these hearings and discussions with the Energy and Commerce

Committee, certain changes were made to the bill, which address some, but not all, of the substantive concerns that I have with H.R. 5540. I do appreciate Congressman WAXMAN's sincere efforts to reach agreement. The severe time pressure under which we all worked, however, has understandably led to a product which does not clarify all the important issues raised.

For example, still unanswered is precisely why there is a need to grant an antitrust exemption for peer review actions when such activity is already protected under the State action doctrine. Under that doctrine, when States act to displace competition with regulation—as they do in their certification and regulation of hospital health care—the physicians and hospital personnel participating in actions affecting the delivery of such care are immune from antitrust suits. In the Patrick decision, the ninth circuit on September 30, 1986, joined the third and fourth circuits in taking the view that peer review clearly qualifies for the antitrust protection of the State action doctrine. Adding a statutory exemption under the antitrust laws, as H.R. 5540 would, becomes a gratuitous action that sets a dangerous precedent for other applications for special treatment. Moreover, where collective actions by physicians move beyond the bounds of proper peer review to exclude other doctors from practicing at hospitals solely because of anticompetitive considerations, this conduct should not be protected. While the bill attempts to specify those areas of collusive physician behavior that will not receive antitrust protection, no antitrust experts testified at the one hearing by the Health Subcommittee to offer their comments on whether the "carve outs" from the exemption were sufficiently inclusive, and experts who testified at the Judiciary Committee hearing raised concerns with this provision. This is the type of provision that with time might have been drafted with the kind of clarity and precision to satisfy everyone's concerns. Finally, for damage actions challenging peer review, the bill makes a presumption in favor of the hospital and physicians. No sufficient reason has been offered to justify creating a different burden of proof for this type of antitrust action than that which already exists for all other types of plaintiffs' actions.

In the civil rights area, the amended bill which is being considered today goes far in removing the exemption from civil rights actions originally contained in H.R. 5540, as reported. However, the measure may not give doctors sufficient procedural protections to defend their reputations and livelihoods against charges motivated by discriminatory purposes. While the bill now expands the time in which physicians are entitled to notice of peer review actions, it does not mandate access to all medical records and documents that may be used by the peer review committee. Since a physician subject to peer review is, in a real sense, in jeopardy of losing his professional standing, it is essential that he have available all pertinent documents and other written evidence relevant to the proceedings in order to rebut the charges. This is especially important when a presumption of validity attaches to peer review actions, as the bill also provides.

While last minute alterations have ameliorated many of my concerns, and I appreciate the changes made by the gentleman from California, H.R. 5540 contains a number of provisions that would likely benefit from further review.

We all share the important goal of increasing the use of peer review in order to make our health care system safe from incompetent and dangerous medical practice. But this purpose should be achieved with a careful statute that avoids unnecessary harm to our national competition policies and the rights of individuals subject to such review.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RANGEL). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5540, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF AGRICULTURE TO RELEASE REVERSIONARY INTEREST IN CERTAIN LAND IN PUTNAM COUNTY, FL, AND THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN MINERAL INTERESTS IN SUCH LAND

Mr. WHITLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5492) to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida, as amended.

The Clerk read as follows:

H.R. 5492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—The Secretary of Agriculture shall take such actions as are necessary to release the restriction described in subsection (b) if, in consideration of such release, the State of Florida agrees to transfer to the United States a vested future interest, similar to such restriction, in the land described in section 3(b) in any exchange for the property described in section 3(a).

(b) RESTRICTION.—The restriction referred to in subsection (a) is a reversionary interest of the United States in the property described in section 3(a) which—

(1) requires that such property shall be used for public purposes; and

(2) is contained in a deed—

(A) granting such property from the United States to the State Board of Education of Florida,

(B) dated October 19, 1954, and

(C) recorded at page 337 of book 224 of the record of deeds for Putnam County, Florida.

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to the State of Florida all of the undivided mineral interests of the United States in the property described in section 3(a) as soon as practicable after the date of the compliance by the State of Florida with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within ninety days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the property described in section 3(a); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) The State of Florida shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to the State of Florida, including the costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests, or

(ii) $1, in the case of mineral interests in any property determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

SEC. 3. PROPERTY DESCRIBED.

(a) PROPERTY TRANSFERRED TO STATE OF FLORIDA.—The property referred to in sections 1 and 2 is a tract of land comprising approximately 1.1 acres located in Putnam County, Florida, within an area generally described as Government lot 5, section 22, township 12 south, range 26 east, and being more particularly described as follows: Commence at the northeast corner of Government lot 5, section 22, township 12 south, range 26, east; thence north 89 degrees 00 minutes 39 seconds west 1341.87 feet along the north line of said Government lot 5, to the point of beginning: thence south 51 degrees 51 minutes 36 seconds west 343.00 feet along the northerly right-of-way of a county road; thence north 38 degrees 08 minutes 24 seconds west 279.04 feet to the north line of the aforesaid Government lot 5; thence south 89 degrees 00 minutes 39 seconds east 442.17 feet along said north line of Government lot 5, to the point of beginning and to close.

(b) LAND TO BECOME SUBJECT TO VESTED FUTURE INTEREST.—The land referred to in section 1(a), consisting of approximately 1.1 acres in Putnam County, Florida, to be conveyed to the State of Florida to be used exclusively for public purposes is generally described as 1.1 acres of land located in the northeast ¼ of section 22, township 12 South, Range 26 East, Putnam County, Florida and being more particularly described as follows: Begin at the southeast corner of the northeast ¼ of section 22, township 12 south, range 26 east; thence north 01 degrees 10 minutes 43 seconds east 261.15 feet along the east line of the said northeast ¼ to the southerly right-of-way of a county graded road; thence run south 55 degrees 33 minutes 43 seconds west 450.52 feet along said southerly right-of-way to the south line of the aforesaid northeast ¼ of section 22; thence run south 89 degrees 00 minutes 39 seconds 366.24 feet east along the south line of the northeast ¼ to the

point of beginning and to close; containing 1.1 acres, more or less.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEWIS of Florida. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WHITLEY] will be recognized for 20 minutes, and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5492, a bill to release a reversionary interest of the United States in certain land located in Putnam County, FL, and for other purposes.

H.R. 5492 was introduced by Hon. BILL CHAPPELL on September 10, 1986, and was referred to the Committee on Agriculture. The Subcommittee on Forests, Family Farms, and Energy which I Chair, reviewed and amended the bill on October 8 and ordered it reported to the full committee. Subsequently, the Agriculture Committee considered H.R. 5492 and ordered it reported on October 10, with a recommendation for passage of the measure.

H.R. 5492, as amended, would direct the Secretary of Agriculture to release a reversionary interest of the United States in 1.1 acres of land in Putnam County, FL, that is currently owned by the State of Florida. This reversionary interest, which stipulates that the land be returned to the United States if it is no longer used for public purposes, is contained in the deed which granted the land to the State of Florida in accordance with the Bankhead-Jones Farm Tenant Act.

H.R. 5492 would also direct the Secretary of the Interior to convey the mineral rights of the property to the State of Florida for their fair market value or $1, if the mineral rights have no value. As I understand it, the Forest Service has made a preliminary determination that the value of minerals on this tract is minimal.

The State of Florida seeks release of this reversionary interest, as well purchase of any mineral rights associated with the property, in order to provide for an exchange of the tract for another parcel of equal value that is certainly in private ownership. The release is necessary to permit the land to be transferred to private ownership with clear title. The exchange will benefit both the private landowner who seeks to acquire the land for access to other lands in his ownership and the State of Florida, which will acquire a tract of land that is adjacent to a larger parcel currently administered by the University of Florida.

To protect the interests of the United States, H.R. 5492 was amended by the Forests Subcommittee to require the State of Florida to agree to place a similar reversionary restriction on the parcel of land that it will acquire in this land exchange. According to the USDA Forest Service, this represents a reasonable and efficient approach to conveying Bankhead-Jones lands to a third party.

The Congressional Budget Office reports that H.R. 5492 will result in no cost to the Federal Government if enacted.

Mr. Speaker, I do not believe that there is any controversy regarding H.R. 5492 and I recommend its immediate passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5492 introduced by my colleague from Florida [Mr. CHAPPELL] releases a reversionary interest of the United States in 1.1 acres of land located in Putnam County, FL, and conveys the mineral interests of the United States in that land to the State of Florida. The State of Florida will pay all administrative costs for the transfer and will also appropriately reimburse the United States for the mineral interests, should they prove to be of any value.

In return for this release, the State of Florida has agreed to place a similar reversionary restriction on the land which it will acquire in exchange for this 1.1 acres.

This legislation allows Florida to exchange the 1.1 acres with clear title for another tract of land with equal value. The exchange benefits both the private landowner, the State, and the United States.

The Congressional Budget Office says that there will be no cost to the Federal Government for enactment of this legislation.

I would like to recognize and commend the great leadership of my colleague, the gentleman from Florida [Mr. CHAPPELL] for his efforts in bringing H.R. 5492 to the forefront.

There is no opposition to H.R. 5492 on this side of the aisle. We encourage its adoption.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WHITLEY. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY] that the House suspend the rules and pass the bill, H.R. 5492, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RELATING TO CERTAIN TARIFF AND CUSTOMS MATTERS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5686) relating to certain tariff and customs matters, as amended.

The Clerk read as follows:

H.R. 5686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TARIFF PROVISIONS

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, headnote, item, or other provision, the reference shall be considered to be made to a schedule, headnote, item, or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle A—Permanent Changes in Tariff Treatment

SEC. 111. CASEIN.

(a) HUMAN FOOD AND ANIMAL FEED USE.—Subpart D of part 4 of schedule 1 is amended by striking out item 118.45 and inserting the following:

"	Casein, caseinates, and milk protein concentrate for human food and animal feed use:		
118.46	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported	1.3¢ per lb.	5.5¢ per lb.
118.48	Other	0.2¢ per lb.	5.5¢ per lb.".

(b) INDUSTRIAL USE.—Subpart B of part 13 of schedule 4 is amended—

(1) by amending the superior heading to items 493.12, 493.14, and 493.17 to read as follows: "Casein and mixtures in chief value of casein (other than a product described in item 118.46 and 118.48) for use other than in human food or animal feed:";

(2) by striking out the superior heading to items 493.14 and 493.17;

(3) by striking out item 493.14; and

(4) by aligning item 493.17 at the same indentation level as the article description for item 493.12; and

(5) by redesignating item 493.17 as item 493.16.

SEC. 112. SALTED AND DRIED PLUMS.

Subpart B of part 9 of schedule 1 is amended—

(1) by amending the article description for item 149.26 to read as follows: "Dried, salted, or not salted but not otherwise further prepared or preserved"; and

(2) by striking out item 149.28 and inserting the following:

Otherwise prepared or preserved:			
"149.30	Plums, soaked in brine and dried	2¢ per lb.	2¢ per lb.
149.31	Other	17.5% ad val.	35% ad val.".

SEC. 113. GRAPEFRUIT.

Subpart A of part 12 of schedule 1 is amended by—

(1) inserting after item 165.29 the following new items and the superior heading thereto, with the superior heading at the same indentation level as the superior heading "Orange" to items 165.27 and 165.29:

	Grapefruit:		
"165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.	70¢ per gal.
165.34	Other	35¢ per gal.	70¢ per gal.";

and

(2) by redesignating items 165.32 and 165.36 as items 165.37 and 165.38, respectively.

SEC. 114. CARROTED FURSKINS.

Subpart D of part 15 of schedule 1 is amended—

(1) by amending item 186.20—

(A) by striking out "use, and carroted furskins" in the article description and inserting "use", and

(B) by striking out "15% ad val." in column 1 and inserting "Free"; and

(2) by inserting after item 186.20 the following new item:

"186.22	Carroted furskins	15% ad val.	35% ad val.".

SEC. 115. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by inserting before "chiefly" the following: "other than plywood, wood-veneer panels, or cellular panels,".

SEC. 116. WORK GLOVES.

The schedules are amended as follows:

(1) Headnote 5(a) of schedule 3 is amended by striking out "(except subpart A)" and inserting in lieu thereof "(except subparts A and C)".

(2) Headnote 1 of subpart C of part 1 of schedule 7 is amended by inserting immediately after subdivision (c) the following new subdivision:

"(d) gloves—

"(i) without fourchettes; and

"(ii) constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn;

shall be regarded as gloves of textile materials.".

SEC. 117. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

(a) AMENDMENT.—Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 at the same indentation level as the article description for item 338.40:

"338.60	Containing 85% or more by weight of continuous man-made fibers	2¢ per lb. + 17.9% ad val.	81% ad val.
	Other:		
338.70	Weighing not more than 5 oz. per square yard	2¢ per lb. + 17.9% ad val.	81% ad val.
338.80	Other	2¢ per lb. + 17.9% ad val.	81% ad val.".

(b) STAGING.—The rate of duty in column numbered 1 for each of items 338.60, 338.70, and 338.80 (as added by subsection (a)) shall be subject to all staged rate reductions for item 338.50 which were proclaimed by the President before the date on which the amendments made by subsection (a) take effect.

SEC. 118. SILICONE RESINS AND MATERIALS.

(a) AMENDMENT.—Part 4 of schedule 4 is amended—

(1) by amending subpart A—

(A) by striking out "provided for in part 1C" in headnote 1 and inserting ", other than silicones, provided for in part 1", and

(B) by amending headnote 2 to read as follows:

"2. (a) The term 'synthetic plastics materials' in this subpart—

"(i) embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which an antioxidant, color, dispersing agent, emulsifier, extender, filler, pesticide, plasticizer, or stabilizer may have been added; and

"(ii) includes silicones (including fluids, resins, elastomers, and copolymers) whether or not such materials are solid in the finished articles.

"(b) The products referred to in (a) contain as an essential ingredient an organic substance of high molecular weight; and, except as provided in (a)(ii) of this headnote, are capable, at some stage during processing into finished articles, of being molded or shaped by flow and are solid in the finished article. The term includes, but is not limited to, such products derived from esters of acrylic or methacrylic acid; vinyl acetate, vinyl chloride resins, polyvinyl alcohol, acetals, butyral, formal resins, polyvinyl ether and ester resins, and polyvinylidene chloride resins; urea and amino resins; polyethylene, polypropylene, and other polyalkene resins; siloxanes, silicones, and other organo-silicon resins; alkyd, acrylonitrile, allyl, and formaldehyde resins, and cellulosic plastics materials. These synthetic plastics materials may be in solid, semi-solid, or liquid condition such as flakes, powders, pellets, granules, solutions, emulsions, and other basic crude forms not further processed.",

(C) by inserting after item 445.54 the following new item with the article description at the same indentation level as the article description for item 445.54:

"445.55	Silicone resins and materials	3.9% ad val.	3.7% ad val.	25% ad val.",

and

(D) by redesignating item 445.56 as item 445.60; and

(2) by amending headnote 2 to subpart B by adding at the end thereof the following:

"(c) For the purpose of the tariff schedules, the term 'rubber' does not include silicones.".

(b) STAGING.—Effective with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1986, item 445.55 is amended—

(1) by striking out "3.9% ad val." in column 1 and inserting "3.7% ad val."; and

(2) by striking out "3.7% ad val." in the "Special" column.

(c) CONSEQUENTIAL AMENDMENT.—Whenever the rate of duty specified in column 1 for item 445.55 is reduced to the same level as the corresponding rate of duty specified in the column entitled "Special" for such item, or to a lower level, the rate of duty in such "Special" column shall be deleted.

SEC. 119. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCKS.

Part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "motor fuel blending stocks," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stock' (item 475.27) means any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stocks	1.25¢ per gal.	2.5¢ per gal.";

and

(4) by amending 475.30 by striking out "fuel)" and inserting "fuel or motor fuel blending stocks)".

SEC. 120. IRON OR STEEL SLABS.

Headnote 3(c) of subpart B of part 2 of schedule 6 is amended by striking out "and not over 6 inches".

SEC. 121. TELEVISION APPARATUS AND PARTS.

(a) PERMANENT TREATMENT.—The headnotes to part 5 of schedule 6 are amended—

(1) by amending headnote 3 by striking out "assembled," in subparagraph (a) and inserting "assembled in its cabinet,";

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:

"4. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in items 687.35 through 687.44, inclusive, unless they are—

"(i) incorporated into complete television receivers, as defined in headnote 3;

"(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

"(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

"(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.".

(b) TEMPORARY TREATMENT.—Subpart B of part 1 of the Appendix is amended by in-

serting in numerical sequence the following new items:

"912.14	Television picture tubes which would be included in assemblies provided for in item 684.96 but for headnote 4 to part 5, and not provided in item 912.16	11% ad val.	No change	On or before 10/31/87";

and

"912.16	Television picture tubes, color, having a video display diagonal of less than 12 inches and under (provided for in item 687.35, part 5, schedule 6)	Free	No change	On or before 12/31/90".

SEC. 122. LITHOTRIPTERS.

Item 709.15 is amended by inserting "other than extracorporeal shock wave lithotripters," before "and".

SEC. 123. BICYCLE-TYPE AND EXERCISER-TYPE SPEEDOMETERS.

(a) AMENDMENT.—Subpart D of part 2 of schedule 7 is amended by striking out item 711.93 and inserting the following new item with the article description at the same indentation level as the article description for item 711.90:

"711.92	Bicycle-type and exerciser-type speedometers and parts thereof	18.3% ad val.	17% ad val.	110% ad val.".

(b) STAGING.—

(1) the rate of duty in column numbered 1 for item 711.92 (as added by subsection (a)) shall be subject to all staged rate reductions for item 711.93 that were proclaimed by the President before the 15th day after the date of the enactment of this Act.

(2) whenever the rate of duty specified in column numbered 1 for such item 711.92 is reduced to the same level as the corresponding LDDC rate of duty specified in the column entitled "Special" for such item, or to a lower level, the LDDC rate of duty in such "Special" column shall be deleted.

SEC. 124. MARKING OF WATCHES AND WATCH COMPONENTS.

Headnote 4 of subpart E of part 2 of schedule 7 is amended to read as follows:

"4. Special Marking Requirements: Any movement or case provided for in this subpart, whether imported separately or attached to any article provided for in this subpart, shall not be permitted to be entered unless legibly and indelibly marked by cutting, die-sinking, engraving, stamping, or mold-marking (either indented or raised), as specified below:

"(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

"(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) the number of jewels, if any.

"(c) Watch cases shall be marked on the inside or outside of the back case, or, at the option of the manufacturer, bezels shall be marked, to show—

"(i) the name of the country of manufacture; and

"(ii) the name of the manufacturer or purchaser.

If the manufacturer chooses to mark the bezels, it shall be entitled to use an alphanumeric code to designate the name of the country of manufacture and the name of the manufacturer or purchaser, so long as each such code and its referent are not duplicative of any other code and referent and are subject to inspection by the public.

"(d) Clock cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture.".

SEC. 125. IMPORTATION OF FURSKINS.

Headnote 4 to subpart B of part 5 of schedule 1 is repealed.

Subtitle B—Temporary Changes in Tariff Treatment

SEC. 131. COLOR COUPLERS AND COUPLER INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting ", but excluding 6,7-dihydroxy-2-naphthalene sulfonic acid sodium salt provided for in item 403.57," after "schedule 4" and before the parenthesis in item 907.10; and

(2) by striking out "9/30/85" in each of items 907.10 and 907.12 and inserting in lieu thereof "12/31/90".

SEC. 132. POTASSIUM 4-SULFOBENZOATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.26	p-Sulfobenzoic acid, potassium salt (provided for in item 404.28, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 133. 2,2'-OXAMIDOBIS[ETHYL-3 (3,5-DI-TERT-BUTYL-4-HYDROXYPHENYL)PROPIONATE].

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.09	2,2'-Oxamidobis-[ethyl 3-(3,5-di-tert-butyl- 4-hydroxyphenyl) propionate] (provided for in item 405.34, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 134. DICYCLOHEXYLBENZOTHIAZYLSULFENAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.45	Dicyclohexylbenzothiazylsulfenamide (provided for in item 406.39, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 135. 2,4-DICHLORO-5-SULFAMOYLBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.48	2,4-Dichloro-5-sulfamoylbenzoic acid (provided for in item 406.56, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 136. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)PHENYL]ACETAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.11	Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl] acetamide (provided for in item 407.16, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 137. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.24	1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate) (provided for in item 408.19, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 138. DICOFOL.

Item 907.15 of the Appendix is amended to read as follows:

"907.15	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 139. CERTAIN KNITWEAR FABRICATED IN GUAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.45	Sweaters that— (i) do not contain foreign materials in excess of the percentage of total value limitation contained in general headnote 3(a), and (ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin, if entered before the aggregate quantity of sweaters described in (i) and (ii) that is entered during any 12-month period after October 31, 1985 exceeds the duty-free quantity for that period. The duty-free quantity— (I) for the 12-month period ending October 31, 1986 is 161,600 dozen; and (II) for any 12-month period thereafter is an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period	Free		Before 11/1/92".

SEC. 140. 3,7-BIS (DIMETHYLAMINO) PHENAZATHIONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.43	3,7-Bis(dimethylamino)-phenazathionium chloride (methylene blue) (provided for in item 409.74, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 141. 3,5-DINITRO-O-TOLUAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.42	3,5-Dinitro-o-toluamide (provided for in item 411.93, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 142. SECONDARY-BUTYL CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.55	Secondary-butyl chloride (provided for in item 429.47, part 2D, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 143. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"907.83	Nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate (provided for in item 445.48, part 4A, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 144. TUNGSTEN ORE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"910.95	Tungsten ore (provided for in item 601.54, part 1, schedule 6)	Free	No change	On or before 12/31/90".

SEC. 145. CERTAIN STUFFED TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.32	Stuffed toy figures of animate objects (except dolls) not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in item 737.30, Part 5E, Schedule 7)	Free	No change	On or before 12/31/90".

SEC. 146. DUTY FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"915.20	Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury	Free	Free	On or before 9/30/87".

SEC. 147. CARDING AND SPINNING MACHINES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.03	Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in item 670.04, part 4E, schedule 6)	Free	No change	On or before 12/31/90".

(b) PARTS.—The headnote to Subpart E of part 4 of schedule 6 is amended by striking out "item 912.04" each place it appears and inserting in lieu thereof "item 912.03 or 912.04".

SEC. 148. CERTAIN BICYCLE PARTS.

(a) IN GENERAL.—

(1) GENERATOR LIGHTING SETS.—Item 912.05 of the Appendix is amended by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(2) BICYCLE CHAINS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.06	Bicycle chains (provided for in items 652.13 and 652.15, part 3F, schedule 6)	Free	No change	On or before 12/31/90".

(3) OTHER BICYCLE PARTS.—Item 912.10 of the Appendix is amended—

(A) by striking out "multiple free wheel sprockets" and inserting in lieu thereof "free wheel sprockets";

(B) by inserting "front and rear derailleurs, shift levers, cables and casings for derailleurs" immediately after "drum brakes";

(C) by inserting "and" after "frame lugs,";

(D) by striking out ", and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle"; and

(E) by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(b) EXCEPTION TO CUSTOMS EXEMPTION APPLICABLE TO FOREIGN TRADE ZONES.—Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "June 30, 1986" and inserting in lieu thereof "December 31, 1990".

SEC. 149. 1-(3-SULFOPROPYL)PYRIDINIUM HYDROXIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"906.46	1-(3-Sulfopropyl)pyridinium hydroxide (provided for in item 406.42, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 150. d-6-METHOXY-α-METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.39	d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt (provided for in item 412.22, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 151. CERTAIN PESTICIDES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.26	Dinocap (provided for in item 408.16, part 1C, schedule 4)	Free	No change	On or before 12/31/90
907.27	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants (provided for in item 408.36, part 1C, schedule 4)	Free	No change	On or before 12/31/90
907.28	Mixtures of mancozeb and dinocap (provided for in item 408.38, part 1C, schedule 4)	Free	No change	On or before 12/31/90
907.29	Dinocap (provided for in item 408.38, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 152. CHOLESTYRAMINE RESIN USP.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.30	Cross-linked polyvinylbenzyltrimethyl-ammonium chloride (cholestyramine resin USP) (provided for in item 412.70, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 153. 3-AMINO-3-METHYL-1-BUTYNE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.53	3-Amino-3-methyl-1-butyne (provided for in item 425.52, part 2D, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 154. MANEB, ZINEB, MANCOZEB, AND METIRAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.60	Maneb, zineb, mancozeb and metiram (provided for in item 432.15, part 2E, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 155. NICOTINE RESINS.

Item 907.63 is amended—

(1) by amending the article description to read as follows: "Nicotine resin complex put up in measured doses in chewing gum form (provided for in item 438.02, part 3B, schedule 4)"; and

(2) by striking out "12/31/87" and inserting "12/31/90".

SEC. 156. HOSIERY KNITTING NEEDLES.

(a) SINGLE AND DOUBLE-HEADED.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.18	Single and double-headed latch needles used in the manufacture of hosiery (provided for in item 670.58, part 4E, schedule 6)	Free	No charge	On or before 12/31/90".

(b) COMPOUND NEEDLES.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.19	Compound hosiery knitting needles (provided for in item 670.62, part 4E, schedule 6)	Free	No change	On or before 12/31/90".

(c) REPEAL.—Item 912.09 is repealed.

SEC. 157. SILK YARN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.25	Yarns of silk (provided for in item 308.51, part 1D, schedule 3)	Free	No change	On or before 12/31/90".

SEC. 158. 3-ETHYLAMINO-p-CRESOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.34	3-Ethylamino-p-cresol (provided for in item 404.96, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 159. CHLOR AMINO BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.07	4-Chloro-2,5-dimethoxy-aniline (CAS No. 6358-64-1) (provided for in item 405.01, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 160. 2,2-BIS(4-CYANATOPHENYL).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.44	2,2-Bis(4-cyanatophenyl (provided for in item 405.76, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 161. NITRO SULFON B.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.46	3-Nitrophenyl-4-beta-hydroxysulfone (CAS No. 41687-30-3) (provided for in item 406.00, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 162. PHENYLMETHYLAMINOPYRAZOLE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.47	Aminoethylphenylprazole (Phenylmethylaminopyrazole) (provided for in item 406.36, part 1B schedule 4)	Free	No change	On or before 12/31/90".

SEC. 163. TERFENADONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.48	1-(4-(1,1-Dimethylethyl) phenyl-4-(hydroxydiphenyl-methyl-1-piperidinyl)-1-butanone (provided for in item 405.42, part 1B, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 164. FLUAZIFOP-P-BUTYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.49	Butyl 2-[4-(5-trifluoromethyl-2-pyridinyloxy)phenoxy] propanoate (as provided for in item 405.23, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 165. BENZETHONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.52	Benzethonium chloride (provided for in item 408.32, part 1C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 166. MALONONITRILE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.54	Malononitrile (provided for in item 425.42, part 2D, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 167. SETHOXYDIM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.36	Mixtures of 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one (Sethoxydim) and one or more organic solvents (provided for in item 407.19, part 1B, or item 430.20, part 2D of schedule 4)	Free	No change	On or before 12/31/90".

SEC. 168. METALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.55	Metaldehyde (provided for in item 427.58, part 2D, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 169. MIXTURES OF CROSS-LINKED SODIUM POLYACRYLATE POLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.72	Absorbent chemical material of one or more cross-linked sodium polyacrylate polymers (provided for in item 430.20, part 2D, schedule 4)	Free	No change	On or before 10/31/87".

SEC. 170. CYCLOSPORINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.78	Cyclosporine (provided for in item 439.30, part 3C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 171. PARALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.57	Paraldehyde (provided for in item 439.50, part 3C, schedule 4)	Free	No change	On or before 12/31/90".

SEC. 172. GLASS INNERS FOR VACUUM FLASKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"909.35	Glass inners designed for vacuum flasks or for other vacuum vessels (however provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5)	12.4% ad val.	9% ad val. (D)	55% ad val.	On or before 12/31/90".

SEC. 173. CERTAIN OFFSET PRINTING PRESSES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"911.93	Offset printing presses of the sheet-fed type weighing 3,500 pounds or more (provided for in item 668.21, part 4D, schedule 6)		No change	10% ad val.	On or before 12/31/90".

SEC. 174. JACQUARD CARDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.46	Jacquard cards (provided for in item 670.56, part 4E, schedule 6)	Free	No change	On or before 12/31/90".

SEC. 175. PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.18	Parts of indirect process electrostatic copying machines, which machines reproduce the original image onto the copy material by electrostatic transference to and from an intermediate (provided for in item 676.56, part 4G, schedule 6)	Free	No change	On or before 12/31/90".

SEC. 176. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.14	Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.15 or 709.17, part 2, schedule 7)	Free	No change	On or before 12/31/86".

SEC. 177. EXTENSION OF CERTAIN EXISTING SUSPENSIONS.

Each of the following items is amended by striking out the date in the effective date column and inserting "12/31/90":

(1) Item 903.60 (relating to mixtures of mashed or macerated hot red peppers and salt).

(2) Item 903.65 (relating to cantaloupes).

(3) Items 905.10 and 905.11 (relating to certain wools).

(4) Items 906.10 and 906.12 (relating to needlecraft display models).

(5) Item 907.01 (relating to triphenyl phosphate).

(6) Item 907.13 (relating to menthol feedstocks).

(7) Item 907.14 (relating to isometric mixtures of ethylbiphenyl).

(8) Item 907.17 (relating to sulfapyridine).

(9) Item 911.25 (relating to synthetic rutile).

(10) Item 911.95 (relating to certain clock radios).

(11) Item 912.07 (relating to machines designed for heat-set, stretchtexturing of continuous man-made fibers).

(12) Item 912.08 (relating to hosiery knitting machines).

(13) Item 912.20 (relating to certain small toys).

(14) Items 912.30, 912.34, and 912.36 (relating to stuffed dolls, certain toy figures, and skins thereof).

(15) Items 903.70 and 903.80 (relating to crude feathers and down).

SUBTITLE C—EFFECTIVE DATES

SEC. 181. EFFECTIVE DATES.

(a) IN GENERAL.—(1) Except as provided in paragraphs (2) through (5) and in subsection (b), the amendments made by subtitles A and B shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

(2) Section 124 applies to articles entered on or after the 30th day after the date of the enactment of this Act.

(3) Section 139 applies to articles entered after October 31, 1985.

(4) The amendment made by section 177(10) applies to articles entered after December 31, 1986.

(5) The amendments made by sections 155(2) and 177(15) apply to articles entered after December 31, 1987.

(b) RETROACTIVE APPLICATION.—(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by sections 114, 122, 131, 138, 146, 148(a) (1) and (3), 155, 156(a), and 176 and by paragraphs (1) through (5), (7), (8), (11), (12), and (14) of section 177 to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of section 155, November 14, 1984;

(ii) in the case of section 177(2), May 15, 1985;

(iii) in the case of sections 156(a) and 177 (1), (3), (4), and (7), June 30, 1985;

(iv) in the case of sections 131, 138, and 177 (5) and (12), September 30, 1985;

(v) in the case of sections 114 and 177 (8), (11), and (14), December 31, 1985;

(vi) in the case of section 146, May 31, 1986;

(vii) in the case of sections 122 and 176, July 31, 1985; and

(viii) in the case of section 148(a) (1) and (3), June 30, 1986.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. GSP TREATMENT OF WATCHES.

Section 503(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(B)) is amended to read as follows:

"(B) watches, except those watches the United States Trade Representative specifically determines, after public notice and comment, will not cause material injury to watch manufacturing and assembly operations in the United States or the United States insular possessions,".

SEC. 202. MARKING OF CONTAINERS OF IMPORTED MUSHROOMS.

Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

SEC. 203. CUSTOMS BOND CANCELLATION STANDARDS.

Section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) is amended by adding at the end thereof the following new sentence: "In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.".

SEC. 204. RELIEF OF THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII.

The Secretary of the Treasury is authorized and directed to admit free of duty the following articles for the use of the California Association for Research in Astronomy in the construction of the optical telescope for the W.M. Keck Observatory Project, Mauna Kea, Hawaii:

(1) The telescope structure.

(2) The observatory domes, produced by Brittain Steel, Ltd., of Vancouver, British Columbia, Canada.

(3) The primary mirror blanks, produced by the Schott Glassworks, Frankfurt, Federal Republic of Germany.

If the liquidation of the entry of any such article has become final, the entry shall be reliquidated and the appropriate refund of duty made.

SEC. 205. RELIEF OF RUKERT MARINE CORPORATION OF BALTIMORE, MARYLAND.

(a) RELIQUIDATION AND REFUND.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated without liability of the importer of record for antidumping duties; and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made.

(b) ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	Date of Entry
144549	March 26, 1976
150297	April 27, 1976
152729	May 11, 1976
156068	May 26, 1976
161653	June 23, 1976
168759	July 30, 1976
173393	August 25, 1976
175173	September 3, 1976
178811	September 23, 1976
108842	November 18, 1976
113000	December 9, 1976
115229	December 21, 1976
120070	January 17, 1977
120908	January 20, 1977
121403	January 24, 1977
130005	March 10, 1977.

SEC. 206. RELIEF OF MINEMET, INC., NEW YORK.

Notwithstanding any provision of the Tariff Act of 1930 or any other provision of the law to the contrary, the Secretary of the Treasury shall reliquidate, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States, as in effect at the time of entry, the entries numbered 00329493 (dated March 16, 1979), 00329494 (dated March 13, 1979), 00329495 (dated March 28, 1979), and 00330003 (dated March 21, 1979), made at New York, New York, and covering tubular tin products, if a certificate of actual use (remelt certificate) for the articles covered by the four entries is submitted to the United States Customs Service at the port of entry within 120 days from the date of enactment of this Act.

SEC. 207. ENFORCEMENT OF THE RESTRICTIONS AGAINST IMPORTED PORNOGRAPHY.

Section 305 of the Tariff Act of 1930 is amended as follows:

(1) The second paragraph of subsection (a) is designated as subsection (b) and the following side heading, appropriately indented, is inserted before "Upon" at the beginning of the paragraph: "(b) ENFORCEMENT PROCEDURES.—".

(2) The second sentence of subsection (b) (as redesignated by paragraph (1)) is amended to read as follows: "Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

"(1) the office at which such seizure took place; or

"(2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.".

(3) The following new subsections are added at the end thereof:

"(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

"(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.".

SEC. 208. EXTENSION OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1980.

Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1986" and inserting in lieu thereof "October 1, 1989".

SEC. 209. DRAWBACK REGARDING CERTAIN IMPORTATIONS OF RAW CANE SUGAR.

(a) IN GENERAL.—For purposes of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313), if the exported article is, or is manufactured or produced from, refined cane sugar drawback shall be allowed with respect to imported raw cane sugar that is entered, or withdrawn from warehouse, for consumption after October 31, 1977, and before April 1, 1985—

(1) without regard to the 3-year limitation on manufacture or production provided in subsection (b) of such section, and

(2) without regard to the 5-year limitation on exportation provided in subsection (i) of such section, if exportation occurs prior to October 1, 1991.

(b) REPORT.—The Secretary of Agriculture, in conjunction with the Commissioner of Customs, shall study and report back to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by February 1, 1987, with respect to circumvention of the United States sugar quota through the importation of refined sugar in the form of blended products. The report shall address the severity of the problem, or lack thereof, and suggest concrete steps, as necessary, to prevent such circumvention.

SEC. 210. PROTECTION UNDER THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in

addition to any other provision of law, as provided in this section:

"(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, consignee, or agent of either, the threat or effect of which is—

"(i) to destroy or substantially injure an industry, in the United States;

"(ii) to impair or prevent the establishment of such an industry; or

"(iii) to restrain or monopolize trade and commerce in the United States.

"(B) The unauthorized importation into the United States, or the unauthorized sale within the United States after importation, of articles that—

"(i) infringe a valid and enforceable United States patent or a valid United States copyright registered under title 17, United States Code; or

"(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

"(C) The importation into the United States, or the sale within the United States after importation, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946, if the manufacture or production of the article was unauthorized.

"(D) The importation of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

"(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles, patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

"(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles, patent, copyright, trademark, or mask work concerned—

"(A) significant investment in plant and equipment;

"(B) significant employment of labor or capital; or

"(C) substantial investment in its exploitation, including engineering, research and development, or licensing.".

(2) Subsection (c) is amended by inserting before the period in the first sentence the following: ", except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination".

(3) Subsection (e) is amended—

(A) by striking out "If" in the first sentence and inserting "(1) If"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the petitioner to post a bond as a prerequisite to the issuance of an order under this subsection.

"(3) The Commission may grant preliminary relief under this subsection or subsection (f) with respect to a violation involving a registered trademark, copyright, or mask work or a patent, to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.".

(4) Subsection (f) is amended—

(A) by striking out "In lieu of" in paragraph (1) and inserting "In addition to, or in lieu of,"; and

(B) by striking out "$10,000" in paragraph (2) and inserting "$100,000".

(5) Such section is further amended—

(A) by striking out "President" each place it appears in subsection (g) and inserting "United States Trade Representative";

(B) by redesignating subsections (g), (h), (i), and (j) as subsections (i), (j), (k), and (l), respectively; and

(C) by inserting after subsection (f) the following new subsection:

"(g)(1) If—

"(A) a complaint is filed against a person under this section;

"(B) the complaint and a notice of investigation are served on the person;

"(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

"(D) the person fails to show good cause why the person should not be found in default; and

"(E) the person seeks relief affecting solely that person,

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, which affects only that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

"(2) A general exclusion from entry of the articles concerned, regardless of the source or importer of the article, may be issued if—

"(A) no person appeared to contest an investigation concerning a violation of the provisions of this section, and

"(B) such a violation is established by substantial, reliable, and probative evidence.

"(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.".

(6) Subsection (j) (as redesignated by paragraph (4)(A) of this section) is amended—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2) If any person who has previously been found by the Commission, on the basis of a contested proceeding, to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), or (g)—

"(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

"(B) relief may be granted by the Commission with respect to such petition—

"(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

"(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.".

(7) Subsection (k) (as redesignated by paragraph (4)(A) of this section) is amended—

(A) by striking out "claims of United States letters patent" in the first sentence and inserting "proceeding under subsection (a)(1) (B), (C), or (D)"

(B) by striking out "a patent owner" in the second sentence and inserting "an owner of the patent, copyright, trademark, or mask work".

(8) Such section is further amended by adding at the end the following:

"(m)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is designated as confidential by the person submitting it may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

"(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

"(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted, or

"(B) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.".

(b) TECHNICAL AMENDMENTS.—Section 337 (as amended by subsection (a)), is further amended—

(1) by amending subsection (c)—

(A) by striking out "(d) or (e)" and inserting "(d), (e), or (f)",

(B) by striking out "or (f)" and inserting "(f), or (g)", and

(C) by striking out "and (f)" and inserting "(f), and (g)";

(2) by striking out "or (f)" each place it appears in subsection (i) and inserting "(f), or (g)";

(3) by striking out "(g)" in subsection (j) and inserting "(i)"; and

(4) by striking out "or (f)" in subsection (k) and inserting "(f), or (g)".

(c) CONFORMING AMENDMENT.—The Act entitled "An Act to limit the importation of products made, produced, processed, or mined under process covered by unexpired valid United States patents, and for other purposes", approved July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a) is repealed.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this chapter shall apply with respect to findings made by the United States International Trade Commission under section 337 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

(2) INVESTIGATIONS.—In the case of any investigation under section 337 of the Tariff Act of 1930 which must be completed by the International Trade Commission within 6 months after the date of the enactment of this Act, the Commission may, upon determining and declaring that the investigation is complicated, take up to an additional 3 months beyond the original statutory deadline to complete the investigation.

SEC. 211. ELIMINATION OF TARIFFS ON CERTAIN CANADIAN PRODUCTS.

(a) IN GENERAL.—Chapter 2 of title I of the Trade Act of 1974 is amended by inserting at the end thereof the following new section:

"SEC. 129. ELIMINATION OF TARIFFS ON CERTAIN CANADIAN PRODUCTS.

"(a) In order to facilitate negotiations with respect to a trade agreement with the Government of Canada authorized pursuant to subsection (b)(4) of section 102, the President may, subject to the provisions of subsections (b), (c), and (d) of this section—

"(1) enter into tariff agreements relating to the items listed in this section; and

"(2) may proclaim the modification or elimination of any existing duty on these items as he deems appropriate.

"(b) The President shall exercise his authority under this section only with respect to articles provided for in the following items of the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Frozen cranberries (provided for in item 146.71).

"(2) Dialysis cyclers (provided for in item 709.17).

"(3) Packaging goods for tea (described in headnote 2 to subpart A of part 11 of schedule 1).

"(4) Dried fababeans (provided for in items 140.11 and 140.16).

"(5) Cat litter (provided for in items 256.90 and 512.24).

"(6) Mechanics tool boxes (provided for in item 706.62).

"(7) Medical tubing (provided for in item 772.65).

"(8) Synthetic fireplace materials (provided for in item 792.32).

"(9) Spirits (provided for in items 169.21 and 169.22).

"(10) Miners safety lamps, components, and battery chargers (provided for in items 683.80 and 682.60).

"(11) Computerized paper cutter control retrofit units (provided for in items 685.90 and 676.15).

"(c) The President shall exercise his authority to proclaim changes in existing duties under this section only to the extent that tariff concessions of approximately equivalent value are granted by the Government of Canada in exchange for reductions authorized under this section.

"(d) The President may exercise the authority granted under this section only during the 5-year period beginning on the date of the enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents of chapter 2 of such title I is amended by adding at the end thereof the following:

"Sec. 129. Elimination of tariffs on certain Canadian products.".

SEC. 212. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN, AIRPORT.

(a) IN GENERAL.—Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended—

(1) by striking out "and" at the end of subsection (a)(1);

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3); and

(3) by inserting after paragraph (1) of subsection (a) the following new paragraph:

"(2) the airport located at Pontiac/Oakland, Michigan, and"; and

(4) by striking out "20" in subsection (c).

(b) EFFECTIVE DATE.—Subsection (a) takes effect January 1, 1987.

TITLE III—IMPLEMENTATION OF NAIROBI PROTOCOL

Subtitle A—Short Title, Purpose, Reference, and Effective Date

SEC. 301. SHORT TITLE.

This title may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1986".

SEC. 302. PURPOSE.

The purpose of this title is—

(1) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereinafter referred to in this Act as the "Nairobi Protocol") to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; commonly known as the "Florence Agreement");

(2) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 96 Stat. 2346-2349; hereinafter referred to in this title as the "1982 Act"), the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-65, 80 Stat. 897 et seq.), and Public Law 89-634 (80 Stat. 879); and

(3) to continue the safeguard provisions concerning certain imported articles provided for in the 1982 Act.

SEC. 303. REFERENCE.

Whenever an amendment or repeal in this title is expressed in terms of an amendment to, or repeal of, an item, headnote, or other provision, the reference shall be considered to be made to an item, headnote, or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202; hereinafter in this title referred to as the "TSUS").

SEC. 304. EFFECTIVE DATE.

This title takes effect on, and the amendments to the TSUS made by it apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the latest of—

(1) the 15th day after the date of the enactment of this Act; or

(2) the 15th day after the deposit of the United States ratification of the Nairobi Protocol.

SEC. 305. RETROACTIVE APPLICATION.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the effective date of this title, in the application of the relevant provisions of this title to the entry of any article—

(1) which was made on or after August 12, 1985, and before the effective date of this title; and

(2) with respect to which there would have been no duty if the relevant provisions of this title applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on or after the effective date of this title.

Subtitle B—Amendments to Implement the Nairobi Protocol

SEC. 311. REPEAL OF 1982 ACT.

The 1982 Act is repealed.

SEC. 312. TREATMENT OF PRINTED MATTER AND CERTAIN OTHER ARTICLES.

(a) Items 270.45 and 270.50 are redesignated as 270.46 and 270.48, respectively.

(b) Part 5 of schedule 2 is amended as follows:

(1) The following new item is inserted in numerical sequence:

"270.90	Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character	Free	Free".

(2) Items 273.45 through 273.55 and the superior heading thereto are stricken and the following new item is inserted in lieu thereof:

"273.52	Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions	Free	Free".

(3)(A) The superior heading to items 274.50 through 274.70, inclusive, is amended by inserting "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)" after "Photographs".

(B) The following new items are inserted in numerical sequence under the superior heading "Printed not over 20 years at time of importation:", and before and at the same hierarchical level as "Lithographs on paper:":

"274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books	Free	Free
274.56	Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media	Free	Free".

(C) Item 735.20 is stricken out and the following new items and superior heading thereto are inserted in lieu thereof:

	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for:		
"735.21	Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media	Free	Free
735.24	Other	5.52% ad val.	40% ad val.".

(D) Item 737.52 is amended by inserting "(whether or not in the form of microfilm, microfiches, or similar film media)" after "Toy books".

(E) Item 830.00 is amended by inserting "; official government publications in the form of microfilm, microfiches, or similar film media" at the end of the article description thereof.

(F) Item 840.00 is amended by inserting ", whether or not in the form of microfilm, microfiches, or similar film media" after "documents".

SEC. 313. VISUAL AND AUDITORY MATERIAL.

(a) Headnote 1 of part 7 of schedule 8 is amended to read as follows:

"1. (a) No article shall be exempted from duty under item 870.30 unless either:

"(i) a Federal agency or agencies designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

"(ii) such article—

"(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

"(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is or may be profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of

similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

"(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.".

(b) Item 870.30 is amended by inserting "(except toy models)", and by striking out "headnote 1" and inserting in lieu thereof "headnote 1(a)" after "models".

(c) The following new items and superior heading are inserted in numerical sequence in part 7 of schedule 8:

	Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:		
"870.32	Holograms for laser projection; microfilm, microfiches, and similar articles	Free	Free
870.33	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed	Free	Free
870.34	Sound recordings, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles	Free	Free
870.35	Patterns and wall charts; globes; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	Free	Free".

SEC. 314. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.

Part 4 of schedule 8 is amended by adding in numerical sequence the following new item:

"851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60	Free	Free".

SEC. 315. ARTICLES FOR THE BLIND AND FOR OTHER HANDICAPPED PERSONS.

(a) Items 825.00, 826.10, and 826.20 are repealed.

(b) Part 7 of schedule 8 is amended—

(1) by adding the following new headnote after headnote 2:

"3. For the purposes of items 870.65, 870.66, and 870.67—

"(a) The term 'blind or other physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) These items do not cover—

"(i) articles for acute or transient disability;

"(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

"(iii) therapeutic and diagnostic articles; or

"(iv) medicine or drugs."; and

(2) by inserting, in numerical sequence, the following new items:

	Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons: Articles for the blind:		
"870.65	Books, music, and pamphlets, in raised print, used exclusively by or for them	Free	Free
870.66	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively	Free	Free
870.67	Other	Free	Free".

Subtitle C—Authority to Modify Certain Duty-Free Treatment Accorded Under This Subtitle

SEC. 321. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT.

(a) AUTHORITY TO LIMIT.—

(1) The President may proclaim changes in the TSUS to narrow the scope of, place conditions upon, or otherwise eliminate the duty-free treatment accorded under sections 314 and 315 with respect to any type of article the duty-free treatment of which has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and provided the effect of such change is not inconsistent with the provisions of the relevant annexes of the Florence Agreement or the Nairobi Protocol.

(2) If the President proclaims changes to the TSUS under paragraph (1), the rate of duty thereafter applicable to any article which is—

(A) affected by such action, and

(B) imported from any source,

shall be the rate determined and proclaimed by the President as the rate which would then be applicable to such article from such source if this title had not been enacted.

(b) RESTORATION OF TREATMENT.—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored, in whole or in part, without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the TSUS to resume such duty-free treatment.

(c) OPPORTUNITY TO PRESENT VIEWS.—Before taking an action under subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

(d) CONTINUATION OF PROCEEDINGS UNDER 1982 ACT.—Any action in effect or any proceeding in progress under section 166 of the 1982 Act on the day that Act is repealed shall be considered as an action or proceeding, and shall be continued or resumed, under this section.

SEC. 322. AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER SECTION 312.

(a) EXPANSION OF DUTY-FREE TREATMENT.—If the President determines such action to be in the interest of the United States, he may proclaim changes to the TSUS in order to remove or modify any condition or restriction imposed under headnote 1 of part 7 of schedule 8 (as amended by section 313 of this Act), on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i) of part 7 of schedule 8), in order to implement the provisions of annex C-1 of the Nairobi Protocol.

(b) EFFECTIVE DATE OF CHANGES.—Any change to the TSUS proclaimed under subsection (a) shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date on which the President proclaims such change.

SEC. 323. CHANGES TO TSUS TO IMPLEMENT FLORENCE AGREEMENT PROVISION.

(a) AMENDMENT OF ITEM 851.60.—Item 851.60 is amended by striking out "Instruments" and inserting in lieu thereof "Scientific instruments".

(b) HEADNOTE CHANGE.—Headnote 6 of part 4 of schedule 8 is amended—

(1) by amending subdivisions (a) and (b) to read as follows:

"6. (a) For purposes of item 851.60—

"(i) the term 'scientific instruments and apparatus' means scientific instruments and apparatus for deriving information from, or generating data necessary to, scientific experimentation by means of sensing, analyzing, measuring, classifying, recording, or similar operations; and

"(ii) the term 'scientific' means pertaining to the physical or life sciences and, under certain circumstances, to applied sciences. Such instruments and apparatus do not include materials or supplies, or ordinary equipment for use in building construction or maintenance or in supporting activities (such as administration or operating residential or dining facilities) of the institution seeking their entry under this item.

"(b) An institution desiring to enter an article under this item shall make an application therefor to the Secretary of Commerce, including therein (in addition to such other information as may be prescribed by regulation) a description of the article, the purposes for which the instrument or apparatus is intended to be used, the basis for the institution's belief that no instrument or apparatus of equivalent scientific value for such purposes is being manufactured in the United States (as to which the applicant shall have the burden of proof), and a statement that the institution either has already placed a bona fide order for such instrument or apparatus or has a firm intention to place an order therefor on or before the final day specified in paragraph (d) of this headnote. If the Secretary finds that the application is in accordance with pertinent regulations, he shall promptly forward copies thereof to the Secretary of Health and Human Services. If, at any time while its application is under consideration by the Secretary of Commerce or on appeal from a finding by him before the United States Court of Appeals for the Federal Circuit, the institution cancels an order for the instrument or apparatus covered by its application, or if it no longer has a firm intention to order such article, it shall promptly so notify the Secretary of Commerce or the Court, as the case may be.";

(2) by amending subdivision (c) by—

(A) striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(B) by striking out, in the third sentence, "the Secretary of the Treasury and", and by striking out, in the last sentence, "the Treasury" and inserting in lieu thereof "Commerce";

(3) Subdivision (e) is amended by striking out "Court of Customs and Patent Appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit"; and

(4) Subdivision (f) is amended to read as follows:

"(f) The Secretary of Commerce may prescribe regulations to carry out his functions under this headnote.".

SEC. 324. STATISTICAL INFORMATION.

In order to implement effectively the provisions of section 321, the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by section 315 apply, in such detail and for such period as the Secretaries consider necessary.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5686 is a miscellaneous tariff bill which provides for a number of noncontroversial, housecleaning amendments to the Tariff Schedules of the United States. These items are not major policy questions, they are merely the routine and mundane adjustments in the Tariff Code sought by U.S. companies who must import certain items, or who face a problem with an improper customs classification. Most of these noncontroversial tariff items were originally included as part of the omnibus trade bill passed by this body on May 22. Unfortunately, the other body has taken no action on trade legislation this year. The trade reform so desperately needed by American industry and workers in order to promote U.S. competitiveness will die in the U.S. Senate. I know many Members are disappointed by this state of affairs. I share their displeasure.

Having said this, I do believe it is incumbent upon us to try to salvage some of the minor, technical changes in the tariff schedules sought by so many of our colleagues. A close look at this bill will indicate its merit and its lack of offensiveness. We are ensuring that athletes attending the Pan American games in Indianapolis can bring their equipment into the United States free of duty. We are continuing the duty suspension on certain types of textile machinery so that the U.S. textile industry can compete more effectively. We are banning imports of certain types of pornographic literature. We are ensuring that certain scientific equipment, and products for the blind and handicapped, can continue to receive favorable tariff treatment.

Many of these provisions are vital to U.S. companies: firms such as General Foods, Xerox, Corning Glass, and Zenith. In many cases we are seeking to extend duty suspensions which have expired in this Congress because of the absence of any tariff legislation. Yet none of these bills will cause serious harm to U.S. companies or workers. On the contrary, they are essential to the competitiveness of U.S. industries all over this country. Literally dozens of my colleagues have sponsored items contained in this bill. We have strived to make it a balanced and reasonable package that helps many and harms no one.

But let me assure my colleagues that passage of this bill has no bearing on the bigger and more fundamental question of trade policy reform. Next year, we need to return to this Chamber and once again pass a tough, effective trade bill. I intend to cooperate in that effort.

I urge my colleagues to support this miscellaneous tariff package.

BACKGROUND INFORMATION ON H.R. 5686

The Committee on Ways and Means has examined each of these issues carefully, soliciting comments from the Administration, the International Trade Commission, and the private sector. This information has provided the basis for consideration of the individual provisions contained in H.R. 5686. In addition, the Ways and Means Subcommittee on Trade held hearings on the major issues earlier this Congress.

Each provision in H.R. 5686 is explained below in order to provide a legislative history of this bill.

SECTION 111. CASEIN

(An amendment offered by Mr. Dorgan)

The proposed legislation would change the present tariff treatment of imported casein, in terms of both its classification and the applicable rates of duty. Imported casein is currently classified in schedule 4 of the Tariff Schedules of the United States (TSUS) covering chemicals and related products. This provision would reclassify the product under a provision in schedule 1, which covers agricultural products. As a result of this reclassification, the column 1 or most-favored-nation rate of duty applicable to imported casein would be 0.2 cent per pound duty rather than the current duty rate of "free". The amendment would broaden the product coverage of TSUS item 118.45 by amending the article description to include casein.

The Committee believes that casein is more appropriately classified as a dairy product in schedule 1, rather than a chemical product in schedule 4, because that is how it is predominantly used.

Casein, the principal protein fraction of milk, is manufactured by a precipitation process similar to that used in making cheese. Casein is produced in two major grades—food quality and industrial grade. The difference is primarily the absence of pathogenic organisms in the milk used, the level of sanitation standards maintained in the processing plant, and the amount of heat used in sterilizing the casein product. Industrial grade casein, made under lower sanitary standards, is less expensive than food grade; it may originate in countries where rinderpest, hoof-and-mouth disease, brucellosis, and/or tuberculosis are uncontrolled. The presence of these diseases in uncontrolled form in any country disqualifies its dairy products from food or feed uses in the United States.

Casein is utilized in two main areas—food, feed, and pharmaceutical uses (approximately 80 percent) and industrial applications (approximately 20 percent). In food, casein is an ingredient in synthetic cheese (primarily in frozen pizzas for home consumption), coffee whiteners, frozen desserts and whipped toppings, bakery products, and diet foods. The principal feed use is in calf-weaning supplements. Casein is also used in special infant formulas for lactose-intolerant children, as well as in some other medical, nutritional, and pharmaceutical applications. While insignificant in terms of the quantity used therein, the casein used in these products is critical to the health of persons requiring them and no known practical substitute for casein exists. Industrial uses are in glues, paper and textile coatings, and binders. Industrial usage of casein is declining as other products provide superior price or performance characteristics, while the quantity used in artificial cheese has grown rapidly.

U.S. dairy farmers, seeking additional markets for milk, have long focused on imported casein. Proposals to limit or impose a duty on casein have been introduced in every recent session of Congress.

In December 1979 the Commission submitted to the Committee on Ways and Means its report entitled Casein and its Impact on the Domestic Dairy Industry (investigation No. 332-105, USITC Publication 1025).

Pursuant to request, the Commission conducted an investigation (No. 22-44) of the effect of casein imports on the domestic dairy price support program. It reported to the President on January 29, 1982, (USITC Publications 1217) that imports of casein do not have a deleterious effect on the operation of the dairy price support program.

Casein is provided for eo nomine in TSUS item 493.12, under the superior heading "Casein and mixtures in chief value thereof (other than a product described in item 118.45); item 118.45 covers milk protein concentrates. Imported casein enters the United States free of duty from all countries; accordingly, preferential tariff programs are inapplicable.

As indicated above, the column 1 rate of duty under TSUS item 118.45 (to which casein would be added) is 0.2 cent per pound. The column 2 duty rate is 5.5 cents per pound. In addition, imports from Israel enter the United States free of duty under the United States-Israel Free Trade Area Agreement; products of beneficiary countries under the Generalized System of Preferences (GSP) and the Caribbean Basin Economic Recovery Act (CBERA) also enter free of duty.

There is no known domestic commercial production of casein.

Importers include subsidiaries and affiliates of the Irish and New Zealand Dairy Boards (the principal exporters to the United States), U.S. dairy processing companies, and major industrial users of casein, as well as distributors.

There were no exports of casein from the United States in 1984.

Casein imports are presently free of duty. If this bill were enacted, casein would be subject to a 0.2 cent per pound duty under column 1 and a 5.5 cents per pound duty under column 2. In 1984, this would have resulted in an increase in customs revenues of approximately $310,000 for column 1 im-

ports and $275,000 for column 2 (Polish) imports, or a total of $585,000.

SECTION 112. SALTED AND DRIED PLUMS

(Originally introduced as H.R. 2278 by Mr. Heftel)

Section 112 creates a new tariff classification for plums, soaked in brine and dried with a column 1 and column 2 rate of 2 cents per pound. These plums are currently classified with other prepared or preserved plums, prunes and prunelles with a column 1 rate of 17.4 percent ad valorem and a column 2 rate of 35 percent ad valorem.

Plums are the fruit of a perennial, flowering tree grown in temperate climates throughout the world; in the United States, more than 2,000 varieties of plums, consisting of about a dozen species, have been grown. Most of the important varieties grown commercially are of 2 species; European plums, best suited for drying, and Japanese plums, marketed chiefly as fresh fruit.

Canned plums are generally used as an appetizer, a side dish or a dessert fruit, while frozen plums are used in the manufacture of preserves and baked goods. Plums and prunes in brine are primarily oriental specialty foods.

According to the sponsor, the proposal is intended to grant a lower duty rate to plums which are first heavily salted by soaking in brine, then dried, and which have a limited market as an oriental delicacy. Because they were first salted, these plums are not classified as "dried" by the Customs Service; however, the sponsor argues that the rate of duty on dried plums is appropriately applied to this product because it is in essence dried, rather than canned or frozen. He also cites the lack of domestic production of this specialty fruit.

Imported prepared or preserved plums, prunes and prunelles (including plums soaked in brine and then dried) are currently classified in TSUS item 149.28 with a column 1 rate of duty of 17.5 percent ad valorem and a column 2 rate of 35 percent ad valorem. Imported plums are not eligible for GSP but are eligible for CBERA.

According to industry sources, there is no known domestic production of plums that are soaked in brine and dried. Total U.S. production of prepared or preserved (that is, canned and frozen) plums and prunes declined irregularly from an estimated 53.7 million pounds in 1980 to 38.2 million pounds in 1984.

Plums and prunes are produced commercially in nearly every state, with 91 percent of the crop harvested in California in recent years. According to the Census of Agriculture, plums and prunes were produced on 140,000 acres on 11,200 farms in 1982, compared with 136,000 acres on 13,100 farms in 1978. In 1982, 3,700 farms in California accounted for 122,400 acres of production. Most of the producers raise other crops in addition to plums.

During 1980–84, total U.S. imports of otherwise prepared or preserved plums rose irregularly from 1.8 million pounds, valued at $2.5 million, in 1980 to 2.5 million pounds, valued at $3.2 million, in 1984. Data are not separately reported for the plums covered by the proposed legislation; however, such imports are believed to be very small. Hong Kong was the leading source of imported prepared or preserved plums in 1984; Taiwan and China were also sources of supply.

U.S. exports of prepared or preserved plums are not separately reported; however, such exports in recent years are believed to be negligible or nil.

During 1980–1984, apparent U.S. consumption of prepared or preserved plums declined irregularly, averaging 41.8 million pounds annually; in 1984, consumption amounted to 40.7 million pounds. The ratio of imports to consumption averaged 5 percent annually throughout the period.

Enactment of this legislation would likely have little effect on revenue as imports of plums soaked in brine and then dried are believed to have been minimal.

SECTION 113 GRAPEFRUIT

(Originally introduced as H.R. 2362 by Mr. MacKay)

Section 113 would add two new items to the TSUS to provide tariff treatment for imports of grapefruit juice comparable to that provided for orange juice in legislation that became effective January 1, 1985.

Currently, not concentrated grapefruit juice is dutiable at a column 1 duty rate of 20 cents per gallon, and concentrated grapefruit juice is dutiable at a column 1 rate of 35 cents per gallon. The rate for not concentrated juice applies to both natural (fresh) juice and to juice produced from concentrated juice (reconstituted). The effect of this legislation would be to make the rate of duty applicable to not concentrated grapefruit juice (20 cents per gallon) apply only to natural unconcentrated grapefruit juice and not to reconstituted grapefruit juice. Currently, foreign grapefruit juice concentrate can be exported to a third country, reconstituted, and then entered into the United States as a not concentrated citrus juice at the lower rate of duty.

The grapefruit juice covered by this bill may not be mixed with other fruit juices, but may be sweetened or unsweetened, not concentrated (single-strength) or concentrated, and may not contain over 1 percent of ethyl alcohol by volume. If concentrated, the juice may be in liquid, powdered, or solid form.

The purpose of the bill is to close a perceived loophole in the TSUS that could allow highly concentrated grapefruit juice to be brought into foreign trade zones for processing and then entry into U.S. customs territory at a duty rate of 20 cents per gallon, rather than the 35 cents that is applicable to imported concentrates. The sale of this reconstituted product entered at the lower rate of duty would have a severe price depressing effect on U.S. production. A similar "loophole" has already been closed for orange juice, but unless it is also closed with respect to grapefruit juice, there may be a shift in production to the latter product.

Grapefruit juice which is not mixed, not concentrated, and does not contain over 1.0 percent of ethyl alcohol by volume, is classified for tariff purposes under TSUS item 165.32. The column 1 rate of duty is 20 cents per gallon (10.4 percent ad valorem equivalent in 1984), and the column 2 rate is 70 cents per gallon. Included under this item are juices which are reconstituted from concentrate.

Grapefruit juice which is concentrated is classified under TSUS item 165.36. The column 1 rate of duty applicable to this item is 35 cents per gallon (27.7 percent ad valorem equivalent in 1984) and the column 2 rate is 70 cents per gallon.

Items 165.32 and 165.36 are not eligible for duty-free treatment under the GSP and no LDDC rate applies. Imports are eligible for CBERA.

Under the recently negotiated free-trade agreement with Israel items 165.32 and 165.36 were designated sensitive articles and excluded from the benefits of duty-free treatment for a period of 5 years.

U.S. processing firms that produce grapefruit juice generally also process orange juice, but in significantly larger quantities than the production of grapefruit juice. Nationally, an estimated 40 firms process grapefruit juice from fresh fruit and nearly seven-eighths of them are located in Florida.

U.S. production of grapefruit juice (on a single-strength equivalent basis) averaged 170 million gallons annually during 1980–82, and declined to an annual average of 110 million gallons during 1983–84. Florida supplied about 80 percent of the domestic production over the 5-year period. While much of Florida's production of concentrated grapefruit juice is later reconstituted to produce single-strength juice before sale to the ultimate consumer, the share of Florida's total production that is initially concentrated increased from 54 percent in 1980 to 79 percent in 1984. Thus, the quantity of single-strength grapefruit juice produced directly from fresh grapefruit in Florida has declined dramatically from 66 million gallons in 1980 to 20 million gallons in 1984.

Separate statistics for U.S. imports of grapefruit juice are not available. U.S. imports of not concentrated grapefruit juice are estimated to have been less than 1 million gallons annually during 1980–84. In 1984, when not concentrated orange juice was excluded from the basket class for the first time, U.S. imports of other not concentrated citrus fruit juices (predominately grapefruit juice) totaled 1.1 million gallons and 84 percent of the imports were from Canada.

In 1984, U.S. imports of other concentrated citrus fruit juices (predominately grapefruit juice) totaled 3 million single-strength equivalent gallons, valued at $3.5 million. The primary suppliers in 1984 were Brazil (39 percent), Belize (34 percent), and Mexico (19 percent). The imports from Belize in 1984 entered free of duty under the CBI. No imports were from that source during 1980–83.

During 1980–84, U.S. exports of grapefruit juice, both not concentrated and concentrated (measured on a single-strength basis), were equivalent to 12 percent of domestic production. Exports declined irregularly from 18.3 million gallons in 1980 to 15.5 million gallons in 1984, which is a smaller percentage decline (15 percent) than the decline in production (39 percent). Japan, Canada, and West Germany were the principal export markets for grapefruit juice in 1984.

During 1980–84, the apparent U.S. consumption of grapefruit juice declined irregularly from 163 million gallons in 1980 to 97 million gallons in 1984. The ratio of imports of "other citrus juice" to consumption of grapefruit juice did not exceed 6 percent during 1980–84, and was generally in the range of 1 percent to 3 percent.

The potential annual gain in customs revenues resulting from enactment of this legislation would be about $165,000, based on dutiable imports in 1984. This estimate is based on the assumptions that all imported not concentrated other citrus fruit juice in 1984 was made from reconstituted grapefruit juice concentrates, and that all imported concentrated citrus fruit juice other than lime or orange entered in 1984 was concentrated grapefruit juice.

SECTION 114. CARROTED FURSKINS

(Originally introduced as H.R. 2273)

The proposed legislation would provide permanent duty-free treatment for hatters' fur now classified in TSUS item 186.20 while removing carroted furskins from the scope of that item. A new item 186.22 would be added to cover carroted furskins which would be dutiable at a column 1 rate of 15% ad valorem and a column 2 rate of 35% ad valorem. Section 214 would be made effective for items entered after December 31, 1985.

Hatters' fur is the principal raw material used in the production of fur felt hats. Hatters' fur is cut from the skins of certain animals (chiefly rabbits and hares) after the skins have undergone carroting, a chemical process to improve the felting properties of the fur. Most of the hatters' fur produced in the United States is cut from raw skins which are imported free of duty and then carroted in the United States before the removal of the fur for use as hatters' fur.

According to the sponsor, these changes would correct an anomaly in the tariff rates of duty whereby imported finished products (fur felt hats) and semifinished products (hat bodies, known in the trade as hoods) are dutiable at a lower rate than the raw material (hatters' fur) used to make the finished and semifinished product.

Imports of hatters' fur under TSUS item 186.20 are dutiable at a column 1 rate of 15 percent ad valorem and a column 2 rate of 35 percent ad valorem. The column 1 rate is suspended through December 31, 1985. Imports are eligible for duty free entry under GSP and CBERA.

Imports of the raw material from which almost all hatters' fur is made (raw or not dressed rabbit furskins) are free of duty from both column 1 and column 2 countries.

The bulk of the imports of the finished products (fur felt hats) and semifinished products (hoods) which are made from hatters' fur are dutiable at a column 1 rate of $1.51 per dozen plus 2.2 percent ad valorem, and a column 2 rate of $16 per dozen plus 25 percent ad valorem. The ad valorem equivalent was 5 percent for column 1 imports in 1984.

Detailed statistics concerning U.S. production of hatters' fur are not available. Industry sources estimate that U.S. production amounts to less than one million pounds annually. Production, which began declining after World War II, dropped steeply in the 1960's. In recent years, however, the industry has revived somewhat with the increased demand for Western-style hats. Industry sources indicate that the domestic industry has considerable unused and underutilized capacity.

The hatters' fur and fur felt hat industries are characterized by high degrees of concentration and integration. Five firms are believed to account for nearly all of the domestically produced hoods and fur felt hats. These firms, however, have subsidiaries and plants located throughout the United States, with much of the hatters' fur reported to be produced around Newark, New Jersey. Excluding Stratton Hats, Inc., which imports hatters' fur for production of hoods and hats, these firms are believe to account for the great bulk of U.S. production of hatters' fur. Although the firms occasionally sell hatters' fur or hat bodies to each other, most of the production of hatters' fur and hoods is captive production for producing their own fur felt hats.

The five firms together account for almost all U.S. imports of hatters' fur, and for some U.S. imports of fur felt hats.

During 1980-84, U.S. imports of hatters' fur generally declined, ranging from a high of 195,000 pounds, valued at $2.6 million, in 1981 to 26,000 pounds, valued at $226,000, in 1984. France was the principal source for U.S. imports during 1980-84, supplying 62 percent of the quantity and 69 percent of the value of imports in 1984. The remainder of U.S. imports of hatters' fur in 1984 was supplied by Belgium and the Federal Republic of Germany. Imports from column 2 sources were nil in 1984.

Based on import statistics and industry estimates of production, apparent U.S. consumption of hatters' fur amounted to about one million pounds annually in recent years.

Based on imports in 1984, it is estimated that the annual loss of customs revenue resulting from enactment of the legislation would approximate $34,000.

SECTION 115. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD

(Originally introduced as H.R. 2324 by Mr. Bonker)

Section 115 would revise headnote 1 to part 3 schedule 2 of the Tariff Schedules of the United States (TSUS) to ensure that imports of tongued, grooved, lapped, or otherwise edge-worked plywood, wood-veneer panels, and cellular panels would be classified under the tariff provisions for those products rather than as building boards.

The products included in this legislation, plywood, wood-veneer panels, cellular panels, and building boards, are described in the headnotes to part 3 of schedule 2 of the TSUS. Whether or not they have been edge worked, these products are used for many purposes, including siding, flooring, wall paneling, and roofing. Cellular panels are generally not edge worked.

Plywood sheets are being exported by Canada to the United States as building boards rather than as plywood. This subjects them to a much lower duty rate. By simply altering the edge of a plywood sheet, the merchandise qualifies for classification as building boards under the theory that the edgework dedicates the sheet to some special use. Actually the sheets are used no differently than are plywood sheets with plain edges. This legislation would revise the tariff schedules to insure that only special-use plywood is classified under the building board category.

Currently, Customs classifies plywood and wood veneer panels which have been edgeworked as building boards with an ad valorem equivalent of 10 percent and a column 2 rate of 15 cents per pound plus 25 percent ad valorem. Imports are eligible for GSP and CBERA.

A 516 petition was filed contesting the classification of edge-worked plywood as building boards. Customs affirmed their classification and the petitioner filed a summons in the Court of International Trade.

Domestic production of plywood, wood-veneer panels, cellular panels, and building boards amounted to about 20.4 billion square feet, valued at about $4.0 billion in 1982. In 1984 production rose to about 30.3 billion square feet, valued at about $5.45 billion.

It is estimated that in 1984 about 400 companies, employing 68,500 people, produced plywood, wood-veneer panels, cellular panels, and building boards. Of these companies, approximately 18 (41 plants), employing 2,000 people, produced softwood plywood siding, which is the major product which would be affected by enactment of the legislation.

U.S. imports of plywood, wood-veneer panels, cellular panels, and building boards are estimated to have fallen from $620 million in 1979 to $400 million in 1982 as construction activities fell. Imports then rose to $580 million in 1983 and $700 million in 1984 as such activities rebounded.

U.S. exports of plywood, wood-veneer panels, cellular panels, and building boards are estimated to have risen from $115 million in 1979 to $300 million in 1984 as U.S. producers continued to seek new markets. Exports of edge-worked panels are estimated to have totaled about $55 million in 1984.

In 1984, approximately 30 billion square feet, valued at about $5.4 billion, was consumed in the United States. The increase reflects a rebound in construction activities. U.S. imports of plywood, wood-veneer panels, cellular panels, and building boards, amounted to about 1 percent of total U.S. consumption of such products in 1984.

It is estimated that in 1984, 1.6 billion square feet, or about 5 percent of total U.S. consumption of plywood, wood-veneer panels, cellular panels, and building boards, was edge worked.

None, as it is expected the increased duty would be absorbed by exporters and/or importers because the Canadians are so competitive with the United States. The effect of the legislation would be roughly a doubling of duty from $400,000 to $800,000.

SECTION 116. CERTAIN WORK GLOVES

(Originally introduced as H.R. 4122 by Mr. Broyhill)

This section adds TSUS headnote language which specifies that, for tariff purposes, work gloves made of a textile fabric which is coated with rubber or plastics will be classified as gloves of textile material rather than as gloves of rubber or plastics. This language has the effect of subjecting certain gloves to higher rates of duty and to quantitative restraints under MFA. In addition, as these articles become subject to textile agreements, the gloves would become ineligible for duty-free treatment under GSP and CBERA.

Coated work gloves are cut and sewn from fabric that has been coated, filled, or impregnated with rubber or plastics. The manufacture of the cut and sewn coated gloves is more labor intensive than the dipped supported gloves, because of the sewing operations that are required.

Coated work gloves are used for hand and/or product protection primarily by the industrial sector, including the automobile, steel, construction, and chemical industries. A small portion is sold to retailers for use in the home.

Textile work gloves which are coated or partially coated with rubber or plastics are classified in TSUS 705.86 as gloves of rubber or plastics at a column one rate of 16.6% ad valorem, or in the appropriate TSUS category (704.40, 704.45) as gloves of textile material, at a column one rate of 25% ad valorem. All these articles are eligible for preferential treatment under the U.S.-Israel Free Trade Agreement. Under Customs' current practice, coated work gloves having outer surfaces where the textile material is visible are classified as textile products. If the textile material is completely covered by rubber or plastics and is not visible, the gloves are classified as rubber and plastics products. A classification problem arises where the textile material is only visible

when the surface of the glove is examined under a magnifying glass.

Approximately 20 to 25 U.S. firms produce coated and partially coated work gloves. A few of these companies reportedly have plants in foreign countries, especially the Caribbean countries, where work gloves are either assembled from U.S.-cut parts or are manufactured in their entirety for shipment to the United States. Separate U.S. production data on these gloves are not reported.

U.S. imports of the subject coated and partially coated work gloves doubled from $3.4 million in 1981 and to $7 million in 1984. They nearly doubled again in 1985 to $13 million.

Data on U.S. exports are not separately reported; however, exports are believed to have totaled less than 500,000 dozen pairs in 1985, or about 20 percent of the total imported that year.

Estimated revenue gains resulting from the enactment of this provision would be $827,764 in 1986 and $1,083,977 in 1987.

SECTION 117 BROADWOVEN FABRICS OF MAN-MADE FIBERS

(Originally introduced as H.R. 2338 by Mr. Jenkins)

The proposed legislation would create three new items in the Tariff Schedules of the United States (TSUS) to cover woven fabrics of man-made fibers, other than those containing over 17 percent of wool by weight and those in chief value of glass. These three items would replace current TSUS item 338.50, to allow the creation of additional statistical annotations for such fabrics. Under the single five-digit provision currently applicable to such fabrics, 99 statistical annotations (using combinations of two digits from 01 to 99) are possible. With three tariff items, a total of 297 statistical annotations would be possible.

Man-made fiber broadwoven fabrics are produced in weaving mills and are often the only product manufactured by an individual mill. Approximately 40 percent of the fabrics are sold to apparel plants, with most of the balance used for home furnishings and industrial products.

Officials of the American Textile Manufacturers Institute, Inc. (ATMI) state that the purpose of the bill is to establish more legal provisions for these products so that additional statistical annotations, by type of fabric, could be made available to assist the domestic industry in measuring import competition. ATMI also states that the secondary purposes of the bill is to provide additional or transition data to facilitate the possible conversion from the TSUS to the Harmonized System in 1987.

The current column 1 rate of duty for TSUS item 338.50 is 4 cents per pound plus 18.8 percent ad valorem, or an equivalent ad valorem rate of approximately 19 percent based on imports in 1984. The column 2 duty rate is 81 percent ad valorem, and no preferential LDDC rate is granted. Imports are not eligible for GSP or CBERA and may be subject to quantitative restraints under the MFA.

The quantity of broadwoven fabrics of man-made fibers produced domestically decreased from 12.6 billion square yards in 1980 to 11.85 billion in 1984.

The 1982 Census of Manufactures published by the Bureau of Census indicates that there were 340 firms operating 522 establishments weaving the subject broadwoven fabrics of man-made fibers (Standard Industrial Code 2221). According to the Census, these establishments employed 141,000 workers in 1982. The Bureau of Economic Analysis of the Bureau of Census estimates that his industry employed 134,000 workers in 1984.

Imports increased from 290 million square yards in 1980 to 659 million in 1984. The leading suppliers in 1984 were Japan (38%), Italy (23%), and Korea (20%).

U.S. exports decreased from 576 million square yards in 1980 to 207 million in 1984.

Consumption remained fairly constant during 1980-1984 averaging 12.3 billion square yards per year.

This provision would have no effect on revenue.

SECTION 118. SILICONE RESINS AND MATERIALS

(Originally introduced as H.R. 2186)

Section 118 would amend the Tariff Schedules of the United States (TSUS) to impose a single rate of duty on silicones in all forms. Specifically, section 1(a)(1)(A) would amend headnote 2 to part 4A of schedule 4 of the TSUS, defining "synthetic plastics materials," to classify together silicone fluids, resins, elastomers, and other silicone products whether or not they are in solid form in the finished articles.

In section 1(a)(2), the legislation would also amend headnote 2 of part 4B of schedule 4 of the TSUS by inserting the following paragraph: "(c) For the purpose of the tariff schedules, the term "rubber" does not include silicones."

Section 1(a) 1(b) would insert a new tariff item (item 445.55) covering silicone resins and materials. The column 1 rate of duty would under section 1(b) be subject to staged reductions to 3.9 percent ad valorem in 1986 and 3.7 percent ad valorem in 1987. Section 2 would make the provisions of the legislation effective upon enactment.

Silicone rubber would no longer be classified in TSUS item 446.15 (with a column 1 duty rate of 0.8 percent ad valorem and an LDDC rate of free), which provides for synthetic rubber. Nor would the duty rates proposed for item 445.55 correspond to those for item 445.56, where some of the subject articles are now classified but which would no longer occur after enactment of the new law.

Silicones are a unique family of polymers, containing alternating silicon and oxygen atoms in the polymer chain with various organic substitutes attached to the silicone atoms. Silicone fluids are clear liquids of varying viscosities used as antifoaming agents, release or parting agents, hydraulic or heat-transfer fluids, and permanent water-repelling agents for leather, fabrics, and masonry. Silicone elastomers are essentially high molecular weight fluids that offer good resistance to weathering. They also have been recently used in cosmetic or prosthetic implants. Silicone resins are used as electrical insulation for varnishes and as protective paint films.

In general, silicones possess good electrical properties and, as mentioned above, offer superior resistance to high temperatures and weathering. Silicones also possess a high degree of chemical inertness, are nontoxic, and are easy to process.

According to the sponsor, the purpose of the legislation is to stop the ad hoc basis of silicone classification. Currently silicones are classified in one of nine TSUS categories with duties ranging from 0 to 8.6 percent ad valorem. This is a result of the TSUS being established before silicones were commercialized. The rest of the industrial world treats silicones as a single product grouping in its tariff schedules; this legislation, then, would bring U.S. Customs practice in line with the customs practices of our trading partners. The silicone tariff rates of our major trading partners are much higher than ours, with rates of more than 10 percent. This bill, however, would not raise U.S. tariffs. Rather, the legislation is revenue neutral.

Silicone resins enter the U.S. under one of seven categories with column 1 duties ranging from 8% ad valorem (silicone rubber) to 13.5% (other organo-silicon compounds, benzenoid). All but one of the categories are eligible for GSP and all are eligible for CBERA.

U.S. production of silicones in all forms decreased from 328 million pounds in 1979 to 292 million pounds in 1983.

The markets for silicone fluids, elestomers, and resins, the products of chief significance in the draft legislation are each dominated by three producers. These producers are Dow Corning, G.E., McGhan Nusil Corp., Union Carbide Corp., and the Dexter Corp.

Imports of the articles covered by this bill increased from 3.8 million pounds in 1981 to 13.9 million pounds in 1984. The corresponding increase in value was from $8.1 million to $23.3 million.

Export decreased slightly from 62.8 million pounds in 1981 to 62.1 million pounds in 1984. Although the value increased from $127.4 million in 1981 to $133.7 million in 1984.

Consumption dropped from 316.7 million pounds in 1981 to 243.8 million pounds in 1983. The ratio of imports to total consumption was 5.7 percent in 1983.

SECTION 119. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCKS

(Originally introduced as H.R. 2396 by Mr. Matsui)

Section 119 would make several changes in part 10 of schedule 4 of the TSUS to modify the tariff treatment of some naphthas and create a new tariff item for motor fuel blending stocks. First, it would amend headnote 1 to part 10 to require that motor fuel blending stocks be classified in part 10 whether or not of benzonoid origin. Second, it would add to headnote 2 a new paragraph defining "motor fuel blending stocks" and require verification they actually be used in manufacturing motor fuels. Third, it would create new TSUS item 475.27 which defines all motor fuel blending stocks as "any product (except naphthas provided for in item 475.35) derived from petroleum, shale oil, or natural gas whether or not containing additives which is actually used for direct blending in the manufacture of motor fuel." This item's tariff rate would be identical to those on imported motor fuel.

Finally, it would amend TSUS item 475.30 (covering kerosene derived from petroleum, shale oil, or both (except motor fuel)), to exclude from that item both such fuel and motor fuel blending stocks.

"Motor fuel blending stock" is a term used to refer to a variety of materials derived from petroleum, shale oil, or natural gas, which can be further processed into specification-grade motor fuel. It can also be used to describe materials that can be physically blended with other material to make gasoline.

Motor fuel blending stocks could be used as a fuel in internal combustion or other engines but are outside the American Society of Testing Materials (ASTM) octane range. Generally, these products are mixed or blended with other chemicals, such as tetraethyl lead (TEL), to obtain a higher octane

product that meets the ASTM octane specifications for motor fuel.

The legislation is designed to correct an anomaly currently in existence in the TSUS and made apparent by industry sources, according to the sponsor. Under current law, the Customs Service interprets the TSUS to require them to impose higher duties on certain components of motor fuels than on finished motor fuels.

From late 1983 through July 1984 a number of bills were introduced in Congress pertaining to the tariff reclassification of catalytic naphtha and motor fuel blending stocks/unfinished gasoline. H.R. 4232 proposed a duty rate of .25 cent per gallon on catalytic naphtha (a component used in the production of finished gasoline) and H.R. 5455 reclassified unfinished gasoline and motor fuel blending stocks by creating a new tariff item for them with a duty rate of 1.25 cents per gallon, the same rate as for finished motor fuel.

The Administration proposed a single alternative in May 1984 that was designed to satisfy both sets of bills. Due to the complexity of the products involved, the House-Senate conferees when discussing these bills determined that prior to furthur congressional action on the issue the ITC should be asked to examine the desirability of reclassification and its posible ramifications. The ITC released its report in April 1985.

Naphthas (whether straight or catalytic) and other motor fuel blending stocks are currently classifiable in part 1, and part 2, or part 10 of schedule 4 of the TSUS. Depending on its characteristics, a particular blending stock may be classified—

(1) in part 1, item 407.16, as a mixture, in whole or in part of distillation/cracking/reforming process with no other chemicals added. Catalytic naphthas are included in this category.

(2) in part 10, item 475.35 as a mixture, not in whole or in part of benzenoid chemicals which is the result of distillation/cracking/reforming process with no other chemicals added. Column 1 duty is .25 cent per gallon and 2 is .5 cent per gallon.

(3) in part 2, item 432.10, as a mixture such as (1) and (2) above, to which are added lead alkyls, ethyl alcohol or other nonbenzenoid organic chemicals. Column 1 duty is 5 percent ad valorem but not less than highest rate applicable to any component material. (This can result in rates as high as 10–15 percent ad valorem).

If any of the above meet the ASTM criteria for motor fuel, they are classified as TSUS item 475.25 with a column 1 duty of 1.25 cents per gallon.

Between 1977 and 1985, approximately 158 refineries ceased operations. The typical closed refinery had a capacity of less than 50,000 barrels per day, with no cracking or other major crude petroleum upgrading facilities. During the period 1981–83, the refineries remaining open were primarily sophisticated units that operated at about 68–70 percent of capacity, compared with an average of 85 percent in 1979.

During the first half of 1984, the refinery capacity utilization rate averaged about 76 percent, as a result of higher gross inputs of crude petroleum to refineries and lower total refining capacity. Another factor contributing to the decrease in U.S. production of refined product and the subsequent decline in capacity utilization is an increase in offshore refinery operations. Currently, the world crude petroleum market is witnessing a situation of oversupply as well as excess refinery capacity. Some of the excess production of these offshore refinery facilities enters the U.S. market, which is already faced with decreased demand for these refined products.

U.S. production of motor gasoline has dropped from 7.0 million barrels per day (MBD) in 1977 to 6.5 MBD in 1984. Distillate fuel oil had dropped form 3.3 MBD to 2.7 MBD over the same period and residual fuel oil production has dropped even more precipitously from 1.75 MBD to .9 MBD over the period. The only product to show a gain in production over the period was LP gas which increased from 1.5 MBD to 1.7 MBD.

According to the 1977 Census of Manufacturers, 349 U.S. refineries were in operation in that year; however, as of January 1, 1983, the number of operating refineries had fallen to 225, with a total capacity to process 16.2 million barrels of crude petroleum per day. As of January 1, 1985, there were 191 operating refineries in the United States, with a crude petrroleum capacity of 15.9 million barrels per day. The decrease in the number of operating refineries since 1977 is believed to result from a combination of factors, including decreased domestic demand for petroleum products, market shifts, increased transportation costs, consolidation of refinery operations, the end of the Federal entitlements program for small refineries, and the decontrol of crude petroleum prices in 1981. Of the total refineries in operation, 131 are operated by independent refiners, which account for 30 percent of U.S. refining capacity.

Employment in the petroleum refining industry decreased from 108,300 workers in 1979 to 100,600 in 1983. The number of production workers declined from 72,800 in 1979 to 64,700 in 1983.

The major states producing petroleum products are Texas, California, and Louisiana. As of January 1, 1985, these states accounted for about 41 percent of the total number of U.S. refineries and 57 percent of the total refining capacity.

The United States is a net importer of petroleum products, primarily from Venezuela and refineries in the Caribbean nations. As a result of increased prices, the value of imports of all petroleum products increased from $11.4 billion in 1980 to $18.6 billion in 1984. U.S. imports of petroleum products could increase further as additional refinery capacity begins to be used in the OPEC nations as well as other conventional-energy-rich nations. As of January 1, 1985, the OPEC nations had the capacity to refine 4.8 million barrels per day of crude petroleum and are expected to have a refining capacity of 7.7 million barrels per day by 1987.

Residual fuel oils accounted for about 38 percent of the total value of U.S. imports of petroleum product in 1984. The major sources of U.S. imports of residual fuel oils in 1984 were the North Antiles (except the Bahamas) and Venezuela, together accounting for 41 percent.

U.S. import of distillate fuel oils increased irregularly from 15 million barrels, valued at $552 million in 1980 to 103 million barrels, valued at $3.3 billion in 1984. Venezuela, Mexico, and Canada supplied about 54 percent of total 1984 U.S. imports of distillate fuel oils.

U.S. imports of motor fuel increased irregularly from 19 million barrels in 1980 to 102 million barrels in 1984; however, during the same period the value of these imports increased from $716 million to $3.2 billion. In 1983, the major sources of U.S. imports of motor fuels were the Netherlands, accounting for 20 percent, and Venezuela, accounting for 16 percent. In 1984, this situation was reversed, with the Netherlands supplying 14 percent and Venezuela 22 percent.

The value of U.S. exports of petroleum products increased by 265 percent during 1980–82. The reasons for this apparent dramatic growth include an increase in the unit value of petroleum product export and the 1982 relaxation of export restrictions. However, U.S. exports in 1984 declined by 25 percent to a value of $3.6 billion, because of the strength of the U.S. dollar in relation to other currencies and an oversupply of products on the world market.

The major markets for petroleum products have been other developed nations lacking significant reserves of crude petroleum for use as a raw material base, especially Japan, Canada, the Netherlands, and Singapore. These four nations together accounted for nearly 50 percent of U.S. exports of petroleum products. A notable exception to this rule is Mexico, which was the third largest market in 1984.

Consumption of petroleum products decreased from 18.5 MBD in 1979 to 15.7 MBD in 1984. This resulted from consumer movement to conservation and use of alternative energy sources. Consumption of motor gasoline accounts for about 42 percent of total domestic consumption of petroleum products.

It is unlikely that the enactment of the legislation would effect annual customs revenues, since motor fuel blending stocks have been and are currently being dutied at the motor fuel rate of 1.25 cents per gallon.

SECTION 120. SLABS OF IRON OR STEEL

(Originally Introduced as H.R. 4547 by Mr. Schulze)

Currently, the TSUS defines iron and steel slabs as having a thickness of not less than 2 inches and not over 6 inches. This section would strike out "and not over 6 inches" from the definition, which is set forth in headnote 3(c), part 2–B of schedule 6.

Slabs, along with ingots, billets, blooms, and sheet bars, are the semifinished stock from which finished steel mill products are formed. The slabs are generally processed into such other products as sheets, strip, and plates, which may then be further fabricated into other products such as welded pipes. Slabs are produced by two methods: (1) Ingot molding or (2) continuous casting. In ingot molding, molten steel is poured into ingot molds and allowed to cool. When the steel has solidified, the mold is removed, or stripped, from the ingot. Stripped ingots are then generally reheated and rolled into slabs. Continuous casting bypasses the making reheating of ingots in the production of slabs. In this process, molten steel flows through an open-ended mold that forms the steel into slabs or other semifinished shapes. Continuous-cast slabs are generally regarded as higher quality products than their ingot-molded counterparts.

According to the sponsor, this section is intended to make the definition of steel slabs in the TSUS consistent with the steel industry's common practice of producing slabs exceeding 6 inches in thickness.

The TSUS defines a slab of iron or steel as a semifinished product of rectangular cross section, having a width of at least 4 times the thickness, not less than 2 inches and not over 6 inches in thickness. Slabs are classified in TSUS items 606.67 and 606.69. Products exceeding 6 inches in thickness, but otherwise meeting the TSUS definition of

slab, are classified (a) as "ingots" under TSUS items 606.67 and 606.69, if they have been continuously cast, or (b) as "plates" under TSUS items 607.66, 607.72, 607.76, and 607.78, if they have been rolled from ingots. The bill would change the tariff treatment of these latter products, i.e., "plates" rolled from ingots.

In the case of such carbon steel slabs, the column 1 duties would be reduced from 6.3 percent ad valorem to 4.5 percent, while the LDDC rate would decrease from 6 percent to 4.2 percent. For stainless steel and tool steel slabs, the column 1 duties would be reduced from 9.5 percent ad valorem to 5.6 percent, while the LDDC rate would decrease from 9.5 percent to 5.1 percent. For alloy steel slabs other than stainless or tool steel, the column 1 duties would be increased from 4.8 percent to 5.6 percent, while the LDDC rate would increase from 3.8 percent to 5.1 percent. None of these products are eligible for GSP benefits; however, duty-free entry is afforded all these products under the CBERA and the U.S.-Israel Free Trade Area Agreement.

While slabs are produced by many domestic steel mills, they have not been a significant article of commerce. They are primarily produced by steel mills for captive consumption in the production of more advanced steel mill products. Separate data on the production of slabs are not available; however, production is estimated to have been 55–60 million short tons per year during 1983–85.

Imports of slabs more than doubled from 908.650 tons ($176 million) in 1984, to over 2 million tons ($358 million) in 1985. The sharpest increase occurred in slabs greater than six inches in thickness, the volume of which more than quadrupled, rising to 1.1 million tons, or 53 percent of total slab imports.

Data on exports of slabs are not separately collected.

Apparent U.S. consumption of slabs is estimated to have closely paralleled U.S. production.

Estimated revenue losses are about $1.8 million per year.

SECTION 121. TELEVISION APPARATUS AND PARTS

(Originally introduced as H.R. 2349 by Mr. Rostenkowski)

This section would amend headnote 3(a) to part 5 of Schedule 6 to define the term "complete" when used in reference to a television receiver as a receiver "fully assembled in its cabinet". The current headnote defines complete as "fully assembled."

Next, the bill adds another headnote to part 5, Schedule 6. It would require that picture tubes imported in combination with other articles are to be classified under the tariff provisions for picture tubes (TSUS item 687.35 through 687.44) *unless* they are to be incorporated into complete television receivers, word processors or ADP terminals or they are put up in kits containing all parts necessary for assembly into complete television receivers, word processors or ADP terminals. Because of the change in language of headnote 3 from "fully assembled" to "fully assembled in its cabinet", the kit exception would only apply if *all* parts, *including*, a *cabinet*, were imported.

In an amendment offered by Mr. Rostenkowski, two temporary suspensions were added to the scope of this section. The first added 912.14 to TSUS to provide for an 11% duty until 10–31–87 for television picture tubes which would have been included in assemblies (provided for in 684.96) except for the changes made by this section in headnote 4 to part 5 and except for the second temporary provision. The second provision adds TSUS item 912.16 and provides temporary duty free treatment, until 12–31–90, for color picture tubes having a video display diagonal of less than 12 inches.

The purpose of these amendments was to provide a phase-in period for the application of the 15% rate of duty on those picture tubes which Customs had ruled were eligible to be dutiable at 5% as assemblies and to suspend the duty on small TV picture tubes which are not currently produced in the United States.

The purpose of this legislation is to prevent importers from taking advantage of what the Committee believes to be a loophole in the TSUS. Japanese picture tubes are sent to Mexico where they are paired up with, but not assembled with, chassis and control panels. The merchandise is then shipped to the United States where it is entered as color television receiver assemblies at a duty rate of 5 percent ad valorem. The domestic industry believes that the picture tube portion of the entry should receive the 15 percent duty rate applicable to color television picture tubes.

Cathode ray tubes (CRT's) are used in a variety of products including television receivers, monitors for television studios, monitors for security systems, certain types of data display terminals for automatic data processing uses, video games, oscilloscopes and terminals for word processing applications. Television picture tubes are a type of CRT.

The principal differences between imported and domestic television picture tubes are in the screen size designations and physical mounting dimensions for the various tubes.

Until recently domestically-produces data processing and word processing products, including those incorporating video display terminals, have been considered qualitatively better than the imported products. However, foreign producers, particularly in Japan, Korea, Taiwan and Singapore, are progressing rapidly and are approaching the level of sophistication of U.S.-produced video display terminal producers.

Color television picture tubes are classified under TSUS item 687.35 dutiable at a column 1 rate of 15 percent ad valorem, and a column 2 rate of 60 percent ad valorem. Imports are not eligible for GSP but are eligible for CBERA.

Color assemblies (including kits containing all parts necessary for assembly into complete receivers) are classified under TSUS item 684.96, dutiable at a column 1 rate of 5 percent ad valorem and a column 2 rate of 35 percent. Imports are not eligible for GSP, but may qualify for duty-free treatment under the CBERA.

Domestic shipments of color television picture tubes increased from 11.6 million units, valued at $881 million, in 1980 to 12.3 million units, valued at $938 million, in 1984. This closely tracks the trend for all CRT's.

Despite a slight slump in 1982, domestic shipments of television receivers increased steadily form 1980 to 1984. Shipments increased from 10.3 million units, valued at $3.3 billion, in 1980 to 13.3 million units, valued at $4.1 billion, in 1984 for a total increase of 29 percent in terms of quantity and 25 percent in terms of value for the period. The average unit value of domestic shipments decreased slightly from $319.50 in 1980 to $309.40 in 1984.

The CRT producing industry (including television picture tubes) is a concentrated industry. There are some thirty manufacturers of CRT's in the United States. Many are captive producers, i.e., they make CRT's for their own use, and others rebuild old CRT's. The leading six noncaptive producers (G.E., Philips, RCA, Sony, Westinghouse, Zenith) of new CRT's represent more than 80 percent of domestic shipments of such CRT's.

Producers of CRT's generally buy the components they need to assemble the CRT's rather than making them. Producers of CRT's tend to be large corporations which also make many other products. Specific data on employment in the production of CRT's is not available. Employment in the production of all electronic tubes amounted to 35.5 thousand persons in 1982, the last year that data was available.

The U.S. industry producing television receivers consists of 17 firms. Of these, 5 are U.S.-based firms, 1 is Netherlands-based, 8 are subsidiaries of Japanese firms, 2 are Taiwanese-owned and the last is a South Korean based company.

Employment in the receiver industry has been declining in recent years and currently stands at about 25,000 persons. In 1983, the last year for which there were data, U.S. producers had gross profits amounting to over $240 million.

Matsushita Industrial Co., located in Franklin Park, Illinois, produces approximately 55 percent of the Panasonic and 82 percent of the Quasar color television sets sold in the United States. Most of the color televisions produced use imported television chassis and control panels assembled in Mexico. The assembled chassis and control panels are shipped to the United States together with color television picture tubes manufactured in Japan. The imported merchandise is then assembled into U.S.-produced cabinets with other U.S. and foreign components at Franklin Park.

U.S. exports of color television picture tubes decreased from 942,000 units, valued at $86.5 million, in 1980 to 347,000 units, valued at $32.4 million, in 1984. The largest export market in 1984 for U.S.-produced color television picture tubes was Canada. Exports to Canada in 1984 amounted to 313,000 units, valued at $28.1 million, or 90 percent of the total units exported.

Apparent consumption of color television picture tubes increased from 11.3 million units, valued at $827.8 million, in 1980 to 12.7 million units, valued at $952.2 million, in 1984. The ratio of imports to consumption, in terms of quantity, fluctuated between 5.2 percent and 8.1 percent during the period 1980 to 1984, with a ratio of 6.2 percent in 1984.

The effect of this legislation on revenues would depend upon the dutiable value of the picture tube portion of the merchandise. If we assume that one-half of the value of each color television kit imported in 1984 was attributable to the tube, the estimated revenue increase resulting from the duty increase on the tube from 5 percent to 15 percent would be approximately $2.9 million.

SECTION 122. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS

(Originally introduced as H.R. 4533 by Messrs. Gephardt and Campbell)

This section would reduce the column 1 and column 2 rates of duty on extracorporeal shock wave lithotripters. This would be accomplished by amending the article description for TSUS item 709.15, under which imports of such apparatus are classified as "electro-surgical apparatus, and parts thereof", to "electro-surgical apparatus other

than extracorporeal shock wave lithotripters . . .". This amendment would change the TSUS classification of extracorporeal shock wave lithotripters from item 709.15 (column 1 rate of 9.2 percent ad valorem) to TSUS item 709.17 (column 1 rate of 4.4 percent ad valorem) "other electro-medical apparatus, and parts thereof". It would also reduce the column 2 rate of duty from 55 percent ad valorem to 35 percent ad valorem.

The extracorporeal shock wave lithotripter is a sophisticated medical apparatus designed to disintegrate kidney stones without an incision by generating shock waves focused on the area of the patient's body where the kidney stone is located. The litho-tripter system includes two shock wave generators, a dual-axis X-ray system, a stainless steel tub incorporating an ellipsoidal reflector and window at the bottom to permit the passage of X-rays, a platform on which the tub rests, a patient-positioning hydraulic system, a water-treatment system, and a control cabinet.

According to the sponsor, the purpose of this section is to remove an anomaly in the TSUS under which extracorporeal shock wave lithotripters are classified as "electro-surgical" apparatus at a duty rate higher than that for other "electro-medical" apparatus. At the same time, the Federal government, in its Medicare reimbursement procedures, classifies the lithotripter treatment as a "medical" rather than a "surgical" procedure, which results in a substantially lower reimbursement to providers of the treatment than would be the case if it were considered a surgical procedure. This inconsistent treatment for customs tariff and Medicare reimbursement purposes not only puts the provider at a disadvantage, but lessens the availability of the procedure at a reasonable cost to the patient.

Extracorporeal shock wave lithotripters are classified under TSUS 709.15 as electro-surgical apparatus, and parts thereof, dutiable at 9.2 percent ad valorem under column 1. The column 2 rate is 55 percent ad valorem, and the LDDC rate is 7.9 percent.

The articles covered by items 709.15 and 709.17 are eligible for duty-free treatment under GSP, CBERA, and the U.S.-Israel Free Trade Area Agreement.

There are four known companies in the United States currently developing extracorporeal shock wave lithotripters. None has yet received pre-market approval by the FDA to market its product in the United States. There has been no U.S. production of extracorporeal shock wave lithotripters, except for investigational use.

In 1985, 50 extracorporeal shock wave lithotripters with a total value of $90 million were imported into the United States. During January-March 1986, 18 additional lithotripters valued at about $32 million were imported.

There were no U.S. exports of extracorporeal shock wave lithotripters during 1981–85, or in the first 3 months of 1986.

Apparent U.S. consumption of extracorporeal shock wave lithotripters was accounted for entirely by imports during 1984, 1985 and in the first 3 months of 1986.

Based on an estimated $85 million in imports during 1986, it is estimated that the annual revenue loss would be $4,128,000.

SECTION 123. BICYCLE-TYPE AND EXERCISER-TYPE SPEEDOMETERS

(Originally introduced as H.R. 2913 by Mr. Quillen)

The proposed legislation would delete item 711.93 from the TSUS and insert a new item 711.92, covering bicycle-type and exerciser-type speedometers and parts thereof. The column 1 rate of duty would be 18.3 percent ad valorem, 110 percent ad valorem for column 2 imports, and 17 percent ad valorem for imports from LDDC's. Staged rate reductions scheduled for item 711.93 would be made applicable to the new item 711.92.

A speedometer is generally an accessory for a bicycle, but it is usually standard equipment on an exercycle.

According to representatives of Stewart-Warner Corp., the private sector advocate of the bill and sole U.S. manufacturer of this type of speedometer, the provision would enhance the price competitiveness of the U.S.-made product by closing a TSUS loophole that unables importers to bring in speedometers that are identical to bicycle speedometers except for a 10 cents plastic gear that enables them to be mounted on the opposite side of a bike's front wheel (which is where exercycle speedometers go) and enjoy a 1.3 percent tariff treatment instead of the 19 percent tariff treatment that should apply.

The Department of the Treasury initiated an antidumping investigation on bicycle speedometers from Japan (TSUS 711.93) in June 1971; in June 1972 it made an affirmative dumping determination. As a result of this determination, the ITC instituted investigation No. AA1921-98 in June 1972. In September 1972, the ITC determined that a U.S. industry was injured by reason of such imports.

The Department of Commerce, in an administrative review dated July 2, 1982, ruled that speedometers used on exercisers and classified in TSUS item 711.98 would also be covered under the LTFV findings on bicycle speedometers and would be included in subsequent reviews. The amount of the antidumping duty currently imposed on the subject speedometers from Japan ranges from zero to 25% ad valorem.

Speedometers, other than for bicycles, which are covered by TSUS item 711.98 are assessed a column 1 rate of duty of 0.6 percent ad valorem. Bicycle speedometers (TSUS 711.93) are assessed a column 1 rate of 18.3 percent ad valorem. Articles under TSUS 711.98 are eligible for duty-free entry under GSP, if imported from designated beneficiary developing countries. Also, products of beneficiary countries entered under both tariff items are eligible for duty-free entry under CBERA.

Data on U.S. producers' shipments are not available, since their publication would constitute the disclosure of the operations of the sole firm in the industry, Stewart Warner Corporation.

U.S. imports of bicycle speedometers and their parts increased, in terms of value, from $2.6 million in 1980 to $4.4 million in 1984, or by 69 percent. Japan was the major supplier during 1980–84, accounting for 72 percent of such imports during the period. No CBERA-eligible countries supplied such articles during 1980–84.

Data on imports of speedometers for exercisers are not separately reported; however, such imports (included in TSUSA statistical annotation 711.9820) are estimated to have increased from $2.2 million to $3.8 million, or by 73 percent during the period. As with bicycle speedometers, Japan was the principal supplier of speedometers, tachometers and parts other than for bicycles during 1980–84, with a 6.3 percent share of such U.S. imports.

Data on exports of bicycle speedometers and exercise speedometers are not reported separately. Industry sources indicate that exports of such articles are negligible.

Data on apparent U.S. consumption of bicycle and exercise speedometers cannot be made available.

Estimated customs revenues would probably increase substantially if the new tariff item were enacted. Estimates of duties collected, based on 1984 imports of exercycle speedometers, indicate the revenues would increase from about $49,000 to $750,000, should the rate of duty increase from 1.3 percent to 19.6 percent on these articles.

SECTION 124. MARKING OF WATCHES AND WATCH COMPONENTS

(Originally introduced as H.R. 2029 by Mr. Anthony)

Section 124 amends headnote 4 to schedule 7, part 2E of TSUS, to retain present marking requirements except for the following changes:

Dials would no longer be subject to marking requirements.

The work "conspicuously" would be replaced by the word "legibly," because a conspicuous marking may not be possible on the bezel.

A fifth mode of marking—mold-marking—would be added.

The requirement concerning adjustments would be deleted.

The manufacturer would be given the option of marking either the watch case or the bezel.

The purchase of a particular watch or clock is partly dependent on the reputation of the country of manufacture for quality. Since the consumer rarely inspects watch and clock components, the labeling of internal parts of a timepiece offers no perceptible advantage to the consumer in differentiating quality. Accordingly, this legislation purports to reduce regulatory requirements which provide no apparent advantage to the consumer.

The duty on watches and clocks varies from a fairly straight forward duty on the assembled clock or watch to a duty equal to the sum of duties attributable to case and movements. With only a few minor exceptions these articles are not eligible for benefits under the GSP but are eligible for CBERA treatment unless they contain any material that is the product of a column 2 country. Watches and watch movements produced or manufactured in an insular possession of the U.S. are eligible for duty free treatment if they conform to the quota and other requirements of headnote 6 to schedule 7 which details a rather complex program of preferences enacted into 1982 designed to assist the watch industry in the U.S. Virgin Islands.

The estimated value of U.S. producer's shipments of watches, clocks and components decreased from $996 million in 1980 to $841 in 1984. Quantity data are not available due to the product mix included in the legislation.

U.S. imports of watches, clocks, and components, in terms of value, increased from $1,025 million in 1980 to $1,227 million in 1981. Such imports then dropped to $658 million in 1983 and increased to $887 million in 1984, or by 34 percent. The leading supplier of watches, clocks, and components in 1984 was Japan, accounting for $347 million, or 39 percent of the total. Switzerland and Hong Kong followed with $180 million and $164 million (20 and 19 percent) respectively.

U.S. exports of watches, clocks and components, in terms of value, increased from

$67 million in 1980 to $84 million in 1981. Since then, they have steadily declined to $60 million in 1984, or by 30 percent since 1981. The Philippines was the leading market, receiving $13 million, or 22 percent of the total in 1984. Canada and Taiwan were the second and third largest market, receiving $11 million and $6 million (18 and 10 percent) respectively.

Apparent U.S. consumption rose from $1,954 million in 1980 to $2,094 million in 1981. It then declined to $1,534 million in 1983. Apparent U.S. consumption rose 9 percent in 1984 over that in 1983, to $1,669 million.

There would be no revenue effect of enactment of this legislation.,

SECTION 125. IMPORTATION OF FURSKINS

(Originally introduced as H.R. 3019 by Mr. Gibbons)

Section 125 would end the prohibition on imports into the United States of ermine, fox, kolinsky, marten, muskrat, and weasel furskins which are the product of the Union of Soviet Socialist Republics (USSR). This would be accomplished by deleting headnote 4 to subpart B, part 5 of schedule 1 of the Tariff Schedules of the United States (TUSUS). The import ban has been in effect since January 5, 1952, with respect to products of the USSR.

Following is a brief description of each of the skins covered by this legislation:

Ermine.—These furskins are derived from small weasel-like animals found most commonly in the USSR. These furskins are used chiefly in the manufacture of expensive jackets and coats.

Fox.—These skins come from silver, black, and platinum foxes (grown on ranches) or red and grey foxes (from wild catch).

Kolinsky.—These skins come from kolinskies which are animals closely resembling minks. They are found in and near Siberia and Manchuria and these pelts are used more for trimming than for coats and jackets.

Marten.—These skins come from animals closely resembling sables. Marten are found in the U.S. and Canada, and certain closely related animals are found in the USSR and China.

Mink.—These furskins are obtained from both captivity and the wild. In the dressing process the skin is tanned and the fur is cleaned and brushed. Mink furskins are used almost exclusively in the manufacture of fur coats, fur jackets, fur stoles, and wraps, and as fur trim on cloth or leather jackets.

Muskrat.—These skins are obtained from animals resembling beaver although smaller and lacking wide, flat tails. These skins are less expensive than the above skins and are used in the production of coats and jackets.

Weasel.—These animals are found throughout the world. Their skins are commonly used for fur trim.

The Administration seeks passage of this legislation as described in a letter from Malcolm Baldrige to George Bush to .."furthur the President's policy of seeking a more constructive working relationship with the Soviet Union, and to reciprocate a commitment by Soviet Foreign Trade Minister Patolichev to improve the market access for business firms in the Soviet Union."

The column 1 rates of duty for the furskins covered by this legislation vary from free (raw or not dressed skins except fox) to 9.3 percent ad valorem (silver, black, or platinum fox whether or not dressed). The column 2 rates are free for raw or undressed skins to 50 percent for the above mentioned fox furskins. These articles are eligible for GSP (except raw or not dressed skins) and CBERA.

Only limited data are available concerning domestic production of furskins of the type involved in this legislation. Data on the number of mink pelts produced on U.S. mink farms and the value of such production, as collected by the U.S. Department of Agriculture, indicates that pelt production increased from 3.5 million pelts valued at $123.6 million in 1980 to 4.2 million pelts valued at $119.0 million in 1984.

Data on the wild catch during the 1979-80 season as collected by the American Fur Resources Foundation, indicates that in 1980 (the lastest year data is available) the predominant catch was muskrat (9.2 million animals valued at $79.5 million), fox (790,000 animals valued at $39.0 million) and mink (430,000 animals valued at $9.6 million).

Two domestic industries exist, one producing furskins and one dressing furskins and manufacturing garments.

Furskins are derived from animals (in this country usually mink and, to a lesser extent, foxes) either raised in captivity on fur farms or ranches or obtained from the wild catch of trappers and hunters, In 1984, there were 1,069 mink farms in the United States. Foxes were raised on 14 percent of these farms in 1984. The leading mink producing state was Wisconsin with 241 farms in 1984 followed by Utah and Minnesota.

In 1984, there were approximately 1,390 fox farmers in the United States. The leading fox-producing state was Wisconsin, with 185 farms in 1984; other leading fox-producing states included Pennsylvania, Minnesota, and Utah.

Officials of the National Board of Fur Farmers, an industry trade association, indicate that almost all fur farms are small-scale, family-owned businesses and that no individual or small group accounts for a significant share of the industry's sales.

An estimated one to two million individuals trap and hunt for furskins in the United States. Only a small portion derive a significant income from such activities, and no one individual or firm accounts for a significant part of the trapping industry. The estimated income derived from all wild furskins has totaled $350 million to $500 million annually in recent years. Most trappers, hunters and dressers handle furskins of a variety of species of animals.

The number of U.S. furskin dressers has been in a long-term decline. According to industry sources the number of U.S. furskin dressers is between 15 to 20 companies, concentrated in the New York City area, and the number of fur garment manufacturing companies is approximately 350.

Complete data concerning U.S. imports of the subject furskins are not available. Furskins of four of the species covered by the import ban (ermine, kolinsky, muskrat, and weasel) are not separately provided for, but instead are classified with other species not covered by the headnote under several residual or" basket" tariff items.

Data is available on three of the skins that are separately provided for in the TSUS (fox, marten, and mink). Imports of mink increased from $85.2 million in 1980 to $102.6 million in 1984. Fox increased from $19.8 million to $37.9 million over the same period and the increase of marten imports was $.9 million to $1.8 million.

The leading suppliers to the United States of mink, fox, and marten furskins in 1984 were Finland, Demark, Canada, and Sweden. U.S. imports of furskins of the types enumerated in the headnote from countries receiving the column 2 rate of duty amounted to about $0.5 million in 1984, or less than 1 percent of total imports of the subject furskins.

Data concerning U.S. exports of the subject furskins are reported only for whole fox furskins, not dressed; whole muskrat furskins, not dressed, and whole mink furskins, dressed or not dressed. The value of exports of these skins dropped from $232.8 million in 1980 to $143.2 million in 1984.

The value of U.S. exports of furskins classified in the residual tariff items (including an unknown quantity of exports of furskins of the type covered by the import restrictions) and of furskins classified on the basis of their forms, (plates, mats, and so forth) decreased from $208.5 million in 1980 to $125.6 million in 1984.

Data on U.S. consumption is not available.

To the extent that ending the prohibition of U.S. imports of the enumerated furskins from the USSR would result in an increase in total U.S. imports of such furskins, there would be a gain in customs revenues. However, since U.S. imports of these furskins have been prohibited since 1952, any projection of the quantity of imports that may result from ending the prohibition is highly speculative. Such furskins would be dutiable at column 2 rates of duty. Since articles classified in TSUS item 124.10 are free of duty, ending the prohibition on imports from the USSR of articles classifiable in that tariff item would have no effect on customs revenues.

SECTION 131. COLOR COUPLERS AND COUPLER INTERMEDIATES

(Originally introduced as H.R. 2474 by Mr. Duncan)

This legislation would amend item 907.10 and 907.12 of the Appendix to the TSUS to continue through December 31, 1990 the suspension of the column 1 rate of duty on photographic coupler intermediates provided for in item 907.10, an actual use provision; and on photographic color couplers provided for in item 907.12. The column 2 rate of duty would remain unchanged. The description of item 907.10 is amended to exclude from suspension the color coupler commonly referred to as C-1.

Coupler intermediates are organic chemical compounds that are used in the production of color couplers. A color coupler is a more advanced organic compound that is incorporated in photographically sensitized material and reacts chemically with oxidized color developers to form a dye. Color couplers are used to make color photographic paper, film and graphic arts materials.

The bill would enable the Eastman Kodak Co., a domestic firm, to continue to import duty-free for a temporary period certain color couplers and coupler intermediates that it does not make and that cannot be obtained domestically. Continuing the duty suspension would help keep its products (.e., photographic color paper) competitive in U.S. and world markets. Eastman Kodak produces some color couplers and coupler intermediates for captive use; however, since its plants cannot meet all of its requirements, the company must import selected products.

The majority of imported coupler intermediates are currently classifiable in items 403.59, 404.90; and 406.42. Color couplers are classified in item 408.41, photographic chemicals. The column 1 duty rates vary from 11.7 percent ad valorem to 13.5 percent

ad valorem. The column 2 rates vary from 7 cents per pound plus 50 percent ad valorem to 7 cents per pound plus 62 percent ad valorem.

Color couplers are eligible for duty-free treatment under the GSP and for the LDDC rate but coupler intermediates are not. Both are eligible for duty free treatment under the CBERA.

Data on domestic production is not available as it would reveal business confidential information.

Eastman Kodak is the principal domestic producer of coupler intermediates and color couplers, and its total production is for captive use in the production of photographic color paper.

Formerly, the 3M Co. produced photographic color paper, color couplers and intermediates in the United States, but also imported intermediates and color couplers from its Italian and English subsidiaries. 3M had been producing color couplers in the United States from imported coupler intermediates to reduce its requirements for imported color couplers.

In 1982 it requested the introduction in Congress of the bill (S. 2889) that resulted in the suspension of duties on color couplers and coupler intermediates. According to industry analysts, despite the duty suspension, 3M found it increasingly difficult to produce these products profitably in the United States and in 1984 ceased domestic production.

Import statistics on coupler intermediates and color couplers are not separately maintained. Eastman Kodak reported that in 1983 it imported approximately 155,000 pounds of these products, mostly from Japan and Western Europe. Because color couplers and intermediates are continually changing, Kodak could not predict its future imports exactly. It estimates, however, that importers of these products will increase by approximately 10 percent per year during the next few years.

Exact data is not available but exports are estimated to be negligible.

Consumption data on coupler intermediates and color couplers are not available. The photographic color paper production in the United States, however, can be used to determine the trend in consumption of these chemicals over a certain period. During 1977-80, U.S. sales of photographic color paper increased from an estimated $72 million to an estimated $200 million, and industry sources estimate that this growth pattern continued through 1984.

Based on 1983 import data obtained from Eastman Kodak, the potential loss of revenue resulting from enactment of this legislation would probably be about $110,000 per year.

SECTION 132. POTASSIUM 4-SULFOBENZOATE

(Originally introduced as H.R. 2332 by Mr. Evans of Iowa)

This section would suspend until December 31, 1990 the column 1 rate of duty for p-sulfobenzoic acid, potassium salt (potassium 4-sulfobenzoate). Column 2 would remain unchanged.

P-sulfobenzoic acid is used as an intermediate in the manufacture of probenecid which is a diuretic.

As one of two U.S. manufacturers of the drug probenecid, Salsbury Laboratories will use imported p-sulfobenzoic acid exclusively to produce probenecid. A company official states that by eliminating the duty on the subject chemical, U.S. manufacturers of probenecid will then be able to compete in the end-product market with low-cost imported probenecid. Approximately 26 percent of the U.S. apparent consumption of probenecid was accounted for by imports in 1983.

The column 1 rate of duty of p-sulfobenzoic acid is presently 1.7 cents per pound plus 17.9 percent ad valorem. The column 2 rates of duty is 7 cents per pound plus 57 percent ad valorem. It is not eligible for GSP but is eligible for CBERA.

The chemical p-sulfobenzoic acid, potassium salt is not produced in the United States. Use of this chemical by Salsbury Laboratories, Inc. as an intermediate in production of probenecid began in 1983.

No records exist to show either the quantity or value of imports of this chemical during 1980-85. An industry source estimates that approximately 7,300 pounds, valued at about $26,000, were imported in 1984. The same source estimates 1985 imports to be about 9,100 pounds, valued around $32,000.

U.S. export data for p-sulfobenzoic acid and its salts are not available as this chemical is classified in a residual (basket) Schedule B number. According to industry sources, there are no U.S. exports of the subject chemical.

U.S. consumption is estimated to be approximately that of imports.

Revenue losses for 1986 are estimated to be $15,000 in 1986.

SECTION 133. 2,2'-OXAMIDOBIS[ETHYL 3-(3,5'DI-TERT-BUTYL-4-HYDROXYPHENYL) PROPIONATE]

(Originally introduced as H.R. 2351 by Mr. Rowland)

The proposed legislation would temporarily suspend the column 1 rate of duty on imports of 2,2'-oxamido bis-[ethyl 3-(3-5-di-tert-butyl-4-hydroxyphenyl)propionate], classified in item 405.34 of the TSUS until December 31, 1990. The column 2 rate of duty would remain unchanged.

The subject chemical is a synthetic organic chemical used by industrial processors and fabricators as a high-performance antioxidant and metal deactivator in various polymers, such as polypropylene, polyethylene, and poylstyrene.

Although other antioxidants are used in polymer applications, this chemical meets specifications in specific applications not served by any other antioxidant currently produced in the United States.

The temporary duty suspension is intended to permit Uniroyal, which is the major U.S. importer, to supply this chemical to its customers in a cost-efficient manner. It is not currently produced in the United States. The Uniroyal Chemical Division of Uniroyal Inc. has indicated it cannot produce the chemical domestically without diverting fully utilized production capacity and facilities from the manufacture of other chemicals.

This chemical is classified in item 405.34 of the TSUS. The column 1 rate of duty is 13.5 percent ad valorem, and no preferential duty rate is afforded to imports from LDDC's. The column 2 rate of duty is 7 cents per pound plus 58 percent ad valorem. Imports of this chemical are not eligible for duty-free entry under GSP. However, imports are eligible for CBERA.

There is no domestic production.

Data on imports is business confidential.

U.S. consumption is apparently equal to imports.

If the estimated import and price levels of 1984 remain unchanged, the potential annual customs revenue loss would be approximately $50,000.

SECTION 134. DICYCLOHEXYLBENZOTHIAZYLSULFENAMIDE

(Originally introduced as H.R. 1265 by Mr. Campbell)

Section 134 would suspend the column 1 rate of duty for dicyclohexylbenzothiazylsulfenamide (DCBS), classified in item 406.39 of the Tariff Schedules of the United States (TSUS), until December 31, 1990, and would add item 906.45 to subpart B of part 1 of the Appendix to the TSUS. The column 2 rate of duty would remain unchanged.

DCBS is a rubber-processing accelerator which speeds the cross-linking reaction of rubber with sulfur. Sulfur bridge cross-links (vulcanization) makes the rubber harder and stronger, while eliminating the tackiness of untreated rubber. Rubber compounders use an average of 1.5 pounds of DCBS per 100 pounds of raw rubber.

The present duty on DCBS increases the manufacturing cost of steel-belted radial ply tires. At the present time, DCBS is not produced in the United States.

DCBS is classified in TSUS item 406.39, with a column 1 duty rate of 1.7 cents per pound plus 16.2 percent ad valorem. The column 2 rate is 7 cents per pound plus 52 percent ad valorem. LDDC rates are provided for this item. DCBS is not eligible for duty free treatment under the GSP. However, imports from designated Caribbean countries could be eligible for duty free treatment under the CBERA.

There is no domestic production.

DCBS it is regarded as a specialty adhesion promoter, with specific application in the steel belting construction of radial tires. Domestic producers of other sulfenamide accelerators are American Cyanamid Co., B.F. Goodrich Chemical Co., the Goodyear Tire and Rubber Co., Monsanto Corp., and Uniroyal, Inc. These producers regard DCBS as a low-volume specialty accelerator that will not adversely affect their production or sales of sulfenamide accelerators.

The major importer of DCBS is Mobay Chemical Co., which imports it from its parent company, Bayer A. G. of the Federal Republic of Germany. From 1979 to 1983 imports of DCBS ranged from 88,000 to 190,000 pounds. Industry sources estimate that imports of DCBS during 1984 were less than 500,000 pounds.

There were no U.S. exports in the past five years.

Date on apparent U.S. consumption are not available.

The estimated revenue losses for the three-year period from 1985 through 1987, set forth below, are based on ItC data and industry sources.

Estimated revenue loss

Year:	
1985	$263,000
1986	317,000
1987	373,000

SECTION 135. 2,4-DICHLORO-5-SULFAMOYL BENZOIC ACID

(Originally introduced as H.R. 1734 by Mr. Jones of Oklahoma)

Section 135 would add item 906.48 to the TSUS to temporarily suspend the column 1 rate of duty on 2,4-dichloro-5-sulfamoyl benzoic acid (lasamid). The column 2 would remain unchanged. The duty suspension would be effective until December 31, 1990.

Lasamid is an intermediate chemical used to produce the drug furosemide. Lasamid is an oderless, white crystalline powder soluble in acetone, alcohol, and weak caustic solutions. As of 1985 only one U.S. pharmaceuti-

cal firm manufactured furosemide domestically and this same firm consumes about 95 percent of total imports of lasamid. Duty suspension would enable the company to be more competitive with imported furosemide.

Lasamid is currently tariffed at column 1 duty rate of 1.7 cents per pound plus 18 percent ad valorem. The column 2 rate is 7 cents per pound plus 57.3 percent ad valorem. Lasamid has no LDDC rate and no GSP eligibility but does qualify for duty free entry under the CBERA.

American Hoechst is the only significant importer of lasamid and imports have ranged from 48,766 lbs. to 121,915 pounds over the past five years. In 1984 imports were 40,590 lbs. Lasamid cost approximately $10 per lb.

Data on U.S. consumption is not available.

Estimated revenue losses in 1986 are $190,000, in 1987, $198,000, and in 1988, $206,000.

SECTION 136. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)PHENYL]ACETAMIDE

(Originally introduced as H.R. 2352 by Mr. Rowland)

The proposed legislation would add new item 907.11 to the Appendix to the Tariff Schedules of the United States (TSUS) in order to suspend the column 1 rate of duty on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide until December 31, 1990.

The subject product is a fortifier for epoxy resins that is capable of improving the strength and elasticity of the resin while avoiding brittleness. The subject product is not currently produced in the United States. The epoxy resins and articles of plastics that are capable of being improved by the fortifier are produced in the United States. Import duties on the fortifier increase the cost of the fortifier to domestic epoxy resin manufacturers.

The fortifier for epoxy resins is classified in TSUS item 407.16, covering other mixtures in whole or in part of any of the product provided for in subpart 1B of Schedule 4 of the TSUS (benzenoid industrial organic chemicals). The column 1 duty rate of the fortifier is 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material; the column 2 rate of duty is 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. The fortifier is eligible for duty-free entry under CBERA and GSP, (unless it is imported from Venezuela).

If the active ingredient of the fortifier were imported in a form that is 95 percent or more pure, the active ingredient would be classified under TSUS item 405.34. The column 1 rate of duty of 13.5 percent ad valorem under this tariff item would not apply to the mixture since it is lower than the column 1 rate of duty for TSUS item 407.16. The column 2 rate of duty under item 405.34, 7 cents per pound plus 58 percent ad valorem, would apply to the mixture if it were the highest rate applicable to any component material.

There is no domestic production.

Separate import data for the fortifier are not available, since this mixture is one of many articles classified as "other benzenoid chemical mixtures". Since this product was patented in 1984, it is unlikely that there were any imports in commercial quantities. The only known source of this mixture is Canada. No imports were supplied by column 2 sources. The importer of this chemical is Uniroyal, Inc.; the firm has projected a growing U.S. market for this product.

Apparent U.S. consumption is estimated to be approximately equal to the level of imports.

If the import quantities and price levels projected for 1985–87 are realized, the potential annual loss of customs revenue would amount to approximately $38,000 in 1985, $94,000 in 1986, and $157,000 in 1987. The quantity of imports of the fortifier is expected to increase significantly because of the improved strength and reduced brittleness that it imparts to epoxy resins.

SECTION 137. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE)

(Oriiginally introduced as H.R. 2693 by Mr. Roe)

This section would amend Subpart B of "part" of the Appendix to the TSUS by adding a new item, 907.24, described as 1,2-dimethyl-3,5-diphenyl-1-H-pryazolium methyl sulfate (difenzoquat methyl sulfate) provided for in item 408.22 of the TSUS. The column 1 and column 2 rates of duty would be "free" until December 31, 1990.

The chemical difenzoquat methyl sulfate is synthetically produced from benzene derivative and other chemicals. It is used as a selective postemergence herbicide for the control of wild oats in barley and wheat.

A member of the sponsor's staff stated that the bill was introduced on behalf of American Cyanamid Co., the only producer of this herbicide. A company official stated that elimination of the duty on this herbicide would result in a lower cost of the final product to U.S. consumers.

The herbicide difenzoquat methyl sulfate is currently classified in a residual "basket" category for herbicides, not artificially mixed, which are provided for in the Chemical Appendix to TSUS-item 408.19. Articles entered under item 408.19 are presently dutiable at a column 1 rate of 14.4 percent ad valorem, and LDDC rate of 13.5 percent ad valorem, and a column 2 rate of 7 cents per pound plus 48.5 percent ad valorem.

The herbicide is currently eligible for duty-free treatment under GSP and also under CBERA. Since September 1, 1985, imports of this product from Israel may be entered free of duty.

There has been no domestic production in the past 5 years. American Cyanamid holds the patent on this product and produces it only through their subsidiary in Belgium.

In 1984, imports of this herbicide amounted to approximately 540,000 pounds. All of the imports in 1984 came from the Netherlands and were shipped to American Cyanamid.

Data for domestic consumption of this herbicide are not available; however, an industry source indicated that domestic consumption during the past five years was essentially the same as imports.

Based on data provided by an industry source, the following are estimated revenue losses: $360,000 in 1986; $365,000 in 1987; and $385,000 in 1988.

SECTION 138. DICOFOL

(Originally introduced as H.R. 2311 by Mr. Schulze)

Section 138 would temporarily suspend the duty on 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) for items entered between September 30, 1985 through December 31, 1990.

Dicofol is a synthetically produced chlorinated insecticide (more specifically, a miticide). It is currently being used on cotton, citrus fruits, field corn, beans, and approximately 60 other types of crops for the control of various species of mites. Other domestically produced miticides are also used to control mites on certain crops; however, Dicofol has the largest number of registered crop uses compared with other miticides. In many instances, Dicofol is the only registered miticide available.

Dicofol is classified in TSUS item 408.28, covering other insecticides. Articles covered by this item are dutiable at a column 1 rate of 14.9 percent ad valorem, an LDDC rate of 12.5 percent ad valorem, and a column 2 rate of 7 cents per pounds plus 64.5 percent ad valorem.

On January 12, 1984, Public Law 97-446 was enacted, which in its section 133 temporarily reduced the rate of duty on Dicofol to the rate applied to articles classified in TSUS item 408.24. The column 1 duty rate now applied to Dicofol imports as a result of this temporary legislation is 8.6 percent ad valorem.

Dicofol, as an article classified in TSUS 408.28 is eligible for GSP and CBERA.

There is no domestic production.

According to industry sources, U.S. imports of Dicofol in 1984 amounted to approximately 2.6 million pounds, valued at $5.9 million. The majority of these imports came from Italy and were shipped to Rohm and Haas. U.S. imports of Dicofol from the other foreign sources in 1984, from Makhteshim-Agan in Israel, entered free of duty under the GSP. The exact quantity of GSP imports in 1984 is not available, since other chemicals are classified in the same tariff item.

Based on 1984 import levels, annual revenue loss is estimated to be $600,000 during 1986–1990.

SECTION 139. CERTAIN KNITWEAR FABRICATED IN GUAM

(Originally introduced as H.R. 2225 by Mr. Blaz)

Section 139 suspends duty on sweaters from Guam assembled by U.S. citizens, nationals, or resident aliens from preshaped parts within guidelines of headnote 3(a) and within quota levels through October 31, 1992. This section is intended to apply solely to sweaters imported from Guam. Notwithstanding section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, it would not create new benefits or requirements for articles imported from the Northern Mariana Islands.

The articles in this legislation are full-fashioned sweaters, items of knit outerwear covering the body but not extending below mid-thigh. Full-fashioning is a method of construction in which the sweater parts are made to conform to the contours of the human body. The preshaped parts are then joined by a process known as looping or by sewing.

The purpose of the section is to reinstate existing practice with respect to country of origin determination for duty assessment purposes for knit to shape apparel imported into the U.S. from Guam. The existing country of origin determination allows products to be considered products of insular possessions (general headnote 3(a)(i) if they do not contain foreign materials amounting to more than 70 percent of their total value. Sweater imports from Guam and the Commonwealth of Northern Mariana Islands (CNMI) have been able to benefit from this provision in the past.

Customs has recently, however, issued new final rules of origin for textiles which state that "trimming, and/or joining together by sewing, looping, linking, or otherwise completed knit-to-shape component parts produced in a single country . . . do not constitute a substantial transformation; therefore, a sweater completed by such a process is a product of the country of origin of the component part."

The interagency Committee for the Implementation of Textile Agreement (CITA) has established special quota exemptions for Guam and CNMI. However, the governments of these two insular possessions have protested that the quantities are too small and combined with the imposition of duties, will result in severe economic hardship.

This section addresses only the tariff, not the quota.

During 1984, the average rate of duty paid on sweaters was 27 percent ad valorem; the actual MFN rates ranged from 5 percent to 38.8 percent ad valorem. On February 27, 1985, CITA provided for special MFA quota exemptions for exports of sweaters from Guam and CNMI between November 1, 1984 and October 31, 1985. Exempted from quotas were 160,000 dozen sweaters of cotton, wool or man made fibers assembled in Guam and 70,000 dozen sweaters assembled in CNMI. Sweaters exceeding these limits are charged against the quota of the country of origin, usually where the parts were knit.

Domestic production of all sweaters and textile fibers increased from 9.2 million dozen in 1979 to 10.7 million dozen in 1983.

The number of establishments in the U.S. sweater industry declined from 837 in 1980 to 790 in 1983. At the same time employment decreased from 69,300 workers to 62,200. Much of the decline has been attributed to the increase in imported sweaters and the increased use of new high-technology, less labor-intensive machinery.

Imports of all sweaters of textile fibers rose from 12.5 million dozen in 1980 to 20.2 million dozen in 1984.

The four major suppliers—Taiwan, Hong Kong, Korea, and China—accounted for 76.5 percent of the 1984 imports. Faced with tight quotas, manufacturers in these countries have moved more production offshore to subsidiaries in smaller less-developed countries and to U.S. insular possessions in the Pacific that have less restrictive quotas or no quotas.

Imports from Guam and the CNMI, which together accounted for approximately one percent of all sweater imports in 1984, increased significantly from 1982 to 1984. In 1982, the first year of production, Guam exported 33,000 dozen sweaters, valued at $2.7 million. By 1984, shipments of sweaters from Guam had increased 245 percent to 114,000 dozen, valued at $10 million. Production of sweaters in the CNMI began in 1984, when exports to the United States totaled 40,000 dozen, valued at $5 million.

Total sweater exports were small compared with imports and declined during 1980–84. Producers attributed this decline to the increased strength of the U.S. dollar and the resulting decline in the price competitiveness of their sweaters abroad. Exports decreased by 42 percent in quantity and by 56 percent in value during 1980–84 to 77,000 dozen, valued at $2.6 million.

Consumption rose from 19.2 million dozen sweaters in 1979 to 26.3 million dozen in 1983.

No change in revenue effect is expected as currently these sweaters are entering the U.S. duty free.

SECTION 140. 3,7-BIS(DIMETHYLAMINO)-P HENAZATHIONIUM CHLORIDE

(Originally introduced as H.R. 2312 by Mr. Schulze)

Section 140 would provide for a suspension of the column 1 rate of duty for methylene blue. The column 2 rate of duty would not be changed. The duty suspension would be effective with respect to articles entered or withdrawn for consumption on or after the 15th day after the day of enactment of the bill, and would be in effect until December 31, 1990.

Methylene blue is used as a dye for cotton and wool in the textile industry, as an indicator in chemical oxidation-reduction reactions, as a biological and bacteriological stain, as an antidote to cyanide poisoning, and as an anodyne and an antiperiodic. In addition, it is used as a processing stabilizer in the manufacture of acrylic monomers. Although other chemical stabilizers are produced in the United States, this chemical meets specifications in selected applications not served by the other stabilizers.

The purpose of this bill is to suspend the duty on methylene blue since there is no domestic production.

The column 1 rate of duty of methylene blue is 22.7 percent ad valorem; the LDDC rate is 20 percent ad valorem; and the column 2 rate is 7 cents per pound plus 70 percent ad valorem.

Imports of this product are not eligible for GSP but are eligible for CBERA.

There is no domestic production.

Imports have averaged 36,000 pounds per year in the period 1979–1983 with the exception of a spurt in imports in 1980 to 94,000 pounds.

Based on most recent import data, revenue loss would be approximately $3,000 per year during 1986–1990.

SECTION 141. DINITRO-O-TOLUAMIDE

(Originally introduced as H.R. 2333 by Mr. Evans of Iowa)

Section 141 would temporarily suspend the column 1 duty on 3,5 dinitro-o-toluamide (TSUS 411.93). Column 2 would remain unchanged. The suspension would be until December 31, 1990.

The chemical 3,5-dinitro-o-toluamide (commonly known as zoalene), is a bacteriostat that is used specifically as an additive to animal fees to inhibit or delay the development of additive to animal fees to inhibit or delay the development of animal coccidiosis, a disease caused by protozoan parasites. The disease primarily affects domestic animals and birds and only occasionally affects man and horses.

Salsbury Laboratories is the only domestic producer of zoalene. Demand for the product is confined to a small segment of the overall market for coccidiostats. As such, the firm is of the opinion that it might prove to be more economical and competitive to import the product as needed, rather than maintain domestic production. The possible suspension of the duty may be a significant factor influencing their decision.

The column 1 duty rate for zoalene is 9.5 percent ad valorem; the LDDC rate of duty is 8.1 percent ad valorem; and the column 2 duty rate is 7 cents per pound plus 67.5 percent ad valorem. Zoalene is not eligible for duty free treatment under the GSP but is eligible for CBERA duty free treatment.

Since there is only one domestic producer of this product, production data cannot be published because they would reveal confidential business information.

Zoalene accounts for less than a 10 percent market share among coccidiostats. The overall U.S. market for coccidiostats is estimated to amount to about $75 million to $100 million annually. There are at least three other such drugs that are more commonly used and together hold approximately 70 to 90 percent of the market, according to industry sources. They could, conceivably, be substituted in place of zoalene. In general, however, the use of a particular coccidiostat in a given situation is determined by the species of coccidia involved and/or on whether the chemical agent is approved for use in the particular species and/or class of species needing treatment. Each of the coccidiostats has its own range of effectiveness. Thus, although some are used more commonly than others and may be able to be substituted for one presently in use, they do not necessarily cover the same scope in terms of species.

Import data are unavailable because this product is classified in a residual or "basket" TSUS category. According to an industry source, however, there have been no imports of zoalene in the last five years. The major sources for this product are Israel and Spain. An industry source has quoted an approximate market price of $2,00-$5.00 c.i.f. per pound for this product, using the current market price from Spain as an example.

Revenue losses are estimated to be $14,000.

SECTION 142. SECONDARY-BUTYL CHLORIDE

(Originally introduced as H.R. 1546 by Mr. Broyhill)

This section would add item 907.55 to the appendix to the Tariff Schedules of the United States (TSUS) to provide for a suspension of the column 1 rate of duty for secondary-butyl chloride until December 31, 1990. The column 2 rate of duty would not be changed.

The primary use of secondary-butyl chloride is in the production of sec-butyllithium a powerful chemical base and alkylating agent. Sec-butyllithium is in turn used by pharmaceutical and specialty chemical firms in the production of high-value-added chemicals.

Secondary-butyl chloride is not currently produced in the United States, nor is it likely to be in the near future because of the extensive capital investment required, the corrosive materials used in the process, and the risks the producers must take. Downstream products of secondary-butyl chloride, notably sec-butyllithium, are produced in the United States, and the suspension of import duties on secondary-butyl chloride would allow domestic firms to compete more effectively with foreign producers of downstream products.

Secondary-butyl chloride is classified under TSUS item 429.47, which has a column rate of duty of 18 percent ad valorem, and a column 2 rate of 114.5 percent. Imports from eligible countries may qualify for the GSP and imports from beneficiary Caribbean countries may be eligible for duty free treatment under the CBERA.

Separate import data for secondary-butyl chloride is not available. Imports of secondary-butyl chloride are estimated to have remained at a level of about 400,000 pounds, valued at about $500,000, since 1980.

The only two known importers of secondary-butyl chloride are Lithium Corporation of America, located in Bessemer City, NC, and Foote Mineral and Chemicals, located in Johnsonville, TN. Both use secondary-

butyl chloride in the production of sec-butyllithium and purchase from the only known foreign producer, Deutsche Texaco AG Chemie of West Germany.

Assuming the import quantities and price levels of 1984 remain unchanged, the potential annual loss would amount to $9,000. Import quantities are not expected to increase significantly because of limited demand for the downstream chemical products.

SECTION 143. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS

(Originally introduced as H.R. 2309 by Mr. Roe)

Section 143 would suspend the column 1 rate of duty on imports of nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate, until December 31, 1990.

Vinyl acetate-vinyl chloride-ethylene terpolymer is a graft polymer and is used mainly in the manufacture of protective sheathing for fiber optic telecommunications cable. Small quantities of the terpolymer are also used as impact modifiers in the manufacture of rigid plastic profile forms for the construction market.

The terpolymer covered by this legislation is not now produced domestically and reportedly has no directly competitive domestic counterpart in the fiber optics sheathing market. The terpolymer is known to be imported by two U.S. firms at present.

Pantasote uses imported graft polymers to manufacture a patented plastic compound used to manufacture protective sheathing for fiber optic cable. It is the sole supplier of this patented material which it sells to a leading U.S. telecommunications company. The purpose of the proposed duty suspension is to enable Pantasote to continue to profitably manufacture this product, and to enable the telecommunications company to produce fiber optics competitively. No other U.S. company is producing these graft polymers.

Vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate, is classified under TSUS item 445.48, which provide for other vinyl resins. Item 445.48 has a column 1 duty rate of 5.7 percent ad valorem and a column 2 rate of 43.5 percent. The rate for LDDC's is 5.3 percent ad valorem. It qualifies for GSP and CBERA duty free treatment.

There has been no domestic production since 1984 when the sole U.S. producer, Pantasote, decided to go offshore to fulfill its needs for the product.

Official import statistics for the terpolymers covered by this legislation are not available. Imports of this product come from a firm in West Germany that is reportedly the only source producing a terpolymer with the properties necessary to meet the strict standards of the fiber optics industry. Pantosote, Inc. is the principal importer of the product. It began importing this material at the end of 1984 and projects that imports will be less than 5 million pounds in 1985, and will be less than 10 million pounds by 1989. Prior to 1984, imports of this terpolymer were negligible.

Based on projected imports, annual revenue loss is estimated to be from $196,000 to $419,000 in 1989 depending on how much of each type of the product is imported.

SECTION 144. TUNGSTEN ORE

(Originally introduced as H.R. 2360 by Mr. Flippo)

The legislation would suspend the column 1 rate of duty on tungsten ore until December 31, 1990. The column 2 rate of duty would not be affected.

Tungsten ore is the crude mineral form from which tungsten metal is obtained. The extreme hardness of tungsten makes it a preferred metalworking material for cutting edges of machine tools subject to intense wear or abrasion, as well as for metal surfaces in forming and shaping dies. The mining and petroleum industries, for example, use considerable quantities of tungsten carbide in drill bits, in the cutting edges of earth moving equipment, and in crushing machinery.

Mill products made from tungsten metal powder are used by the electronics and electrical industries.

In 1984 the end uses of tungsten were as follows: metalworking, mining and construction machinery and equipment, 75 percent; electrical machinery and equipment, 9 percent; lamps and lighting, 7 percent; transportation, 5 percent; and other, 4 percent.

According to industry sources, in the past few years there has been very little domestic tungsten concentrate available for the processing industry since (1) mine production has been at low levels for three years due to low concentrate market prices, and (2) most mine production has been captively consumed by producers of ammonium partungsate. The United States relied on imports of tungsten ore and concentrate for over 55 percent of reported consumption for the past three years, with well over half of the imports entering duty-free as a result of GSP. Domestic mining/processing companies purchase imports to augment their own production and could, therefore, benefit from the temporary duty suspension which would have the result of lowering the cost of the imported raw material.

U.S. imports of tungsten ore and concentrate are classified in TSUS item 601.54 with a column 1 duty of 17 cents per pound. Tungsten ore is eligible for duty-free entry under both the GSP and CBERA.

The tungsten industry is highly concentrated, and most companies are vertically integrated. In 1984, about 95 percent of the domestic tungsten concentrate production came from three mines in California and Colorado. Most major domestic mines operated below capacity or were temporarily closed, primarily due to low concentrated prices and demand. Mine capacity utilization was 24 percent in 1984.

U.S. imports of tungsten ore increased from 11.3 million pounds in 1980 to 12.8 million pounds in 1984. In 1984, tungsten ore was supplied by Canada (25 percent), Bolivia (22 percent), Thailand (13 percent), Portugal (10 percent) and Peru (10 percent). There were no imports of tungsten ore from column 2 sources. Of the GSP imports, Bolivia accounted for 32 percent; Thailand, 18 percent; Portugal, 15 percent; and Peru, 15 percent.

U.S. exports of tungsten ores decreased from 2.0 million pounds in 1980 to .3 million pounds in 1984. The market for tungsten ore in 1984 were West Germany, 38 percent; Austria, 22 percent; Brazil, 19 percent; Mexico, 16 percent; and France, 5 percent.

Apparent U.S. consumption of tungsten concentrates (pounds of contained tungsten) decreased from 20.4 million pounds in 1980 to 18.9 million pounds in 1984.

Based on the levels of total and GSP imports of tungsten ore in 1984, it is estimated that enactment of this legislation would result in the loss of customs revenues of approximately $659,000 annually.

SECTION 145. CERTAIN STUFFED TOY FIGURES

(Originally introduced as H.R. 2335 by Mr. Gradison)

Section 145 would temporarily suspend the column 1 rate of duty applicable to imports of toy figures of animate objects, not having a spring mechanism and not exceeding 25 inches in either length, width, or height and valued over 10 cents per inch of height, classified in item 737.30 of the TSUS. The duty suspension would be in effect through December 31, 1990.

These products are stuffed toy animals or figures having predominantly humanoid or animal-like features and are not commonly known as dolls. Stuffed toy figures of animate objects range from small inexpensive curiosities to larger-than-life-size animals and characters costing many hundreds of dollars. One category of stuffed animal is the low-quality, inexpensive animal of rather simple design, generally used as prizes in carnival games. However, the proposed legislation only covers those figures valued over 10 cents per inch of height, a category in which few carnival stuffed toys fall. The remaining stuffed toys either have a smooth cloth exterior or are plush—a trade term referring to a soft and pliable stuffed toy generally having a furry or velvet-like exterior that may simulate the coat of a living animal.

Although this product group consists of toys both for children's use and for collection or decoration, most stuffed toys are intended for use as children's toys.

Complete stuffed toy figures and skins for such figures are domestically produced. Because stuffed toy animals are often large in size, reduced freight costs are often more important than higher labor costs in encouraging domestic production. Therefore, domestic production is generally concentrated in the largest toys and imports in the smaller sizes. However, the freight cost for skins is a much less important factor than the labor cost, so that there is significant domestic production consisting of stuffing imported skins. In general, imports are said to be comparable in quality to domestically produced stuffed toys. The duty suspension proposed by this legislation was originally proposed as a part of broader legislation that eventually resulted in a temporary duty suspension on stuffed dolls, doll skins and stuffed or filled toy figures of inanimate objects. These items are the subject of H.R. 2238 introduced by Congresswoman Schneider. Items covered by TSUS 737.20 were removed from the 1982 legislation because of opposition from some importers and producers.

This new proposal results from the varied application of duty-free treatment of the subject articles under GSP and CBERA. Korea, the leading foreign supplier exceeded its competitive need limitations and Taiwan lost its duty free eligibility on July 1, 1985 for the same reason. China, the third largest supplier is not eligible for any preferential tariff programs. The remaining suppliers are a mixed bag, some having only GSP eligibility and some having that and CBERA. Most of the larger U.S. firms in the stuffed toy industry source from more than one of these countries, some from all seven.

The subject toys are currently dutiable at a column 1 rate of 5.9 percent ad valorem,

column 2 of 70 percent and an LDDC rate of 5.5 percent.

For the purposes of Customs classification, the term "animate" has traditionally included only animals or humanoid figures (other than dolls) that are predominantly earthly in nature. Nonearthly creatures, robots, machines, and vegetable or mineral objects vested with human or animal features are excluded, as are creatures that are hybrids of two or more earthly creatures.

The production of the subject articles was $86 million in 1980 and increased to 163.1 million in 1984. This includes the value of imported part incorporated in the toys. Production using imported skins increased by approximately 75 percent between 1983 and 1984.

Specific information concerning the domestic industry producing only the products covered by the legislation is not available. However, there were approximately 200 U.S. firms producing all types of dolls and stuffed toys in 1984. Employment in the doll and stuffed toy industry, which prior to 1982 had been declining, recovered somewhat in 1984, rising to about 7,800 employees, including about 6,600 production and related workers. The industry is concentrated in New York, New Jersey, California, and the New England states.

Nearly all domestic producers, including all the major firms, import to some extent. These activities range from the importation of skins to significant investment in foreign production facilities for supplying both U.S. and foreign markets. Although there is some production of complete stuffed toys in the United States, most domestic producers of the toys covered by the legislation rely on imported skins. Those toys that are entirely manufactured in the United States are either the very large toys or those toys sold as specialty items that do not usually compete in the "children's" toy market.

Imports of the subject articles increased from 38.7 million units in 1980 to 166.7 million units in 1984. As previously stated the top 3 importing countries were Korea (58 percent), Taiwan (27 percent) and China (6 percent). Imports under the GSP were 47.1 million units in 1984. CBERA imports were 600,000 imports in 1984.

U.S. exports of stuffed toy figures of animate objects consist primarily of (1) unfinished goods intended for further processing and reexport to the United States and (2) high-priced specialty items that compete in other markets in the same manner that U.S. imports from developed countries compete in the U.S. market. As such, U.S. exports were extremely limited, not exceeding 7 percent of producers' shipments in any year of the period 1980–84, and usually far less than that.

Consumption increased from $145.4 in 1980 to $456.5 million in 1984. Imports as a share of consumption (in value) rose from 43 percent in 1980 to 65 percent in 1984. If the import value is inflated to the first U.S. billing value the 1984 figure swells to 80 percent.

Assuming that imports from Korea and Taiwan remain ineligible for duty-free treatment under the GSP during 1986–90 and that China does not gain GSP eligibility during the period, the enactment of the legislation would result in an estimated customs revenue loss of $25 million to $30 million in 1986 and an estimated annual loss of $20 million to $25 million during 1987–90.

SECTION 146. DUTY FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES

(Originally introduced as H.R. 2723 by Mr. Jacobs)

The proposed legislation would add a new temporary provision to the Appendix to the TSUS to grant duty-free entry into the United States for the personal effects, equipment, and other articles of foreign participants coming to Indianapolis, Indiana in 1987 for the Tenth Pan American Games. Similar duty treatment would also be provided to articles entered by officials for the Games, accredited members of delegations, immediate family members of any of the above, and any servants to such persons. The duty suspension would be administered under the terms of regulations promulgated by the Secretary of the Treasury and would continue through September 30, 1987. The new tariff item, designated as Appendix item 915.10, would be for articles entered after May 31, 1986.

The proposed legislation is similar to a previously enacted provision which granted temporary duty-free entry to articles brought to the United States for use during the Los Angeles Olympic games held in 1984. Specifically, proposed TSUS item 915.10 would utilize the same article description (other than the different reference to the title of the Games) as was employed in prior TSUS item 915.00, which expired on September 30, 1984. The duty suspension is conditional that the articles are required to be consumed, destroyed or exported and not to be sold commercially in the United States. The Secretary of the Treasury is empowered to issue regulations concerning the scope and operation of item 915.10.

With the duty suspension provision, persons eligible to use it would not be compelled to obtain a temporary importation bond for the amount of customs duties otherwise applicable, then wait for a duty refund following proof that the articles had been exported from the United States.

There would be no effect on revenue.

SECTION 147. CARDING AND SPINNING MACHINES

(Originally introduced as H.R. 2310 by Mr. Schulze)

This legislation would amend the Tariff Schedule of the United States (TSUS) to suspend the existing column 1 rate of duty on spinning, twisting, doubling, and other machines specially designed for wool. The provision would also cover machines used to prepare for spinning wool intended for specified applications. Machines for making combed wools (worsted) yarn would be excluded.

The subject machines are used in the preparation of wool and the manufacture of yarns.

Spinning machines are used to reduce the roving (soft strand of loosely assembled fibers made from silver for spinning into yarn) to the required fineness, and to twist and then wind the yarn into a cap, bobbin, or paper tube.

Doubling machines simply take two, three, four or more single strands of sliver (untwisted continuous brand of fibers resulting from the carding process) or yarn and wind them onto one cone. The purpose of this operation is to increase the uniformity of the strand which is ultimately to be transformed into finished yarn.

The legislation was introduced on behalf of the members of the Northern Textile Association (NTA), textile fabric manufacturers located primarily in the Northeastern States. The association was primarily interested in machines specifically intended for spinning and carding wool into yarns, since it reports few such machines are domestically produced.

Spinning, twisting, doubling, and other machines specially designed for wool are provided for in TSUS item 670.04. This provision includes all machines used to produce yarns from wool; however, the Customs National Import Specialist indicates that identifying those machines which are "specially designed" can be difficult. The column 1 rate of duty is 5.3 percent ad valorem ad the column 2 rate is 40 percent. Imports are eligible for GSP and CBERA.

According to industry sources, between 30 and 40 domestic firms produce spinning, twisting, doubling or other machinery designed for producing yarn from wool, cotton, synthetics, or blends.

Estimated U.S. production of all spinning, twisting, doubling, or other machinery designed to prepare yarns (including those from wool) increased by 12.5 percent from $57.5 million in 1980 to $64.7 million in 1984. Since the majority of these machines are capable of processing wool, cotton, and synthetics, it is not possible to differentiate based on fiber type. Few of these machines are manufactured or designed solely to produce wool, according to industry officials.

The quantity of imports increased irregularly from 262 units valued at $398,000 in 1980 to 391 units valued at $2,151,000 in 1984.

In 1984, the principal sources of U.S. imports of these machines were West Germany (accounting for 37 percent of total imports), France (accounting for 36 percent of total imports), and Belgium (representing 22 percent of total imports).

U.S. exports of these machines averaged about 1,500 units per year during 1980–1984. (Exports of machinery based on type of yarn produced are unavailable.) Canada and Mexico were the principal markets for these exports.

During the period 1980–84, apparent U.S. consumption of all spinning, twisting, doubling, and other machines designed for preparing and producing yarn (including wool yarns) increased from $134.7 million in 1980 to $236.7 in 1984.

Based on 1984 import levels, annual revenue loss would average approximately $104,000 during 1986–88.

SECTION 148. CERTAIN BICYCLE PARTS

(Originally introduced as H.R. 2350 by Mr. Rostenkowski)

The proposed legislation would affect the customs treatment of bicycle parts in two areas. First, it would continue the duty-free treatment of certain parts from June 30, 1986, until December 31, 1990. Some bicycle parts would be deleted from the enumeration of articles now afforded duty-free entry, while others would be added to that list. With the exception of caliper brakes, none of the parts which would be covered by the amended duty suspension provision are produced on a commercial scale in the United States. Second, the legislation would continue during the same time period the prohibition on the application of the Foreign-Trade Zones Act to bicycle component parts unless those parts are reexported, either as parts or as components of complete bicycles.

Most bicycle parts are made from steel, alloy metals, rubber, or plastics materials.

U.S. bicycle manufacturers either produce parts in their plants or purchase from domestic or foreign sources the parts needed to manufacture bicycles. With one exception, certain parts (primarily those for multispeed lightweight bicycles) are not produced in the United States and currently enter duty-free under temporary TSUS item 912.05 and 912.10. Many of the imported parts are said to be a higher quality than similar U.S. parts; U.S. producers of bicycle components face significant direct price and quality competition for all of the parts they supply.

Most bicycle parts, when imported separately, are classified as "parts of bicycles" in TSUS item 732.30 through 732.42. Other components, however, are classified in accordance with general headnote 10(ij) under more specific (often eo nomine) provisions elsewhere in the TSUS. The column 1 rates of duty on the subject parts are currently suspended but absent suspension these parts range from approximately 5 percent AVE to 11 percent AVE. Some of the items are GSP eligible and all are eligible for CBERA.

Two industries produce articles involved in the proposed legislation: the domestic industry manufacturing bicycle components and that producing bicycles. Manufacturers of bicycles also make certain basic parts, such as tubing for frames, handlebars, rims for wheels, and other parts requiring basic bending and pressing operations.

With the exception of caliper brakes, there are no U.S. firms known to be producing on a commercial scale any of the articles which would enter duty-free under this legislation. One firm, Dia-Compe, Inc. a wholly owned subsidiary of Yoshigai-Kikai Co., Ltd., Osaka, Japan, produces caliper brakes. However, all the caliper brakes produced by Dia-Compe are assembled from parts imported free of duty from its parent company. The only product which the firm produces is caliper brakes.

The bicycle component parts industry consists mainly of small businesses, the number of which is believed to have decreased below fifty in 1984; employment was estimated to be about 1,500 in that year.

In 1984, eight firms accounted for virtually all of the domestic output of bicycles. According to their estimates in recent annual reports, Huffy accounted for "in excess of 40 percent" and Murray-Ohio for about 36 percent of U.S. producers' shipments. In 1984, total employment in the bicycle industry amounted to an estimated 4,500 employees.

Imports of bicycles increased from 2.2 million units in 1980 to 4.7 million in 1984. On a quantity basis, Taiwan and Japan were the two principal suppliers of bicycles in 1984, providing the United States with 3.7 million units, or 78 percent, and 584,000 units, or 12 percent, respectively, of total imports. In 1984, U.S. imports of bicycles from sources assessed the column 2 duty rate amounted to 38,245 bicycles, valued at $927,647. Complete data on U.S. imports of bicycle component parts are not available; as a result of general headnote 10(ij), certain articles are classified in broad or residual TSUS items covering many other types of articles. Imports of those items for which data are available decreased from $208 million in 1980 to $204 million in 1984. The principal sources of such imports in 1984 were Japan, $88.7 million or 46 percent; Taiwan, $72.3 million, or 35 percent; Italy, $13.7 million, or 7 percent; and the Republic of Korea, $11.7 million, or 6 percent.

A substantial proportion of parts of bicycles provided for in various TSUS items in schedule 7, part 5, subpart C, now enter free of duty under TSUS item 912.10. Complete separate data are not currently available on the volume of such duty-free imports in 1984. However, partially estimated data for such imports recorded $1.1 million under TSUS item 912.05 (generator lighting sets) and an estimated $60.0 million under item 912.10. In 1984, duty-free imports entering under item 912.10 accounted for 44 percent of total imports dutiable and duty-free, of all parts entered in subpart C, part 5, of schedule 7.

Data on U.S. exports of bicycle parts are available only for those parts of bicycle classified in the TSUS under schedule 7, part 5, subpart C of the TSUS, and for bicycle tires and tubes. Exports of these parts decreased from $14.5 million in 1980 to $12.0 million in 1984. The articles covered in the proposed duty suspension are not exported because they are not produced in the U.S. with the exception of Dia-Compe caliper brakes which are not exported.

Exports of bicycles decreased from 92,000 units in 1980 to 31,000 units in 1984. The data illustrate that exports of bicycles have not been important for the U.S. bicycle industry. Thus, the continued restriction of FTZ operations to the manufacture or reexport of finished bicycles or parts would appear for practical purposes to preclude the use of zones for bicycle production or assembly.

Consumption of parts increased from $226.9 million dollars on 1980 to $236.2 million dollars in 1984. Consumption of bicycles increased from $680.4 million dollars in 1980 to $822.4 million in 1984.

Based on 1984 data, apparent U.S. consumption of caliper brakes was about 3.3 million brakes, 2.3 million of which were supplied by imports. Consumption of bicycle tires and tubes decreased from 11.8 million units in 1980 to 9.5 million units in 1983.

Using several assumptions it is estimated the extension of the FTZ provision would result in a savings of $1.5 million.

The extension of the duty free status of certain bicycle parts would result in a revenue loss of $5.8 million in 1986.

SECTION 149. 1-(3-SULFOPROPYL) PYRIDINIUM HYDROXIDE

(Originally introduced as H.R. 4196 by Ms. Oakar)

This section, would suspend for two years the column 1 rate of duty on imported 1-(3-sulfopropyl) pyridinium hydroxide, classified in item 406.42 of the Tariff Schedules of the United States (TSUS). It would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 906.48, with dutyfree entry for articles from column 1 countries. The suspension would commence 15 days after the date of enactment and end on Dec. 31, 1990. The column 2 rate of duty would remain unchanged.

The chemical, 1-(3-sulfopropyl) pyridinium hydroxide, is a liquid with a density of approximately ten pounds per gallon. It is synthesized from propane sultone and pyridine. The subject chemical is used exclusively in a proprietary formulation for copper and nickel electroplating baths.

At the present time, this chemical is classified in TSUS item 406.42 (other heterocyclic compounds and their derivatives) with a column 1 rate of duty of 13.5 percent ad valorem. The column 2 rate of duty is seven cents per pound plus 52 percent ad valorem. The product is not eligible for duty-free entry under the Generalized System of Preferences (GSP); however, it is eligible for duty-free treatment under Caribbean Basin Economic Recovery Act (CBERA) and under the United States-Israel Free Trade Area Implementation Act of 1985 as indicated in the Special column. No least developed developing countries rate of duty is provided.

Industry sources and Commission records show that there were no U.S. producers of 1-(3-sulfopropyl) pyridinium hydroxide, in the past five years. The Shell Chemical Co., the only U.S. producer of propane sultone, one of the raw materials used to synthesize 1-(3-sulfopropyl) pyridinium hydroxide, stopped production of propane sultone due to the associated industrial hazards.

As the subject chemical is classified in a residual (basket) TSUS item, the separate quantity or value of imports during 1980–85 are not available. Industry sources estimate that during this period a total of approximately 250,000 pounds of the subject chemical, valued at about $625,000, were imported into the United States. It is estimated that imports can be expected to grow by approximately ten percent each year during 1986–88.

According to industry sources, there are no U.S. exports of the subject chemical.

Domestic consumption during 1980–85 was essentially the same as imports.

Based on estimates from industry sources, the expected customs revenue losses are $19,000 in 1987 and $20,000 in 1988.

SECTION 150. D-6-METHOXY-α-METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT

(Originally introduced as H.R. 4283 by Mr. Wirth)

The proposed legislation would establish a new item in the Appendix to the Tariff Schedules of the United States (TSUS) in order to afford temporary duty-free treatment to imports of d-6-methoxy-α-methyl-2-naphthaleneacetic acid from countries entitled to column 1 rates of duty. The column 2 rate of duty would not be affected by the bill, and the suspension of the column 1 of duty would continue through December 31, 1990.

The subject products are pharmaceutical intermediates which are covered by U.S. and foreign patents and are utilized in the manufacture of anti-inflammatory drugs used to treat arthritis. According to the proponent of the legislation—the owner of the patents—basic materials are exported from the United States to the Bahamas and to Ireland, which grant duty-free entry thereto on the basis that there is no domestic supplier of the materials (because of the patents). In those two countries, the basic materials are manufactured into the subject intermediates, which are then shipped to Puerto Rico for further processing and packaging; the intermediates contain both U.S. and foreign component chemical products. It is believed that no substitute for the finished drugs exists for those persons for whom it is prescribed. Because of the patents, no U.S.-produced alternative source for the subject intermediates exists. The acid, known as naproxen, has the chemical formula C14H1403 and the sodium salt has the formula C14 H13Na03.

These products are classified in item 412.22 of the TSUS, which covers nonenumerated analgesics, antipyretics, and nonhormonal anti-inflammatory agents. These articles are dutiable at a column 1 rate of 7.6 percent ad valorem, a least developed developing countries rate of 6.8 percent ad va-

lorem, and a column 2 rate of seven cents per pound plus 47.5 pecent ad valorem. Imports from beneficiary countries under the GSP and the Caribbean Basin Economic Recovery Act (CBERA) are eligible for duty-free entry, as are products of Israel. The column 1 rate of duty for this tariff item will be reduced as of January 1, 1987 to 6.8 percent ad valorem as a result of consessions granted in the Tokyo round of the Multilateral Trade Negotiations.

There is no known domestic production of the subject products. Syntex Corp., the owner of the patents on these products, manufactures some of the raw materials for the subject products at their facility in Boulder, Colorado.

Because there is only one firm involved in trading these intermediates, such data cannot be included since they would reveal confidential business information.

It is believed that the maximum customs revenue loss annually during the period of the duty suspension would range from $150,000 to $325,000, varying with the quantities of the subject products imported and with the amount of drawback of customs duties claimed by the U.S. importer-exporter.

SECTION 151. CERTAIN PESTICIDES

(Originally introduced as H.R. 4372, H.R. 4374, and H.R. 4377 by Mr. Schulze)

The first provision of this section would suspend the column 1 rates of duty for dinocap and mixtures of dinocap with application adjuvants classified under items 408.16 and 408.38 of the Tariff Schedules of the United States (TSUS) until Dec. 31, 1990. The bill would amend subpart B of part 1 of the Appendix to the TSUS to add items 907.26 and 907.29 with free entry for articles from countries entitled to MFN treatment commencing on or after the 15th day of enactment and ending on or before Dec. 31, 1990. The column 2 rate of duty would remain unchanged.

Dinocap is a fungicide-miticide used to control powdery mildew and mites, primarily on apples and other tree crops, vine crops, curcubits, and ornamentals. It is imported as both the technical grade and as a finished product containing application adjuvants. There are U.S.-produced fungicides and other U.S.-produced miticides; however, there are few, if any, pesticides that are effective in both of these areas. In addition, use of dinocap-resistant strains as has occurred with other fungicides and miticides, according to statements from the producer.

Dinocap is presently classified under item 408.16, fungicides, not artificially mixed. Articles entered under this item number are presently dutiable at a column 1 rate of 11.5 percent ad valorem, LDDC of 11.1 percent ad valorem, and a column 2 rate of 7 cents per pound plus 40 percent ad valorem. Effective July 1980, the present item number was established with concessions for a staged reduction in the column 1 rate to a final rate of 11.1 percent ad valorem as of January 1987.

Mixtures of dinocap with application adjuvants are currently classified under item 408.38, other pesticides, The column 1 rate and LDDC rate are currently 0.8 cents pound plus 9.7 percent ad valorem, while the column 2 rate is 7 cents per pound plus 31 percent ad valorem. The column 1 rate was not subject to annual staged reductions as a result of the Trade Agreements Act of 1979. Prior to the enactment of this Act, these products were classified in item 405.15, with a column 1 rate of 1.7 cents per pound plus 12.5 percent ad valorem. Articles classified in either item 408.16 or item 408.38 are eligible for duty-free treatment under the CBERA, the GSP, and the United States-Israel Free Trade Area Implementation Act of 1985.

During 1981–84, dinocap and its preparations were produced in the United States by Rohm and Haas, at their plant in Philadelphia, Pennsylvania. In 1985, Rohm and Haas stopped production of dinocap, but continued to manufacture the preparations using imported material. The data, however, is not available because to do so would reveal business confidential material.

According to an industry source, U.S. imports of these products in 1985 amounted to approximately 276,000 pounds, valued at $1.2 million. All of these imports came from Italy and were shipped to Rohm and Haas. There were no imports from any other sources. The Commission staff was not able to identify any imports of these products during 1981–84 as these products were classified in "basket" TSUS item numbers.

Exact export data for these products are not available as they are classified in residual Schedule B item numbers.

Data for domestic consumption of these products are not available; however, an industry source indicated that domestic consumption in 1985 was nearly the same as imports.

Based on data provided by an industry source, the estimated annual revenue loss during 1986–90 would be approximately $10,000.

The second portion of section 253 would suspend the column 1 (MFN) duty on mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants through Dec. 31, 1990. The column 2 (statutory) duty is not affected by the bill. The technical grade (active ingredients) dicofol already is subject to a duty suspension which expires Dec. 31, 1990. Continuation of that suspension is covered by separate legislation.

Mixtures of dicofol and application adjuvants currently enter the United States under Tariff Schedules of the United States (TSUS) item 408.36 at a MFN duty of 0.9 cents per pound plus 9.7 percent ad valorem. This MFN duty will be reduced to 0.8 cents per pound plus 9.7 percent ad valorem on January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Imports under TSUS item 408.36 are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Dicofol is not produced in the United States. It is imported both as a technical grade (active ingredient) and as mixtures of the technical grade and application adjuvants. Dicofol is a cholorinated hydrocarbon developed specifically as a broad spectrum miticide. There are no other uses. After entry into the United States, the technical grade and the mixtures are further processed or formulated to produce a variety of miticide products.

Because the subject products enter in a basket category, determination of the revenue effect is not possible. It is estimated that revenue foregone would be approximately $85,000 per year for the period 1986 through 1990.

The third portion of section 253 would suspend the column 1 (MFN) duty on mixtures of mancozeb, dinocap, stabilizer and application adjuvants through Dec. 31, 1990. Currently, imports of mancozeb/dinocap mixtures would enter under item 408.38 at an MFN duty of 0.8 cents per pound plus 9.7 percent ad valorem. Imports under TSUS item 408.38 are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

There are no U.S. manufacturers of mancozeb/dinocap. These mixtures are produced in Europe, under patents which expire in 1991, by subsidiaries of a U.S. firm. There is no single product manufactured or sold in the United States that is a direct replacement for the mancozeb/dinocap mixtures marketed domestically as Dikar. There are no commercial end used for mancozeb/dinocap products control one or more pests controlled by Dikar but no single product has as broad a control spectrum of fungi and mites.

The revenue impact is undetermined because the subject products enter in a basket category. It is estimated that revenue foregone would be approximately $300,000 per year for the period 1986 through 1990.

SECTION 152. CHOLESTYRAMINE RESIN USP

(Originally introduced as H.R. 4376 by Mr. Schulze)

Section 152 would temporarily suspend the column 1 rate of duty for cross-linked polyvinylbenzyltrimethylammonium chloride (cholestyramine resin USP) classified in item 412.70 of the Tariff Schedules of the United States (TSUS). The bill would amend subpart B of part 1 of the Appendix to the TSUS to add item 907.30 with free entry for articles from countries entitled to MFN treatment commencing on or after the 15th day of enactment and ending on or before December 31, 1990. The column 2 rate of duty would remain unchanged.

Cholestyramine resin is a synthetic, strongly basic, anion-exchange resin consisting of a copolymer of styrene and divinylbenzene with quaternary ammonium groups. According to an industry source, the resin is available in both the USP grade and "regular" grade. The letter has a water content of 70 percent, compared with 12 percent for the USP grade. The resin is used medicinally as a cholesterol lowering agent and is marketed domestically by Mead Johnson under the brand name "Questran." The orally ingested resin, a white to buff-colored, fine hygroscopic power, absorbs bile acids in the intestine, without being absorbed from the digestive tract. As bile acids are removed from the enterohepatic circulation, increased oxidation of cholesterol to bile acids occurs.

Several patents are presently in effect that relate to the product as well as its applications. These patents are effective into the next century, according to an industry source. As of May 14, 1985, however, the patent on method-of-use expired. This was considered the main patent on the product since a patent on the polymer itself expired several years ago.

Rohm and Haas Company stated that there are no U.S. manufacturers of finely ground, polyvinylbenzltrimethylammonium chloride, anion-exchange resins approved by the Food and Drug Administration (FDA) for use as antihyperlipoproteinemics. As such, the firm maintains that a tariff on this product is unnecessary.

Cholestyramine resin USP is presently classified under item 412.70. The duty rate for column 1 countries and for least developed developing countries (LDDC's) is 6.9 percent ad valorem. The column 2 duty rate is 7 cents per pound plus 45 percent ad valorem. The item number has no concession for a staged reduction in duty rates. The resin is not eligible for duty-free treatment under the GSP; however, it is eligible for duty-free

treatment under the Caribbean Basin Economic Recovery Act (CBERA) and under the United States-Israel Free Trade Area Implementation Act of 1985 indicated in the special column.

The market for hypolipidemics, agents used to reduced cholesterol and lipid levels in the blood, was valued at $60 million in 1984, an increase of 20 percent from 1983. Two of the hypolipidemics are anion-exchange resins. These resins are commonly called bile-acid sequestrants. One is cholestyramine resin USP and the other is colestipol hydrochloride, marketed under the brand name "Colestid Granules." The latter, although identical in end use to cholestyramine resin, has a different polymer structure. Of the approximately 2.4 million prescriptions for hypolipidemics written in 1984, "Questran" and "Colestid" accounted for 15 percent and 1 percent, respectively. "Questran" is expected to account for 25 percent of the projected $300 million market for hypolipidemics in 1990.

There is no significant medical difference between the two anion-exchange resin products. The preference in prescriptions was attributed to product loyalty, the length of time the product has been on the market, and the patient's tolerance of either product. Price is not considered a significant factor.

As the anion-exchange resin is classified in a residual (basket) TSUS item, the quantity or value of imports are not available. According to an industry source, however, there were no imports of this product prior to 1985. Approximately 250,000 pounds were imported in 1985, valued at $1-2 million. The industry source stated that projected total imports for 1986 will amount to 400,000-500,000 pounds, valued at $2-4 million. During 1987-90, imports are expected to amount to 550,000 pounds per year, valued at approximately $2-4 million per year. The current source of these imports is Italy, although the product is also available from France.

Data for domestic consumption are not available; however, industry sources indicate that domestic consumption in 1985 was estimated to amount to between 250,000 and 500,000 pounds, valued at $1-3 million.

Based on estimates from industry sources, annual revenue losses are expected to be approximately $190,000.

Year	*Estimated loss ($1,000)*
1987	190
1988	192
1989	195
1990	197

SECTION 153. 3 AMINO-3-METHYL-1-BUTYNE

(Originially introduced as H.R. 4375 by Mr. Schulze)

Section 153 would suspend the column 1 (MFN) duty on 3-amino-3-methyl-1-butyne through December 31, 1990. The column 2 duty is not affected by the bill. This chemical intermediate presently enters the United States under Tariff Schedules of the United States (TSUS) item 425.52 at a MFN duty of 7.9 percent ad valorem. Imports under this item are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

There is no domestic production of this intermediate, and no directly competing product. 3-amino-3-methyl-1-butyne is employed as a chemical intermediate in the manufacture of pronamide, a herbicide used to control grass and weeds for selected crops. Pronomide is manufactured by a single U.S. firm which imports the intermediate from subsidiaries abroad.

The revenue impact is undetermined because the subject chemical enters in a basket category. It is estimated that revenue foregone would be approximately $50,000 per year for the period 1986 through 1990.

SECTION 154. MANEB, ZINEB, MANCOZEB, AND METIRAM

(Originally introduced as H.R. 4373 by Mr. Schulze)

This section, would suspend temporarily the column 1 rate of duty for mixtures of maneb, zineb, mancozeb, and metiram, under item 432.15 of the Tariff Schedules of the United States (TSUS). The bill would amend subpart B of part 1 of the Appendix to the TSUS to add item 907.60 with free entry for articles from countries entitled to MFN treatment commencing on or after the 15th day after the date of enactment and ending on or before Dec. 31, 1990. The column 2 rate of duty would remain unchanged.

The products covered include derivatives of ethylenebisdithiocarbamate (EBDC) registered for use as agricultural fungicides. These mixtures consist of active ingredients, related reaction products, and application adjuvants such as suspension agents, dispersants, inert liquid and/or solid diluents, thickeners, defoamers, solvents, stabilizers, colorants, water, and antifreeze. EBDC fungicides are used to control wide spectrum of diseases on most agronomic crops including vegetables, fruits, vine crops, field crops, ornamentals, nursery stock, and seed. There are no commercial end uses for these products other than as agricultural fungicides. Currently, there are a number of other fungicides produced in the United States; however, EBDC-based fungicides are usually the most cost-effective, broad-spectrum fungicides available to U.S. farmers. Target fungi have not developed resistance to these fungicides as has been the case with some newer systemic fungicides.

Mixtures of maneb, zineb, mancozeb, and metiram, are currently classified under item 432.15, mixtures of pesticides not specially provided for. Articles entered under this item number are presently dutiable at a column 1 rate of 3.9 percent ad valorem, but not less than the highest rate applicable to any component material, an LDDC rate of 3.7 ad valorem, but not less than the highest rate applicable to any component material, and a column 2 rate of 25 percent ad valorem, but not less than the highest rate applicable to any component material.

Articles classified in item 432.15 are eligible for duty-free treatment under the CBERA, the GSP, and the United States-Israel Free Trade Area Implementation Act of 1985.

Only one U.S. firm, Rohm and Haas Company in Philadelphia, Pennsylvania, produced the specified EBDC derivatives within the United States during the past five years. Production of these chemicals in the United States by Rohm and Haas was discontinued in 1985.

Data on U.S. production of these products are not available because to do so would reveal business confidential material.

Exact import data on these products are not available as they are classified in a "basket" item number. However, since Rohm and Haas was the only U.S. importer of these products during 1980-85, their import data reflect trade in these products. A company spokesman said that imports were 1.6 million pounds in 1981, 2.6 million pounds in 1984, and 6.7 million pounds in 1985. Rohm and Haas did not import these products during 1982 and 1983.

U.S. export data for these products are not available as they are classified in a residual (basket) schedule B item number. However, according to Rohm and Haas, exports of these products ranged from approximately 2.4 million pounds in 1981 to 2.7 million pounds in 1985. There were no exports of these products in 1980.

Data on the domestic consumption of these products are not available.

Based on estimates from industry sources, $1,000,000 is the estimated annual revenue losses during 1987-89.

SECTION 155. NICOTINE RESINS

(An amendment offered by Mr. Duncan)

The Trade and Tariff Act of 1984 provided for a temporary duty suspension for nicotine resin complex in the form of chewing gum pieces. The intent of the provision was to allow duty-free entry of a trademarked substance know as *Nicorette*, imported by Merrell Dow Pharmaceuticals, Inc.

Subsequent classification interpretations by the Customs Service since the duty suspension was enacted have negated the intent to provide duty-free treatment for *Nicorette*. This amendment clarifies the definition of nicotine resin complex so as to include "measured doses in chewing gum form (provided for in item 438.02, part 3B, Schedule 4). Thus, *Nicorette* would be covered by this duty-free classification as originally intended by Congress.

This amendment has been reviewed by the Customs Service and International Trade Commission, who have reported that there are no problems with this language. It is basically a technical change.

The second part of this amendment extends the current duty suspension from December 31, 1987 to December 31, 1990. The patent on this item applies through 1992, so the extension of this suspension would not negatively impact any manufacturer.

SECTION 156. DOUBLE-HEADED LATCH NEEDLES

(Originally introduced as H.R. 2166 by Mr. Broyhill)

This section provides temporary suspension for single and double-headed latch needles provided for in TSUS item 670.58 and compound needles provided for in TSUS 670.62. Both the Department of Commerce and the International Trade Commission have investigated this change and found that there is no longer domestic production of the needles covered in 670.62.

Hosiery Knitting needles in 670.62 have been covered by temporary suspension in item 912.09, which is repealed in this amendment. By providing temporary suspension in items 912.18 and 912.19, the current suspension is continued and the scope enlarged.

Double-headed latch needles, or "links" needles, are used in the manufacture of machine-knitted fabric. These needles each consist of a shank with a hook at each end.

The manufacturing process for needles generally includes a series of up to thirty hand and machine operations, including pressing, swaging, tempering, polishing, and straightening. The duty free treatment is sought as there is currently no domestic production.

Double-headed latch needles are classified in TSUS item 670.58 as latch needles for knitting machines. The column 1 rate of duty is 16 cents per thousand plus 11.7 per-

cent ad valorem and the column 2 rate is $2.00 per 1,000 plus 60 percent ad valorem. These needles are eligible for GSP and such imports totaled $2.7 million in 1984. These needles are also eligible for CBERA.

There has been no U.S. production of latch needles since 1980, when the Torrington Co. divested itself of its needle operations.

Imports increased from 128 million units in 1980 to 161 million units in 1984. West Germany and Japan accounted for 69 percent of U.S. imports.

The average annual customs revenue loss that would result from the continuation of the duty suspension as to imported double-headed latch needles would be approximately $2.2 million. This estimate is based on 1984 import levels and on the staged reductions of the tariff rates schedules for 1985-90.

SECTION 157. SILK YARN

(Originally introduced as H.R. 4875 by Mr. Roe)

This section would suspend the column 1 rate of duty on silk yarn.

This provision would affect the following types of silk yarn: (1) continuous filament yarn not more advanced than organzine, singles, or tram, entering under TSUS item 308.30; and (2) colored, plied 100 percent silk yarn spun wholly from noncontinuous fibers, entering under TSUS item 308.51.

Most of the continuous filament yarn produced in this country or imported is used in the production of woven silk fabric, much of which is used for the manufacture of silk neckties.

The purpose of this provision is to assist U.S. manufacturers of silk fabric to compete with imports of silk fabric from Italy and other European countries by removing the tariff on the silk yarn used in producing the fabric.

The column 1 and column 2 rates of duty applicable to imports of the subject yarn are 10 percent ad valorem and 20 percent ad valorem, respectively. Yarn of 100 percent silk is not subject to restraints under the MFA. It enters duty-free from Israel, and is eligible for duty-free entry under the GSP and the CBERA.

There are no domestic companies known to be producing 100 percent spun silk yarn. There are believed to be 7 companies producing continuous filament silk yarn. Industry sources estimate that 1985 production of the latter product amounted to 430,000 pounds, valued at $8.4 million.

Imports of silk yarn under TSUS item 308.30 increased sharply from $108,000 in 1981 to $3.4 million in 1985. Those under TSUS item 308.51 jumped from $209,000 in 1981 to $1.4 million in 1983, but then declined to $740,000 by 1985.

Specific data for exports of the silk yarns covered by this provision are unavailable; however, industry sources estimate that exports of the subject silk yarn accounted for approximately $2 million in 1985.

It is estimated that annual domestic consumption is about $10 million.

The estimated revenue losses would be approximately $189,000 per year.

SECTION 158. 3-ETHYLAMINO-P-CRESOL

(Originally introduced as H.R. 4549 by Mr. Vander Jagt)

This section would suspend for three years the column 1 rate of duty for 3-ethylamino-p-cresol classified under item 404.96 of the Tariff Schedules of the United States (TSUS).

The chemical 3-ethylamino-p-cresol is an intermediate chemical used in the production of certain dyes such as basic red 1. Minor uses for the subject chemical include the manufacture of certain fluorescent brightening agents used in paper processing.

The purpose of the duty suspension is to permit domestic production of basic red 1 to be price competitive with the imported product.

3-Ethylamino-p-cresol is classified under TSUS item 404.96, where it is one of eight chemicals listed by name. The column 1 rate of duty is 9 percent ad valorem, and the column 2 rate of duty is 7 cents per pound plus 65 percent ad valorem. Imports of the subject chemical from LDDC countries and from Israel are eligible for a preferential rate of duty of 7.8 percent ad valorem. The chemical is eligible for duty-free treatment under the CBERA, but is not eligible for GSP preferences.

There is no U.S. production or exports of the chemical.

Separate import data on the chemical are not available. However, industry sources estimate that approximately 150,000 pounds valued at $720,000 were imported into the United States in 1985. This accounts for all U.S. consumption in that year.

Based on estimates from industry sources, expected revenue losses would be about $60,000 per year.

SECTION 159. CHLOR AMINO BASE

(Originally introduced as H.R. 4651 by Mr. Jenkins)

This section would suspend through December 31, 1990, the column 1 rate of duty for 4-chloro-2,5-demethoxyaniline (also known as chlor amino base).

The chemical, 4-chloro-2,5-demethoxyaniline, is a benzenoid intermediate chemical used to manufacture Pigment Yellow 83. Because of the unique chemical properties of the subject chemical, no other product can be substituted in the production of Pigment Yellow 83.

The suspension of duty will act to lower the overall cost of producing textiles in the United States since the chemical is used as a precursor in the production of printing ink and dyes for textiles.

Chlor amino base is classified under TSUS item 405.01 with a column 1 rate of duty of 6.7 percent ad valorem and an LDDC rate of 6.1 percent ad valorem. The column 2 rate of duty is 7 cents per pound plus 41.5 percent ad valorem. The product is not eligible for duty-free treatment under the GSP; however, it is eligible for duty-free treatment under CBERA and under the United States-Israel Free Trade Area Implementation Act of 1985.

Only one domestic manufacturer, Pfister Chemical, Inc., produces 4-chloro-2,5-demethoxyaniline. Production data cannot be included because their publication would reveal confidential business material.

Industry sources estimate that imports of chlor amino base in 1985 were 254,247 pounds, valued at $1.2 million.

Separate U.S. export and consumption data are not available.

Estimated revenue losses are expected to average about $80,000 per year.

SECTIONS 160, 162, 165, 166, 168, 171. CERTAIN CHEMICALS

(Originally introduced as H.R. 4599, by Mr. Torricelli)

This section would provide temporary duty-free treatment for the following chemicals: 2,2-bis-(4-cyanatophenyl), aminomethylphenylpyrazole, benzethonium chloride, malononitrile, metaldehyde, and paraldehyde USP, classified in TSUS items 405.82, 406.36, 408.32, 425.42, 427.58, and 439.50, respectively.

All of the chemicals affected by this bill are produced synthetically from petroleum products. These chemicals have a variety of primary uses. The chemical 2,2-bis-(4-cyanatophenyl) is used exclusively in the production of a specialty resin which is, in turn, used to manufacture printed circuit boards.

U.S. Pharmaceutical (U.S.P.) grade paraldehyde, also known as paracetaldehyde, is a rapidly acting hypnotic which has been in use for over a century, primarily to treat delirium tremens.

Benzethonium chloride is a cationic surface active agent used as a germicide.

Malononitrile is usually considered a specialty chemical and used in laboratory or pilot plant organic syntheses.

Metaldehyde is a crystalline solid chiefly used in the western United States to protect vineyards from destruction by snails and slugs.

The column 1 duty rates on these chemicals range from 0.6 percent ad valorem (malononitrile) to 11 percent ad valorem (benzethonium chloride). LDDC rates range from free to 10.7 percent ad valorem. Melononitrile, metaldehyde, and paraldehyde USP are eligible for duty-free treatment under the GSP, the CBERA, and the United States-Israel Free Trade Area Implementation Act of 1985. Imports of benzethonium chloride from Israel are currently subject to annual staged reductions in duty until January 1989, when they will be eligible for duty-free treatment. The current rate for these imports from Israel is 10.7 percent ad valorem.

There was no domestic production of any of the subject chemicals during 1981-85.

Imports of malononitrile during 1981-85 fell from $1.9 million in 1981 to $157,000 in 1982, and reached $848,000 in 1985. As industry source has estimated the value of 1985 imports of the other chemicals as shown in the following tabulation.

Chemical:	*Value*
Aminomethylphenylpyrazole	$100-200,000
Benzethonium chloride	500-600,000
2,2-bis-(4-Cyanatophenyl)	50-100,000
Metaldehyde	1,000,000
Paraldehyde USP	20-30,000

U.S. export data for these chemicals are not available. Apparent domestic consumption during 1981-85 paralleled imports.

Expected annual revenue losses for 1986 are as follows:

Estimated loss

[In thousands of dollars]

Chemical:	
Aminomethylphenylpyrazole	6.7-13
Benzethonium chloride	55-66
2,2-bis-(4-Cyanatophenyl)	7-14
Malononitrile	5
Metaldehyde	60
Paraldehyde USP	0.75-1

SECTION 161. NITRO SULFON B

(Originally introduced as H.R. 4664 by Mr. Jenkins)

This section would suspend through December 31, 1990, the column 1 rate of duty for 3-nitrophenyl-4-beta-hydroxysulfone (also called nitro sulfon B).

Nitro sulfon B is a benzenoid intermediate chemical used in the production of certain dyes known as fiber-reactive dyes. These dyes are used in the domestic textile industry to dye principally cotton fabrics.

The suspension of duty will act to lower the overall cost of producing textiles in the United States since the chemical is used as a precursor in the production of dyes for textiles.

Nitro sulfon B is classified under TSUS item 406.00 (Organo-sulfur compounds) with a column 1 rate of duty of 7.5 percent ad valorem and an LDDC rate of 6.7 percent ad valorem. The column 2 rate of duty is 7 cents per pound plus 40.5 percent ad valorem. The product is not eligible for duty-free treatment under the GSP; however, it is eligible for duty-free treatment under CBERA and under the United States-Israel Free Trade Area Implementation Act of 1985.

During 1981-85, there was no domestic production of nitro sulfon B.

Industry sources estimate that in 1985 imports of nitro sulfon B were 84,454 pounds, valued at $384,266.

During 1981-85, domestic consumption was essentially the same as imports.

Based on estimates from industry sources, expected revenue losses during 1987-90 will be $88,000 to $96,000 per year.

SECTION 163. 1-(4-(1,1-DIMETHYLETHYL) PHENYL)-4-(HYDROXYDIPHENYLMETHYL-1-PIPERIDINYL)-1-BUTANONE

(Originially introduced as H.R. 4404 by Mr. Gradison)

This section would suspend through December 31, 1990 the column 1 rate of duty on imports 1-(4-(1,1-dimethylethyl)phenyl)-4-(hydroxydiphenylmethyl-1-piperidinyl)-1-butanone (also known as terfenadone) classified in TSUS item 406.42. The column 2 rate of duty would remain unchanged.

Terfenadone is a patented intermediate chemical used in the manufacture of terfenadine, a nonsedating antihistamine. The latter chemical is a patented prescription drug sold under the trademark Seldane by Merrell Dow Pharmaceuticals, Inc.

The temporary suspension of duty would reduce the cost of importing terfenadone, thereby allowing increased utilization of existing domestic manufacturing facilities producing terfenadine and Seldane and providing new jobs at Merrell Dow's facilities in Cincinnati, Ohio. Merrell Dow intends to export approximately one-third of the terfenadine manufactured from the imported terfenadone over the next 3 years.

Terfenadone is classified in TSUS item 406.42 (other heterocyclic compounds and their derivatives) with a column 1 rate and an LDDC rate of 13.5 percent ad valorem. The column 2 rate of duty is 7 cents per pound plus 52 percent ad valorem. Imports of terfenadone are not eligibile for duty-free treatment under the GSP; however, they are eligible for duty-free treatment under CBERA and under the United States-Israel Free Trade Area Implementation Act of 1985.

There was no U.S. production of terfenadone in the past five years. Terfenadone is currently under U.S. patent to Dow Chemical Company, the only U.S. importer of this product.

Separate import data are not available for terfenadone, but industry sources estimate that 1985 imports amounted to approximately 24,000 pounds, valued at about $3 million.

According to industry sources, there are no U.S. exports of terfenadone and that domestic consumption during 1981-85 was essentially the same as imports.

Based on industry trade estimates, expected revenue losses would amount to $729,000 in 1987, and $1.46 million in subsequent years.

SECTION 164. FLUAZIFOP-P-BUTYL

(Originally introduced as H.R. 5057 by Mr. Carper)

This section suspends, through December 31, 1990, the column 1 rate of duty on a chemical commonly known as fluazifop-p-butyl.

Also called butyl 2-[4-(5-trifluoromethyl-2-pyridinyloxy) propanoate, this chemical is produced synthetically by a series of proprietary chemical reactions using benzenoid chemicals as starting materials. It is used in various herbicide formulations to control grassy weeds.

According to industry sources, fluazifop-p-butyl is currently produced solely in England; the concentrate is imported into the United States and formulated for commercial sale. Suspending import duties on this herbicide could lower the cost of the finished product to consumers. Further, because this herbicide is used primarily in cotton and soybean farming, a suspension of duties could reduce the U.S. farmers' costs and make them more competitive in the world market for soybeans.

Fluazifop-p-butyl is currently classified in TSUS item 408.23, with column 1 rate of duty of 13.5 percent ad valorem and a column 2 duty rate of 7 cents per pound plus 48.5 percent ad valorem. No LDDC rate is provided. Imports of this herbicide are eligible for duty-free entry under the GSP, CBERA, and the U.S.-Israel Free Trade Agreement.

Fluazifop-p-butyl is not produced in or exported from the United States.

Annual imports of this herbicide are estimated to be about 2.0 million pounds, valued at about $28.0 million.

Apparent U.S. consumption is essentially determined by the level of imports.

The estimated revenue losses would amount to about $1 million per year.

SECTION 167. SETHOXYDIM

(Originally introduced as H.R. 4219 by Mr. Vander Jagt)

This section would suspend the duty on mixtures of sethoxydim through December 31, 1990.

Sethoxydim, more specifically referred to as 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one, is an unstable oily liquid produced by a series of proprietary chemical reactions using nonbenzenoid starting materials. In commercial terms, sethoxydim is a formulated chemical product typically distributed in various forms, such as dust or concentrate, for application in no-till agricultural control of grassy weeds among alfalfa, cotton, peanuts, and some other types of vegetable crops.

Imports of unmixed sethoxydim would enter under TSUS item 425.52. However, sethoxydim is unstable and generally imported as a 50 percent solution in xylene or in other benzenoid solvents. The xylene solution is classified in TSUS item 430.20, with a column 1 duty rate of 3.9 percent ad valorem, but not less than the highest rate applicable to any component compound (in this case, the highest component rate is that for sethoxydim, or 7.9 percent ad valorem). Other benzenoid solutions would enter under TSUS item 407.19, with a column 1 rate of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. Both types of solution are eligible for duty-free treatment under the CBERA and for preferential treatment under the U.S.-Israel Free Trade Agreement. Only the later is eligible for GSP treatment.

Sethoxydim is not produced in the United States. Its method of manufacture is considered highly proprietary, and it is not likely to be licensed for production elsewhere.

Separate import data for sethoxydim are not available. Annual imports of sethoxydim are estimated to have remained at a level of about 2.0 million pounds, valued at about $28.0 million, since 1983, the first year in which this chemical was entered. The only known source of imports of this chemical in 1985 was West Germany.

The estimated annual loss of customs revenues would amount to approximately $2.2 million during the proposed suspension.

SECTION 169. POLYACRYLATE POLYMER MIXTURES

(Originally introduced as H.R. 5421 by Messrs. Jones of Oklahoma and Frenzel

This section provides suspension of the column 1 rate of duty for certain mixtures of cross-linked sodium polyacrylate polymers through December 31, 1990.

Sodium polyacrylate polymers are colorless, oderless powders which are used principally to absorb large amounts of liquids or as additives to water-based mixtures to form flocculants. Additional properties associated with polyacrylate polymers are increased viscosities of water-based mixtures with limited lubricity. There are many special varieties and proprietary formulations used in many different industries, including boiler treatment compounds, water purification, and in drilling muds. There are few real differences between polyacrylate polymers used in the various industries, although some manufacturers claim proprietary features which make their products unique.

Sodium polyacrylate polymer mixtures are provided for in TSUS item 430.20, with a column 1 rate of 3.9 percent ad valorem, but not less than the highest rate applicable to any component compound. The LDDC rate is 3.7 percent ad valorem but not less than the highest rate applicable to any component compound. The column 2 rate is 25 percent ad valorem, but not less than the highest rate applicable to any component compound. Imports are eligible to duty-free treatment under the GSP and the CBERA.

Separate production data are not available for cross-linked sodium polyacrylate polymers. However, industry representatives estimate that total domestic production about 50 million pounds per year.

Significant imports of this product did not begin until 1984, when levels reached about 50 million pounds, valued at about $77 million. Imports are thought to have remained at this level in 1986, accounting for about one-half of total U.S. consumption.

Industry sources indicate that U.S. exports are negligible.

The estimated annual revenue loss would amount to approximately $3 million per year.

SECTION 170. CYCLOSPORINE

(Originally introduced as H.R. 5034 by Mr. Frenzel)

This section would suspend through December 31, 1990, the column 1 rate of duty for cyclosporine, an immunosuppressive agent used for the prevention of rejection of

kidney, liver, or heart transplants. Clinical trials are underway for other applications of the drug, including a potential treatment for AIDS.

The bill was introduced at the request of the University of Minnesota Medical School. Although the column 1 rate of duty is relatively low, the duty, combined with a customs broker's fee, can be large for a research facility with scare resources.

Cyclosporine can be classified in either TSUS item 439.30 (advanced natural drugs, not elsewhere specified) or item 439.50 (other drugs, n.e.s., including synthetic drugs), depending on the form in which it is imported. If imported as the bulk powder, the form used by the University of Minnesota, the drug is classified in item 439.30 with a column 1 rate of duty of 1.5 percent ad valorem. The Column 2 rate of duty for this tariff item is 10 percent ad valorem. Products entering under this tariff item are eligible for duty-free treatment if they are imported from LDDC's or under GSP, CBERA, or the U.S.-Israel Free Trade Agreement.

If the cyclosporine is imported as an oral solution or a concentrate for intravenous injection, it is classified in TSUS item 439.50 with a column 1 rate of duty 3.7 percent ad valorem and a column 2 rate of 25 percent ad valorem. This TSUS item has the same Special rates of duty as does TSUS item 439.30 for products from LDDC's, beneficiaries of GSP and CBERA, and Israel.

There was no domestic production or export of cyclosporine during 1981–85.

Industry sources estimate that the U.S. market for this product was valued at $55 million in 1985; the market is supplied entirely by imports.

Based on estimates from industry sources, expected annual revenue losses during 1987–90 will range from $0.8 million to $1.1 million per year.

SECTION 172. GLASS INNERS FOR VACUUM FLASKS

(Originally introduced as H.R. 3925 by Mr. Gejdenson)

This section would lower the column 1 duty on glass inners from 12.4 percent ad valorem to 9 percent ad valorem. The reduction would remain in effect through December 31, 1990.

The bill is intended to reduce the rate for glass inners to bring them into conformity with the rates for completed vacuum bottles, thus providing tariff equity for U.S. manufacturers of vacuum bottles.

Domestically manufactured glass inners, which are inserted in vacuum bottles to keep food and beverages at selected temperatures for up to 8 hours, are composed of two blanks, one of which fits inside the other. The blanks are silvered, yielding a mirror-like surface that maintains the temperature of the food or beverage inside by reflecting heat. As the inner blank is inserted in the outer blank, an asbestos pad is placed between the two walls and all air between the two walls is evacuated, creating a vacuum, The two blanks are then neck-sealed (sealed at the top), creating a double-walled cylinder which is placed in a vacuum bottle. Glass inners can also be manufactured in a 1-step process, such as that used by Thermos at their British plant, and my more labor-intensive hand-blown methods, more commonly in countries with low labor costs.

Glass inners generally vary in capacity from less than one pint to more than 4 pints; they also differ in design, depending upon the specifications of the vacuum bottle manufacturer. Most inners are installed in new vacuum bottles with a limited number used as replacements.

Glass inners enter the United States under TSUS items 545.31,, 545.34, 545.35, and 545.37. The column 1 duties for these categories are 2.3 cents each plus 11.6 percent ad valorem, 3.3 cents each plus 9.5 percent ad valorem, 4.8 cents each plus 9.5 percent ad valorem, and 7 cents each plus 9.5 percent ad valorem, respectively. The ad valorem equivalent of these compound rates are 15.1 percent, 14.3 percent, 14.3 percent, and 10.2 percent, respectively. Imports under these TSUS items are eligible for duty-free treatment under the GSP and CBERA. They all receive preferential duty treatment under the U.S.-Israel Free Trade Agreement.

There is no U.S. production or export of glass inners.

Total U.S. imports of glass inners during 1985 were 2,894,000 units valued at $2,240,000

The revenue loss due to enactment of this provision would be approximately $80,000.

SECTION 173. CERTAIN OFFSET PRINTING PRESSES

(Originally introduced as H.R. 3797 by Mr. Frenzel)

This section would amend TSUS item 668.21 to reduce the column 2 rate of duty on offset printing presses of the sheet-fed type weighing 3,500 pounds or more, from 25% to 10% ad valorem: The reduction would remain in effect through December 31, 1990.

An offset press operates on the principle that one impression is made with each revolution of its cylinders. A sheet-fed offset press has three printing cylinders of the same size (plate, blanket, and impression) as well as inking and dampening systems. The plate is clamped to the plate cylinder. As that cylinder rotates, the plate comes in contact with the dampening rollers first, then the inking rollers. The dampeners wet the plate so the nonprinting area will repeal ink. The inked image is then transferred to the rubber blanket on the blanket cylinder. Paper is printed as it passes between the blanket cylinder and impression cylinders.

During 1981–85, there were only three known U.S. producers of these presses. Each of these firms sells to different segments of the market. Currently, import competition is reported from the GDR and from Czechoslovakia, both subject to column 2 rates of duty.

The value of U.S. imports of these presses rose annually from $145 million in 1981 to $266 million in 1985. In 1985, by far the largest supplier, by value, were West Germany (63 percent of total import value) and Japan (28 percent of total import value).

The value of U.S. exports of these presses declined sharply from $6.0 million in 1981 to $0.6 million in 1984, then rose to $1.6 million in 1985.

During 1981–85, apparent U.S. consumption of these sheet-fed offset presses rose slightly, on a value basis, from an estimated $192.6 million in 1981 to $196.5 million in 1983. Apparent consumption then increased sharply to $261.1 million in 1984 and $319.1 million in 1985.

Estimated revenue loss would amount to $200,000 per year.

SECTION 174. JACQUARD CARDS

(Originally introduced as H.R. 5198 by Mr. Roe)

This section would suspend the column 1 rate of duty on jacquard cards through December 31, 1990.

Jacquard cards consist of a series of punched cardboard strips which are used to control the weaving pattern of jacquard looms. Each card controls the action of one warp thread for the passage of one pick. The holes in the cardboard strips control the weaving mechanism. The number of cards attached to a jacquard loom depends on the intricacy of the weave design. The cards are joined together by lacing to form a chain pattern. Jacquard looms are used to produce tapestries, brocade, brocatelle, figured neckties and dresses. Today, these cards have been replaced by heavily reinforced, treated paper rolls which, after machine punching, resemble player piano rolls. The paper rolls are still referred to by the industry as jacquard cards.

The purpose of this provision is to reduce the cost of imported jacquard cards through the elimination of tariffs. Industry sources indicate that they have been unable to locate domestic manufacturers of jacquard cards.

Jacquard cards are provided for in TSUS item 670.56 with a column 1 duty rate of 14 percent ad valorem and a column 2 rate of 35 percent ad valorem. The LDDC is 7 percent ad valorem. Imports from designated beneficiary countries are eligible for duty-free treatment under the GSP, the CBERA, and the U.S.-Israel Free Trade agreement.

There are no domestic manufacturers of jacquard cards presently in operation. Jacquard cards are used on jacquard looms which have been replaced by the more efficient and faster shuttleless rapier, air jet, and water jet looms.

Imports of jacquard cards increased from $179,000 in 1981 to $268,000 in 1984, before declining to $226,000 in 1985. Estimated imports in 1986 amount to $290,000. The majority of imports, according to industry officials, are unfinished rolls, many of which are finished and re-exported.

U.S. consumption of jacquard cards during 1981–85 was satisfied entirely by imports.

The average annual revenue loss during 1986–90 would be approximately $15,000.

SECTION 175. CERTAIN PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES

(Originally introduced as H.R. 4532 by Messrs. Duncan and Crane)

This section would suspend through December 31, 1990, the column 1 rate of duty on certain parts of and lenses for direct process electrostatic copying machines, provided for in TSUS items 676.56 and 708.23.

The duty suspension would affect parts of and mounted lenses for indirect process electrostatic copying machines, commonly referred to as plain paper copiers (PPC's). These copiers reproduce documents by placing an image on an intermediate (typically an electrostatically charged photoconductor drum) and then transferring that image onto paper. The particular parts involved are quite varied and admit of no general description, other than their use in indirect process electrostatic copying machines. The parts are made of metal, plastic, and/or glass and include both assemblies and individual components. The mounted lenses used in PPC's are photographic quality lenses which transfer the image of an origi-

nal document to the copying machine photoconductor drum.

According to industry sources this duty suspension is intended to help maintain the competitiveness of Xerox Corporation's manufacturing facilities (which employ 6,700 people), encourage Xerox and other domestic manufacturers to expand domestic production, stem the tide of American manufacturers transferring assembly operations overseas, encourage foreign investment in U.S. manufacturing facilities, and allow time for Xerox's major domestic suppliers to improve their quality and price competitiveness.

Parts of indirect process electrostatic copying machines are classified in TSUS item 676.56 and mounted lenses in TSUS item 708.23. The column 1 rates of duty for these items are 4.1 percent ad valorem and 7.3 percent ad valorem, respectively. The column 2 rates of duty are 35 percent ad valorem and 45 percent ad valorem, respectively. The LDDC rates are 3.9 percent and 6.6 percent, respectively.

Copier parts from Hong Kong, Mexico, the Republic of Korea, Singapore, and Taiwan are ineligible for GSP benefits because of the "competitive need" limitations. Otherwise these products are eligible for duty-free treatment under GSP, CBERA, and the United States-Israel Free Trade Area Implementation Act of 1985.

No identifiable industry, per se, produces parts for indirect process electrostatic copying machines. Domestic copier manufacturers contract with a large number and variety of individual firms for the supply of specific components. There are only three known companies in the United States currently producing mounted lenses for use in indirect process electostatic copying machines. Industry sources estimate that the value of U.S. producers' shipments of mounted lenses for use in indirect process electrostatic copying machines have fallen from about $5 million in 1981 to $1.5 million in 1985. No estimates are available for the remaining products.

Separate consumption figures for copier parts, other than mounted optical lenses, are not available. Imports in 1985 are estimated to have ranged from $140 million to $175 million.

Apparent consumption of mounted optical lenses for copiers in 1985 estimated at $8 million, based on estimated production of $1.5 million, imports of $7.2 million, and exports of $700,000.

Estimated revenue losses are estimated to be $7 million per year; about $525,000 of that figure is attributable to mounted lenses, and the remainder, to other parts.

SECTION 176. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS

(Originally introduced as H.R. 4533 by Messrs. Gephardt and Campbell)

This section provides duty-free treatment for extracorporeal shock wave lithotripters imported by nonprofit institutions between July 31, 1985 and December 31, 1986. This provision was offered as an amendment to Section 122 and further details about lithotripters may be found in the description of that section.

SECTION 177. EXTENSION OF CERTAIN EXISTING SUSPENSIONS

SECTION 177(1). MIXTURES OF HOT RED PEPPERS AND SALT

(Originally introduced as H.R. 3867 by Ms. Boggs)

This section extends the duty suspension for certain mixtures of hot red peppers and salt from June 30, 1985 through December 31, 1990. The duty on such imports was previously suspended from October 24, 1978, through June 30, 1981 and reinstated from July 1, 1981, through June 30, 1985. The only known U.S. importer of pepper mash imports this product from Central and South America.

Mixtures of mashed or macerated hot red peppers and salt, currently provided for in TSUS items 141.77 and 141.98, are often referred to as "pepper mash" and are used in the production of hot red pepper sauce. Pepper mash is made by crushing any of several varieties of hot, red peppers and preserving the resulting pulp in salt, usually an 8 percent salt solution, in wooden kegs. The varieties of peppers commonly used in this process include cayenne, tobasco, serrano, and chili. The end product, hot red pepper sauce of "Louisiana hot sauce," is made by adding vinegar to this preserved mixture of macerated peppers and salt.

The mixtures of hot red peppers and salt which are the subject of this legislation are provided for in items 141.77 and 141.98 with column 1 rates of duty of 12 percent and 17.5 percent ad valorem, respectively, and a column 2 rate of duty of 35 percent ad valorem. The column 1 rates were not changed as a result of the Tokyo Round of the Multilateral Trade Negotiations.

The domestic hot sauce industry is comprised of approximately six firms, mostly in Louisiana, which produce hot red pepper sauces from pepper mash, and at least another 30 hot sauce makers scattered around the United States that use ingredients other than hot red peppers. The ingredients used by these other firms usually consist of jalapeno peppers (a hot, green pepper) or an oleo-resin (a synthetic) and tomato sauce mix, and are generally used to make taco or enchilada sauces for Mexican-style foods.

Both taco and enchilada sauces are somewhat competitive with the hot red pepper sauces, especially those lower-priced red pepper sauces made from non-tabasco peppers. Pure tabasco sauce is a higher priced sauce and, according to those firms processing it, a higher quality sauce. The McIlhenny Company produces only tabasco sauce and probably accounts for the bulk of the U.S. production of this article, but it is not known what share of U.S. production of hot sauces is accounted for by that company.

The growers of hot red peppers are concentrated in Louisiana, Mississippi, and Texas. Approximately 4,000 acres are devoted to the production of such peppers in these States. Most of these growers do grow some specialty crops as well as hot peppers.

Data on U.S. production of pepper mash or hot sauces are not available, but it is believed that such production is trending upward. The production of hot sauces is not seasonal but the production of pepper mash, the major ingredient of hot red pepper sauce, follows the seasonal pattern of the hot red pepper harvest during the summer and fall months.

The only known imports of pepper mash in recent years have been of the tabasco pepper variety for the account of the McIlhenny Company. Colombia and Honduras together account for almost two-thirds of McIlhenny's imports; the supplies from Mexico constitute less than one-fifth. U.S. imports from Colombia and Honduras are entitled to duty-free treatment under the GSP.

According to domestic industry sources, there have been no exports of pepper mash in recent years; however, a significant amount of the U.S. output of hot sauces is shipped abroad. Precise figures are not available, but an estimated 30–40 percent of U.S. production is sold in foreign markets. Japan and Europe are the principal markets for the higher-priced hot sauces and the Middle East is a leading outlet for the lower-priced products.

Consumption of hot sauce in the United States is believed to be in a long-term uptrend because of (1) the evolution of American taste toward spicier foods in general, and (2) the increased consumption of Mexican-style food specifically.

The column 1 rate of duty on imports of mashed or macerated hot red peppers has been suspended for most of the period since late 1978; thus, there would be no substantial change (loss) in revenue. The estimated loss in revenue would have been $12,000 in 1985.

SECTION 177(2). CANTALOUPES

(Originally introduced as H.R. 207 by Mr. de le Garza)

The proposed legislation would extend the suspension of duty on fresh cantaloupes entered during January 1 through May 15 from May 15, 1985 through December 31, 1990.

Cantaloupes, the most important melon types marketed in the United States, are generally used fresh as an appetizer, snack, or dessert, or may be cut into pieces for use in fresh fruit salads. Fresh cantaloupes are nonstorable and generally maintain their quality for only several weeks after harvest. This characteristic makes the marketing of cantaloupes seasonal.

This legislation would impose no duties on imported cantaloupe during the period when domestic production is nil.

Cantaloupes are imported with a column 1 rate of duty of 20 percent between August 1 and September 15 and 35 percent the rest of the year. The column 1 rate is 35 percent year round. Cantaloupes entered between August 1 and September 15 are eligible for GSP although Mexican cantaloupe imports exceed the "competitive need" limits. All cantaloupe is eligible for CBERA duty free treatment.

Domestic production increased from 1.2 billion pounds in 1980 to 1.5 billion pounds in 1984. Production during January 1, to May 15 is believed to account for about 5 percent of annual U.S. production.

The cantaloupe harvest is highly seasonal. While the shipping season normally begins in late April or early May for cantaloupes produced in Arizona, California, and Texas, the bulk of domestic shipments are made from June through August.

Cantaloupes are produced commercially in at least 25 states, with more than 90 percent of the crop harvested in California, Texas, and Arizona. Cantaloupes require a long growing season and are susceptable to a number of diseases that limit the areas where they can be grown.

During 1980–84, total U.S. imports of cantaloupes rose irregularly from 170 million pounds in 1980 to 247 million pounds, in 1984. Data are not separately reported for the period January 1–May 15. However, im-

ports during January 1-May 30 increased from 162.3 million pounds in 1980 to 228.7 million pounds in 1984. On a quantity basis, 88 percent of the cantaloupes imported into the United States during 1980-84 entered during the period January-May. Mexico is by far the leading source of imported cantaloupes, supplying 89 percent of the total annual imports in 1984. Mexico was ineligible for GSP benefits due to its predominant share of total imports.

In recent years, over 100 firms imported fresh cantaloupes, with 25 of them accounting for the bulk of such imports in 1984. The large volume firms are located in the southwestern United States.

During 1980-84, U.S. exports of cantaloupes averaged 52.1 million pounds annually; exports amounted to 46.9 million pounds in 1984. Canada is the principal market for U.S. export of cantaloupes, accounting for 98 percent of total U.S. cantaloupe exports in 1980-84. Exports during the first 5 months of 1980-84 were equivalent to about 10 percent of total exports in each of those years.

During 1980-84, apparent U.S. consumption of fresh cantaloupes rose steadily and averaged about 1.5 billion pounds annually. The ratio of imports to consumption averaged 12 percent throughout the period. About 70 percent of consumption during January-May, roughly the period covered by the proposed legislation, was supplied by imports.

Assuming 1984 import levels, revenue loss would be about $9 million.

SECTION 177(3). CERTAIN WOOLS

(Originally introduced as H.R. 1696 by Mr. Frenzel)

This section extends suspension of coarse wools (defined as finer than 44s but no finer than 46s) from June 6, 1985 through December 31, 1990. Column 2 rates of duty would be those prescribed by items 306.30 through 306.34.

The system most commonly used in the United States to grade wool is referred to as the count system, which classifies wool numerically according to fineness. Under the count system, mid to upper 60s, 70s, and 80s are fine; low 50s to low 60s are medium; and 30s to high 40s are coarse.

Wool fibers finer than 44s but not finer than 46s are coarse and virtually all domestic consumption of such wool is imported. It is largely used to produce blankets and to a lesser extent fabrics for coats, carpets, and home furnishings.

Wools finer than 44s but not finer than 46s have been eligible for duty-free treatment under temporary tariff provisions since November 8, 1977.

U.S. imports of wools finer than 44s but not finer than 46s had been granted a temporary duty suspension (along with other types of wools) from November 8, 1977 to June 30, 1985. Effective July 1, 1985 the rates of duty as negotiated in the Tokyo round of the Multilateral Trade Negotiations became effective.

Imports of wools covered by this legislation are not subject to control under the Multifiber Arrangement (MFA), nor are they eligible for duty free treatment under the Generalized System of Preferences (GSP). Additionally, U.S. imports of such wool from least developed developing countries (LDDCs) are not eligible for preferential duty rates, but they are subject to duty free treatment under the CBERA.

There is no domestic production of this wool.

Imports of the subject wools increased from 6,227,000 pounds in 1980 to 16,747,000 pounds in 1984. More than 80 percent of the total quantity and value of the subject wools was shipped from New Zealand.

Apparent U.S. consumption is equal to level of imports.

If duties on the coarse wools covered by the legislation had been in effect in 1984, revenues would have amounted to $1.7 million.

SECTION 177(4). NEEDLECRAFT DISPLAY MODELS

(Originally introduced as H.R. 2972 by Mr. Gibbons)

The proposed legislation would extend temporary duty-free treatment through December 31, 1990 to imports from countries entitled to most-favored-nation (MFN) status of needlecraft display models, primarily hand stitched, or completed mass-produced kits. The proposed legislation would be retroactive to June 30, 1985.

Needlecraft display models are finished replicas of the articles that can be made from needlecraft kits, which a consumer may purchase at retail. The domestic manufacturers of needlecraft kits export the kits principally to Haiti, for completion and then import the stitched or worked articles for sale to retailers. The models are as displays in retail stores to stimulate consumer interest and to promote sales of unfinished kits. In addition, the models allow the consumer to assess the difficulty of the stitching in light of his or her ability.

The models (and kits) represent a variety of articles, including pictures, decorative pillow covers, latch hook rugs, Christmas ornaments and stockings, wall hangings, tablecloths, napkins, and purses. The majority of the models are believed to consist of pillow covers, wall hangings, and Christmas ornaments of needlepoint, crewel embroidery, or counter cross-stitch.

According to industry sources, cost considerations largely preclude the manufacture of models from kits in the United States.

U.S. imports of the subject needlecraft display models from column 1 countries were free of duty from January 27, 1983 to June 30, 1985, when temporary TSUS items 906.10 and 906.12 expired. The MFN rates of duty otherwise applicable to such articles vary from approximately 7 percent ad volorem to 25 percent ad valorem.

There are no MFA quotas on these kits. Only 3 of the 23 articles covered by this legislation are eligible for GSP or CBERA.

U.S. production and exports of needlecraft kit models from commercial sale are believed to be negligible. However, some small retailers specializing in needlecrafts have models stitched by their employees during work hours or by persons working in their homes. Compensation for the home workers may be in the form of either monetary payment or the return of the articles after their use for display purposes.

There is no commercial production of the completed display models in the United States because such production is labor intensive and, therefore, costly. Industry sources estimate that about 80 percent of the models are stitched in Haiti, primarily because of its available labor force, low wage rate (about $0.70 per hour), and proximity to the United States.

The National Needlework Association (TNNA) estimates that about one-half of its 425 member firms in the United States manufacture needlecraft kits. These producers vary from small firms specializing in only one type of needlework, such as crewel, cross-stitch, or needlepoint kits, to larger firms which produce a variety of needlecraft articles. Five producers together account for roughly three-fourths of U.S. production of needlecraft kits.

Several kit producers report that they sell their completed models to retailers at a loss of almost 20 percent, in anticipation that the models will increase kits sales. Some producers require retailers to purchase a minimum number of kits of a given design before the model can be purchased. However, the small producers are often unable to offer models to retailers because of the expense of having the models stitched and carrying them in inventory.

U.S. imports of needlecraft display models are not separately reported since imports of articles covered by TSUS items 906.10 and 906.12 are statistically reported under the 23 Schedule 3 provisions enumerated therein. However, TNNA estimates that the value of imports of these models amounts to $5 million to $10 million annually. About 5 firms account for 75 to 85 percent of the imports.

All but a small number of the imported models are made from U.S.-produced materials (e.g., yarn, fabric, matting, and thread). The models are stitched abroad and are then imported into the United States where framing or other finishing is completed.

Since data on the specific types of needlecraft kit models being imported are unavailable, it is impossible to provide a precise estimate of the potential revenue impact of this legislation; many different MFN rates of duty would apply to such articles, since 23 TUS items are involved. However, on the basis of an estimated value of imports of these models of between $5 million and $10 million annually, the legislation would be likely to result in a loss of customs revenues of approximately $830,000 to $1.7 million in 1985. This range would likely decline to from $790,000 to $1.6 million in 1988, as a result of scheduled staged reductions of the applicable duty rates.

SECTION 177 (5). TRIPHENYL PHOSPHATE

(Originally introduced as H.R. 2300 by Gephardt)

This section would extend the temporary column 1 suspension of duty for TSUS item 409.34. The extension would be effective from September 30, 1985 through December 31, 1990.

Triphenyl phosphate (TPP) is a colorless, odorless crystaline powder used principally as a fire-retarding agent and as a plasticizer for cellulose acetate and nitrocellulose used in the manufacture of photographic and other films. TPP functions to reduce the flammability of these films, as well as increasing the flexibility, making them safer and easier to handle. More than 75 percent of all TPP produced is used in these applications.

The market for the major end-uses for TPP, nitrocellulose films and cellulose acetate, has been declining for several years. Domestic manufacturers of TPP have virtually abandoned production of the product. Since imports of TPP supply most, if not all, domestic open-market demand, U.S. importers contend it would make sense to remove any impediment to access to the only remaining source of supply.

TPP has a column 1 rate of duty is 0.5 cents per pound plus 17.7 percent ad valorem. The rate for LDDC's is 0.1 cents per pound plus 17.7 percent ad valorem. The column 2 duty rate is 7 cents per pound plus 57 percent ad valorem. Imports may be eligi-

ble for duty-free treatment under GSP and CBERA.

Separate production data are not available for TPP. However, industry representatives estimate that total domestic production during 1980–84 was substantially less than 10 million pounds annually.

Monsanto Company, St. Louis, Mo., and Eastman Kodak Company, Rochester, N.Y., were the only producers of TPP in 1981. Monsanto permanently ceased production of TPP in 1981. Borg-Warner Corp., Morgantown, W. Va., and FMC, Nitro W. Va., also have the ability to produce TPP, but neither have reported production of this product during 1980–84 and both indicate that they have no immediate interest in this market. It is estimated by industry observers that most of Eastman Kodak's production is consumed captively in its photographic film manufacturing operations. U.S. open-market demand for TPP is likely to be satisfied principally by imports in the future.

Separate import statistics on TPP were not available prior to 1984 when TPP was broken out as a statistical classification in item 409.3425. Imports of TPP in 1984 amounted to about 1.1 million pounds, valued at $764,000. The United Kingdom supplied 82 percent of total U.S. imports of TPP in 1984, while the Netherlands and South Korea each supplied about 8 percent.

In 1984, the only year for which import data are available, the calculated revenue lost as a result of the current duty suspension legislation amounted to $198,354. Since the U.S. market for TPP is a declining market, substantial increases in imports are unlikely and total revenue losses as a result of this legislation are not expected to exceed $110,000 per year in the near future.

SECTION 177(6). MENTHOL FEEDSTOCKS

(Originally introduced as H.R. 5063 by Mr. Hartnett)

This section extends the current suspension of the column 1 rate of duty for certain menthol feedstocks through December 31, 1989.

The menthol feedstocks covered by this provision are mixtures of synthetic organic chemicals produced from m-cresol. These feedstocks, which are used to produce two methol isomers, 1-menthol and 11-menthol, are crude mixtures of all eight optical isomers of menthol. These mixtures have no other commercial use in the United States.

The stated purpose of this continued duty suspension is to help preserve the American menthol industry by allowing it to remain competitive with foreign manufacturers that receive protection through government subsidies.

Mixtures of optical isomers of menthol are classified under item 407.19 with a column 1 rate of duty of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any individual component of the mixture. No LDDC rate is provided. The column 2 rate of duty is 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. Imports of the subject mixture are duty-free under the GSP and CBERA. Under the U.S.-Israel Free Trade Agreement, imports of this product from Israel are dutiable at the column 1 rate of duty, but will be staged over a 5-year period to free.

There are no U.S. producers and no exports of these chemical mixtures.

Industry sources estimate that imports of this product declined from $3.0 million in 1981 to $2.4 million in 1985.

Domestic consumption during 1981–85 was essentially the same as imports.

Expected revenue losses would be about $350,000 per year.

SECTION 177(7). ISOMERIC MIXTURES OF ETHYLBIPHENYL

(Originally introduced as H.R. 5001, by Mr. Vander Jagt)

This section extends the temporary suspension of the column 1 rate of duty for isomeric mixtures of ethylbiphenyl from June 30, 1985 through December 31, 1986.

These mixtures consist of the positional chemical isomers, 3-ethylbiphenyl and 4-ethylbiphenyl, which are produced synthetically from petroleum. These chemicals are used primarily as heat transfer agents in the production of various plastics resins (e.g., polystyrene).

According to an industry source, the suspension of duties on these chemical mixtures is needed to enable the Dow Chemical Company to remain competitive worldwide in the heat transfer fluid market. The ethylbiphenyl mixture is the primary ingredient in Dow's new heat transfer fluid DOWTHERM LF, a product with unique thermal characteristics.

Isomeric mixtures of ethylbiphenyl are classified under TSUS item 409.19 with a column 1 rate of duty of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any individual component of the mixture. The column 2 rate of duty is 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. Imports of the subject mixtures are eligible duty-free treatment under the GSP and CBERA. Under the U.S.-Israel Free Trade Area Implementation Act of 1985, imports are dutiable at the column 1 rate but are scheduled to be staged over a 5-year period to free.

There is no U.S. production of ethylbiphenyl.

Dow Chemical estimates that imports of the isomeric mixtures of ethylbiphenyl declined from a high of 458,000 pounds, valued at $453,000, in 1981 to 290,000 pounds, valued at $287,000, in 1985. Imports for this mixture during 1986 are estimated to be 400,000 pounds, valued at about $400,000.

According to industry sources, there are no exports of the subject mixtures.

Domestic consumption during 1981–85 was essentially the same as imports.

Estimated revenue loss for 1985 is $265,000 and that for 1986 is $735,000.

SECTION 177(8). SULFAPYRIDINE

(Originally introduced as H.R. 2228 by Mr. Evans of Iowa)

This section would extend the existing suspension of the column 1 duty rate for sulfapyridine (TSUS 411.27) through December 31, 1990 and would be effective for entries made after December 31, 1985.

Sulfapyridine, is classified in a group of chemicals known as anti-infective sulfonamides.

At one time sulfonamides were widely used in the treatment of infections. However, the development of resistance in formerly susceptible organisms has greatly limited the clinical usefulness of these drugs. In addition, substantial quantities have been used as growth promoters in animal feeds. Use of sulfapyridine in animal feeds, as approved by the FDA, accounts for about 15 to 30 percent of annual consumption. The remainder of annual consumption is used in the production of other sulfa drugs, particularly sulfasalazine and sulfadiazine.

Sulfapyridine is classified in TSUS item 411.27. The current column 1 duty rate is 16 percent ad valorem, the LDDC rate—11.6 percent ad valorem, and the column 2 rate is 7 cents per pound plus 128.5 percent ad valorem.

Imports are not eligible for duty-free treatment under GSP but are eligible for CBERA.

Sulfapyridine is not presently produced in the United States. American Cyanamid Co. and Napp Chemicals Inc. produced sulfapyridine until 1980–81. Industry sources maintain that sulfapyridine cannot be substituted in the production of certain sulfa drugs, particularly sulfasalazine.

During 1980–1982 imports of sulfapyridine ranged from about 106,000 pounds to about 70,000 pounds. According to industry sources, in 1983, the first year of the suspension of duty on sulfapyridine, imports amounted to about 120,000 pounds. Imports increased to about 145,000 pounds in 1984. The current market price for sulfapyridine is approximately $11.40 to $12.30 per pound.

Export data are unavailable because sulfapyridine is classified in a residual (basket) Schedule B number.

According to industry sources, annual U.S. consumption of sulfapyridine amounts to about 120,000 to 160,000 pounds.

Revenue losses in 1986 are expected to be $247,000 and are expected to total $687,000 for the period 1986–1988.

SECTION 177(9). SYNETHETIC RUTILE

(Originally introduced as H.R. 3468 by Mr. Jenkins)

This section would suspend until December 31, 1990, the column 1 duties on synthetic rutile, provided for in item 603.70 of the Tariff Schedules of the United States (TSUS), by amending item 911.25 in part 1B of the Appendix to the TSUS to show the new expiration date for the effective period. The column 2 rate of 30 percent remains unchanged. Duties on synthetic rutile were suspended almost continuously between October 26, 1974 and June 30, 1982, when the last suspension expired. The amendment would be effective with respect to articles entered, or withdrawn from warehouse for consumption 15 days after enactment.

Synthetic rutile is derived from ilmenite by chemically extracting iron and other impurities from the ilmenite. Ilmenite, an ore of titanium, contains about 55 percent titanium dioxide. The upgrading processes result in a product with a titanium dioxide content approaching that of natural rutile, also an ore of titanium, which contains about 96 percent titanium dioxide. Since natural rutile is much more costly than ilmenite, increasing quantities of ilmenite are being upgraded to produce synthetic rutile.

In 1984, almost 84 percent of rutile was used to make the titanium dioxide pigments essential to the production of paint, paper, rubber, and plastics. In 1984, U.S. production of these pigments amounted to 800,000 short tons.

Synthetic rutile is classified under TSUS item 603.70, a residual provision for other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds. Current column 1 rate of duty is 5.3 percent ad valorem, staying to 5.0 percent in 1987.

Imports of synthetic rutile are eligible for preferential treatment under the Generalized System of Preferences (GSP) and are also eligible for duty-free treatment under the Caribbean Basic Economic Recovery Act

(CBERA) and when imported from Israel. They also receive the preferential percent rate when imported from least-developed developing countries.

Kerr-McGee Chemical Corp., the only known U.S. producer of synthetic rutile, has produced this material at its plant in Mobile, Alabama since 1977. In 1978 and 1979, Kerr-McGee expanded the plant's capacity to 110,000 short tons per year. The firm intends to expand capacity by another 15 percent by 1989. Total employment at the Mobile plant is 125 people.

Over half of the Mobile plant's production is used to satisfy the raw material requirements for Kerr-McGee's titanium dioxide pigment plant in Hamilton, Mississippi. Production information is confidential, but output has expanded during the last two years.

Domestic consumption is approximately equal to U.S. production plus imports. Demand for synthetic rutile strengthened in 1984 and again in 1985 due to rising demand by the titanium dioxide industry.

Revenue loss based on 1984 imports of synthetic rutile, valued at $3.8 million, is estimated at approximately $224,790, based on 5.9 percent ad valorem duty.

SECTION 177(10). CERTAIN CLOCK RADIOS

(Originally introduced as H.R. 4298 by Mr. Vander Jagt)

The section would extend the existing suspension of the column 1 rate of duty on certain clock radios by striking out "Dec. 31, 1986" in Tariff Schedules of the United States (TSUS) item 911.95 and inserting in lieu thereof "Dec. 31, 1990."

The clock radios which are the subject of this bill are those solid-state (tubeless) radio receivers which incorporate a clock or timing mechanism within the same housing (or casing), hereinafter referred to as "clock radios." These radios may operate from batteries or electric current and are principally for consumer use, in that they are designed principally to receive radio signals from the entertainment broadcast bands. However, such bands are not restricted; the radios may receive on other bands, such as weather, police or fire, and aviation.

The clock portion of the radio may simply display time or may also sound an audible alarm. However, in most clock radios, the clock also controls the radio functions by turning the radio on or off at the present time or intervals. Many models also provide for the control of external electric devices such as coffee pots. Such radio timers may be used to start the morning coffee as well as wake the occupant.

If duties were currently not suspended two duty rates would apply to imported clock radios. The first duty rate is on the radio portion of the apparatus, while a different rate is applied to the clock or timer mechanism. Because of the terms of TSUS item 911.95, however, the subject radios are treated as an entirety for purposes of the duty suspension. If a clock radio incorporates an analog clock with movements, the clock portion is dutiable separately in accordance with headnote 5, part 2E of schedule 7 of the TSUS, which specifically provides for such constructive segregation.

Solid-state radio receivers (including those with solid-state timer mechanisms) are dutiable under TSUS item 685.14, covering entertainment broadcast band receivers not for motor-vehicle installation, at a column 1 rate of 6.6 percent ad valorem. This rate of duty is being reduced annually as a result of the recent Tokyo Round of the Multilateral Trade Negotiations. The final reduction will be achieved on January 1, 1987, and result in a duty of six percent ad valorem. The six-percent rate is currently applicable to imports of clock radios from least-developed developing countries (LDDC's). The column 2 rate of duty, applicable to Communist controlled or dominated nations listed in general headnote 3(d), is 35 percent ad valorem on the radio part of the clock radio.

Merchandise imported under item 685.14 is eligible for duty-free entry under the provisions of the Generalized System of Preferences (GSP). However, products of Hong Kong, Singapore, Taiwan, and the Republic of Korea are not currently eligible for GSP treatment because these countries have exceeded the "competitive need" limitations set forth in section 504 of the Trade Act of 1974.

Products of Israel classified in TSUS item 685.14 are dutiable at the rate of six percent ad valorem, which will be reduced in stages to a rate of free. Finally, products of designated Caribbean Basin Economic Recovery Act (CBERA) countries enter free of duty.

There is currently no known U.S. industry producing clock radios.

Total U.S. imports of clock radios increased from $108.7 million in 1981 to $196.9 million in 1984, before dropping to $178.5 million in 1985. In 1985, the largest foreign sources of clock radios were Hong Kong ($77.6 million) and Malaysia ($52.8 million). The unit value of U.S. imports fluctuated during 1981–85 but averaged $13.00 over the period.

Since there is no domestic production and no exports, U.S. imports represent 100 percent of apparent U.S. consumptions.

Estimates of lost customs revenues for 1985–89 from the proposed duty-free entry of the subject clock radios average $8,000,000 per year.

SECTION 177(11). MACHINES DESIGNED FOR HEAT-SET, STRETCH TEXTURING OF CONTINUOUS MAN-MADE FIBERS

(Originally introduced as H.R. 1849 by Mr. Broyhill)

This provision would extend the existing temporary duty-free treatment applied to column 1 imports of machines designed for heat-set, stretch texturing of continuous manmade fibers until December 31, 1990 and would be effective December 31, 1985.

Texturing is the process of crimping, imparting random loops, or otherwise modifying continuous filament yarn to increase cover, resilience, abrasion resistance, warmth, insulation, moisture absorption, or to provide a different surface texture. The stretch/heat-set machinery that would be affected by this proposed legislation uses a "false-twist" method for texturing.

The false-twist method involves stretching, twisting, heat-setting, and untwisting of the yarn. The result is a bulkier, more elastic yarn.

According to a 1978 survey, 94 percent of the texturing machinery in place at that time (measured in thousands of spindles) was of the false-twist type. Since 1978, nearly all of the machines using other methods (gear crimping, edge crimping, knit-de-knit, and stuffer box) have been replaced by false-twist machines.

Duty-free treatment under item 912.07 was orginally granted principally because the U.S. yarn industry was unable to locate a domestic company that manufactured machines designed for heat-set, stretch texturing of continous manmade fibers.

Machines for stretch/heat-set texturing of continuous manmade fibers are provided for in TSUS item 670.06 with a column 1 rate of duty of 4.7 percent ad valorem and a column 2 rate of 40 percent. The machines are eligible for duty free treatment under GSP and CBERA.

During the period 1974-83 U.S. firms did not produce heat-set, stretch texturing machines for general consumption. Two domestic companies have begun production of these machines since 1984. Enterprise Machinery & Development Co., located in New Castle, Del., produces heat-set and air-jet machines, and Thieler Corp. International (TCI) of Gastonia, N.C. reportedly produces a range of heat-set texturing machinery. According to TCI officials, domestic sales of these products ranged between $1 and $2 million during 1984. Sales data for Enterprise Machinery & Development Co. are not available.

Data as to amount of imports are not specifically available as these items are entered in a category that includes other types of textile machines.

If this legislation were enacted the average annual customs revenue loss that would result would be approximately $2.6 million. This estimate is based on 1984 import levels and on the staged reductions of the tariff rates scheduled for 1985–90.

SECTION 177(12). HOSIERY KNITTING MACHINES

(Originally introduced as H.R. 1547 by Mr. Broyhill)

The proposed legislation to provide for an extension of the existing temporary duty suspension on imports from column 1 countries of single cylinder fine gauge hosiery knitting machines and of double cylinder jacquard hosiery knitting machines for knitting women's hosiery. The duty suspension, would be effective on September 30, 1985, and would continue through December 31, 1990.

Knitting is the process of producing fabric by forming loops of yarn and pulling each newly formed loop through one that has already been made. These operations are performed by hooked needles.

Circular and noncircular knitting machines are used to make hosiery, although the use of the latter type has virtually ceased in the United States.

Circular hosiery knitting machines may be subdivided into two major categories—namely, single cylinder and double cylinder. In turn, single cylinder machines may be classified as either fine or coarse gauge machines. Currently, only single cylinder coarse gauge hosiery knitting machines are manufactured in the United States.

Double cylinder hosiery knitting machines are used to manufacture half-hose for men, women, and children. These machines are fitted with a distinctive double-headed latch needle which is transferred to one or the other of the superimposed cylinders as required, producing a more intricate pattern (including jacquard of three-color combinations) than single cylinder machines.

Single cylinder fine gauge hosiery knitting machines have a column 1 duty of 4.9 percent ad valorem and double cylinder jacquard hosiery machines a 5.8 percent duty. Both have a column 2 rate of 40 percent ad valorem and are eligible for GSP and CBERA.

There are no U.S. producers of the hosiery knitting machines covered by this legislation.

Separate data for different types of circular hosiery knitting and double cylinder jacquard machines are not available. However, imports of the TSUS item covering all circu-

lar knitting machines were almost totally from Italy (90%). Canada was the sole source of the TSUS item covering the latter category.

The effect on revenue is not available because volumes of imports are not specifically known. Estimated revenue loss for these items in 1986 would be $980,000.

SECTION 177(13). SMALL TOYS

(Originally introduced as H.R. 4579 by Mr. Downey)

This section would extend the temporary suspension of the column 1 rates of duty on certain enumerated small toys and games (valued not over 5 cents per unit) and jewelry (valued not over 1.5 cents per piece).

The subject articles consist of small or miniature playing cards, puzzles, games, balls, models, dolls, toy animals, toy musical instruments, magic tricks, practical joke articles, confetti, paper spirals and streamers, and noisemakers valued not over 5 cents per unit. This value limitation was adopted in order to limit the scope of the provision to toys for bulk vending machines. Also included is costume jewelry valued not over 1.5 cents per piece, including rings, earrings, bracelets, necklaces, key chains, pendants, and similar articles of personal adornment. Most of these goods are made from plastics, although they can be of other materials.

As originally introduced, the purpose of this section was to make permanent the existing duty suspension fo these articles under TSUS item 912.20, which will expire on December 31, 1986. However, the sponsor and interested parties subsequently agreed to extend the existing temporary duty suspension through December 31, 1990.

The subject articles are provided for in various TSUS items in parts 5D, 5E, and 6A of schedule 7 of the TSUS. Column 1 rates vary from 2 percent to 12.7 percent ad valorem. All the articles, except dolls classified in TSUS item 737.24, are currently eligible for duty-free entry under the GSP; all are eligible for duty-free entry under the CBERA. Imports from LDDC's are granted reduced duty rates under all these tariff items. Imports of these articles from Israel, except for those classified in TSUS items 735.10, 737.15, 737.40, 737.60, enter free of duty pursuant to the U.S.-Israel Free Trade Area Agreement. Imports from Israel under items 735.10, 737.15, 737.40, and 737.60 are dutiable at the respective LDDC rates for these items.

No. U.S. firms regularly produce the subject articles. Domestic production is negligible.

The National Bulk Vendors Association has estimated that imports of small toy and novelty items for bulk vending machines averaged $7 million to $10 million annually during 1981–85. This average represents a decline in imports of these goods in spite of the duty-free treatment, in effect since early 1983; annual imports were an estimated $10 million to $15 million during 1977–81.

There are no known U.S. exports of the small toys and novelties covered by this legislation.

Apparent U.S. consumption is virtually all accounted for by imports.

Estimated revenue losses would be between $500,000 and $1 million per year.

SECTION 177(14). STUFFED DOLLS, CERTAIN TOY FIGURES AND THE SKINS THEREOF

(Originally introduced as H.R. 2238 by Mrs. Schneider)

The proposed legislation would be effective on December 31, 1985 and would extend to December 31, 1990 the temporary duty suspension afforded to imports of stuffed dolls with or without clothing, skins for stuffed dolls, stuffed or filled toy figures of inanimate objects and skins for toy figures.

Stuffed dolls are representations of human beings and have a textile exterior filled with a stuffing material, such as shredded textile fabric. These dolls, generally known as rag dolls in the toy trade, are either one-piece entirely stuffed dolls or dolls having a stuffed body with a hard head and extremities, usually of plastic.

Stuffed doll production is highly labor intensive; pieces must be hand-cut and sewn to produce the doll skin.

Stuffed or filled toy figures of inanimate objects either have predominantly nonhuman or nonearthlike features or are hybrids of more than one earthly creature. Stuffed or filled toy animals (earthly creatures) are excluded from this category. Stuffed or filled toy figures of inanimate objects can range from small inexpensive curiosities to larger-than-life-size creatures and characters costing many hundreds of dollars.

As with stuffed dolls, there is little domestice production of stuffed or filled toy figures of inanimate objects. Had these toys become popular a decade ago, a residual domestic industry might have produced them profitably in the larger size ranges (as is the case with stuffed animals), despite migration of other production to lower-wage countries. However, since inanimate figures have become popular only within the last several years, and remain concentrated in the smaller and medium size ranges, they have been sourced almost exclusively from abroad.

Doll and toy skins are the outer covering of a doll or toy or the unstuffed torso (basically the unstuffed doll or toy). In addition, a doll or toy having the arms, legs, or any incidental appendages filled or stuffed and the main portion of the body (the torso) unfilled would be considered a skin for Customs purposes.

The production of skins is highly labor intensive, requiring hand cutting and sewing. There is no known commercial production in this country of doll skins, negligible production of skins for toy figures of inanimate objects, and only minor production of skins for toy figures of animate objects (which is concentrated in skins for the largest toys).

Industry sources maintain that the production of these products is so highly labor intensive that the U.S. toy industry had resorted to sourcing almost exclusively from foreign production facilities. Thus, any duty is arguably an unnecessary addition to the final cost to the consumer. In addition, these sources assert that the duty suspension of imports of skins would encourage importers and manufacturers to finish the dolls and toys in the United States.

The subject articles are dutiable at rates ranging from 9.6 percent ad valorem to 13.4 percent ad valorem. All are eligible for duty free treatment under CBERA and GSP. Although products of Hong Kong, Taiwan and ROK are excepted in a few cases.

U.S. production of stuffed dolls increased from $4.8 million in 1980 to $44.9 million in 1984. Stuffed or filled toy figures of inanimate objects increased from less than $1.0 million in 1980 to $2.0 million in 1984. Doll skin production was nonexistent and toy skin production was less than $1.0 million throughout the period.

Specific information concerning the domestic industry producing only the subject products is not available. However, there were approximately 200 U.S. firms producing all dolls and stuffed toys in 1984. Employment in the doll and stuffed toy industry, which prior to 1982 had been declining, had recovered somewhat in 1984 to about 7,800 employees, including about 6,600 production and related workers. The industry is concentrated in New York, New Jersey, New England, and California.

The twenty largest firms account for the bulk of domestic doll and stuffed toy production.

Nearly all domestic products, including all the major firms, import to some extent; their activities range from the importation of skins to significant investment in foreign production facilities for supplying both U.S. and foreign markets. There is no known U.S. production of skins for stuffed dolls, and very little production of any of the remaining products except skins for stuffed toy animals. Some U.S. manufacturers produce skins domestically for the largest stuffed toy animals or the very high priced smaller animals as part of their overall U.S. production of the completed animals. More often, however, the skins are imported. It is not uncommon for those producers, importing parts of finished stuffed dolls and toy animals to export the production equipment, particularly cutting and sewing machines, to their overseas facilities.

Imports of all categories covered by this legislation increased markedly in the period 1980–1984. Units imported increased from 1980 to 1984 as shown below:

[In millions of dollars]

Item	1980	1984
Stuffed dolls	10.9	79.6
Stuffed toys	(1)	7.5
Doll skins	(1)	7.5
Toy skins	(1)	37.3

[1] Not available.

The import share from GSP and CBERA countries was 78% for dolls and nearly 100% for the rest.

U.S. exports of these products is negligible.

U.S. consumption increased 1980–1984 as shown below:

[Value in millions of dollars]

Item	1980	1984
Stuffed dolls	17.9	261.1
Stuffed toys	less than 1	8–10
Doll skins	(1)	7.5
Toy skins	(1)	38.3

[1] Not available.

Assuming that imports of stuffed dolls from Hong Kong and Taiwan and of toy figures of inanimate objects and toy skins form Korea remain ineligible for duty-free treatment under the GSP during 1986–90, the enactment of the legislation would result in an estimated loss of customs revenues of $15 million to $20 million annually.

SECTION 177(15) CRUDE FEATHERS AND DOWN

(Originally introduced as H.R. 4255 by Mr. Jenkins)

This section would extend the existing suspension of duty on crude feathers and down to December 31, 1990.

TUSU item 903.70 and 903.80 (and the corresponding schedule 1 item—186.15) cover feathers and downs, whether or not on the

skin, crude, sorted (including feathers simply strung for convenience in handling or transportation), treated, or both sorted and treated, but not otherwise processed.

The feathers and downs which are the subject of this legislation are provided for in item 186.15, with a column 1 rate of duty of 7.5 percent ad valorem and a column 2 rate of duty of 20 percent ad valorem. The column 1 rate is not scheduled for further reduction.

The current rates under the "Special" rates of duty are free for imports of feathers and downs from developing countries under the Generalized System of Preserences, from countries provided for under the Caribbean Basin Economic Recovery Act and from Israel.

The suspension was enacted in 1975 to correct an anomaly in the TSUS in that certain feather- and down-filled garments were dutiable at seven percent ad valorem while feathers and downs, the principal input, were dutiable at 15 percent ad valorem.

Almost all domestically produced feathers and downs are obtained as a by-product of raising chickens, turkeys, ducks, and geese for meat. U.S. poultrymen, except those raising ducks and geese, give realtively little consideration to the price of feathers and downs in determining the size of their flocks, as the price for chicken and turkey feathers is quite low. At current price levels, the sale of waterfowl feathers and downs appears to provide a significant source of income for domestic duck and goose producers. The bulk of chicken feathers are collected at broiler-processing plants in the Southeast; most of the waterfowl feathers and downs are collected at duck-processing plants on Long Island, N.Y. and at goose-processing plants in the Midwest. A small quantity of feathers and downs is salvaged annually from wild pheasants and ducks.

U.S. production of feathers and downs affected by this legislation is estimated to have been about 15 million pounds annually in recent years. The bulk of such production is of chicken feathers. The total also includes an estimated three million to five million pounds of waterfowl feathers and downs; the bulk of which is from ducks, with U.S. production of goose feathers and downs estimated at less than 0.5 million pounds annually. A small amount of feathers from pheasants is produced. As the prices of different types of feathers and downs vary greatly, no value can be reasonably estimated for domestic production.

U.S. imports of feathers and downs decreased from 17 million pounds, valued at $74 million, in 1981 to 11 million pounds, valued at $51 million, in 1982 then rose to 19 million pounds, valued at $77 million, in 1984. Such imports declined slightly to 18 million pounds, valued at $65 million, in 1985. Virtually all U.S. imports consist of waterfowl feathers and downs which are largely imported in the unprocessed and crude state. Most are baled and shipped in the unprocessed state because if feathers and downs are baled after being cleaned they must be reprocessed to regain their bulk, thus adding an additional expense.

China, during 1981–85, generally was the leading U.S. supplier of feathers and downs in terms of quantity. Such imports consisted mainly of uncleaned feathers.

France generally was the leading U.S. supplier of feathers and downs in terms of value during 1981–85. Such imports from France consisted mainly of downs.

U.S. exports of feathers and downs declined during 1981–85, from six million pounds, valued at $47 million, in 1981 to three million pounds, valued at $23 million, in 1985. Taiwan was the principal U.S. export market for feathers and downs in terms of quantity, accounting for about 26 percent of the total during 1981–85. Other major U.S. exports markets during this period in terms of quantity included Korea (21 percent) and Canada (11 percent). Korea was the principal U.S. export market for feathers and downs in terms of value accounting for about 45 percent of the total. Other major export markets in terms of value included Japan (22 percent) and Canada and Taiwan (nine percent each).

No information is available on U.S. exporters of feathers and downs; however, it is believed that importers and processors also export when world market conditions are favorable.

During 1981–85, apparent U.S. consumption increased, rising from 26 million pounds in 1981 to 31 million pounds in 1984. Apparent U.S. consumption dropped slightly to 30 million pounds in 1985.

Based on the current rates of duty of crude feathers and downs and on the 1985 level of imports, the estimated annual loss of revenue would be approximately $5 million.

SECTION 201. GSP TREATMENT OF WATCHES

(Originally introduced as H.R. 2028 by Mr. Anthony)

In this provision, watches would remain ineligible for GSP except those watches which, if given preferential treatment, would not cause material injury to the watch manufacturing and assembly operations in the U.S. and U.S. insular possessions. Because the data necessary to develop this criteria are not publicly available, the determination of which watches fit this criteria would be made by the U.S. Trade Representative after studying the matters and taking into account public views.

Material injury, as used in this context, means substantial or significant injury to the watch manufacturing and assembly industry in the United States or the insular possessions.

Watches, as defined in headnote 2(a) to schedule 7, part 2E of the TSUS, are timepieces suitable for wearing or carrying on or about the person. While viewed primarily as functional articles, many watches are fashion items and are sometimes considered articles of jewelry.

Conventional watches use a balance wheel and hairspring as a time base, and may or may not be battery operated. Nonconventional watches use a quartz crystal as a time base and are energized by a battery or solar cells.

Solid state electronic watches are classified under TSUS item 688.36. Other watches (conventional and electromechanical) are classified under TSUS item 715.05.

Item 688.36 has a column 1 duty rate of 4.3 percent ad valorem, and column 2 rate of 35 percent ad valorem and qualifies for duty free entry under CBERA unless they contain products from column 2 countries.

Item 715.05 has a column 1 duty rate equal to the sum of the column 1 duty rates of the watch case and the movement. The column 2 rate is the sum of the applicable column 2 rates. The same CBERA criteria apply as for 688.36 items.

Watches classifiable under 715.05 produced or manufactured in an insular possession of the United States are eligible for duty-free entry if they conform to the quota and other requirements of headnote 6 to schedule 7 which details a rather complex program of preferences enacted in 1982, designed to assist the watch industry in the U.S. Virgin Islands.

When the Trade Act of 1974 was passed, the U.S. watch industry was considered import-sensitive. Therefore, watches were excluded from the list of articles eligible for the GSP.

Estimated shipments of watches by U.S. producers, in terms of value, decreased from $483 million in 1980 to $268 million in 1984, or by 45 percent.

Since the late 1970's the domestic watch industry has, for the most part, moved production offshore to areas (primarily the Far East) with lower labor costs. There is some manufacturing of watches and watch movements in the U.S. insular possessions. However, the value of this production is negligible when compared with apparent consumption. Domestic watch manufacturing consists primarily of assembling components produced abroad. Procedures performed include attaching dials and hands to movement assemblies, encasing movements, regulating, packaging, and marketing.

Domestic employment data are unavailable, although industry sources estimate current employment at 3,000 to 4,000 people. Workers in the actual manufacturing process are largely semi-skilled and nonskilled.

There are an estimated 150 companies performing assembly operations. The largest 5 companies account for an estimated 80 to 90 percent of production. Although the majority of watch producers are located in the New York area, the remaining companies are located in approximately 15 states.

U.S. imports of watches almost tripled in terms of quantity from 50 million units in 1980 to 140 million units in 1984. In terms of value, watch imports increased from $613 million in 1980 to $845 million in 1984.

The leading supplier of watches in terms of value in 1984 was Japan, accounting for $324 million, or 38 percent of the total. In terms of quantity, the leader was Hong Kong with 101 million units, or 72 percent of the total.

U.S. exports of watches increased from 920,000 units, valued at $18 million, in 1980 to 1 million units, valued at $20 million, in 1981. Since then, exports have steadily dropped to 437,000 units, valued at $7 million, in 1984. Hong Kong is the leading market for U.S. watches. Canada and Venezuela are the second and third leading markets, respectively.

U.S. consumption has been relatively flat in the period from 1980 to 1984 averaging approximately $1,100 million.

The effect on revenue is unknown at this time.

SECTION 202. MARKING OF CONTAINERS OF IMPORTED MUSHROOMS

(Originally introduced as H.R. 839 by Mr. Schulze)

This section would provide that imported preserved mushrooms would not be in compliance with the marking provisions of section 304 of the Tariff Act of 1930 unless the containers indicate in English the country in which the mushrooms were grown. This legislation would not amend any existing statute or affect any existing rates of duty on imported articles.

In the United States, about two-fifths of the mushrooms consumed are fresh, and the remainder are processed. The great bulk of processed mushrooms are canned.

U.S. imports of canned mushrooms enter in all conventional containers sizes and styles of pack.

Since early 1981, entries of prepared or preserved mushrooms packed in a heavy salt solution in large containers (primarily 50- and 20-gallon plastic and 55-gallon steel drums) have been increasing. These are fresh mushrooms grown in the People's Republic of China (China) which have been cooked and then saturated with a heavy salt solution. Upon arrival in the United States, the mushrooms are washed and desalted before being subjected to conventional canning processes by domestic firms. Since 1980, the principal foreign suppliers of all canned mushrooms have been Taiwan, China, Hong Kong, and the Republic of Korea (Korea), with Spain and the Netherlands shipping significant amounts in 1984.

Preserved mushrooms are imported into the U.S. under 3 separate TSUS item numbers which have rates of duty ranging from 1.8 cent per pound plus 5.5% ad valorem to 3.2 cents per pound plus 10% ad valorem. The column 2 rates are all the same—10 cents per pound plus 45% ad valorem. Two of the items are eligible for GSP and all 3 are eligible for CBERA.

During 1980–84, annual U.S. sales of prepared or preserved (canned and frozen) mushrooms averaged 117 million pounds. In 1984, sales were 119 million pounds. In recent years, the leading states in production/sales of canned mushrooms included Pennsylvania, Indiana, and California, while Pennsylvania and Indiana led in frozen mushroom production/sales.

U.S. imports of prepared or preserved mushrooms increased 44 percent from 117.3 million pounds valued at $121.9 million, in 1980 to a record high of 169.1 million, valued at $165.7 million, in 1984.

The leading foreign suppliers of prepared or preserved mushrooms in 1984 (and the share supplied by each) were Taiwan (37 percent), China (27 percent) and Hong Kong (13 percent), Spain (9 percent), and South Korea (7 percent). In 1984, the bulk of imported prepared or preserved mushrooms were canned mushrooms.

U.S. exports of prepared or preserved mushrooms rose irregularly from 578,000 pounds, valued at $392,000, in 1980 to 634,000 pounds, valued at $453,999 in 1984. In 1984, the four major markets for canned mushrooms, accounting for the bulk of total exports, were Hong Kong, Saudi Arabia, Spain, and Canada.

During 1980–84, apparent U.S. consumption of prepared or preserved mushrooms trended upward and averaged 234 million pounds annually; in 1984, consumption amounted to 287 million pounds.

The enactment of this legislation would likely have little or no effect on the annual revenues collected on imports of prepared or preserved mushrooms, other than potential marking duties under section 304. Any increased cost of production in changing container labels to conform to this bill would be minimal, resulting in no increase in the dutiable value of the finished product or that being paid by U.S processors of imports.

SECTION 203. CUSTOMS BOND CANCELLATION STANDARDS

(An amendment offered by Mr. Crane)

This section establishes a requirement for the Secretary of the Treasury to publish guidelines establishing standards for setting terms and conditions for the cancellation of bonds.

SECTION 204. THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII

(Originally introduced as H.R. 4254 by Mr. Heftel)

Section 204 would allow certain specified articles to be imported duty free for use in the construction of an optical telescope for the W.M. Keck Observatory Project in Mauna Kea, Hawaii. These articles would include the telescope structure, or frame, the obeservatory domes, and the primary mirror blanks.

The bill would not eliminate or change the current Tariff Schedules of the United States (TSUS) rates of duty under which the articles would otherwise enter. Instead, it would grant a special exemption from the applicable tariff rates for the articles specified above. The exemption would apply to the Keck Observatory Project only.

The bill further provides for the refund of any duty that may have been paid on any of the specified articles before enactment of the proposed law.

The Keck Observatory will house a ten-meter reflecting telescope with infrared capabilities that will be the most powerful optical telescope in the world. The telescope will consist primarily of an observatory dome, primary mirror blanks, and a telescope structure.

The observatory dome will be a 120-feet diameter steel, hemispherical structure. Such domes typically enclose telescopes; therefore, they also contain moving shutter doors which permit the telescope to view the sky. Domes are generally built in sections. Structural steel shapes are cut into various configurations, attached to steel trusses, and welded together.

The mirror blanks are made of a special "zero expansion" ceramic material. Although the material is not glass, it has both glass-like and crystalline properties. It has such low thermal expansion rates over a wide temperature range that precision parts made of it are not subject to changes resulting from alterations in temperature. It is therefore an ideal mirror substrate mount for astronomical and infrared telescopes because changes in the reflector caused by temperature fluctuations would impair the quality of observations. Because of the difficulty of using a ten-meter mirror blank, the designers of the Keck telescope have developed mosaic of 36 hexagonal mirror segments only 1.8 meters in diameter.

The telescope structure is a high precision space frame which supports the primary mirror and provides ultra-precise movement to point the optical system to selected areas in the sky.

The Keck telescope will have a resolution three times that of any other telescope in the world. It will be used to veiw distant galaxies and will be able to collect enough light from them to determine their red-shifts, a measure of astronomical distance. Other uses include direct imaging in thermal infrared; thermal infrared spectroscopy; wide field imaging at optical and infrared wavelengths, spectroscopy and polarimetry of single objects and other experiments to discover the origin of stars, planets, and galaxies.

The steel observatory domes would be classified under TSUS item 653.00, which pertains to certain fabricated products of iron or steel suh as hangars, buildings, other structures, and parts of structures.

Currently, the column 1 rate of duty is 6.2 percent, which is the seventh stage of the duty reduction negotiated during the MTN. In the final staged reduction, effective January 1, 1987, the duty will be reduced to 5.7 percent ad valorem. The column 2 rate under item 653.00 is 45 percent ad valorem, and the LDDC rate is 5.7 percent ad valorem.

The articles covered under item 653.00 are currently eligible for duty-free treatment under the GSP (for all countries except the Republic of Korea), the Caribbean Basin Economic Recovery Act, and the U.S.-Israel Free Trade Area Act.

The telescope structure or frame and primary lens blanks are both classified under item 708.65 (frames, mountings, and parts of telescopes) and are dutiable at the rate applicable to the article of which the frames and mountings are part. In this case, it would be the rate applicable to item 708.61 (telescopes designed for use with infrared light).

Currently, the column 1 rate of duty is 2.6 percent. In the final staged reduction, effective January 1, 1987, the duty will be reduced to 2.2 percent ad valorem. The column 2 rate under item 708.61 is 35 percent ad valorem, and the LDDC rate is 2.2 percent ad valorem.

The articles covered under item 708.61 are currently eligible for duty-free treatment under the GSP, the CBERA, and the U.S.-Israel Free Trade Area Act.

Enactment of this legislation would result in a loss of customs revenues of about $610,000, based on the 1986 rates of duty under TSUS items 653.00 and 708.65 applied to the articles specified in the bill.

SECTION 205. RELIEF OF RUKERT MARINE CORPORATION OF BALTIMORE, MARYLAND

(Originally introduced as H.R. 3628 by Ms. Mikulski)

Section 205 provides that certain entries of synthetic methionine from Japan made between March 26, 1976, and March 10, 1977, shall be reliquidated without liability of the importer of record for antidumping duties, and that any such duty, if paid, shall be refunded. These duties were assessed by the Customs Service as a result of its determination under the antidumping law in effect at the time that synthetic methionine from Japan had been sold in the United States at less than its fair value, with a dumping margin of 44.14 percent ad valorem. Pursuant to the Customs Service determination, the Department of Commerce, which assumed responsibility for antidumping matters on January 1, 1980, issued an order for the assessment of the duties. Because the Rukert Marine Corporation was the importer of record for the merchandise, it became liable for payment of the additional duties.

The Rukert Marine Corporation ("Rukert") sought exemption from the collection of these duties because the corporation, which acted as the customs broker for entries of the merchandise, did not receive actual notice of its potential liability for the antidumping duties until after the period had expired during which it could have avoided liability by substituting the name of the actual consignee of the merchandise.

The assessed amount of antidumping duties is approximately $258,000.

SECTION 206. RELIEF OF MINEMET, INC., NEW YORK

(Originally introduced as H.R. 2506 by Mr. Lent)

The proposed legislation would instruct the Secretary of the Treasury to reliquidate, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the

United States (TSUS) (in effect at the time of entry), four entries of tubular tin products imported through the port of New York in March 1979. This would enable Minemet, Inc., to obtain the duties previously paid by submitting a certificate of actual use (in this instance a remelt certificate) for the products to the U.S. Customs Service, at the original port of entry, within 120 days from the date of enactment of this Act.

The Customs Service classified the subject products in TSUS 622.40, pipes and tubes and blanks therefor of tin. The column 1 rate the duty under this item in 1979 was 6 percent ad valorem, and the column 2 duty rate was 45 percent ad valorem; the current column 1 duty rate is 3.3 percent ad valorem. Imports under TSUS item 622.40 were then eligible for duty-free entry under the Generalized System of Preferences (GSP) if the product of a beneficiary country other than Brazil (as of March 1, 1979), while today all GSP-eligible countries may claim duty-free entry for such articles. The least developed developing countries (LDDC) duty rate, in effect since 1980, is 2.4 percent ad valorem. Such products from designated beneficiary countries are eligible, as of late 1983, for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA). Imports under TSUS item 622.02 have been unconditionally free of duty since its enactment.

Enactment of this bill would cause a customs revenue loss of $216,000. This figure represents the amount of duty that Minemet paid on the articles in question, which it would be able to recover.

SECTION 207. PORNOGRAPHY

(Originally introduced as H.R. 3506 by Mr. Wolf)

This section explicitly defines as 30 days the time for instituting judicial proceedings on forfeiture of seized pornography imports. It also allows forfeiture proceedings to be instituted in the district to which the matter is addressed and permits a stay in civil forfeiture proceedings pending completion of any related criminal matter.

Current forfeiture law with respect to obscene material contains no express limitation on the time within which forfeiture actions must begin or be decided. The Supreme Court has interpreted the statute to include two fixed time requirements:

(1) judicial proceedings for forfeiture of material seized under the statute are required to be instituted no more than 14 days from the time the material is seized and

(2) the final decision in the action must be made within 60 days after the action is filed.

Forfeiture proceedings are currently allowed only in the district where the seizure takes place.

Because current law contains no express limitation on the time within which forfeiture actions must begin or be decided, the law has been interpreted by the Supreme Court to be 14 days from the institution of forfeiture proceedings and 60 days for the final decision. The extension of the time requirement from 14 days to 30 days would likely withstand constitutional scrutiny because (1) the Court in Thirty-Seven (37) Photographs indicated that 14 days was not the outer limit of constitutional delay, and (2) 30 days is less time than the 40-day and 6-month delays the Court did not wish to sanction.

SECTION 208. INTERNATIONAL COFFEE AGREEMENT

(Originally introduced as H.R. 5074 by Mr. Guarini)

This section amends section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) by striking out "October 1, 1986" and inserting "October 1, 1989," thereby extending U.S. participation in the International Coffee Agreement (ICA) for 3 years.

Coffee is the bean of a tropical and subtropical evergreen tree or shrub. It is consumed as a beverage made from roasted and ground coffee beans. Most coffee enters international trade in the "green" unroasted form. Coffee extracts, essences, and concentrates consist of water-soluble solids derived from roasted coffee which has been ground and percolated with water, forming a liquid extract. The liquid concentrates (which are used for flavoring and beverage purposes) are minor products in the domestic and foreign trade of the United States.

According to the sponsor, the purpose of this provision is to provide for continued U.S. participation in the International Coffee Agreement. Continued U.S. participation in the agreement would provide the United States with "the opportunity to influence future marketing and production policies of coffee producing countries when consumers are most vulnerable." A halt in U.S. participation at this time would send "a negative signal" to producing countries and could trigger actions, such as efforts to form cartels, which would adversely affect the U.S. coffee industry and U.S. consumers.

The coffee products of the ICA are provided for in TSUS items 160.10, 160.20, and 160.21. All coffee provided for in TSUS items 160.10 and 160.20 enters free of duty. The coffee extracts, essences, and concentrates provided for in TSUS item 160.21 are free of duty under column 1 and are dutiable at 3 cents per pound under column 2.

The legislature of Puerto Rico has authority to impose its own duties on coffee imported into Puerto Rico from a foreign country, including coffee entering Puerto Rico from the United States, its territories and possessions, or other places under its jurisdiction. Puerto Rican rates of duty in 1985 were $1.40 per pound for ground or roasted coffee and $1.17 per pound (computed on a green (raw) basis) for coffee preparations (including instant coffee). Imports of green coffee were prohibited.

The International Coffee Agreement is a multilateral agreement that presently involves 71 coffee producing and consuming countries representing an estimated 98 percent of world coffee production and an estimated 85 percent of world coffee consumption. The present agreement, which entered into force on October 1, 1983, and remains in force through September 30, 1989, is the latest in a series of agreements that date back to 1962. The United States has been a participant in such agreements since 1962.

The objective of the agreements is to stabilize the price of coffee by means of a system of country export quotas which are decreased when prices are declining and increased when prices are rising. In periods of high prices, quotas are suspended altogether in order to encourage maximum exports. The quota system is enforced by the importing members. The agreement is administered by the International Coffee Council (ICC).

Section 2 of the International Coffee Agreement Act of 1980, initially codified at 19 U.S.C. 1356k, provided authority for U.S. implementation of its treaty obligations under the 1976 agreement. The act was amended in 1983 to reference the 1983 agreement and authorize U.S. participation for an additional 3 years, until October 1, 1986. Among other things, the act provides that the President shall seek to protect U.S. consumers against unwarranted price increases as a result of actions by the ICA or market manipulation by two or more members of the ICA and requires reports on the operation of the ICA and trade in coffee. This provision would authorize U.S. participation until October 1, 1989.

Domestic production of green coffee is limited to Hawaii and Puerto Rico. In crop years 1981–85, annual domestic production averaged about 32 million pounds. During the same period, an annual average of 2.3 billion pounds of green coffee was imported for roasting.

Total U.S. exports of all coffee (greenweight equivalent) amounted to 40 million pounds in 1985, or less than 1 percent of apparent domestic consumption.

During 1981–85, U.S. apparent consumption of all coffee was relatively stable at 2.4 billion pounds.

There would be little or no effect on U.S. customs revenues. Virtually all coffee products the subject of the bill enter free of duty. Only coffee extracts, essences, and concentrates imported from certain Communist countries, are dutiable. Such dutiable imports are negligible or nil.

The potential cost to the Federal Government would include the assessment on member countries of the International Coffee Organization to pay for expenses incurred by ICO and the regulatory costs incurred by the U.S. Customs Service in enforcing the import and export provisions specified in the International Coffee Agreement Act of 1980.

SECTION 209. SUGAR DRAWBACK

(Originally introduced as H.R. 4563 by Mr. Jenkins)

Currently, section 313 of the Tariff Act of 1930 provides for drawback (refund) of customs duties paid on (a) articles imported for manufacturing into other articles for export, (b) exported articles substituted for like imported ones, (c) articles not conforming to specifications, (d) certain exported spirits and medicinal preparations, (e) imported salt used to cure fish and meats for export, (f) materials used to produce vessels for foreigners, (g) articles exported in the same condition as imported, and (h) jet engines entered for repairs.

All drawback claims require that the article be exported within five years of importation. Where substitution drawback is claimed, the exported product or manufacture must have been made (from imported or like domestic merchandise) within three years from the receipt of the imported article.

Drawback provides for the refund of 99% of all customs duties paid on the imported merchandise.

This section would allow drawback of customs duties paid on cane sugar imported from November 1, 1977, to March 31, 1985, provided that the export of refined sugar or of sugar-containing products manufactured from cane sugar occurs before October 1, 1991. the provision would allow the recovery, via drawback, of both previously paid import duties and section 22 fees (imposed under section 22 of the Agricultural Adjustment Act, as amended) for which the eligi-

bility period for obtaining drawback has expired under current law.

The specified period in the legislative provision coincides with a period of time during which the column 1 rate of duty was at its highest permissible level and during which section 22 fees were in place. Since the provision would set an export time limit of October 1, 1991, it is possible that claims for drawback based on 1977 to 1985 imports could go on through September 30, 1994. It should further be noted that the period in which exports could be made (and drawback claimed) extends through the current expiration date of the domestic price-support program for sugar.

According to the sponsor of the original legislation, the purpose of this provision is to enable U.S. sugar refiners to continue to export refined sugar to the world market with benefit of previously expired drawback. According to the U.S. Cane Sugar Refiners' Association, whose members would be the primary beneficiaries of this provision, enactment of this provision would enable them to export about 500,000 tons of refined sugar per year to the world market. The annual refund by the U.S. Treasury for drawback is estimated by the refiners' association to be approximately $53 million.

The provision is narrowly drawn to apply only to imports of raw cane sugar, and exports of refined cane sugar or products manufactured or produced from refined cane sugar, to ensure its application only to products relating to cane sugar, and not beet sugar. It has come to the attention of the Committee that certain importers of raw cane sugar may be claiming drawback for exports of refined sugar made from sugar beets. The special drawback treatment provided in this legislation is intended not to apply in such a situation. The special benefits of drawback are intended only for imports of raw cane sugar and exports of products made from raw cane sugar.

The section also requires the Secretary of Agriculture, in conjunction with the Commissioner of Customs, to study and report back to the Committee on Ways and Means of the House and the Committee on Finance of the Senate by February 1, 1987 on circumvention of the U.S. sugar quota through the importation of sugar blends. The report must address the severity of the problem, or lack thereof, and suggest concrete steps, as necessary, to prevent such circumvention. The purpose of this subsection is to provide the Committee with detailed information on the nature and extent of any circumvention of the sugar import quota resulting from the importation of refined sugar in the form of blended products.

SECTION 210. PROTECTION UNDER THE TARIFF ACT OF 1930 (SECTION 337)

Injury to "Efficiently and Economically Operated" U.S. Industry

Section 337 of the Tariff Act of 1930 provides for relief against unfair methods of compensation and unfair acts in the importation of articles into the United States or in their sale, if the effect or tendency of such actions is to destroy or substantially injure an efficiently and economically operated industry in the United States.

The U.S. International Trade Commission has the responsibility under section 337 to conduct an investigation of any alleged violation of this provision either upon a complaint being filed by an interested party or upon its own motion. If the Commission finds that a violation of this statute has occurred and determines that such relief is justified after considering the effect "upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States and United States consumers", it may provide relief in the form of an exclusion order or a cease and desist order.

Section 210 amends section 337 of the Tariff Act of 1930 in several important respects. First of all, it eliminates the need to demonstrate injury to, or the impairment or prevention of the establishment of, an industry in the United States for intellectual property rights cases. Secondly, it eliminates in all cases the requirement to establish that an industry in the United States is "efficiently and economically operated." Finally, although the injury standard would be eliminated, petitioners in intellectual property rights cases would have to demonstrate that an industry in the United States relating to the articles or intellectual property right concerned "exists or is in the process of being established."

The changes described above relating to statutory intellectual property rights cases would apply to:

1. The unauthorized importation into the United States, or the unauthorized sale with the United States after importation, of articles that—

a. infringe a valid and enforceable United States patent or a valid United States copyright registered under title 17, United States Code; or

b. are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent;

2. The importation into the United States, or the sale within the United States after importation, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946, if the manufacture or production of the article was unauthorized; and

3. The importation of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

In such intellectual property rights cases, an industry in the United States is considered to exist if there is, with respect to the articles, patent, copyright, trademark, or mask work concerned, in the United States—

1. significant investment in plant and equipment;

2. significant employment of labor or capital; or

3. substantial investment in its exploitation including engineering, research and development, or licensing.

The fundamental purpose for the amendments made by section 210 is to strengthen the effectiveness of section 337 in addressing the growing problems being faced by U.S. companies from the importation of articles which infringe U.S. intellectual property rights.

Infringing imports were not the primary concern of Congress when section 337 was initially enacted in 1922. As indicated by the scope of its language, section 337 was designed to cover a broad range of unfair acts not then covered by other unfair import laws. However, over the years, patent, copyright, and trademark infringement were recognized as unfair practices within the meaning of the section 337, and today, section 337 is predominantly used to enforce U.S. intellectual rights. According to a recent Government Accounting Office (GAO) study, 95 percent of the section 337 cases initiated since 1974 involve statutory intellectual property rights. The Committee believes that the injury and efficient and economic operation requirements of section 337, designed for the broad context originally intended in the statute, make no sense in the intellectual property area.

Unlike dumping or countervailing duties, or even other unfair trade practices such as false advertising or other business torts, the owner of intellectual property has been granted a temporary statutory right to exclude others from making, using, or selling the protected property for the purpose of encouraging innovation. Any sale in the United States of an infringing product is a sale that rightfully belongs only to the holder or licensee of that property. The importation of any infringing merchandise derogates from the statutory right and diminishes the value of the intellectual property. Under such circumstances, the Committee believes that requiring proof of injury, beyond that shown by proof of the infringement of a valid intellectual property right, should not be necessary.

The Committee recognizes that in very few cases have petitioners actually been denied relief because of failure to meet the economic tests relating to injury and economically and efficiently operated industry. However, the Committee is concerned that, because of these economic tests, some holders of U.S. intellectual property rights who seek relief from counterfeit or infringing imports are denied access to section 337 relief. Since 1974, according to GAO's survey, 11 complainants have been unable to meet all of the economic criteria and 6 of them were denied relief solely for this reason. The GAO survey further indicated, however, that firms have terminated their proceedings or accepted settlement agreements which they judged not in their interests because they could not meet all of the statute's economic tests. It has been claimed that many firms may even have been discouraged from initiating proceedings because of these tests. Further, the cost of section 337 litigation is extremely high (ranging from $100,000 to $1 million with a few costing as much as $2.5 million according to GAO) and the legal costs of satisfying the economic criteria are reportedly equal to more than half of the total litigation expenses, thus further discouraging the use of section 337 to address the problem of counterfeit imports.

The Committee notes that in adopting section 162, it is effectively eliminating the requirement that the domestic industry be "economically and efficiently operated" and the requirement that the infringement have the tendency or effect of destroying or substantially injuring the domestic industry from section 337 as it applies to intellectual property cases. The Committee does not intend that the USITC or the USTR will reintroduce these requirements in making their public interest determinations.

Although the injury test has been eliminated for intellectual property rights cases a petitioner must establish that a U.S. industry relating to the articles or intellectual property right concerned "exists or is in the process of being established." This requirement was maintained in order to preclude holders of U.S. intellectual property rights who have no contact with the United States other than such intellectual property rights from utilizing section 337. The purpose of the Commission is to adjudicate trade disputes between U.S. industries and those

who seek to import goods from abroad. Retention of the requirement that the statute be utilized on behalf of an industry in the United States retains that essential nexus.

The Committee is concerned, however, that in recent decisions the Commission has interpreted the domestic industry requirement in an inconsistent and unduly narrow manner. This inconsistent application is best exhibited in the decisions in Certain Miniature Battery-Operated, Allterrain Wheeled Vehicles. Certain Cube Puzzles, and Certain Products With Gremlins Character Depictions. In order to clarify the industry standard a definition is included which specifies that an industry exists in the United States with respect to a particular article involving an intellectual property right if there is, in the United States—

1. significant investment in plant and equipment;

2. significant employment of labor or capital; or

3. substantial investment in the exploitation of the intellectual property right including engineering, research and development or licensing.

The first two factors in this definition have been relied on in Commission decisions finding that an industry does exist in the United States. The third factor, however, goes beyond ITC's recent decisions in this area. This definition does not require actual production of the article in the United States if it can be demonstrated that significant investment and activities of the type enumerated are taking place in the United States. Marketing and sales in the United States alone would not, however, be sufficient to meet this test. The definition could, however, encompass universities and other intellectual property owners who engage in extensive licensing of their rights to manufacturers.

The phrase "or in the process of being established" with regard to the industry requirement recognizes that there may be situations where, under the above definition, and industry does not "exist" but a party should be entitled to bring a 337 action. For example, if a new product is developed in the United States which is protected by a U.S. intellectual property right, the owner of the intellectual property right would not have to wait to bring an action under section 337 until he can satisfy the definition of industry, if he can demonstrate that he is taking the necessary steps to establish such an industry in the United States.

Finally, it is noted that the changes in this section are not intended to change existing law or practice regarding parallel imports or gray market goods. The substantive rights of intellectual property right owners with respect to this issue are unaffected by these amendments since the underlying statutes governing patents, copyrights, trademarks or mask works have not been changed. The law to be applied in section 337 cases raising this issue is the law as interpreted by Untied States courts.

Termination of Investigations by Consent Order or Settlement Agreement

Section 210(a)(2) amends section 337(b)(1) of the Act to authorize the Commission to terminate investigations, in whole or in part, by issuing consent orders or on the basis of settlement agreements.

The Commission has for a number of years terminated section 337 investigation in these ways without making a determination regarding whether the statute has been violated, under authority derived from the Administrative Procedure Act, specifically 5 U.S.C. subsection 554(c)(1). The amendment to section 337(b)(1) provides express authority in the Act for such terminations. It is intended to put to rest any lingering doubts regarding the Commission's authority to terminate investigations by issuance of consent orders or on the basis of settlement agreements without making a determination regarding violation of the statute.

Exclusion of Articles During Investigation

Under section 337, the Commission is empowered to issue both temporary and final exclusion orders prohibiting the entry of merchandise. There are no time limits for the issuance of temporary exclusion orders, however.

Section 210(a)(3) amends subsection (e) of the Act (1) to require the Commission to rule on petitions for a temporary exclusion order within 90 days (150 days in more complicated cases) of publication of the Commission's notice of investigation in the *Federal Register*, (2) to authorize the Commission to require the petitioner to post a bond as a prerequisite to the issuance of a temporary exclusion order, and (3) to authorize the Commission to grant preliminary relief in case involving alleged patent, copyright, registered trademark, or mask work infringement to the same extent as preliminary injuctions and temporary restraining orders may be issued be the federal district courts.

Experience under the present statute has shown that the Commission sometimes provides temporary relief to complainants too late to benefit them. This section addresses this problem by amending subsection (e) of the Act to require a Commission determination regarding issuance of a temporary exclusion order within 90 days (150 days in more complicated investigations) of institution of the investigation. It is expected that the Commission will decide whether to issue such orders using the standards and procedures employed by the federal district courts when they decide whether to issue preliminary injunctions.

Section 210 also authorizes the Commission to require the petitioner to post a bond as a prerequisite to the issuance of a temporary exclusion order. The purpose of petitioner's bond is to hold the respondents harmless if it is later determined by the Commission that there is no violation of the Act. If forfeited, petitioner's bond, is to go to the respondents.

Finally, in cases involving alleged patent, copyright, registered trademark, or mask work infringement, the section authorizes the Commission to grant preliminary relief to the same extent as preliminary injunctions and temporary restraining orders are granted by federal district courts under the Federal Rules of Civil Procedure.

Cease and Desist Orders

Section 337(f) provides for the Commission's use of cease and desist orders "in lieu of" the exclusion of articles. Penalties for the violation of such orders are set at the greater of $10,000 or the domestic value of the articles.

Section 218(a)(4) amends section (f)(1) of the Act in two respects. It authorizes the Commission to issue cease and desist orders in *addition* to exclusion orders and it raises the penalty for violation of such orders to "$100,000 or the domestic value of the articles."

In some investigations, the Commission has interpreted the current language as prohibiting it from issuing both an exclusion order and cease and desist order to remedy the same unfair act.

There are circumstances, however, where it is in the public interest to issue both an exlcusion order and cease and desist order for the same unfair act. For example, a cease and desist order probibiting a domestic respondent from selling the imported infringing product in the United States may be appropriate when the product has been stockpiled during the pendency of an investigation and an exclusion order may be appropriate to prevent future shipments of the infringing product. When the Commission determines that both remedies are necessary, it should be without legal question that the Commission has authority to order such relief. This amendment provides that authority.

Transfer from President to USTR Authority to Overrule USTR Decisions

Section 337(q) requires the Commission to transmit its determination to the President and allows the President to disapprove such determination "for policy reasons" within 60 days after receiving it.

Section 210(a)(5)(A) strikes "President" each place it appears in subsection (g) of section 337 and inserts "United States Trade Representative" in lieu thereof, thus transferring from the President to the U.S. Trade Representative the authority to overrule ITC determinations for policy reasons.

Section 210(a)(5)(c) adds a new subsection to the Act which requires the Commission, in cases involving defaulting respondents, to presume the facts alleged in the complaint to be true and, upon request, to issue relief against the defaulting respondents, unless the enumerated public interest factors (the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers) preclude relief. However, a general exclusion order prohibiting the entry of unfairly traded articles regardless of their source may not be issued unless a violation of the Act has been established by substantial, reliable, and probative evidence.

This amendment is motivated by the fact that discovery is usually difficult or impossible to obtain from respondents who have chosen not to participate in a section 337 investigation. For this reason, the bill authorizes the Commission to presume the facts alleged in the complaint to be true insofar as they involve a defaulting respondent, and to then issue relief affecting only that respondent. The amendment will therefore not affect participating respondents. Relief in the form of a general exclusion order must be supported by a Commission finding of violations of the Act based on substantial, reliable, and probative evidence. Complainants would declare at the time the last remaining respondent is found to be in default whether they are pursuing a general exclusion order.

Abuse of Process

Section 210(a)(5)(c) also adds a new subsection to the Act authorizing the Commission to promulgate rules prescribing sanctions for abuse of discovery and abuse of process to the extent authorized by Rules 11 and 37 of the Federal Rules of Civil Procedure.

The Committee believes that Commission rules prescribing sanctions for abuse of discovery and abuse of process are needed to provide the Commission and its administrative law judges with an additional tool by which to control the discovery processes.

Modification or Rescission of Exclusion Orders and Cease and Desist Orders

Section 210(a)(6) amends the Act to require that persons who have previously been found in violation of section 337 and who have petitioned the Commission for modification or rescission of a remedial order bear the burden of proof in any Commission proceeding regarding their petition. The bill also provides that the Commission may grant the petition only on the basis of new evidence or evidence that could not have been presented during the proceeding that resulted in the remedial order or on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

This provision is intended to codify existing Commission practices.

Confidential Information

Section 210(a)(8) adds a new section to the Act prohibiting the disclosure, except under protective order or to employees of the Commission or the U.S. Customs Service, of confidential information submitted to the Commission or exchanged among the parties in connection with a section 337 investigation, without the consent of the person submitting the information.

A great deal of information, disclosure of which would harm the competitive position of the submitter, is collected as part of the record in section 337 investigations. This information is disclosed, under protective order, to counsel involved in the investigation, but not to their clients or to the public. Companies might change its present policy regarding release, and decide to release information it no longer considers confidential, but which the submitter does consider confidential. This amendment addresses that concern by providing that disclosure may not occur without the submitter's consent.

Effective Date

The amendments made by section 210 would become effective with respect to Commission findings made on or after the date of enactment of this Act. The Commission is authorized to extend for an additional 3 months the deadline for completing any investigation due to be completed within 6 months after enactment which it declares to be complicated.

SECTION 211. TARIFF AGREEMENTS WITH CANADA

Under section 102 of the Trade Act of 1974, as amended by the Trade and Tariff Act of 1984, the President has the authority to enter into a bilateral trade agreement with any country to reduce or eliminate tariffs, but such an agreement is subject to Congressional approval under the fast-track implementation procedures set forth in sections 102 and 151 of the Trade Act. The authority to enter into such an agreement expires on January 3, 1988.

Section 211 would add a new provision to the Trade Act of 1974 authorizing the President to enter into an agreement with Canada to reduce or eliminate the duties on a specific list of tariff items. The President would have the authority to proclaim the changes in duties on these products without seeking the approval of Congress. However, he is authorized to exercise this authority only to the extent that tariff concessions of approximately equivalent value are granted by the Government of Canada in exchange for the reductions authorized under this section.

The following products would be covered under the scope of this negotiating authority: frozen cranberries; dialysis cyclers; teapackaging paper; dried fababeans; cat litter composed of paper or gypsum; merchanics' tool boxes; medical tubing; synthetic fireplace logs; certain spirits; miners safety lamps, components, and battery chargers; and computerized paper cutter control retrofit units. The President's authority to negotiate on these products is limited to the specified tariff items accompanying each article description in section 211.

On December 10, 1985, the President notified the House Committee on Ways and Means and the Senate Committee on Finance of his intention to enter into a comprehensive bilateral trade negotiation with Canada under the authority of section 102. Since neither Committee disapproved such negotiations during the 60 legislative-day period provided in section 102, the comprehensive talks are currently proceeding. However, these talks may take several years to complete.

In order to facilitate such negotiations and to create some momentum toward a comprehensive agreement, section authorizes the President to proclaim the reduction or elimination of duties on a finite list of articles which are of importance to the Canadian Government in exchange for tariff concessions of equivalent value on U.S. exports to Canada. If an agreement is reached, such tariff reduction can be implemented without further Congressional approval at any time within the 5-year period for which the President has been granted such authority.

SECTION 212. CUSTOMS SERVICES AT PONTIAC/OAKLAND MICHIGAN, AIRPORT

(Originally Introduced as H.R. 2381 by Mr. Carr)

This section amends Section 236 of the 1984 Trade and Tariff Act to specify that the airport located at Pontiac/Oakland, Michigan would become a reimbursable customs port. It would also eliminate the maximum number of locations that Customs may serve on a reimbursable basis.

The U.S. Customs Service discontinued its service in the early 1980's at a number of small airports as a cost-cutting measure. This move apparently disadvantaged some business interests that had come to rely upon the availability of a Customs operation at some of these locations. As a result of the pressure brought to bear by these interests, the Congress specified in the 1984 Trade and Tariff Act that the airport located an Lebanon, New Hampshire plus three non-designated other small airports (that would otherwise not qualify as a Customs location) could be provided with customs services on reimbursable basis. Since enactment of that provision, Customs has had many requests for establishment of these locations.

The Committee recognizes that many small airports, such as Oakland/Pontiac Airport in Pontiac, Michigan and the airport located at Lebanon, New Hampshire, presently have neither the volume nor the level of business to require the availability of full-time customs services. Therefore, the Committee urges the Secretary of the Treasury to provide customs services at the Oakland/Pontiac Airport and charge a fee based on actual hourly costs, equal to expenses incurred.

TITLE III. IMPLEMENTATION OF NAIROBI PROTOCOL

(Originally Introduced as H.R. 2885 by Mr. Gibbons)

The proposed legislation would make permanent changes to the TSUS to implement the Nairobi Protocol to the earlier Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials. Such changes would become effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the latest of: 1) August 12, 1985; 2) the 15th day following the date of enactment; or 3) the 15th day following the deposit of the U.S. ratification of the Protocol. The Protocol's intent is to contribute to the cause of peace through a freer exchange of ideas and articles across national boundaries. To achieve this goal, duty-free treatment would be extended to various printed materials, visual and auditory materials, tools for certain scientific instruments, and articles for blind and handicapped persons. The Protocol added new articles to the group receiving duty-free treatment under the Agreement and is aimed at ending the restrictions on the type of importers eligible to obtain such benefits.

Subtitle A and B describe the purpose of the act and amends, repeals and creates tariff provisions for articles to be afforded duty free treatment pursuant to the act.

Subtitle C would permit the President to modify portions of the duty free treatment authorized under the act. First, section 321 would empower him to terminate or narrow, or impose conditions on, the duty-free treatment granted to the tools for scientific instruments and articles for the handicapped. This authority would be in addition to that afforded by section 201 of the Trade Act of 1974 but it would be available only where the duty-free treatment of a type of article has a "significant adverse impact" on all or part of a U.S. industry producing the like or directly competitive article.

All actions to change the duty treatment of covered articles could occur only after public and private parties had an opportunity to present views. The section would further deem ongoing proceedings under the 1982 act, or any continuing action under it, to be proceedings or actions under the proposed section. (This includes the investigation on hearing aids.)

Section 322 would permit the President to expand the scope of the duty-free treatment of the visual and auditory material covered by section 313, within the interest of the United States. Such action could include the removal of or change in any conditions previously imposed as to those imports. The section is intended to permit the President to move from implementing the narrower Annex C-2 to the less restrictive Annex C-1; the latter lacks the limitations on the nature of articles and type of importers eligible to claim free entry that are present in C-2. Any such action would become effective in the fifteenth day after it is proclaimed.

Other sections of subtitle C would modify procedures to obtain duty free eligibility for scientific apparatus and would also provide for collection of statistical information for imports of articles for the handicapped to assist in the implementation of potential actions limiting duty free treatment under Section 321.

The Florence Agreement was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in July 1950 and entered into force as to ten countries on May 21, 1952. The Agreement provides for the exemption from customs duties of specified publications, other information materials, and objects of cultural and artistic interest in order to promote the free exchange of ideas. The Agreement entered into force as

to the United States on November 3, 1966, upon issuance of Presidential Proclamation 3754; the duty-free treatment commenced on February 1, 1967.

The Nairobi Protocol, drafted between 1973 and 1976, was opened for signature on March 1, 1977 and represents both an extension of the Agreement to additional categories of articles and application of original provisions to new products. The Protocol has eight annexes, four of them mandatory for contracting parties, covering groups of articles to receive duty-free treatment. A fifth annex has two versions, one broader than the other; the proposed legislation would implement the narrower version.

Under the Protocol, a contracting party is obligated to exempt the following articles from customs duties and other charges:

(1) Printed books; printed publications and documents of a non-commercial character (Annex A)

(2) Works of art and collector's pieces of an educational, scientific, or cultural character (Annex B)

(3) Scientific apparatus or instruments imported by approved public or private scientific or educational institutions (Annex D)

(4) Articles specially designed for the use or advancement of the blind or other physically or mentally handicapped persons, when the article is imported by approved institutions (Annex E)

Contracting parties also agree to extend such free entry to either of the following:

(1) Visual and auditory materials, including films (or negatives); sound recordings; patterns, models (except toy models), and wall charts of an educational, scientific, or cultural character; video-tapes; holograms; multi-media kits; and other materials (Annex C.1—originally adopted by the United States through the 1982 act); or

(2) The same materials, when limited to those of an educational, scientific or cultural character imported by certain entities (Annex C.2—to be implemented by the proposed legislation with the potential of moving to Annex C.1 at a later date).

Parties may choose to grant free entry to sports equipment (Annex F), musical instruments and equipment (Annex G), or material and machines used for the production of books, publications, and documents (Annex H) under specified circumstances. The United States has not adopted these three annexes.

Restrictions on importation or subsequent circulation of these articles can be applied if directly based on national security, public order, or public moral considerations. In ratifying the Agreement, the United States was permitted to attach a reservation which allowed for the suspension of any obligation under the Agreement for those imported articles covered by the Agreement that prove injurious to domestic industry producing a like or directly competitive product.

The temporary tariff treatment afforded by the Protocol was provided in Proclamation 5021 of February 14, 1983 with an expiration of August 11, 1985.

In order to ascertain whether the domestic hearing aid industry has been harmed by the Protocol approved duty free importation of hearing aids the ITC instituted investigation No. 332-215 on June 11, 1985. Any modification of tariff treatment for hearing aids pursuant to the ITC findings and Presidential consideration would continue in effect after the enactment of Title III.

The existing column 1 tariff rates for those articles covered by the proposed legislation varies from free (this is the case for most of the articles) to 3.3 percent ad valorem. Approximately half of the articles are eligible for GSP and all of the articles (with the possible exception of some articles for the handicapped such as special watches) are eligible for CBERA. The temporary duty suspensions on these articles expired August 11, 1985.

In 1984, the value of shipments (receipts) by the commercial printing industry was estimated at $32 billion. Specific shipment data on catalogs, drawings and plans, and photographs and certain pictorial matter—the significant imported articles that would be given duty-free treatment—are not available. However, it is estimated that domestic receipts from catalogs, drawings, and plans account for approximately 5 percent of the annual value of receipts of the U.S. commercial printing industry.

U.S. production of motion-picture film cannot be accurately measured from the available statistical data. However, the manufacture of video products has expanded, mainly as a result of the increasing demand of video-taped films for use on home video systems.

Data are not available concerning the domestic production of tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus for which no corresponding or alternative articles is manufactured in the United States. Such production is believed to be small.

Data are not separately available concerning the production of articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons, since the range of products potentially included in that category is extensive.

Printers of catalogs, drawings and plans, and photographs and pictorial matter represent a relatively small portion of a substantial commercial printing industry. Commercial printing products are basically grouped into six major segments, each of which contains articles involved in the legislation. These six grouping are: magazines and periodicals; catalogs and directories; general job printing; advertising printing; labels; and legal work.

There were approximately 30,000 commercial printing establishments in 1984. Production employees accounted for 75 percent of all employment in the commercial printing establishments in 1984.

About two-thirds of all printing plants are located in the Eastern United States. About 20 percent of the plants are located west of the Rockies and on the Pacific Coast, and the remaining 15 percent are in the Central States. Domestic production accounts for the bulk of U.S. consumption, with imports making only a minor contribution.

Data are not reported concerning the number of establishments and employees in the motion picture industry.

Although there are many producers of the broad category of articles that are specially designed or adapted for the use or benefit of physically or mentally handicapped persons, no data can be included concerning such firms. Similarly, no data are available concerning production all the sound or combination recordings in proposed TSUS item 870.34.

U.S. imports of printed matter are relatively insignificant compared with domestic production. Imports of catalogs, drawings and plans, and photographs and certain pictorial matter were also only a small portion of domestic consumption of these products, with combined import valued at about $121 million in 1984. The leading source of imports of catalogs, drawings and plans in 1984 was Canada. Trade in printed matter occurs primarily because of unique content * * *

The value of imports of exposed motion-picture film, related sound recordings, and recorded video tape for distribution in the United States is insignificant in relation to the value of domestic production and is much less than that of exports. Imports increased from $18.1 million in 1980 to $23.2 million in 1984. The supplier of imported films vary depending upon whether U.S. pictures are filmed on location (which is determined in part by the foreign exchange rate) and the box office success of foreign productions in the United States. Imports by nonprofit institutions cannot be specified.

Total U.S. imports of sound recordings under TSUS items 724.20 through 724.40 in 1980–1984 grew consistently from $50,907,000 to $155,981,000, averaging $87,297,000. The imports entered by approved institutions cannot be separately identified.

Imports of the various educational, scientific, and cultural articles provided for in TSUS item 870.30 averaged $10 million during 1980–84. The leading source in 1984 was Norway, which provided 56 percent of the total.

U.S. exports of catalogs, drawings and plans, and photographs and certain pictorial matter (exposed film) were valued at a combined total of $80.2 million in 1984, up from $45.3 million in 1980. The largest of these categories, drawings and plans increased from $11.6 million to $42.0 million between 1980 and 1984. The major export markets were Denmark and the United Kingdom. Exports of exposed film increased from $17.1 million in 1980 to $22.0 million in 1982; in 1984 such imports amounted to $19.0 million. The major export markets were Canada and the United Kingdom. Exports of catalogs increased from $16.6 million in 1980 to $19.2 million in 1984. The leading export markets were Canada, the United Kingdom and Australia.

The United States is the world's largest exporter to motion-picture films. There are approximately 75 countries to which the U.S. exports motion-picture films, the most important being the major industrialized nations, which account for an estimated 45 percent of total foreign remittances. The top 15 markets for U.S. film exports account for about 75 percent of remittances from foreign film rentals.

No statistics are available concerning exports of articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons.

U.S. consumption of catalogs, drawings and plans, and photographs and other pictorial matter is basically supplied by domestic production. Annual consumption data are not available but are estimated to be almost equal to annual production, or about 5 percent of the annual value of receipts of the U.S. commercial printing industry.

U.S. consumption, as well as production, exports, and imports, of motion-picture films cannot be accurately measured because of the nature of the statistical data available.

No information is available concerning the apparent U.S. consumption of tools specially designed for the maintenance, checking, gauging, or repair of instruments or apparatus for which no corresponding or alternative article is manufactured in the United States. However, it is believed that imports

supply most, if not all, of U.S. consumption, since the machines are also imported.

Data are not available regarding the consumption of articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons. It is believed, however, that U.S. made articles supply the bulk of consumption.

Revenue losses from the proposed changes to schedule 2, part 5 are likely to be minimal. Total annual customs revenues generated in 1984 to articles classified there were approximately $1.1 million. Revenue loses resulting from all other current TSUS items affected by the legislation would be insignificant, since many covered articles already enter duty-free or do not enter in significant volume.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a package of more than 80 small tariff bills, most of which were passed in H.R. 4800, previously by this House. For the most part they represent items on which we are suspending duty because there is no U.S. domestic production, and it is foolish to assess duties and lay extra costs on the consumer in these cases.

They represent authorship spread throughout the House of literally hundreds of Members. Most of them are noncontroversial.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GIBBONS].

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. I thank the gentleman for yielding me this time.

Mr. Speaker, there is very little left to say about this meritorious bill. It is a collection of relatively noncontroversial items which we do every year in order to make certain small adjustments in the tariffs of the United States so that American industries can compete better with foreign industries.

It is not to be thought of as an omnibus tariff bill at all. I regret that we are having to pass it because, as Mr. ROSTENKOWSKI said, we have had a bill over in the other body for many, many months which has not received appropriate attention.

Mr. Speaker, as far as I am concerned, I hope the other body will see fit not to amend this bill because I think they have had plenty of time to amend any bill that we send over there. I hope that this bill will be adopted by the other body without any further adjustments to it.

Mr. Speaker, I cannot close this discussion without paying tribute to the lady sitting to my right, Cassandra Carr, a member of our Trade Subcommittee staff. She has been serving with us for a year at no expense to the Government. She has been doing this as an educational part of her career.

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Without her meticulous and expert care, this legislation would not have progressed this far, nor would it be in the fine shape that it is in.

H.R. 5686 contains over 80 tariff provisions, including continuation of existing duty suspensions, reduction and suspension of duty on items not produced in the United States, reclassifications, and other minor customs and tariff matters. Most of these provisions enable U.S. businesses to be more competitive by reducing the cost of their raw material. Others allow our continuing participation in international agreements, such as the Nairobi Protocol. Other provisions which are included will improve health care for our citizens and encourage scientific research.

Mr. Speaker, most of these provisions have been passed favorably by the House earlier this year. Only noncontroversial measures which were introduced after that vote have been added to H.R. 5686. These measures deserve our attention now. The failure to enact these provisions will result in significant hardship to a number of U.S. companies.

We have talked a lot during this session of Congress about improving our national competitiveness. This bill certainly does not contain all of the reforms that we need. But let's move forward with these noncontroversial measures which will certainly improve the competitive position of the companies that need these changes.

Mr. CRANE. Mr. Speaker, although I support final passage of H.R. 5686, the miscellaneous tariff and customs bill, I do so with some reservations. In general, from a free trade perspective, I support those provisions in the bill that relate to duty suspensions, extensions of current suspensions, reclassifications to lower tariff levels, and the elimination of duties and tariffs. I am in opposition, however, to those protectionist items that would result in a net tariff increase. Specifically, this would include the provisions of the bill that deal with the implementation of the Nairobi Protocol, the coffee agreement, and the reclassification of casein.

One other provision included in H.R. 5686, that I unsuccessfully opposed during consideration of omnibus trade legislation in the Trade Subcommittee, relates to the elimination of the import ban on Soviet furskins. I take particular exception to the inclusion of this item because it is largely in response to a political promise, and is not supported by any clear economic considerations. The Soviet fur industry is the largest in the world, and because of its state-supported lower costs of production, it would enjoy a substantial competitive advantage. Furthermore, there are very few estimates as to what the expected levels of Soviet exports to the United States might be. It is speculated by some that the U.S.S.R.'s annual production could be as high as 13 million pelts, or three times the United States production level. Clearly, there is no good case for the inclusion of the Soviet furskin provision in this reportedly "noncontroversial" package.

Two measures that were included in H.R. 5686 that I am particularly pleased about are the duty suspension provision on certain parts of photocopy machines, and the provision which relates to Customs bond cancellation. As a cosponsor of H.R. 4532, which was incorporated into H.R. 5686, this represents a minor duty suspension that will help the domestic photocopy industry. The Customs bond cancellation section, originally an amendment that I offered in the Trade Subcommittee, would merely establish uniform guidelines for the cancellation of Customs' bonds.

As I stated earlier, I support final passage of H.R. 5686, but with the exception of the aforementioned sections.

Mr. SCHULZE. Mr. Speaker, I rise in support of H.R. 5686.

H.R. 5686 contains over 80 miscellaneous tariff bills, which are designed to promote trade to the advantage of U.S. industries. Most of this package of trade measures was originally part and parcel of a much larger package of trade legislation, H.R. 4800, which passed the House in May.

Although H.R. 5686 merits all of my colleagues' favorable consideration, I sincerely regret that it is not the omnibus trade legislation which this country so vitally needs and which the U.S. Congress has been urging be adopted since the beginning of the 99th Session of Congress.

It is much to my dismay that the other body has not taken the time to collaborate with this body to ensure enactment of well-crafted and broad-based trade legislation. America can no longer afford to ignore the deep trade problems experienced by U.S. industry and the in-depth changes that must be made in U.S. trade laws and trade policy-making apparatus to resolve them.

I am afraid that when our Nation as a whole finally wakes up to the pivotal role that trade plays in maintaining a vibrant, healthy America, it will be too late.

The latest trade figures continue to be alarming. Thirty-eight thousand additional manufacturing jobs lost in September, for a total of 200,000 since the beginning of this year. U.S. industry's rate of capacity utilization has been at its lowest rate since November 1983. Steel import levels still well exceed the targeted levels set forth in the 1984 Steel Import Program. Even U.S. agriculture has experienced negative monthly trade balances for the first time in over 20 years.

I could cite endlessly more examples of unjustifiable trade patterns that have unfairly burdened U.S. industries and workers for far too long. Of course, the most telling example is the aggregate one—our overall trade deficit, which is predicted to be at an all time high of $170 billion by the end of 1986.

Clearly, the record our Nation is setting in its trade balance with the rest of the world is one which we are not proud of. Clearly, we can no longer afford to tread down the dangerous path of industrial distinction.

Enacting just miscellaneous tariff measures will not place America on the right trade path. Much more remains to be done. We must realistically examine our role in international trade and determine what it is, what it should be and set long-range policies to bring it about. Above all, we must formulate a consistent and comprehensive trade policy for our Nation to establish an equitable world trade order and make that trade policy a number

one priority for our Nation. I hope that the first item on the legislative agenda of the 100th Congress will be to accomplish just that.

Mr. ST GERMAIN. Mr. Speaker, I rise today to express my deep concern over a section of the miscellaneous tariff bill, H.R. 5686, that the House will consider today that would, for the first time, allow watch and watch components to receive duty-free treatment under the Generalized System of Preferences [GSP] Program.

Mr. Speaker, one of the major employers in the State of Rhode Island, is Speidel, the company that invented the twist-o-flex watchband. Speidel has been an integral part of the Rhode Island economy for many years, along with the other jewelry manufacturers in my State. Unfortunately, Speidel today is the only survivor of a domestic industry that has been destroyed by imports. There are no other American manufacturers of watchbands still operating in the United States. Speidel's business has dropped by more than 40 percent over the last 5 years and its employment has fallen by more than half. Imports now control more than half of the American market in watchbands.

With the serious problems that now face this industry, I must question the need for a provision that will provide an additional incentive for imported watches and watchbands to enter this country. Our Nation already has one of the most open economies in the world. Imported watches are finding no problems in competing in our markets. So why do we need to provide duty-free treatment for such imports?

The proponents of this bill believe that this legislation will help save the jobs of the employees of a specific company. This company has already moved all of its watch assembly offshore. Most of its components are also manufactured abroad. But the proponents argue that by allowing watches and watch components into this country duty-free, this company might become a little more competitive and the jobs of their remaining American employees might be saved. The implied threat, of course, is that if this provision is not passed into law, those jobs will go overseas.

I clearly empathize with the problems that domestic manufacturers are having with meeting the challenge of low-cost imports from abroad. My State has lost thousands of jobs to imports. But providing duty-free treatment for watches and watchbands will only further damage what remains of this fragile industry. It is the wrong solution to this difficult problem.

I hope that this poorly conceived section of the bill can be eliminated from the legislation before it becomes law.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 5686, the Miscellaneous Tariffs Act. This bill includes a number of important tariff revisions that the Congress should consider and approve before we adjourn for the year. I do, however, have serious concerns about the section of the bill that would alter the treatment of watches under the generalized system of preferences.

Twelve years ago, Congress established the GSP as a means of encouraging economic growth and trade in the developing world. It was intended, however, that the benefits for lesser developed nations should not be at the expense of American workers and American industry. That is why watches and their component parts have not been considered eligible for duty-free GSP status. A number of other import-sensitive items such as textiles, shoes, leather goods, steel, glass products, and electronic items were extended from the GSP as well.

Under the bill before us today, the U.S. Trade Representative could provide duty-free status for watches and watch components, if such injury would not cause material injury to watch manufacturing and assembly operations here in the United States. Now it seems to me that "material injury" is a pretty tough standard for an American manufacturer to meet in order to avoid a flood of imported competitive products. It doesn't make sense to make trade policy that will essentially force American companies to go under before they can get relief.

We don't need a study by the U.S. Trade Representative to tell us that the watch and watch component industry is import sensitive. Look at the facts. Speidel, the only major American manufacturer of watchbands, is located in my district. Over the past 5 years, Speidel's business has fallen by over 40 percent and employment has dropped from over 1,000 workers to only 500. At the same time, every other major watchband manufacturer has stopped production in the United States. The competition from watchband manufacturers in low labor-cost countries like Hong Kong is simply too fierce. Given the ease with which imported watches and watchbands are entering the United States, they obviously do not need a tariff reduction to become competitive.

In addition, the provision offers no guarantees that if the tariff break is put in place, prices will be lowered to the consumer or jobs will be saved. In fact, the break will provide a substantial incentive to eliminate the very jobs the provision's proponents are endeavoring to save.

Mr. Speaker, I intend to support H.R. 5686 when it comes time to vote. Unfortunately, the rule does not permit a chance to consider this one section separately. I do understand that there is strong opposition to this provision in the other body. My hope is that the other body will strike this badly conceived provision before it returns this legislation to the House.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of this miscellaneous tariff bill. In particular I wish to address the portion of the bill which relates to intellectual property and trade. This section has been developed cooperatively between the Ways and Means Committee and the Committee on the Judiciary. Indeed one section of the bill (relating to amendments to section 337 of the Tariff Act) is identical with my bill H.R. 4747, (a measure reported unanimously by the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary). Therefore, I am pleased to join my colleagues from Ways and Means Committee in supporting this bill.

INTELLECTUAL PROPERTY AND TRADE

It is now commonly accepted that the United States should take steps to address our serious trade problems. Increasingly the private sector, Government officials and politicians have fixated on worldwide protection of American intellectual property as one of the keystones to addressing the trade problem. Without question, the American creative genius has been nurtured by strong legal tradition of protecting the property rights of intellectual property owners. As we think about adjusting our lives and laws to meet the trade problem, I hope that we can proceed in a balanced, dispassionate and objective way. As important as this task is we should not take precipitous action as a palliative for short term problems.

Before outlining what are, in my view, the elements of a coherent and comprehensive approach to intellectual property and trade, let me set the context.

Our key intellectual property laws—copyright and patent—are derived from the constitutional mandate to "Promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their writings and discoveries." (U.S. Constitution Art. 1, section 8, clause 8). The Constitution envisions a bargain. Creators and inventors receive a benefit—a form of a limited monopoly right. In exchange, the public arguably benefits twice—first when it obtains access to the creation or invention, and second when the term of protection expires and the creation or invention is added to the public domain. This bargain furthers the public interest and does not represent in any way recognition of the natural right of creators and inventors to proprietary protection. Thus, our intellectual property laws—including also laws relating to trademark and semiconductor chip mask works—represent carefully fashioned compromises which limit the nature and exent of the rights of intellectual property owners. These limits include concepts such as "fair use" and "first sale" in copyright and the right to engage in "reverse engineering" with respect to mask works.

From a political perspective it is safe to say that our intellectual property laws are neither unlimited nor primarily designed to provide a special benefit. "Rather, the limited grant is a means by which an important public purpose may be achieved." *Sony* v. *Universal City Studies*, 464 U.S. 417, 429 (1984).

This perspective is important to keep in mind when addressing trade legislation affecting intellectual property. In my view, it would be a serious mistake to use legislation relating to international trade as a vehicle for changing the positive law relating to intellectual property.[1] I am also hopeful that we will not ignore the public interest in a rush to protect what are currently perceived by some to be embattled industries.

It is appropriate that this bill should include amendments to the Tariff Act to improve the work done by the International Trade Commission.[2] Before outlining the features of those

[1] For example, we should avoid taking sides in the grey market or parallel import issue in trademark law or on first sale in copyright law, or on reverse engineering in mask work law.

[2] Additional measures to further classify the rights of intellectual property owners have already been considered. Congress—through legislation processed by the Committee on Ways and Means—has given the United States Trade Representative and the Department of State powerful weapons to

amendments, let me first outline the nature of the current remedy, and discuss the possible reforms.

Proposals to make an intellectual property code part of the GATT have recently been adopted at Punta Del Este. I look forward to working to assist this process.

BACKGROUND AND CURRENT LAW

The purpose of section 337 is to provide a remedy for unfair methods of competition in import trade that substantially injure, tend to substantially injure, or destroy an efficiently and economically operated domestic industry. This statute, which was first enacted in 1922, took its current form in 1974.

The Commission has instituted 240 investigations under section 337 since 1974. Of these, 19 are pending. The following table breaks down the results of the 221 completed investigations:

Voluntarily terminated	127
No respondent appeared	40
Remedy put in place	(33)
Violation found	28
Remedy put in place	(23)
No violation found	26
Total completed	221

The vast majority of section 337 cases have been based on allegations of infringement by imports of U.S. intellectual property rights, i.e., patents, trademarks or copyrights.

A violation of section 337 usually leads to exclusion from entry into the United States of the articles connected with the unfair trade practice. Such an exclusion order can cover not only articles of persons over whom personal jurisdiction existed and who participated in the proceedings to determine violations, but also articles of importers and foreign manufacturers who never participated in the proceedings and over whom no personal jurisdiction existed in the United States. Such an order can apply to the articles of persons who did not start to produce the articles until well after the order was issued. As such, it is an extraordinary remedy which allows broad relief to a holder of intellectual property rights or other individual harmed by an unfair trade practice.

After receiving a complaint under section 337, the Commission has 30 days to decide whether to institute an investigation. After a case is instituted, it is delegated to an Administrative Law Judge (ALJ), who holds a preliminary conference usually within 45 days. In cases involving requests for temporary relief, the ALJ has 4 months in which to issue a preliminary determination. The Commission may review this initial determination and, if necessary, fashion a temporary remedy, which may be disapproved by the President for policy reasons.

With regard to permanent relief, the ALJ has nine months to determine whether or not there has been a violation of section 337 (14 months in "more complicated" investigations). Again, the Commission may undertake a review to affirm, reverse, or modify the ALJ's determination and, if necessary, to fashion a remedy. The Commission has 1 year after the institution of the investigation to complete the case (or within 18 months if it finds the investigation to "be more complicated"). The President has 60 days during which disapproval of the Commission's determination can be intered.

SECTION 337 REFORM

My subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration of Justice—conducted 2 days of hearings on the various legislative proposals to amend section 337 (e.g. title II of H.R. 3776 and title II of H.R. 4539). Two primary issues emerged during the hearings. First, a vast majority of the witnesses [3] and other commentators [4] advocated elimination of the "injury" and "efficiently and economically operated industry" requirements. Second, some witnesses urged elimination of the domestic injury requirement. Both of these issues are addressed in the omnibus trade bill.

Proponents of change argued that proof of injury in intellectual property cases should not be required. They asserted that acts of infringement of an intellectual property right should be sufficient. They pointed out that under the trademark and copyright laws a Customs order can be obtained for those types of infringing goods without proof of injury. Moreover, they argued that because these intellectual property rights involve the right to exclude others from using or practicing the protected property that injury should be irrelevant. Finally, although injury determinations have rarely prevented relief before the ITC advocates for change nonetheless claimed that litigating the injury question is unduly burdensome and expensive.

Opponents of removing "injury" tests have argued that such a move would violate the General Agreement on Tariff and Trade (GATT). This view was contradicted by the United States Trade Representative, a leading academic expert (Professor Robert Hudec of the University of Minnesota Law School) and most other witnesses. Opponents also argued that the "injury" requirement serves to keep the rights of complainants and respondents in equlibrium. They observed that in exchange for less procedural protections in an ITC proceeding the respondents are able to avoid liability unless there is the additional showing of injury. This position was rejected by proponents on policy grounds. They argued that the "injury" test only makes sense when nonintellectual property rights are being asserted and that inclusion of the requirement by Congress in 1930 did not anticipate the use of section 337 to enforce intellectual property rights.

The miscellaneous tariff bill eliminates both the "injury" and "efficiently and economically operated industry" requirements. The language used is largely derived from the language adopted by the Ways and Means Committee and the Committee on the Judiciary.

The administration (H.R. 4585) and Congressman MOORHEAD (H.R. 3376) advocated elimination of the "domestic industry" requirement. This approach was opposed by organized labor, Allied-Signal, Corning Glass Works, the chairperson of the ITC and the Intellectual Property Owners Organization.[5] Some witnesses before my subcommittee and before the Trade Subcommittee urged a slight modification of the definition of "industry" insofar as it applied to intellectual property cases. In essence these witnesses argued that the ITC has created an inconsistent set of rules to determine whether an industry exists.[6] The proposed amendment in the omnibus trade bill clarifies the results of previous ITC decisions [7] and corrects some recent incorrect applications of the Commission in more recent cases.[8] The amendment makes clear that a "domestic industry" can exist through the development of a "licensing" industry. The amendment also makes certain the availability of section 337 relief to universities who have made substantial investment in engineering, or research and development in connection with the exploitation of an intellectual property right.[9] The language used in the amendment is a combination of that found in H.R. 4539 and that found in the bill reported by the Trade Subcommittee. Deleted from both versions is language relating to "sales and marketing." As many of the witnesses indicated, the "domestic industry" requirement will serve as a gatekeeper to prevent the excessive use of the ITC under section 337. The inclusion of "sales and marketing" activities in the United States was seen by most commentators as being too broad.

PROCEDURAL REFORMS

During the course of the hearings on this bill a number of procedural suggestions also were made to improve the efficiency of ITC operations. These changes appear to have the support of virtually all commentators. A complete description of these changes can be found in the Ways and Means Committee

use in bilateral negotiations in the context of the General System of Preferences (GSP) and the Carribean Basin Initiative (CBI). By permitting GSP and CBI benefits to be affected by the adequacy of our trading partners' intellectual property laws we have already wielded a big stick to induce greater intellectual property protection abroad.

[3] United States Trade Representative, Allied Signal, Genetech, and Corning.

[4] E.G., NAM, CBEMA, U.S. Chamber of Commerce, E.I.A., IPO, A.I.P.L.A., and organized labor.

[5] In this regard, it was postulated that such a change would transform the ITC into an intellectual property court. They also claimed that it would make the ITC forum available to two non-domestic companies with no United States investment to argue about access to the United States market.

[6] Certain Softballs and Polyurethane Cores therefore, No. 337-TA-190 (1985) (ITC does not use rigid formula in determining industry test); Miniature Battery Operated Toy Vehicles, No. 337-TA-122 (1982), affd. sub. nom. Schaper Mfg. Co. v. ITC. 717 F.2d 1368 (Fed. Cir. 1983) (where complainant's product also made outside the U.S.; no domestic industry); see also, Certain Products with Gremlins Depictions, No. 337-TA-201 (1986) (no domestic industry even though extensive licensing industry within the United States); compare, Certain Ultra-Microtone Freezing Attachments, No. 337-TA-10 (1976) (finding of domestic industry when only domestic act is the importation of goods from abroad) with Certain Writing Instruments and Nibs Therefore, Investigation No. 337-TA-129 (1984). (two patents, two possible industries, only one meets statutory definition) and Certain Limited-Charges Cell Culture Microcarriers, No. 337-TA-129 (1984) (no industry finding) and Certain Modular Structural Systems. No. 337-TA-164 (1984) (no industry finding).

[7] Certain Cast-Iron Stoves, No. 337-TA-69 (1981) at 8-10 ("significantly employs . . . American land, labor and capital") Coin-Operated Audio Visual Games and Components Thereof, No. 337-TA-112 (1983).

[8] Certain Products with Gremlins Depictions, supra.

[9] Compare, Certain Limited-Charge Cell Culture Mirocarriers, supra.

report on H.R. 4800, House Report 99-581, part 1, pages 109-117.

In conclusion, I urge my colleagues to support those provisions of this bill that relate to intellectual property and trade.

Mr. FRENZEL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RANGEL). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 5686, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed on today, in the order in which that motion was entertained.

Votes will be taken in the following order: S. 2245, by the yeas and nays; S. 2216, by the yeas and nays; and the conference report on H.R. 3113, by the yeas and nays.

EXPORT ADMINISTRATION ACT OF 1979 AUTHORIZATION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2245, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the Senate bill, S. 2245, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 366, nays 0, not voting 66, as follows:

[Roll No. 461]

YEAS—366

Abercrombie	Badham	Bliley
Ackerman	Barnes	Boggs
Akaka	Bartlett	Boland
Alexander	Barton	Boner (TN)
Anderson	Bateman	Bonior (MI)
Andrews	Bates	Borski
Annunzio	Bedell	Bosco
Anthony	Beilenson	Boucher
Applegate	Bennett	Boulter
Archer	Bentley	Broomfield
Armey	Bereuter	Brown (CA)
Aspin	Berman	Brown (CO)
Atkins	Bevill	Bruce
AuCoin	Bilirakis	Bryant
Burton (IN)	Henry	Nowak
Bustamante	Hertel	Oakar
Byron	Hiler	Oberstar
Callahan	Hillis	Obey
Carney	Holt	Olin
Carper	Hopkins	Ortiz
Carr	Horton	Oxley
Chandler	Hoyer	Packard
Chapman	Hubbard	Panetta
Chappell	Huckaby	Parris
Chappie	Hughes	Pashayan
Cheney	Hunter	Pease
Clay	Hutto	Penny
Coats	Hyde	Pepper
Cobey	Ireland	Perkins
Coble	Jacobs	Petri
Coelho	Jeffords	Pickle
Coleman (MO)	Jenkins	Porter
Coleman (TX)	Johnson	Price
Combest	Jones (NC)	Pursell
Conte	Jones (TN)	Rahall
Cooper	Kanjorski	Rangel
Coughlin	Kaptur	Ray
Courter	Kasich	Regula
Coyne	Kastenmeier	Reid
Craig	Kildee	Richardson
Crockett	Kolbe	Ridge
Daniel	Kolter	Rinaldo
Dannemeyer	Kostmayer	Ritter
Darden	Kramer	Roberts
Daschle	LaFalce	Robinson
Daub	Lagomarsino	Rodino
de la Garza	Lantos	Roe
DeLay	Latta	Roemer
Dellums	Leach (IA)	Rogers
Derrick	Leath (TX)	Rose
DeWine	Lehman (FL)	Rostenkowski
Dicks	Leland	Roth
Dixon	Lent	Roukema
Dorgan (ND)	Levin (MI)	Rowland (CT)
Dornan (CA)	Levine (CA)	Rowland (GA)
Dowdy	Lewis (CA)	Roybal
Dreier	Lewis (FL)	Sabo
Duncan	Lightfoot	Savage
Durbin	Lipinski	Saxton
Dwyer	Livingston	Schaefer
Dymally	Lloyd	Scheuer
Dyson	Loeffler	Schneider
Early	Lott	Schuette
Eckart (OH)	Lowery (CA)	Schumer
Eckert (NY)	Lowry (WA)	Selberling
Edwards (CA)	Lujan	Sensenbrenner
Edwards (OK)	Lungren	Sharp
Emerson	Mack	Shaw
English	Madigan	Shelby
Erdreich	Markey	Shumway
Evans (IL)	Martin (IL)	Shuster
Fascell	Martin (NY)	Sikorski
Fawell	Martinez	Siljander
Feighan	Matsui	Sisisky
Fiedler	Mavroules	Skeen
Fields	Mazzoli	Skelton
Fish	McCain	Slattery
Flippo	McCandless	Slaughter
Florio	McCloskey	Smith (FL)
Foley	McCollum	Smith (IA)
Ford (MI)	McCurdy	Smith (NE)
Ford (TN)	McDade	Smith (NJ)
Frank	McEwen	Smith, Denny (OR)
Frenzel	McGrath	
Frost	McHugh	Smith, Robert (NH)
Fuqua	McMillan	
Gallo	Meyers	Smith, Robert (OR)
Garcia	Mica	
Gaydos	Michel	Snowe
Gejdenson	Miller (CA)	Snyder
Gekas	Miller (OH)	Solarz
Gibbons	Miller (WA)	Solomon
Gilman	Mineta	Spence
Gingrich	Mitchell	Spratt
Glickman	Moakley	St Germain
Gonzalez	Molinari	Staggers
Goodling	Mollohan	Stangeland
Gordon	Monson	Stark
Gradison	Montgomery	Stenholm
Gray (PA)	Moody	Stokes
Green	Moorhead	Strang
Gregg	Morrison (WA)	Stratton
Gunderson	Mrazek	Stump
Hall (OH)	Murphy	Sweeney
Hall, Ralph	Murtha	Swift
Hamilton	Myers	Swindall
Hammerschmidt	Natcher	Synar
Hawkins	Neal	Tallon
Hayes	Nelson	Tauke
Hendon	Nielson	Tauzin
Taylor	Vucanovich	Wilson
Thomas (CA)	Walgren	Wirth
Thomas (GA)	Walker	Wise
Torres	Watkins	Wolf
Torricelli	Waxman	Wolpe
Towns	Weaver	Wright
Traficant	Weber	Wyden
Traxler	Wheat	Wylie
Udall	Whitehurst	Yates
Valentine	Whitley	Yatron
Vento	Whittaker	Young (AK)
Visclosky	Whitten	Young (FL)
Volkmer	Williams	Young (MO)

NOT VOTING—66

Barnard	Foglietta	Manton
Biaggi	Fowler	Marlenee
Boehlert	Franklin	McKernan
Bonker	Gephardt	McKinney
Boxer	Gray (IL)	Mikulski
Breaux	Grotberg	Moore
Brooks	Guarini	Morrison (CT)
Burton (CA)	Hansen	Nichols
Campbell	Hartnett	Owens
Clinger	Hatcher	Quillen
Collins	Hefner	Rudd
Conyers	Howard	Russo
Crane	Jones (OK)	Schroeder
Davis	Kemp	Schulze
Dickinson	Kennelly	Stallings
Dingell	Kindness	Studds
DioGuardi	Kleczka	Sundquist
Donnelly	Lehman (CA)	Vander Jagt
Downey	Long	Waldon
Edgar	Luken	Weiss
Evans (IA)	Lundine	Wortley
Fazio	MacKay	Zschau

□ 1530

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chairman announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

CONSTITUTION DAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill (S. 2216) to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day," and to make such day a legal public holiday.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GARCIA] that the House suspend the rules and pass the Senate bill, S. 2216, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 130, nays 240, not voting 62, as follows:

[Roll No. 462]

YEAS—130

Abercrombie	Gray (PA)	Rahall
Ackerman	Hawkins	Rangel
Akaka	Hayes	Ray
Alexander	Hertel	Ritter
Anderson	Horton	Rodino
Applegate	Hoyer	Roe
AuCoin	Jones (NC)	Rostenkowski
Barnes	Kaptur	Rowland (CT)
Beilenson	Kastenmeier	Rowland (GA)
Bennett	Kildee	Roybal
Berman	Kolter	Savage
Bevill	Kostmayer	Scheuer
Boggs	LaFalce	Schulze
Boland	Lantos	Seiberling
Bonior (MI)	Leath (TX)	Shuster
Borski	Lehman (FL)	Sikorski
Bosco	Leland	Sisisky
Brown (CA)	Levin (MI)	Slaughter
Chappell	Levine (CA)	Smith (FL)
Clay	Lowry (WA)	Smith (IA)
Coelho	Madigan	Solarz
Conte	Markey	Spratt
Cooper	Martinez	St Germain
Coughlin	Matsui	Stokes
Courter	Mavroules	Swift
Coyne	Mazzoli	Synar
Crockett	McCloskey	Tauzin
Daniel	Mica	Torres
de la Garza	Miller (CA)	Towns
Dellums	Mineta	Traxler
Dingell	Mitchell	Vento
Dixon	Moakley	Walgren
Dwyer	Mollohan	Watkins
Dymally	Murphy	Waxman
Edwards (CA)	Natcher	Weaver
Evans (IL)	Nowak	Wheat
Flippo	Oakar	Williams
Ford (MI)	Parris	Wise
Ford (TN)	Penny	Wolf
Fuqua	Pepper	Wright
Garcia	Perkins	Yatron
Gaydos	Petri	Young (MO)
Gejdenson	Porter	
Gonzalez	Price	

NAYS—240

Andrews	Dannemeyer	Green
Annunzio	Darden	Gregg
Anthony	Daschle	Gunderson
Archer	Daub	Hall (OH)
Armey	DeLay	Hall, Ralph
Aspin	Derrick	Hamilton
Atkins	DeWine	Hammerschmidt
Badham	Dicks	Hatcher
Bartlett	Donnelly	Hendon
Barton	Dorgan (ND)	Henry
Bateman	Dornan (CA)	Hiler
Bates	Dowdy	Hillis
Bedell	Dreier	Holt
Bentley	Duncan	Hopkins
Bereuter	Durbin	Hubbard
Bilirakis	Dyson	Huckaby
Billey	Early	Hughes
Boner (TN)	Eckart (OH)	Hunter
Boucher	Eckert (NY)	Hutto
Boulter	Edwards (OK)	Hyde
Broomfield	Emerson	Ireland
Brown (CO)	English	Jacobs
Bruce	Erdreich	Jeffords
Bryant	Fawell	Jenkins
Burton (IN)	Feighan	Johnson
Bustamante	Fiedler	Jones (TN)
Byron	Fields	Kanjorski
Callahan	Fish	Kasich
Carney	Florio	Kolbe
Carper	Frank	Kramer
Carr	Frenzel	Lagomarsino
Chandler	Frost	Latta
Chapman	Gallo	Leach (IA)
Chappie	Gekas	Lent
Cheney	Gibbons	Lewis (CA)
Coats	Gilman	Lewis (FL)
Cobey	Gingrich	Lightfoot
Coble	Glickman	Lipinski
Coleman (MO)	Goodling	Livingston
Coleman (TX)	Gordon	Lloyd
Combest	Gradison	Loeffler
Craig	Gray (IL)	Lott
Lowery (CA)	Pease	Snyder
Lujan	Pickle	Solomon
Lungren	Pursell	Spence
Mack	Regula	Staggers
Martin (IL)	Reid	Stangeland
Martin (NY)	Richardson	Stark
McCain	Ridge	Stenholm
McCandless	Rinaldo	Strang
McCollum	Roberts	Stratton
McCurdy	Robinson	Stump
McDade	Roemer	Sweeney
McEwen	Rogers	Swindall
McGrath	Rose	Tallon
McHugh	Roth	Tauke
McMillan	Roukema	Taylor
Meyers	Sabo	Thomas (CA)
Michel	Saxton	Thomas (GA)
Miller (OH)	Schaefer	Torricelli
Miller (WA)	Schneider	Traficant
Molinari	Schuette	Udall
Monson	Schumer	Valentine
Montgomery	Sensenbrenner	Visclosky
Moody	Sharp	Volkmer
Moorhead	Shaw	Vucanovich
Morrison (WA)	Shelby	Walker
Mrazek	Shumway	Weber
Murtha	Siljander	Whitehurst
Myers	Skeen	Whitley
Neal	Skelton	Whittaker
Nelson	Slattery	Whitten
Nielson	Smith (NE)	Wilson
Oberstar	Smith (NJ)	Wirth
Obey	Smith, Denny (OR)	Wolpe
Olin		Wortley
Ortiz	Smith, Robert (NH)	Wyden
Oxley		Wylie
Packard	Smith, Robert (OR)	Yates
Panetta		Young (AK)
Pashayan	Snowe	Young (FL)

NOT VOTING—62

Barnard	Foglietta	Manton
Biaggi	Foley	Marlenee
Boehlert	Fowler	McKernan
Bonker	Franklin	McKinney
Boxer	Gephardt	Mikulski
Breaux	Grotberg	Moore
Brooks	Guarini	Morrison (CT)
Burton (CA)	Hansen	Nichols
Campbell	Hartnett	Owens
Clinger	Hefner	Quillen
Collins	Howard	Rudd
Conyers	Jones (OK)	Russo
Crane	Kemp	Schroeder
Davis	Kennelly	Stallings
Dickinson	Kindness	Studds
DioGuardi	Kleczka	Sundquist
Downey	Lehman (CA)	Vander Jagt
Edgar	Long	Waldon
Evans (IA)	Luken	Weiss
Fascell	Lundine	Zschau
Fazio	MacKay	

□ 1545

Mr. BUSTAMANTE changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 3113 PROVIDING FOR COORDINATED OPERATION OF THE CENTRAL VALLEY PROJECT AND THE STATE WATER PROJECT IN CALIFORNIA

The SPEAKER pro tempore (Mr. RANGEL). The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 3113.

The Clerk read the title of the conference report.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MILLER) that the House suspend the rules and agree to the conference report on the bill, H.R. 3113, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 359, nays 10, not voting 63, as follows:

[Roll No. 463]

YEAS—359

Abercrombie	Dornan (CA)	Kostmayer
Ackerman	Dowdy	Kramer
Akaka	Dreier	LaFalce
Alexander	Duncan	Lagomarsino
Anderson	Durbin	Lantos
Andrews	Dwyer	Latta
Annunzio	Dymally	Leath (TX)
Anthony	Dyson	Lehman (FL)
Applegate	Early	Leland
Archer	Eckart (OH)	Lent
Armey	Eckert (NY)	Levin (MI)
Aspin	Edwards (CA)	Levine (CA)
Atkins	Edwards (OK)	Lewis (CA)
AuCoin	Emerson	Lewis (FL)
Badham	English	Lipinski
Barnes	Erdreich	Livingston
Barton	Evans (IL)	Lloyd
Bateman	Feighan	Loeffler
Bates	Fiedler	Lowery (CA)
Bedell	Fields	Lowry (WA)
Beilenson	Fish	Lujan
Bennett	Flippo	Lungren
Bentley	Florio	Mack
Bereuter	Foley	Madigan
Berman	Ford (MI)	Markey
Bevill	Ford (TN)	Martinez
Bilirakis	Frank	Matsui
Billey	Frenzel	Mavroules
Boggs	Frost	Mazzoli
Boland	Fuqua	McCain
Boner (TN)	Gallo	McCandless
Bonior (MI)	Garcia	McCloskey
Borski	Gaydos	McCollum
Bosco	Gejdenson	McCurdy
Boucher	Gekas	McDade
Boulter	Gibbons	McEwen
Broomfield	Gilman	McGrath
Brown (CA)	Gingrich	McHugh
Brown (CO)	Glickman	McMillan
Bruce	Gonzalez	Meyers
Bryant	Goodling	Mica
Burton (IN)	Gordon	Michel
Bustamante	Gradison	Miller (CA)
Byron	Gray (IL)	Miller (OH)
Callahan	Gray (PA)	Miller (WA)
Carney	Green	Mineta
Carper	Gregg	Mitchell
Carr	Hall (OH)	Moakley
Chandler	Hall, Ralph	Molinari
Chapman	Hamilton	Mollohan
Chappell	Hammerschmidt	Monson
Chappie	Hatcher	Montgomery
Cheney	Hawkins	Moody
Clay	Hayes	Moorhead
Coats	Hendon	Morrison (CT)
Cobey	Henry	Morrison (WA)
Coble	Hertel	Mrazek
Coelho	Hiler	Murphy
Coleman (MO)	Hillis	Murtha
Coleman (TX)	Holt	Myers
Conte	Hopkins	Natcher
Cooper	Horton	Neal
Coughlin	Hoyer	Nelson
Courter	Hubbard	Nielson
Coyne	Huckaby	Nowak
Craig	Hughes	Oakar
Crockett	Hunter	Oberstar
Daniel	Hutto	Obey
Dannemeyer	Hyde	Olin
Darden	Ireland	Ortiz
Daschle	Jacobs	Oxley
Daub	Jenkins	Packard
de la Garza	Johnson	Panetta
DeLay	Jones (NC)	Parris
Dellums	Jones (TN)	Pashayan
Derrick	Kanjorski	Pease
DeWine	Kaptur	Penny
Dicks	Kasich	Pepper
Dingell	Kennelly	Perkins
Dixon	Kildee	Pickle
Donnelly	Kolbe	Porter
Dorgan (ND)	Kolter	Price

Pursell	Siljander	Thomas (CA)
Rahall	Sisisky	Thomas (GA)
Rangel	Skeen	Torres
Ray	Skelton	Torricelli
Regula	Slattery	Towns
Reid	Slaughter	Traficant
Richardson	Smith (FL)	Traxler
Ridge	Smith (IA)	Udall
Rinaldo	Smith (NE)	Valentine
Ritter	Smith (NJ)	Vento
Roberts	Smith, Denny (OR)	Visclosky
Robinson	Smith, Robert (NH)	Volkmer
Rodino	Smith, Robert (OR)	Vucanovich
Roe	Snowe	Walgren
Roemer	Snyder	Walker
Rogers	Solarz	Waxman
Rose	Solomon	Weaver
Rostenkowski	Spence	Weber
Roukema	Spratt	Wheat
Rowland (CT)	St Germain	Whitehurst
Rowland (GA)	Staggers	Whitley
Roybal	Stangeland	Whittaker
Sabo	Stark	Whitten
Savage	Stenholm	Williams
Saxton	Stokes	Wilson
Schaefer	Strang	Wirth
Scheuer	Stratton	Wise
Schneider	Stump	Wolf
Schuette	Sweeney	Wolpe
Schulze	Swift	Wortley
Schumer	Swindall	Wright
Seiberling	Synar	Wyden
Sensenbrenner	Tallon	Wylie
Sharp	Tauke	Yates
Shaw	Tauzin	Yatron
Shelby	Taylor	Young (AK)
Shumway	Thomas (CA)	Young (FL)
Shuster	Thomas (GA)	Young (MO)
Sikorski	Torres	

NAYS—10

Bartlett	Jeffords	Petri
Combest	Leach (IA)	Roth
Fawell	Lightfoot	
Gunderson	Martin (IL)	

NOT VOTING—63

Barnard	Foglietta	Manton
Biaggi	Fowler	Marlenee
Boehlert	Franklin	Martin (NY)
Bonker	Gephardt	McKernan
Boxer	Grotberg	McKinney
Breaux	Guarini	Mikulski
Brooks	Hansen	Moore
Burton (CA)	Hartnett	Nichols
Campbell	Hefner	Owens
Clinger	Howard	Quillen
Collins	Jones (OK)	Rudd
Conyers	Kastenmeier	Russo
Crane	Kemp	Schroeder
Davis	Kindness	Stallings
Dickinson	Kleczka	Studds
DioGuardi	Lehman (CA)	Sundquist
Downey	Long	Vander Jagt
Edgar	Lott	Waldon
Evans (IA)	Luken	Watkins
Fascell	Lundine	Weiss
Fazio	MacKay	Zschau

□ 1555

Mr. ROTH changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5234, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight October 14, 1986, to file a conference report on the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

The SPEAKER pro tempore (Mr. RANGEL). Is there objection to the request of the gentlemen from Illinois?

There was no objection.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON S. 1200, IMMIGRATION REFORM AND CONTROL ACT OF 1985

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 14, 1986, to file a conference report on the Senate bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I do so in order to ask the distinguished chairman if this is a report of the conferees on the immigration bill?

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, the gentleman is correct.

Mr. GONZALEZ. Further reserving the right to object, if this report is filed by midnight tonight, as I believe the gentleman is asking, is the gentleman asking by midnight tonight?

Mr. RODINO. Yes, Mr. Speaker.

Mr. GONZALEZ. Then would it be in order or would you have to ask for a rule to bring up the conference report?

Mr. RODINO. It is in the Rules Committee now.

Mr. GONZALEZ. This gentleman realizes that there are some of us that have a little bit more than just a passing interest and concern, and naturally responsibility given the nature of our areas, with respect to this legislation. The gentleman also realizes that the last time last week that the Rules Committee had the closest to a star chamber procedure that I have seen since I came here 25 years ago. We used to lambast Judge Smith from Virginia, you know, and I see the heirs of those that were criticizing acting very much the same way.

I just want so ask the gentleman if the rule being asked for now will give us a chance to have a few observations in the course of considering the conference report. Is the gentleman asking for a closed rule, or just what kind of rule, what kind of framework of reference will we have here?

Mr. RODINO. I must respond to the gentleman that this will be a rule, of course, that will be presented by the Rules Committee to the House, and I certainly have no reason to in any way deny the gentleman an opportunity once the conference report is before us to have the gentleman speak on the conference report.

Mr. GONZALEZ. Further reserving the right to object, if no report has as yet been printed to be filed, what is it that the Rules Committee is considering?

Mr. RODINO. The Rules Committee will, if this unanimous consent is granted, will be considering the filing of the report which the conference committee just agreed upon a while ago. I might tell the gentleman that it was after considerable deliberation and many people who were represented on the conference and the diverse views, that it was a unanimous report of the Members of the conference committee with the exception of one gentleman.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Further reserving the right to object, I yield to my colleague, the gentleman from California, for the purposes of raising a question.

Mr. ROYBAL. Mr. Speaker, is it true that the recommendation to the Rules Committee is that a rule be granted waiving all points of order?

Mr. RODINO. If the gentleman will yield, I believe that is what the rule is going to require.

Mr. ROYBAL. Mr. Speaker, if that is the case, I object.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I ask to proceed for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of this week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, we have a full plate of very important matters to attend to tomorrow, each one of them a paving block on the way to adjournment. We hope tomorrow to take up the Department of Defense authorization bill and the continuing resolution, conference reports on the two of those.

Having completed those two, we would like to take up the conference report on H.R. 8, the clean water bill. I shall ask momentarily that we may have until midnight tonight to file the conference report.

It is possible that we may bring the debt ceiling bill up tomorrow, the extension thereof, and the conference report on the Commodity Futures

Trading Corporation. Each of those is ready.

The reconciliation bill, at the last accounting I had, still was snagged in conference over two questions.

The remaining items would include the drug bill, which we hope the other body will accept, the immigration bill, which was the subject of the colloquy held just previous to this discussion, and possibly the highway bill.

If we complete those matters we can adjourn with a clean conscience.

Mr. MICHEL. Might I inquire which would come up first tomorrow, the military authorization or the CR?

Mr. WRIGHT. We suppose it appropriate to try to bring up the Department of Defense authorization bill first in order that the continuing resolution appropriating moneys carrying out authorized projects under that legislation might be timely and in order.

□ 1605

Mr. MICHEL. And the CR would be for a full year?

Mr. WRIGHT. That is the present plan. I know of no other plan.

Mr. MICHEL. I regret that in my attempt to get the majority leader of the other body on the phone so that we might find out; I notice that reconciliation has to be acted upon in the other body before it comes here, and I notice the gentleman did not mention the highway conference report.

Is there a possibility of that one—the gentleman mentioned the water conference report, but not the highway one.

Mr. WRIGHT. There is a possibility that the highway conference report would come to us, according to information which has drifted in bits and whisps to me. There are two matters on which that conference report is snagged. If they can be resolved in the conference, then that bill could come also.

Mr. MICHEL. Now might I inquire of the distinguished majority leader what his intention is for really getting out of here with a sine die adjournment; if he really feels strongly about getting out this week, then I think we stand a much better chance than if, "Well, it really does not matter and maybe we will let it dribble over into next week," and then we know what happens.

Would the gentleman express himself?

Mr. WRIGHT. It would be our strong preference to adjourn sine die this week, obviously. There is only one thing that conceivably might require us to go into pro forma sessions. If the President were to be coy about his intentions with regard to the Superfund bill, which has already been sent to him, and hinted at the possibility of a pocket veto; then I think it would behoove those of us in the Congress to retain the capability of coming back next Wednesday, Wednesday of next week to vote on a motion to override the veto.

If the President, on the other hand, were to agree to sign the bill, or were he even to veto the bill in time for us to consider an overriding vote prior to the adjournment this week, then it will not be necessary for us to go into pro forma sessions.

Mr. MICHEL. Is that the only thing the gentleman thinks would keep us over here until next week?

Mr. WRIGHT. Unless there were some other piece of legislation that falls into that same identical category in which we were unable to get from the President a clear message as to his intentions.

Mr. MICHEL. If we had a better reading of the intention of the President on Superfund so that we might not have to come back next week, would that spur the effort, then, to really conclude things here by Friday?

Mr. WRIGHT. It surely would enhance our chances. It would expedite our efforts. We would be pleased with such a clear reading.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. SNYDER. In your discussion, Mr. Majority Leader, I did not hear you mention H.R. 6, the water projects bill. The conferees on the programmatic issues concluded that work a week ago, I guess, was it not, Mr. ROE?

We are waiting for the Committee on Ways and Means and Senate Finance to agree on the taxation portion, which, we are ready to go on that if they can just meet and do that.

Do you have the information on that?

Mr. WRIGHT. Mr. Speaker, if the minority leader will yield, I am sorry to say I do not know the answer. The gentleman is correct. According to my information, all that remains is for the Ways and Means Committee to complete the vessel fees portion.

Mr. SNYDER. Yes, and my understanding, if the gentleman from Illinois [Mr. MICHEL] will yield further, is that a sort of a tentative agreement has been reached between the administration and the tax-writing bodies on what ought to be in that; but I do not know why they do not go ahead and do it.

I would appreciate it if the majority leader could encourage them to go ahead and do that, because we need that bill, as you know as a former member of the committee. It has been a long time since we have had a water projects bill, and we have worked it out so that I think the President will sign it. If the majority leader could help some with that, we would appreciate it.

Mr. WRIGHT. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, let me ask one more question. The gentleman has laid out a program for tomorrow. Is there any indication what will happen on Thursday?

Mr. WRIGHT. If the gentleman will continue to yield, on Thursday there is a very important event in Mississippi.

Mr. MICHEL. And?

Mr. WRIGHT. And it behooves us to complete the Department of Defense authorization bill tomorrow prior to Thursday.

Mr. MICHEL. Would that clear the way for any other conference reports that do not involve the gentleman from Mississippi to be taken up Thursday, or is it assumed there will be a hiatus here where nothing would be done Thursday?

Members really have a problem here, trying to fulfill their campaign obligations, plane reservations, and all the rest.

Mr. WRIGHT. The gentleman is exactly right. I did not intend to be light-hearted or facetious. We surely would intend to pursue all matters that need our attention on Thursday with the sole exclusive exception of the Department of Defense authorization, or the authorization for the continuing resolution. Appropriations matters.

Other matters; highway bills, drug bills, immigration bills, water resources bills, clean water bills, Superfund bills, debt bills, reconciliation bills, all might be processed on Thursday.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. GLICKMAN. Mr. Speaker, just to clarify then, there is no chance of us adjourning tomorrow night sine die; we will be in Thursday and Friday, with votes?

Mr. WRIGHT. Well——

Mr. GLICKMAN. I do not mean to pin the gentleman down that much, but a lot of us need to make those kinds of judgments.

Mr. WRIGHT. Mr. Speaker, if the gentleman from Illinois will yield further.

Mr. MICHEL. I am happy to yield.

Mr. WRIGHT. The chance always exists, and hope springs eternal, and we would love to think that the possibility was present that we could adjourn tomorrow night. If we can, with great diligence, we shall. We shall not stay around for Thursday just to enjoy the company of one another.

If it is possible to adjourn tomorrow night, we will. I do not think that I would be honest to encourage you to that expectation. Hope so, but probably not.

Mr. MICHEL. That is enough for me.

Mr. Speaker, I yield back the balance of my time.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1128, CLEAN WATER ACT AMENDMENTS OF 1985

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 1128) to amend the Clean Water Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING THE RULES OF THE HOUSE WITH RESPECT TO PAPERS OF THE HOUSE

Mr. MOAKLEY, from the Committee on Rules, reported the following privileged resolution (H. Res. 114, Rept. No. 99-993), which was referred to the House Calendar and ordered to be printed:

H. RES. 114

Resolved, That clause 2 of rule XXXVI of the Rules of the House of Representatives is amended by striking out "General Services Administration" and inserting in lieu thereof "National Archives and Records Administration".

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution, (H. Res. 114) to amend the Rules of the House of Representatives with respect to papers of the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. TAYLOR. Mr. Speaker, reserving the right to object, I do so only to advise the House that the request has been cleared with the minority on our committee.

The pending resolution presents no controversy, and is a necessary technical amendment to the rules.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object. I merely want to ask if the gentleman could explain what this is about. What rule are we suspending?

Mr. MOAKLEY. This has nothing to do with immigration.

Mr. GONZALEZ. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. LOWRY of Washington. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Massachusetts [Mr. MOAKLEY] what does it have something to do with?

Mr. MOAKLEY. Mr. Speaker, actually it is a technical amendment to the rule covering some archives that are at the National Archives.

Mr. LOWRY of Washington. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

□ 1615

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 114 makes a technical amendment to the rule governing the archiving of noncurrent records of the House. House records have been deposited at the National Archives since 1946.

In 1971, the rule was amended to reflect a reorganization which made the Archives part of the General Services Administration.

Mr. Speaker, effective April 1 of this year, the Archives has again become an independent agency and it is necessary to amend the rule to conform to the current statute.

Mr. Speaker, the resolution is technical and noncontroversial. Both the resolution, and the committee's related oversight activities have been handled in a thoroughly bipartisan manner, and I urge adoption of the resolution.

Mr. Speaker, under my prior announcement, I yield to the distinguished ranking minority member of the subcommittee, Mr. TAYLOR, for debate only.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 114 makes a minor, clerical change in rule 36 of the rules of the House.

I join my colleagues the gentleman from Massachusetts [Mr. MOAKLEY] in urging adoption of the resolution.

The gentleman from Massachusetts, the chairman of the Subcommittee on Rules of the House [Mr. MOAKLEY], has always been gracious to all of the members of his subcommittee.

I want to thank him personally for the courtesies and for the cooperative spirit he and his staff extended to the minority on this resolution. We appreciate it and we want to say so.

Mr. Speaker, House Resolution 114 is a simple, five word change in the rule relating to papers of the House. It is a housekeeping measure.

The report of the Committee on Rules which accompanies the resolution is short and to the point. Although our subcommittee did hold an oversight hearing on the general topic of the archival of House records, the subcommittee chose to issue a separate oversight report.

Mr. Speaker, when the National Archives and Records Administration Act took effect last year, that agency became the legal repository for records of the Congress.

House Resolution 114 merely conforms the Rules of the House to the new law, by deleting the reference to the General Services Administration and replacing it with a reference to the National Archives.

Mr. Speaker, one of the more enjoyable aspects of my service as a member of the Committee on Rules, as well as my service as the ranking Republican member of the subcommittee, is the opportunity it affords me to work closely with the gentleman from Massachusetts.

Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the able gentleman from Missouri for his kind comments. I would also express my appreciation to the gentleman and the other minority member of the subcommittee, the gentleman from Mississippi [Mr. LOTT] for their gracious cooperation and support in our efforts to use consideration of this resolution as an opportunity for meaningful oversight of the rule.

Mr. Speaker, I have no requests for time, and I move the previous question on the resolution. The previous question was ordered. The resolution was agreed to. A motion to reconsider was laid on the table.

PROVIDING FOR REAPPOINTMENT OF MURRAY GELL-MANN AS CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 268) to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I do so in order to yield to the distinguished gentlewomen from Ohio so she may explain the reason for the request.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this resolution is to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution. Dr. Gell-Mann is a Nobel laureate and a professor of physics from the California Institute of Technology. Because of Dr. Gell-Mann's extraordinary scientific background, he has brought to the Smithsonian Board of Regents his own unique combination of intellect and experience. The Smithsonian is indeed fortunate to have Dr. Gell-Mann as a member of the Board of Regents. The Task Force on Libraries and Memorials has reviewed and favorably recommends this reappointment.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I concur in what the gentlewoman from Ohio has said. Mr. Gell-Mann is a first-rate regent who deserves his nomination.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER, pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There is no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 268

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other then Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on July 25, 1986, be filled by the reappointment of the present incumbent. The appointment is for a term of six years and shall take effect on the day after the current term expires.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Ms. OAKAR: Strike out all after the resolving clause and insert in lieu thereof the following:

That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Murray Gell-Mann of California, is filled by reappointment of the incumbent for a term of six years, effective August 30, 1986.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment in the nature of a substitute was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Ms. OAKAR: Amend the title so as to read: "Joint resolution providing for reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate joint Resolution 268, the Senate Joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

AUTHORIZING THE FRANCIS SCOTT KEY PARK FOUNDATION, INC., TO ERECT A MEMORIAL IN THE DISTRICT OF COLUMBIA

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2370) to authorize the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Ohio [Ms. OAKAR] to explain the bill.

Ms. OAKAR. Mr. Speaker, I am pleased to sponsor a resolution which would authorize establishment of a memorial to honor Francis Scott Key. I would like to commend my distinguished colleague from Alaska, Senator FRANK MURKOWSKI, for introducing S. 2370, the Senate companion bill.

Many Americans have paid tribute to our great Nation while singing the verses of the Star-Spangled Banner. Few, however, know much about the man who wrote the inspiring poem, "The Defence of Fort McHenry," which was put to music and adopted as our national anthem in 1931. His work provides an inspiration to Americans by symbolizing the potential in each of us to make voluntary and extraordinary contributions to our country.

Francis Scott Key was a young lawyer from Washington, DC. In 1814, while on a mission of mercy in which he freed an aging physician captured by the British, Key was arrested. All night long while under guard, he witnessed "the bombs bursting in air" over Fort McHenry. Early the next morning he saw our Star-Spangled Banner was still flying—signaling the defeat of the British. Key was very moved by the sight of our flag, and captured that historic moment with his stirring words which every patriotic American knows. This memorial would publicly honor and recognize the contribution that Francis Scott Key has made to our national heritage.

Mr. Speaker, I want to thank my colleague, the gentleman from Minnesota [Mr. FRENZEL] for his work on this issue.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I concur in all that the gentlewoman has said, especially her thanking me.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner", our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. If the site for the memorial authorized herein shall be on public grounds be-

longing to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

SEC. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the House of Representatives on September 29, 1986, such memorial shall be required to comply with the provisions of that Act.

SEC. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2370, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

JUDICIAL HOUSEKEEPING ACT OF 1986

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be discharged from further consideration of the bill (H.R. 5674) to amend title 28, United States Code, with respect to the composition of, and places of holding court in, certain judicial districts, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is the objection to the request of the gentleman from Wisconsin?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, would the gentleman explain the purpose of his request?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, I would be pleased to respond to the gentleman.

Mr. Speaker, H.R. 5674, The Judicial Housekeeping Act of 1986 contains items which have the support of both the Department of Justice and the Judicial Conference of the United States.

Section 1 of the bill consists of H.R. 4942, by Mr. DERRICK. This bill would amend section 121 of title 28, United States Code, by creating a Beaufort Division in the District of South Carolina and designating Beaufort as the place of holding court of the new district. A similar Senate bill, S. 2396, by Senator THURMOND, is pending. The Charleston Division currently serves the counties of Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, and Jasper. This bill would transfer Beaufort and Jasper Counties from the Charleston Division to the new Beaufort Division, in the District of South Carolina. At present, the people of Jasper and Beaufort Counties must travel to Charleston to have access to the U.S. District Court, resulting in inconvenience and unnecessary expense in seeking redress in this court. In addition, the County Council of Beaufort County has agreed to deed or lease, without charge to the United States, the current Beaufort County Courthouse as a suitable location for the Federal court.

The Department of Justice supports this change. Both the District Court for the District of South Carolina and the Judicial Council for the Fourth Circuit have approved the establishment of the new division and designation of Beaufort as the place of holding court.

Section 2 of the bill contains the provisions of H.R. 3284, by Mr. THOMAS, and H.R. 4095, by Mr. ROWLAND and Mr. BARNARD. These bills would amend section 90(a) of title 28, United States Code, by transferring within the Southern District of Georgia the counties of Evans, Screven, and Tattinal from the Savannah Division of the Statesboro Division and Jefferson County from the Statesboro Division to the Augusta Division. This provision also has the support of the judiciary and the executive branch.

Mr. MOORHEAD. Further reserving the right to object, I have no objection whatsoever to the bill as it is presently constituted, but I would like to remark that I am very disappointed that a measure by the gentleman from California [Mr. DANNEMEYER], to create a new district in the State, the area to the south of the central district of California, in Riverside, Orange, and San Bernardino Counties, was rejected by the Judicial Conference. At the present time the central district of California is about twice as large as the next largest district in the United States. But I understand that with the opposition that was presented we could not do anything but withdraw that provision from the legislation this year. But I would hope that it would get further consideration next year and that the Judicial Conference and the Attorney General's Office would take greater consideration of the issue.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield on the question briefly?

Mr. MOORHEAD. Further reserving the right to object, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding further.

I would say I appreciate his reservations about our inability to include a new judicial formulation for that district in southern California. We have written, as the gentleman knows, very strong report language on the point, so I would assume that next year we will have the attention of both the administration and the Judicial Conference on this important question.

I thank the gentleman.

Mr. MOORHEAD. I thank the gentleman, and, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill as follows:

H.R. 5674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Housekeeping Act of 1986".

SEC. 2. DISTRICT OF SOUTH CAROLINA.

Section 121 of title 28, United States Code, is amended—

(1) by striking "ten divisions" and inserting "eleven divisions";

(2) in paragraph (1)—

(A) by striking "Beaufort,"; and

(B) by striking "Georgetown, and Jasper" and inserting "and Georgetown"; and

(3) by adding at the end the following:

"(11) The Beaufort Division comprises the counties of Beaufort and Jasper.

"Court for the Beaufort Division shall be held at Beaufort.".

SEC. 3. SOUTHERN DISTRICT OF GEORGIA.

Section 90(c) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "Lincoln" and inserting "Jefferson, Lincoln";

(2) in paragraph (3) by striking "Evans, Liberty, Screven, and Tattnall" and inserting "and Liberty"; and

(3) in paragraph (6) by striking "Jefferson, Jenkins", and inserting "Evans, Jenkins, Screven, Tattnall";

SEC. 4. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—(1) The amendments made by sections 2 and 3 take effect 90 days after the date of the enactment of this Act.

(2) The amendment made by section 4 takes effect on the date of the enactment of this Act.

(b) PENDING ACTIONS.—The amendments made by this Act shall not affect any action commenced before the effective date of such amendments and pending on such date.

(c) JURIES.—The amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of such amendments.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5674, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 4613, FUTURES TRADING ACT OF 1986

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act:

CONFERENCE REPORT (H. REPT. 99-995)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Futures Trading Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—FUTURES TRADING

Sec. 101. Fraudulent practices.
Sec. 102. Options transactions.
Sec. 103. Extraterritorial service of subpenas.
Sec. 104. Ex parte appointment of temporary receivers.
Sec. 105. Certain prohibited transactions.
Sec. 106. Authorization for appropriations.
Sec. 107. Registered futures association disciplinary actions and membership restrictions.
Sec. 108. Rule review procedures.
Sec. 109. Leverage transactions.
Sec. 110. Technical corrections.
Sec. 111. GAO study of trading in cattle futures contracts.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Cross compliance for producers of extra long staple cotton.
Sec. 202. Basis for computation of emergency compensation under the 1986 wheat program.
Sec. 203. Valencia peanuts.
Sec. 204. Local agricultural stabilization and conservation committees.
Sec. 205. Eligibility of certain land under the conservation reserve program.
Sec. 206. Marketing practices and training.
Sec. 207. Transfer of land.

TITLE III—GRAIN QUALITY IMPROVEMENT

Sec. 301. Short title.
Sec. 302. Declaration of policy.
Sec. 303. Foreign material recombination.
Sec. 304. Insect infestation.
Sec. 305. Study of premiums for high-quality grain.
Sec. 306. Review of optimal grade proposal.
Sec. 307. Study of uniform end-use value tests.

TITLE IV—FEDERAL MEAT INSPECTION

Sec. 401. Short title.
Sec. 402. Purpose.
Sec. 403. Amendments to Federal Meat Inspection Act.
Sec. 404. Savings provision.
Sec. 405. Sense of Congress.
Sec. 406. Annual report.
Sec. 407. Congressional reevaluation.
Sec. 408. Effective date; application of amendments.

TITLE I—FUTURES TRADING

SEC. 101. FRAUDULENT PRACTICES.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by striking out "on or subject to the rules of any contract market," the second place it appears in the first sentence; and

(2) by adding at the end thereof the following new paragraph:

"Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, or territories or possessions of the United States, involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.".

SEC. 102. OPTIONS TRANSACTIONS.

Subsection (c) of section 4c of the Commodity Exchange Act (7 U.S.C. 6c(c)) is amended to read as follows:

"(c) Not later than 90 days after the date of the enactment of the Futures Trading Act of 1986, the Commission shall issue regulations—

"(1) to eliminate the pilot status of its program for commodity option transactions involving the trading of options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated; and

"(2) otherwise to continue to permit the trading of such commodity options under such terms and conditions that the Commission from time to time may prescribe.".

SEC. 103. EXTRATERRITORIAL SERVICE OF SUBPENAS.

Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended—

(1) in the third sentence, by inserting "(except as provided in the fifth sentence of this subsection)" immediately before "may administer oaths and affirmations, subpena witnesses";

(2) in the fourth sentence, by striking out "or any State" and inserting in lieu thereof ", any State, or any foreign country or jurisdiction"; and

(3) by inserting after the fourth sentence the following new sentence: "A subpena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.".

SEC. 104. EX PARTE APPOINTMENT OF TEMPORARY RECEIVERS.

The proviso of the first sentence of section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting within the parenthetical phrase before the closing parenthesis the following: ", and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate".

SEC. 105. CERTAIN PROHIBITED TRANSACTIONS.

Section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended—

(1) by inserting immediately before the period at the end of the first sentence the following: "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission"; and

(2) by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "The foregoing prohibitions shall not apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this subsection.".

SEC. 106. AUTHORIZATION FOR APPROPRIATIONS.

Subsection (d) of section 12 of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.".

SEC. 107. REGISTERED FUTURES ASSOCIATION DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS.

Subsections (h) and (i) of section 17 of the Commodity Exchange Act (7 U.S.C. 21 (h) and (i)) are amended to read as follows:

"(h)(1) If any registered futures association takes any final disciplinary action against a member of the association or a person associated with a member, denies admission to any person seeking membership therein, or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule or regulation, may prescribe as necessary or appropriate to carry out the purposes of this Act.

"(2) Any action with respect to which a registered futures association is required by paragraph (1) to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved by the action. Such application shall be filed within 30 days after the date such notice is filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

"(3)(A) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments).

"(B) The Commission shall establish procedures for expedited consideration and determination of the question of a stay.

"(i)(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

"(A) if the Commission finds that—

"(i) the member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted;

"(ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and

"(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act,

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2), or remand the case to the association for further proceedings; or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

"(2) If, after a proceeding under paragraph (1), the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

"(3) In a proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)—

"(A) if the Commission finds that—

"(i) the specific grounds on which the denial or bar is based exist in fact;

"(ii) the denial or bar is in accordance with the rules of the association; and

"(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act,

the Commission, by order, shall so declare and, as appropriate, affirm or modify the action of the association, or remand the case to the association for further proceedings; or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the action of the association and require the association to admit the applicant to membership or permit the person to be associated with a member, or, as appropriate, remand the case to the association for further proceedings.

"(4) Any person (other than a registered futures association) aggrieved by a final order of the Commission entered under this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 6(b).".

SEC. 108. RULE REVIEW PROCEDURES.

Section 17(j) of the Commodity Exchange Act (7 U.S.C. 21(j)) is amended by striking out the third sentence.

SEC. 109. LEVERAGE TRANSACTIONS.

Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended to read as follows:

"SEC. 19. (a) Except as authorized under subsection (b), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

"(b)(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a), contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

"(2) No person may engage in any activity described in paragraph (1) who is not permitted to engage in such activity, by the rules, regulations, and orders of the Commission in effect on the date of the enactment of the Futures Trading Act of 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2).

"(c)(1)(A) Not later than 2 years after the date of the enactment of the Futures Trading Act of 1986, the Commission shall—

"(i) with the assistance of a futures association registered under this Act, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1); and

"(ii) transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(B) Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this Act to render such assistance as the Commission shall specify.

"(C) Such report shall include the findings and any recommendations of the Commission concerning—

"(i) whether such transactions serve an economic purpose;

"(ii) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

"(iii) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.

"(2) The report shall also include Commission regulations governing such transactions. The regulations shall provide for permitting additional persons to engage in such transactions. The regulations shall become effective on the expiration of 90 calendar days on which either House of Congress is in session after the date of the transmittal of the report to Congress. The regulations—

"(A) may authorize or require, notwithstanding any other provision of law, a futures association registered under this Act to perform such responsibilities in connection with such transactions as the Commission may specify; and

"(B) may require that permission for additional persons to engage in such business be given on a gradual basis, so as not to place an undue burden on the resources of the Commission.

"(d) This section shall not affect any rights or obligations arising out of any transaction subject to this section, as in effect before the date of the enactment of the Futures Trading Act of 1986, that was entered into, or the execution of which was confirmed, before the date of the enactment of such Act.".

SEC. 110. TECHNICAL CORRECTIONS.

The Commodity Exchange Act is amended—

(1) in the third sentence of section 2(a)(1)(B)(iv)(I) (7 U.S.C. 2a(iv)(I)), by striking out "Securities Exchange Commission" and inserting in lieu thereof "Securities and Exchange Commission";

(2) in the fourth full sentence of section 5a(12) (7 U.S.C. 7a(12)), by striking out "particpate" and inserting in lieu thereof "participate";

(3) in the first sentence of section 9(c) (7 U.S.C. 13(c)), by striking out "section 4k." and inserting in lieu thereof "section 4k,";

(4) in the first sentence of section 9(d) (7 U.S.C. 13(d)), by striking out "advance guarantee" and inserting in lieu thereof "advance guaranty";

(5) by repealing section 11 (7 U.S.C. 14 note);

(6) in the second full sentence of section 17(b)(2) (7 U.S.C. 21(b)(2)), by striking out "with in" and inserting in lieu thereof "within"; and

(7) in section 17(k)(1) (7 U.S.C. 21(k)(1)), by striking out "title" and inserting in lieu thereof "section".

SEC. 111. GAO STUDY OF TRADING IN CATTLE FUTURES CONTRACTS.

(a) STUDY.—The Comptroller General of the United States shall conduct and complete a comprehensive study of the effect of trading in contracts for the future delivery of live cattle on the cash market price of live cattle, with particular emphasis on—

(1) whether the reaction of the live cattle futures market to the results of the milk production termination program in March 1986, conducted under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), was based on and accurately reflected the then prevailing conditions of supply and demand;

(2) the effect of the trading in contracts for the future delivery of live cattle on—

(i) the price relationship between feeder cattle and fed cattle;

(ii) the price discovery process with respect to live cattle; and

(iii) price competition within the cattle industry;

(3) the effect of the use of packer contracts, as a means of obtaining slaughter cattle, on

the increase in short hedging in contracts for the future delivery of live cattle and the effect of this increase in short hedging on prices in the futures and cash markets;

(4) the effect on the ability of the cash markets to accurately reflect prevailing conditions of supply and demand if packer contracts become the prevalent method of marketing fed cattle;

(5) whether the present delivery system for contracts for the future delivery of live cattle creates any bias (either upward or downward) in the cash price for cattle;

(6) whether the present delivery system for contracts for the future delivery of live cattle creates price volatility during the delivery month; and

(7) whether there are advantages or disadvantages to a cash settlement system in lieu of the present delivery system in the case of contracts for the future delivery of live cattle.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than January 15, 1987, the Comptroller General shall submit a preliminary report on the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to such committees a detailed final report of the results of the study required under subsection (a).

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. CROSS COMPLIANCE FOR PRODUCERS OF EXTRA LONG STAPLE COTTON.

Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 202. BASIS FOR COMPUTATION OF EMERGENCY COMPENSATION UNDER THE 1986 WHEAT PROGRAM.

Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

SEC. 203. VALENCIA PEANUTS.

Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c-2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gains on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico)".

SEC. 204. LOCAL AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES.

The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be one local administrative area in any county for which there had been established less than three local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": Provided," and all that follows through the period and inserting in lieu thereof a period.

SEC. 205. ELIGIBILITY OF CERTAIN LAND UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multiyear grasses and legumes, in a rotation practice approved by the Secretary, shall be considered agricultural commodities.".

SEC. 206. MARKETING PRACTICES AND TRAINING.

(a) MARKETING PRACTICES OF FMHA APPLICANTS AND BORROWERS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of marketing practices used by applicants for and borrowers of farm loans made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.). The study shall include an examination of the methods used by the applicants and borrowers in marketing agricultural commodities, livestock, and aquacultural products and the extent to which the applicants and borrowers use advanced marketing techniques for such sales.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study conducted under paragraph (1), together with any appropriate recommendations.

(b) ADVANCED MARKETING TRAINING FOR FARMERS AND RANCHERS.—The Secretary of Agriculture may establish a program to train farmers and ranchers in advanced techniques for the marketing of agricultural commodities, livestock, and aquacultural products produced by such farmers and ranchers, including (where appropriate as determined by the Secretary) training in the use of futures and options markets.

SEC. 207. TRANSFER OF LAND.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the Secretary of Agriculture shall convey to the Nebraska Game and Parks Commission, all right, title, and interest of the United States in approximately 173 acres of National Forest System land in Dawes County, Nebraska, as depicted on a Department of Agriculture, Forest Service map entitled "Land Conveyance, Nebraska National Forest", dated October, 1985. The map and legal description of the land conveyed by this section shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(b) MINERAL DEPOSITS.—The conveyance made under subsection (a) shall reserve to the United States all gas, oil, coal, and other mineral deposits as may be found in the lands conveyed by this section.

(c) REVERSION.—The Secretary shall provide that title in the land conveyed shall revert to the United States on failure of the Nebraska Game and Parks Commission to use the land as part of the Chadron State Park, Nebraska.

(d) CONSIDERATION.—The land shall be conveyed without consideration, except that the Nebraska Game and Parks Commission shall bear all reasonable costs of administration, survey, and appraisal incident to such conveyance as determined by the Secretary.

TITLE III—GRAIN QUALITY IMPROVEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Grain Quality Improvement Act of 1986".

SEC. 302. DECLARATION OF POLICY.

Section 2 of the United States Grain Standards Act (7 U.S.C. 74) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) It is also declared to be the policy of Congress—

"(1) to promote the marketing of grain of high quality to both domestic and foreign buyers;

"(2) that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and

"(3) that official United States standards for grain shall—

"(A) define uniform and accepted descriptive terms to facilitate trade in grain;

"(B) provide information to aid in determining grain storability;

"(C) offer users of such standards the best possible information from which to determine end-product yield and quality of grain; and

"(D) provide the framework necessary for markets to establish grain quality improvement incentives.".

SEC. 303. FOREIGN MATERIAL RECOMBINATION.

(a) PROHIBITED ACT.—Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—

"(A) no dockage or foreign material, as defined by the Secretary, once removed from grain shall be recombined with any grain; and

"(B) no dockage or foreign material of any origin may be added to any grain.

"(2) Nothing in paragraph (1) shall be construed to prohibit—

"(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

"(B) the marketing, domestically or for export, of dockage or foreign material removed from grain if such dockage or foreign material is marketed—

"(i) separately and uncombined with any such whole grain;

"(ii) in pelletized form; or

"(iii) as a part of a processed ration for livestock, poultry, or fish;

"(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

"(D) the recombination of broken corn or broken kernels, as defined by the Administrator, with grain of the type from which the broken corn or broken kernels were derived;

"(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection if—

"(i) the recombination occurs during the loading of the cargo;

"(ii) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo; and

"(iii) the separation and recombination are conducted in accordance with regulations issued by the Administrator; or

"(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in a quantity necessary to facilitate identification of ownership or origin of a particular lot of grain.

"(3)(A) The Secretary may, by regulation, exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor if such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public.

"(B) Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale. Neither products nor byproducts derived therefrom (except vegetable oils as defined by the Secretary and used as a dust suppressant) shall be blended with or added to grain in commercial channels.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on May 1, 1987.

SEC. 304. INSECT INFESTATION.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall issue a final rule that revises grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to more accurately reflect levels of insect infestation.

SEC. 305. STUDY OF PREMIUMS FOR HIGH-QUALITY GRAIN.

(a) STUDY.—After public comment from and in consultation with grain producers, grain merchants, grain processors, and grain exporters, the Secretary of Agriculture shall conduct a study of the feasibility and appropriateness of adjusting Commodity Credit Corporation grain premium and discount schedules—

(1) to encourage the delivery, storage, and export of high-quality, clean grain; and

(2) to offer incentives to minimize the quantity of moisture, foreign material, dockage, shrunken and broken kernels, and damaged kernels in lots of grain pledged as collateral for Commodity Credit Corporation loans or in grain owned by the Commodity Credit Corporation.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit a report describing the results of the study required under subsection (a), together with recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 306. REVIEW OF OPTIMAL GRADE PROPOSAL.

(a) NOTICE AND COMMENT.—To evaluate the effects of moving to an optimal grain grading system, the Administrator of the Federal Grain Inspection Service shall—

(1) publish in the Federal Register a detailed description of the proposals contained in H.R. 5354, 99th Congress, the Optimal Grain Grading Act of 1986; and

(2) solicit public comment, during a period of not less than 60 days on—

(A) the optimal grain grading system as proposed in H.R. 5354; and

(B) the general objective of improving grain quality by revising the official United States grain standards to provide greater economic incentives for production and sale of high-quality grain.

(b) REPORT.—The Administrator shall report to Congress, by May 1, 1987, on the comments received and on the recommendations of the Administrator with respect to the matters on which comments were solicited.

SEC. 307. STUDY OF UNIFORM END-USE VALUE TESTS.

(a) STUDY.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include the following:

(1) A survey of domestic and foreign buyers of grain to identify the information about grain characteristics that would be most useful to such buyers. The survey shall take into account those factors that buyers specify in contracts, test for, measure, or would measure if tests were available, including—

(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

(B) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

(C) the protein, oil, and free-fatty-acid content of soybeans.

(2) A review of the development and availability of tests for the characteristics identified in the survey conducted under paragraph (1), including an evaluation of the costs of providing such tests.

(b) END-USE TESTS.—

(1) ONGOING REVIEW.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

(2) REVISION OF PROCEDURES.—The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act (7 U.S.C. 75(i))) those tests that are identified under the study conducted under subsection (a) as useful, available, and economically feasible.

(c) REPORTS.—

(1) STUDY AND REVISION OF PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall submit a report to Congress setting forth the results of the study conducted under subsection (a) and actions taken under subsection (b)(2).

(2) ONGOING REVIEW.—The Administrator shall report yearly to Congress on the ongoing review conducted under subsection (b)(1).

TITLE IV—FEDERAL MEAT INSPECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Processed Products Inspection Improvement Act of 1986".

SEC. 402. PURPOSE.

The amendments made by this title are in furtherance of the findings made by Congress in section 2 of the Federal Meat Inspection Act (21 U.S.C. 602).

SEC. 403. AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.

(a) MANNER AND FREQUENCY OF INSPECTION.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 6 of the Federal Meat Inspection Act (21 U.S.C. 606) is amended by striking out "That for the purposes" and all that follows through "Provided, That" and inserting in lieu thereof the following:

"(a)(1) For the purposes set forth in the preceding provisions of this Act, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment.

"(2) Such examination and inspection shall be conducted with such frequency and in such manner as the Secretary considers necessary, as provided in rules and regulations issued by the Secretary, taking into account such factors as the Secretary considers to be appropriate, including—

"(A) the nature and frequency of the processing operations at such establishment;

"(B) the adequacy and reliability of the processing controls and sanitary procedures at such establishment; and

"(C) the history of compliance with inspection requirements in effect under this Act, by the operator of such establishment or anyone responsibly connected with the business (as described in section 401(g)) that operates such establishment.

"(b)(1) All such products found by any of such inspectors and by the operator of such establishment to be not adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and passed'.

"(2) All such products found by any of such inspectors or by the operator of such establishment to be adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and condemned'. Each such condemned product shall be destroyed for human food purposes. The Secretary may suspend inspection at, and remove inspectors from, any establishment that fails to so condemn adulterated meat food products or fails to so destroy condemned meat food products.

"(c) For purposes of any examination and inspection, such inspectors shall have access to every part of an establishment at all times, by day or night, and without regard to whether such establishment is operated.

"(d) Notwithstanding the preceding provisions of this section,".

(b) ENFORCEMENT METHODS.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 401 of the Federal Meat Inspection Act (21 U.S.C. 671) is amended—

(1) by inserting "(a)" after the section designation;

(2) in the first sentence—

(A) by striking out "applicant, for" and inserting in lieu thereof "applicant for";

(B) by striking out "any felony, or (2)"; and

(C) by inserting before the period at the end thereof "or (2) any felony";

(3) in the second sentence—

(A) by indenting the first word so as to create a new paragraph; and

(B) by inserting "(f)" before the first word;

(4) by inserting "(g)" before the first word of the third sentence;

(5) in the fourth sentence—

(A) by striking out "The" and inserting in lieu thereof "(h) Except as provided in subsection (e)(2), the"; and

(B) by striking out "this section" and inserting in lieu thereof "subsection (e)"; and

(6) by inserting after subsection (a), as so designated by paragraph (1) of this subsection, the following new subsections:

"(b)(1) On the request of the Secretary at the time of the sentencing of an individual who is a person responsibly connected with any business requiring inspection under title I and who is convicted of a felony involving—

"(A) the intentional adulteration of food (except as defined in section 1(m)(8));

"(B) the adulteration of food, as defined in section 1(m)(8), with intent to defraud;

"(C) bribery; or

"(D) extortion;

the sentencing court shall issue a temporary order forbidding such individual to exercise operational control of, or to be physically present at, any establishment requiring inspection under title I if the court finds that the exercise of operational control by, or the presence of, such individual at any such establishment either poses a direct and substantial threat to the public health or safety or, if such individual is convicted of a felony described in subparagraph (B), poses a clear likelihood of significant economic harm to consumers.

"(2) Such order shall terminate—

"(A) whenever the Secretary determines by order, after a hearing on the record, whether such individual should exercise operational control of, or be physically present at, any establishment requiring inspection under title I, and judicial review, if any, of such determination is completed; or

"(B) 90 days after the issuance of such temporary order by the court if the Secretary does not commence such hearing before the expiration of such 90 days;

whichever occurs earlier.

"(c) Any determination and order of the Secretary issued under subsection (a) or (b) shall be conclusive and enforceable unless the affected applicant for, or recipient of, inspection service or the affected individual files, not later than 30 days after the effective date of such order, a petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the relevant establishment is doing business. Judicial review of such order shall be on the record on which the determination and order are based.

"(d)(1) Subject to paragraph (3), the Secretary may commence a civil action in an appropriate court, as provided in section 404, to withdraw inspection service under title I with respect to any establishment or to prevent any individual responsibly connected with any business requiring inspection under title I from exercising operational control of, or being present at, any establishment requiring inspection under title I.

"(2) If the court finds, on the basis of clear and convincing evidence, that the recipient of inspection service or such individual has repeatedly failed to comply with the requirements of this Act, or the rules and regulations issued under this Act, in a manner that poses a direct and substantial threat to the public health or safety, the court shall issue an order—

"(A) withdrawing inspection at such establishment; or

"(B) forbidding such individual to exercise operational control of, or to be physically present at, such establishment,

for such period as the court determines is necessary to carry out the purposes of this Act.

"(3) Not less than 90 days, and not more than 450 days, before commencing a civil action under paragraph (1), the Secretary shall provide to each recipient of inspection service, and each individual responsibly connected with the business, with respect to which such action is commenced, a written notice that includes—

"(A) a statement that the Secretary intends to commence such action;

"(B) a comprehensive description of the violations of this Act and the regulations issued under this Act alleged by the Secretary; and

"(C) a description of the actions the Secretary considers necessary to be taken by such recipient or such individual to comply with this Act and to eliminate the need to commence such civil action.

"(e)(1) The Secretary may temporarily withdraw inspection service under title I with respect to any establishment for such period as is necessary to ensure the safe and effective performance of official duties under this Act if the Secretary determines, after an opportunity for a hearing on the record, that an officer, employee, or agent of such establishment—

"(A) threatened to forcibly assault;

"(B) forcibly assaulted;

"(C) forcibly intimidated; or

"(D) forcibly interfered with,

an employee of the United States engaged in, or on account of, the performance of any of such official duties.

"(2)(A) Notwithstanding paragraph (1), the Secretary may temporarily suspend inspection service under title I with respect to any establishment, pending an expedited administrative hearing on the record and judicial review of the order of the Secretary based on such record, if the Secretary determines that temporary suspension of such inspection service is necessary for the safety of any employee who performs official duties under this Act.

"(B) If the Secretary receives, before or after temporarily suspending such inspection service in accordance with subparagraph (A), adequate written assurances from the recipient of inspection service, or the individuals involved, that the conduct or circumstances that threatened the safety of such employee will not continue or recur, the Secretary may continue or restore such inspection service on condition that such assurances are fulfilled.".

(c) WARNING; REPORTING OF VIOLATIONS.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 406 of the Federal Meat Inspection Act (21 U.S.C. 676) is amended—

(1) in subsection (b), by adding at the end thereof the following new sentence: "In determining whether the public interest could be adequately served by a written notice of warning, the Secretary shall take into account, among other factors—

"(1) the compliance history of such establishment;

"(2) the magnitude of the violation;

"(3) whether compliance with this Act would likely be obtained as a result of such notice; and

"(4) whether such violation is of a minor or technical nature."; and

(2) by adding at the end thereof the following new subsection:

"(c) Unless the Secretary by regulation provides otherwise, before any violation of this Act is reported by the Secretary for prosecution in a criminal proceeding, the Secretary shall give the person alleged to have committed such violation—

"(1) reasonable notice that the Secretary intends to report such violation for prosecution; and

"(2) an opportunity to present to the Secretary, orally or in writing, views with respect to such proceeding.".

(d) CONFORMING AMENDMENTS.—

(1) NIGHTTIME.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 9 of the Federal Meat Inspection Act (21 U.S.C. 609) is amended by inserting ", except as provided in section 6," after "equines, and" the first place it appears.

(2) ADMINISTRATION.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) is amended by striking out "and meat food products" and inserting in lieu thereof "thereof, and of meat food products".

(e) CONSTRUCTION OF AMENDMENTS.—The amendments made by this section shall not be construed to authorize the Secretary of Agriculture to refuse to provide inspection under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) at an establishment solely because such establishment does not participate in a total plant quality-control program.

SEC. 404. SAVINGS PROVISION.

The expiration date provisions of section 403 shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), as amended by section 403, or under the rules or regulations issued under such Act.

SEC. 405. SENSE OF CONGRESS.

It is the sense of Congress that the Secretary of Agriculture should—

(1) carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); and

(2) evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under title I of the Federal Meat Inspection Act, in order to identify the producer of such livestock.

SEC. 406. ANNUAL REPORT.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(1) any action proposed or taken by the Secretary to implement the amendments made by section 403;

(2) any action proposed or taken by the Secretary to carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(3) any action proposed or taken by the Secretary to evaluate the feasibility of, and develop, a program that would enable the

Secretary to trace any particular livestock that are subject to inspection under such title, in order to identify the producer of such livestock; and

(4) any personnel action proposed or taken by the Secretary as a result of the amendments made by section 403 and any effort made by the Secretary to minimize any adverse economic effect of such amendments on employees of the Department of Agriculture.

SEC. 407. CONGRESSIONAL REEVALUATION.

It is the sense of Congress that, not later than 6 years after the date of the enactment of this Act, Congress shall—

(1) evaluate the operation and effects of the amendments made by section 403, for the purpose of determining whether to extend or modify the operation of such amendments; and

(2) enact such legislation as may be necessary to efficiently and effectively carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

SEC. 408. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b) of this section, this title and the amendments made by this title shall become effective on the date of the enactment of this Act.

(b) TEMPORARY APPLICATION OF EXISTING LAW.—Sections 6, 9, and 21 of the Federal Meat Inspection Act (21 U.S.C. 606, 609, and 621), as in effect immediately before the date of the enactment of this Act, shall apply with respect to establishments until the Secretary of Agriculture first issues rules and regulations to implement the amendments made by section 403(a).

And the Senate agree to the same.

E. DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
CHARLES W. STENHOLM,
ROBIN TALLON,
E. THOMAS COLEMAN,
BILL EMERSON,

Additional conferees only for consideration of sections 407 and 501 of the Senate amendment:

JERRY HUCKABY,
ARLAN STANGELAND,

Additional conferees only for the consideration of section 407 of the Senate amendment:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
ED JENKINS,
RICHARD A. GEPHARDT,
JOHN J. DUNCAN,
PHILIP M. CRANE,
BILL FRENZEL,

Additional conferees only for consideration of section 503 of the Senate amendment:

CHARLIE ROSE,

Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
PETE WILSON,
EDWARD ZORINSKY,
JOHN MELCHER,
DAVID BOREN,
HOWELL HEFLIN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—FUTURES TRADING

(1) OPTIONS TRANSACTIONS

The House bill will strike out the current text of section 4c(c) of the Commodity Exchange Act, which imposes certain restrictions on the conduct of commodity option transactions and provides for a pilot program in the trading of agricultural options. In lieu of the current text of section 4c(c), the House bill will substitute a new text that will require the Commodity Futures Trading Commission—within 90 days after enactment of the bill—to issue regulations to—

(a) eliminate the pilot status of the program for the trading of commodity options on contract markets, including any numerical restrictions on the number of commodities or options contracts for which a contract market may be designated; and

(b) otherwise continue to permit the trading of such commodity options under such terms and conditions that the Commission, from time to time, may prescribe. (Sec. 3.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 102.)

(2) EXTRATERRITORIAL SERVICE OF SUBPENAS

Both the House bill and the Senate amendment will give the Commodity Futures Trading Commission the power to serve subpenas on persons outside the territorial jurisdiction of United States courts to compel their attendance at Commission inquiries. The House bill provides that an extraterritorial subpena could be issued only on the prior approval of the Commission. (Sec. 4; Sec. 102.)

The Senate amendment does not contain a similar provision making the issuance of such subpenas subject to Commission prior approval.

The Conference substitute adopts the House provision. (Sec. 103.)

The conferees intend that the Commission not routinely serve subpenas abroad. It is further the intention of the conferees that the Commission, when exercising its authority to serve subpenas, take into consideration the implications of such service on the broader foreign policy objectives of the United States. The conferees expect the Commission to find means of obtaining information in a way that seeks to avoid offending other nations and to consult with representatives of the receiving nation through the Department of State with a view toward minimizing any perceived intrusion on the sovereignty of that nation, where practicable and appropriate.

The conferees expect that the Commission's authority will parallel the current authority of the Department of Justice and the Federal Trade Commission in serving civil investigative demands abroad. It is the intent of the conferees that the Commission's use of subpena power abroad be limited to the pre-complaint, investigatory stage of enforcement proceedings. The courts and the Commission are bound by the Due Process Clause of the Constitution and this limitation would be a factor in any subpena enforcement proceeding.

(3) REAUTHORIZATION PERIOD

The House bill will authorize appropriations to carry out the Commodity Exchange Act during each of the 3 fiscal years ending with the 1989 fiscal year. (Sec. 7.)

The Senate amendment will authorize such appropriations for each of the 6 fiscal years ending with the 1992 fiscal year. (Sec. 402.)

The Conference substitute adopts the House provision. (Sec. 106.)

(4) REGISTERED FUTURES ASSOCIATIONS—DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS

(a) Notice of action

The House bill will require any registered futures association that takes a disciplinary action against one of its members or a person associated with a member or bars a person from membership or being associated with a member to promptly give notice of the action to the person involved and file notice of the action with the Commodity Futures Trading Commission. (Sec. 8.)

The Senate amendment contains a similar provision except that it specifically mentions only for filing of the notice with the Commission. (Sec. 301.)

The Conference substitute adopts the House provision. (Sec. 107.)

(b) Review of disciplinary action

Both the House bill and the Senate amendment contain a provision relating to review by the Commission of registered futures association disciplinary actions against its members or persons associated with members. In any such review, the Commission either must affirm the disciplinary action (with modifications possible) or remand the case to the association for further proceedings if certain specified findings are made. If any of the findings are not made, the disciplinary sanction must be set aside. The review hearing before the Commission could consist solely of consideration of the record before the association and the presentation of reasons to affirm, modify, or set aside the disciplinary sanction.

The specified findings to be decided by the Commission are the same in both bills except in one instance, as follows:

The House bill will require a decision on a finding that the person enaged in, or omitted, the acts the association has found the person to have engaged in or omitted. (Sec. 8.)

The Senate amendment will require a decision (on the basis of the record in the proceeding before the association and such other matters as might be presented to the Commission) on such finding as to whether the person engaged in, or failed to engage in, the acts or practices involved in the case. (Sec. 302.)

The Conference substitute adopts the House provision. (Sec. 107.)

(c) Review of denial of membership or bar of association

The House bill provides that, in a proceeding to review the denial of membership in a registered futures association or the barring of association with a member of a registered futures association, if the Commission finds that—

(a) the specific grounds for denial or bar exist in fact;

(b) the denial or bar is in accordance with the association's rules; and

(c) such rules are and were applied in a manner consistent with the Commodity Exchange Act;

the Commission must so declare and affirm or modify the action of the association, or remand the case to the association for further action. (Sec. 8.)

The Senate amendment is similar, except that the Commission has authority to dismiss the proceeding for review if the standards set out in the House bill are satisfied, rather than affirm the association action from which the appeal was taken. (Sec. 302)

The Conference substitute adopts the House provision. (Sec. 107.)

(5) LEVERAGE TRANSACTIONS

The House bill will rewrite section 19 of the Commodity Exchange Act, which provides the statutory framework for separate regulation of the leverage business. Under the House bill—

(1) all leverage contracts except gold and silver bullion, bulk coins, and platinum contracts would be prohibited. (NOTE.—Under current law, leverage contracts on agricultural commodities are specifically prohibited; and the Commodity Futures Trading Commission is authorized to prohibit any leverage transaction on a commodity not permitted by Commission rules in effect on December 9, 1982, if the transaction would be contrary to the public interest);

(2) the entry of new firms into the leverage business would temporarily be prohibited until a survey and report relating to the industry (described below) are completed and regulations (to be included in the report) to permit new entrants are issued;

(3) the Commission would be required to conduct (with the assistance of a registered futures association) a survey concerning firms interested in entering the leverage business, and to report to Congress within 2 years on—

(a) the results of the survey;

(b) whether leverage transactions serve an economic purpose;

(c) the most efficient manner, consistent with the public interest, to permit new entrants into the business; and

(d) the appropriate leverage regulatory scheme to ensure financial solvency and prevent manipulation or fraud;

(4) the report would have to include regulations to govern the leverage business, which—

(a) must provide for permitting additional firms to enter the business;

(b) could provide for a registered futures association to perform leverage regulatory functions; and

(c) could provide for permitting new entrants into the business on a gradual basis, so as not to place an undue burden on the Commission;

(5) the regulations (described above) would have to go into effect at the end of 45 days of congressional session after they are transmitted to Congress; and

(6) rights and obligations arising out of leverage contracts entered into prior to enactment of the bill would not be affected by the changes in section 19 of the Act made by the bill. (Sec. 10.)

The Senate amendment would repeal section 19 of the Commodity Exchange Act and make several conforming changes in the Act, effective 2 years after the date the bill is enacted. (NOTE.—Under section 19, leverage transactions in agricultural commodities are prohibited; no person can enter into leverage transactions in gold or silver bullion or coins that are contrary to any Commission rule, regulation, or order designed to ensure the financial solvency of the transactions or prevent manipulation or fraud; the Commission is required to regulate leverage transactions in authorized commodities under terms and conditions prescribed by rule, regulation, or order (with different terms and conditions permitted for different commodities); and the Commission is authorized to prohibit any leverage transaction not permitted under Commission rules in effect on December 9, 1982, if the transaction would be contrary to the public interest.)

Under the Senate amendment, leverage transactions would no longer be under the Commission's exclusive jurisdiction and the Commission would cease being required or authorized to regulate leverage transactions as a distinct form of commodity instrument. (Secs. 201–208.)

The Conference substitute adopts the House provision with an amendment changing the period of congressional review of the regulations contained in the Commission's report on leverage from 45 days to 90 days. (Sec. 109.)

(6) TECHNICAL CORRECTIONS

The Senate amendment would make a number of technical corrections to the Community Exchange Act. These corrections would—

(a) correct a reference to the Securities and Exchange Commission;

(b) correct spelling and punctuation errors;

(c) correct a reference to "advance guaranty";

(d) correct a reference to a section of the Act; and

(e) repeal a section of the Act that is obsolete. (Sec. 403.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 110.)

STUDY OF CATTLE FUTURES TRADING

The House bill requires the House Committee on Agriculture, in cooperation with land grant institutions and others, to carry out a study of the trading in contracts for cattle for future delivery to determine—

(a) the economic purpose of such trading;

(b) whether such trading is being manipulated; and

(c) the economic effect of such trading on cattle producers and the beef industry.

If the study reveals that there is manipulation of trading in contracts for cattle for future delivery and that the manipulation has adverse effects on cattle producers or the beef industry, the House Committee on Agriculture must report legislation that will prevent the adverse effects in the future. (Sec. 11.)

The Senate amendment requires the Comptroller General to conduct and complete a comprehensive study of the effect of trading in contracts for the future delivery of live cattle on the cash market price of live cattle, with emphasis on—

(a) whether the reaction of the live cattle futures market to the whole-herd dairy buyout program in March 1986 was based on and accurately reflected the then prevailing conditions of supply and demand;

(b) the effect that the trading in live cattle futures has on—

(i) the price relationship between feeder cattle and fed cattle;

(ii) the price discovery process for live cattle; and

(iii) price competition within the cattle industry;

(c) the effect of the use of packer contracts, as a means of obtaining slaughter cattle, on the increase in short hedging and the effect of this increase in short hedging on prices in the futures and cash markets;

(d) the effect on the ability of cash markets to reflect supply and demand if packer contracts become the prevalent method of marketing fed cattle;

(e) whether the present delivery system for futures contracts on live cattle creates (1) any bias (upward or downward) in the cash price for cattle or (2) price volatility during the delivery month; and

(f) whether there are advantages or disadvantages to the use of a system of cash settlement for futures contracts on live cattle, instead of the present system of delivering live cattle to fulfill such contracts.

Within 1 year after the date of enactment of the bill, the Comptroller General must submit a detailed report on the results of this study to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. A preliminary report must be submitted to both committees by January 15, 1987. (Sec. 404.)

The Conference substitute adopts the Senate provision. (Sec. 111.)

TITLE II—MISCELLANEOUS PROVISIONS

(8) MARKETING PRACTICES AND TRAINING

(a) Marketing practices of FmHA loan applicants and borrowers

The Senate amendment requires the Comptroller General to conduct a study of the marketing practices used by Farmers Home Administration loan applicants and borrowers. The study must include an examination of the channels through which these individuals sell their produce and the extent to which they use advanced marketing techniques.

The Comptroller General must submit a report describing the results of the study to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry not later than 180 days after the date of enactment of the bill. (Sec. 405(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment changing the date by which the Comptroller General must submit his report to Congress from 180 days after date of enactment to 1 year after date of enactment. (Sec. 206(a).)

(b) Advanced marketing training

The Senate amendment provides that the Secretary of Agriculture may establish a program to train farmers and ranchers in advanced produce marketing techniques, including training in the use of futures and options markets. (Sec. 405(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 206(b).)

(9) TRANSFER OF LAND

The Senate amendment would require the Secretary of Agriculture to transfer approximately 173 acres of National Forest System land to the Nebraska Game and Parks Commission, such land to be incorporated into an existing State park. Title to the land will revert to the United States if the land is not used as park land; the United States will reserve to itself all gas, oil, coal, and other mineral rights in the land. The transfer would be without consideration, except that the Nebraska Game and Parks Commission must pay the reasonable costs of administration, survey, and appraisal that are connected with the transfer. (Sec. 406.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 207.)

The conferees emphasize that the adoption of the Senate provision does not indicate a change in the underlying forestry statutes and congressional policy requiring payment of fair market value or an equal value exchange. The special circumstances involving a transfer to a State game and parks commission for a public purpose, with reverter, and the fact that the tract is bounded on three sides by existing State park land, warrant the action taken in this instance by the conferees.

(10) SUGAR QUOTA, COUNTRIES INVOLVED IN ILLEGAL NARCOTICS TRADE

(a) Administration of sugar quota

The Senate amendment prohibits the President of the United States, notwithstanding any other provision of law, from allocating any sugar import quota to any country (1) whose Government is involved in the trade of illicit narcotics or is failing to cooperate with the United States in narcotics enforcement activities, as determined by the President; or (2) that imports sugar produced in Cuba, as determined by the President.

The Senate amendment requires the President to use all authorities available that are necessary to enable the Secretary of Agriculture to operate the sugar price support program at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation.

The Senate amendment requires the President, subject to the foregoing restrictions, to allocate any calendar year 1987 sugar import quota among foreign countries to ensure that the total quantity of sugar to be imported by the United States from each "beneficiary country" during calendar year 1987 is not less than the total quantity of sugar imported from such country during quota year 1986. The sugar comprising the base for the 1986 quota year must have been produced in the "beneficiary country".

The term "beneficiary country" is defined as having the same meaning as contained in the Caribbean Basin Economic Recovery Act, and includes the Republic of the Philippines, and the Republic of Ecuador. (Sec. 407(a).)

The House bill contains no comparable provision.

(NOTE.—Current law requires the President to use all authorities available that are necessary to enable the Secretary of Agriculture to operate the sugar price support program at no net cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation. In addition, the President, is prohibited from allocating any of the sugar import quota to any country that is a net importer of sugar derived from sugarcane or sugar beets unless the appropriate officials of that country verify to the President that that country does not import any sugar produced in Cuba for reexport to the United States. (7 U.S.C. 1446 note))

The Conference substitute deletes the Senate provision.

(b) Congressional findings

The Senate amendment contains congressional findings that the Republic of the Philippines (1) has been a reliable supplier of sugar to the United States; (2) has a special historical relationship with the United States and has been a constant and dependable ally of the United States; (3) relies on the exportation of sugar to generate needed capital; (4) has not been afforded fair and adequate access to the United States sugar market since import quotas were imposed on sugar in 1982; and (5) should be given access to the United States sugar market on terms at least as favorable as those provided to any other country. (Sec. 407(b).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(c) Allocation of sugar quota to the Republic of the Philippines

The Senate amendment provides that the total base quota amount of sugars, syrups, and molasses imported into the United States under headnote 3, subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States must be allocated on such basis that the quota allocated to the Republic of the Philippines may not be less than the quota allocated to any other country.

The Senate amendment provides that during any calendar year in which sugars, syrups, and molasses from any country are not subject to any rate of duty provided for in subpart A of Part 10 of schedule 1 of the Tariff Schedules of the United States and are permitted to enter the United States duty-free, sugar, syrups, and molasses from the Republic of the Philippines must be permitted to enter duty-free to the same extent.

The Senate amendment prohibits, unless specifically authorized by statute, any agency or instrumentality of the United States from providing in any rule, regulation, shipping schedule, or otherwise, for the entry into the United States of sugars, syrups, and molasses from any country under terms or conditions more favorable than those applicable to the entry of sugars, syrups, and molasses from the Republic of the Philippines. (Sec. 407(c).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(11) CROSS COMPLIANCE FOR PRODUCERS OF EXTRA LONG STAPLE COTTON

The Senate amendment would amend paragraph (16) of section 103(h) of the Agricultural Act of 1949 to provide that—

(a) for the 1987 and 1988 crops of extra long staple cotton, the Secretary of Agriculture my not require compliance with the terms and conditions of the extra long staple cotton program as a condition of eligibility for loans, purchases, or payments made under any other commodity program; and

(b) for the 1989 and 1990 crops of extra long staple cotton, the Secretary of Agriculture may require that, as a condition of eligibility for the extra long staple cotton program, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity. (Sec. 501.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 201.)

(12) LOCAL AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

The Senate amendment would amend the fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act to make explicit that there may be one local agricultural stabilization and conservation administrative area in any county for which there had been established less than three such areas as of December 23, 1985. (Sec. 502.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions. (Sec. 204.)

(13) VALENCIA PEANUTS

The Senate amendment would amend section 108B(4)(A) of the Agricultural Act of 1949 to provide that distributions of net gains to producers on additional Valencia peanuts produced in New Mexico and placed in a separate pool for such peanuts will not be reduced by Commodity Credit Corporation losses on quota peanuts that are placed under loans from other pools. (Sec. 503).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 203.)

(14) BASIS FOR COMPUTATION OF EMERGENCY COMPENSATION UNDER THE 1986 WHEAT PROGRAM

(a) Compensation

The Senate amendment would amend section 107D(c)(1)(E)(ii)) of the Agricultural Act of 1949 to provide that, for the 1986 crop of wheat, the payment rate per bushel for emergency compensation would be determined on the basis of the weighted average market price, per bushel, received by producers during the first 5 months of the marketing year. (Sec. 504(a).)

The House bill contains no comparable provision.

(NOTE.—Under current law, the payment rate per bushel for emergency compensation is based on the weighted average market price, per bushel, received by producers during the full marketing year.)

The Conference substitute adopts the Senate provision. (Sec. 202.)

(b) Producer option

For the 1986 crop of wheat, wheat producers could elect to have any emergency payment due them calculated and paid according to the provision in current law or the provision to be added by the Senate amendment. Those producers choosing to have their payments calculated and paid under the provisions in current law would have to notify the Secretary of Agriculture of their choice by December 1, 1986. (Sec. 504(b).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) ELIGIBILITY OF CERTAIN LAND UNDER THE CONSERVATION RESERVE PROGRAM

The Senate amendment would amend section 1231 of the Food Security Act of 1985

to provide that, for purposes of the Conservation Reserve Program, alfalfa and other multiyear grasses and legumes, in rotation as approved by the Secretary, must be considered agricultural commodities. (Sec. 505.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 205.)

The conferees agree that any land made eligible for the Conservation Reserve Program by this amendment must meet the same actual soil loss criteria as cropland that is eligible under the current program. The Conservation Reserve Program is designed to convert highly erodible cropland that is currently suffering from severe erosion problems to less intensive uses. This amendment should not be implemented in a way that would prove detrimental to that goal.

TITLE III—GRAIN QUALITY IMPROVEMENT

(16) GRAIN QUALITY IMPROVEMENT

Title VII of the Senate amendment contains provisions that may be cited as the "Grain Quality Improvement Act of 1986."

The House bill contains no provisions comparable to title VII of the Senate amendment. However, the House of Representatives has passed a bill, H.R. 5407, that has the same short title and contains comparable provisions. In the description of differences that follows, the House position, as contained in H.R. 5407 as passed by the House, is noted parenthetically.

(a) Policy statement

The Senate amendment will revise the United States Grain Standards Act declaration of policy to add statements that it is the policy of Congress to promote the marketing of high quality grain; that the primary objective of official United States grain standards is to accurately determine grain quality; and that the grain standards must provide a framework for the markets to establish grain quality improvement standards. (Sec. 702.)

The House bill contains no comparable provision. (NOTE.—Section 2 of H.R. 5407 is the same as the Senate provision.)

The Conference substitute adopts the Senate provision. (Sec. 302.)

(b) Prohibition of recombination of dockage and foreign material

The Senate amendment will add a new provision to the Grain Standards Act, effective May 1, 1987, to prohibit (1) the recombination of dockage or foreign material, as defined by the Secretary of Agriculture, with grain, and (2) the addition of dockage or foreign material to grain. The Senate amendment also will require the Secretary of Agriculture to conduct a study to determine the appropriate levels of dust in grain to be exported. Based on the results of such study, the Secretary would have to establish a maximum tolerance for dust in grain to be exported and issue regulations applicable to the recombination of dust with grain. (Sec. 703.)

The House bill contains no comparable provision. (NOTE.—Section 3 of H.R. 5407 contains the same provisions as the Senate amendment relating to the new prohibitions, except that it also will specifically prohibit the recombination of dust with grain. It contains no provision relating to a study of dust in export grain.)

The Conference substitute adopts the Senate provision with an amendment deleting the study of dust levels and the provision requiring the Secretary to set a maximum tolerance for dust in grain to be exported. (Sec. 303.)

(c) Exceptions

The Senate amendment provides that the prohibition against recombination or addition of dockage of foreign material will not apply to—

(1) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(2) the marketing, domestically or for export, of dockage or foreign material removed from grain when such dockage or foreign material is marketed (A) separately and uncombined with whole grain or (B) in pelletized form or as a part of a processed ration for livestock, poultry, or fish;

(3) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(4) the recombination of broken corn or broken kernels, as defined by the Administrator of the Federal Grain Inspection Service, with grain of the type from which the broken corn or broken kernels were derived;

(5) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, removed at an export loading facility from grain destined for shipment as a cargo under one export inspection certificate when (A) the recombination occurs during the loading of the cargo, (B) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo, and (C) the separation and recombination are conducted in accordance with regulations issued by the Administrator; and

(6) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material in an amount necessary to facilitate identification of ownership or origin of a particular lot of grain.

Further, the Secretary of Agriculture would be permitted to exempt from the prohibitions, by regulation, the last handling of grain in the final sale and shipment of grain to a domestic user or processor when the exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public. Grain sold under such an exemption must be consumed or processed into one or more products by the purchaser and could not be resold into commercial channels for grain or blended with other grain for resale. Also, products or byproducts derived from such grain could not be blended with or added to grain in commercial channels. (Sec. 703.)

The House bill contains no comparable provision. (NOTE.—Section 3 of H.R. 5407 contains the same provisions as the Senate amendment, except that—

(1) with respect to the exception for export cargoes described in clause (5) of the analysis of the Senate provision, H.R. 5407 would not extend the exception to the recombination of dust, once it is removed from grain;

(2) H.R. 5407 contains an exception to the prohibitions in addition to the six listed in the analysis of the Senate provision, as follows: Any other addition of any foreign material determined by the Secretary to be in the interest of grain producers and to be neutral or constructive in achieving the goal of ensuring the quality of grain marketed in or exported from the United States;

(3) under H.R. 5407, the exemption of the last handling of grain from the prohibitions would expire December 31, 1987; and

(4) also with respect to the last handling of grain, the byproducts exception to the exemption (which will prohibit the blending, with grain, of products or byproducts derived from grain after it is last handled) would be made subject to the provision in H.R. 5407—but not in the Senate amendment—described in clause (2) above, that gives the Secretary authority to provide other exemptions from the prohibitions.)

The Conference substitute adopts the Senate provision with amendments—

(1) adding the words "except dust" to the provision providing that, effective only for the period ending December 31, 1987, the prohibition against the recombination of dockage or foreign material will not apply if the dockage or foreign material is removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection and the recombination is carried out subject to the restrictions in the Senate amendment; and

(2) authorizing the blending of vegetable oils with grain that is in commercial channels for the purpose of suppressing grain dust. (Sec. 303.)

(d) Insect infestation

The Senate amendment will require the Administrator of the Federal Grain Inspection Service, not later than 6 months after the bill is enacted, to issue a final rule that revises grain inspection procedures and standards under the United States Grain Standards Act to more accurately reflect levels of insect infestation. (Sec. 704.)

The House bill contains no comparable provision. (NOTE.—Section 5 of H.R. 5407 is the same as the Senate provision.)

The Conference substitute adopts the Senate provision. (Sec. 304.)

(e) Grain premium study

The Senate amendment will require the Secretary of Agriculture, in consultation with farmers and members of the grain industry, to make a study of the feasibility of adjusting the Commodity Credit Corporation grain premium and discount schedules to encourage the delivery, storage, and export of high quality grain. The results of the study would have to be reported to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 180 days after the enactment of the bill. (Sec. 705.)

The House bill contains no comparable provision. (NOTE.—Section 6 of H.R. 5407 is the same as the Senate provision.)

The Conference substitute adopts the Senate provision. (Sec. 305.)

(f) Grain grading proposal

The Senate amendment will require the Secretary of Agriculture to publish and seek public comment on proposals contained in a pending House bill, H.R. 5354, the Optimal Grain Grading Act of 1986. The Administrator of the Federal Grain Inspection Service would be required to report to Congress, by May 1, 1987, on comments received and his recommendations with respect to the matters on which comments were solicited. (Sec. 706.)

The House bill contains no comparable provision. (NOTE.—Section 7 of H.R. 5407 is the same as the Senate provision.)

The Conference substitute adopts the Senate provision. (Sec. 306.)

(g) Uniform end-use value tests

The Senate amendment will direct the Department of Agriculture to study the need for and availability of uniform end-use tests for grain. Where tests are found to be useful, available, and economically feasible,

the Federal Grain Inspection Service would be directed to adopt them as far as practicable. The Administrator of the Federal Grain Inspection Service will have to submit a report to Congress, not later than 1 year after the date of enactment of the bill, setting forth the results of the study and actions taken by the Service to adopt helpful end-use tests. Further, the Secretary would report annually to Congress on his ongoing review of end-use tests. (Sec. 707.)

The House bill contains no comparable provision. (NOTE.—Section 8 of H.R. 5407 is the same as the Senate amendment.)

The Conference substitute adopts the Senate provision. (Sec. 307.)

TITLE IV—FEDERAL MEAT INSPECTION

(17) FEDERAL MEAT INSPECTION

Title VI of the Senate amendment contains provisions that may be cited as the "Processed Products Inspection Improvement Act of 1986."

The House bill contains no provisions comparable to title VI of the Senate amendment.

(a) Findings

The Senate amendment provides that the amendments made by title VI to the Federal Meat Inspection Act ("the Act") are in furtherance of the findings in section 2 of the Act. (NOTE.—The findings in section 2 of the Act include statements that meat and meat food products are important sources of the Nation's total supply of food; it is essential and in the public interest that consumers be assured of wholesome meat and food products; articles regulated under the Act are in or affect interstate commerce; and regulation under the Act is appropriate to prevent burdens on interstate commerce and protect consumers.) (Sec. 602)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 402).

(b) Examination and inspection

The Senate amendment amends section 6 of the Act to require the Secretary of Agriculture to cause to be made, by inspectors appointed for that purpose, in examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment. (NOTE.—Current law requires the Secretary to cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment.)

The Senate amendment also adds a new provision to section 6 of the Act to require that the examination and inspection be conducted with the frequency and in the manner as the Secretary deems necessary and provides in rules and regulations, taking into account factors that the Secretary deems appropriate, including the—

(1) nature and frequency of processing operations at the establishment;

(2) adequacy and reliability of processing controls and sanitary procedures at the establishment; and

(3) history of compliance with inspection requirements under the Act by operator or anyone responsibly connected with the business (as described in subsection (g) of section 401 of the Act) that operates the establishment. (NOTE.—The Senate amendment will designate the third sentence of current section 401 as subsection (g) thereof. That sentence provides that a person is deemed to be responsibly connected with a business if he is a partner, officer, director, holder, or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.) (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(c) Inspection

The Senate amendment modifies section 6 of the Act to provide that all products found by the inspectors, if any, and by the operator of the establishment not to be adulterated must be marked, stamped, tagged, or labeled as "inspected and passed"; and all products found by any inspector or the operator to be adulterated must be marked, stamped, tagged, or labeled as "inspected and condemned". All condemned products must be destroyed for human food purposes. The Secretary can suspend inspection at, and thereby remove inspectors from, any establishment that fails to condemn adulterated meat food products or fails to destroy condemned meat food products. For purposes of any examinaton and inspection, inspectors must have access to every part of an establishment at all times, by day or night, and without regard to whether the establishment is operated. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(d) Technical amendments

The Senate amendment makes technical amendments to section 401 of the Act to designate subsections and conform its provisions to the amendments in the Senate amendment. The first sentence of section 401 would be designated as subsection (a), the second and third sentences as subsections (f) and (g), and the fourth and fifth sentences as subsection (h). The provisions of the fourth and fifth sentences (finality of determinations and review) would be made to apply to new subsection (e), to be added.

The Senate amendment also amends section 401 of the Act by adding new subsections (b), (c), (d), and (e). (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(e) Consequences of felony conviction

The Senate amendment amends section 401 of the Act to add a new subsection (b) providing that, on the request of the Secretary at the time of sentencing of an individual who is responsibly connected with any business requiring inspection under title I of the Act and who is convicted of a felony involving—

(1) the intentional adulteration of food (except as defined in section 1(m)(8) of the Act;

(2) the adulteration of food, as defined in section 1(n)(8) of the Act, with intent to defraud;

(3) bribery; or

(4) extortion;

the sentencing court must issue a temporary order forbidding the individual to exercise operational control of, or to be physically present at, any establishment requiring inspection under title I, if the court finds that the exercise of operational control by, or the presence of, the individual at the establishment poses a direct and substantial threat to the public health or safety or, if the individual is convicted of a felony for the adulteration of food (as defined in section 1(m)(8) of the Act) with the intent to defraud, poses a clear likelihood of significant economic harm to consumers. (Sec. 603.)

(NOTE.—Section 1(n)(8) of the Act currently provides that the term "adulterated" will apply to any carcass, part thereof, meat or meat food product if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefore; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(f) Time limitation on temporary order

The Senate amendment provides that the order must terminate on the earlier of (1) the point at which the Secretary determines by order, after a hearing on the record, whether the individual should exercise operational control of, or be physically present at, any establishment requiring inspection under title I of the Act, and judicial review, if any, of the determination is completed; or (2) 90 days after the issuance of the temporary order by the court if the Secretary does not commence a hearing on the determination within 90 days. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(g) Petition for review

The Senate amendment amends section 401 of the Act to add a new subsection (c) providing that any determination and order of the Secretary issued under subsection (a) (existing law) or (b) (described above) will be conclusive and enforceable unless the affected applicant for, or recipient of, inspection service or the affected individual files, not later than 30 days after the effective date of the order, a petition for the review of the order in the United States Court of Appeals for the District of Columbia, or in the court of appeals for the circuit where the relevant establishment is doing business. Judicial review of the order must be on the record on which the determination and order are based. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(h) Civil actions

The Senate amendment amends section 401 of the Act to add a new subsection (d) enabling the Secretary to seek court orders against persons and establishments, in addition to taking direct action against establishments under subsection (a) or against persons convicted of certain felonies under subsection (b). Subject to the limitation described below, the Secretary may commence a civil action in an appropriate court, as provided in section 404 of the Act, to withdraw inspection service under title I with respect to any establishment or to prevent any individual responsibly connected with any business requiring inspection under title I from exercising operational control of, or being present at, any establishment requiring inspection under title I.

The Senate amendment provides that if the court finds, on the basis of clear and convincing evidence, that the recipient of inspection service or the individual connected with the recipient has repeatedly failed to comply with the requirements of the Act, or the regulations thereunder, in a manner that poses a direct and substantial threat to the public health or safety, the court must issue an order withdrawing inspection at the establishment or forbidding the individual to exercise operational control of, or to be physically present at, the establishment, as petitioned for under the provision described above, for a period that the court deems necessary to carry out the purposes of the Act.

The Senate amendment provides that not less than 90 days, and not more than 450 days, before commencing the civil action described above, the Secretary must give to each recipient of inspection service, and each individual responsible connected with the business, with respect to which such action is commenced, a written notice that includes a statement that the Secretary intends to commence the action, a comprehensive description of the violations of the Act and the regulations thereunder alleged by the Secretary, and description of the actions the Secretary considers necessary to be taken by such recipient or individuals to comply with the Act to eliminate the need to commence the civil action. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

The conferees note that this provision constitutes extraordinary authority to withdraw inspection or to suspend a responsibly connected individual and should be sought and granted only when it is warranted. What constitutes a direct and substantial threat is a factual question to be addressed on a case-by-case basis by a Federal district court.

In a proceeding filed under this provision, the conferees intend that the Secretary would have the burden of establishing, by clear and convincing evidence, both that the establishment or individual has repeatedly failed to comply with the Act and that the past noncompliance and likelihood of future noncompliance pose a direct and substantial threat to the public health. Regarding whether or not the conduct is repeated, attention should be given not only to the number of times the alleged violation has occurred, but also the amount of time between violations and whether there has been a substantial improvement in compliance prior to commencement of the action. Regarding whether the noncompliance poses a direct threat to the public health, the focus should be on whether there is a risk to public health that would directly flow from the alleged violation.

This provision also specifies that withdrawal or suspension should be for the period necessary to protect the public health. The conferees intend that the exact period of time be substantially a question within the discretion of the district court.

(i) Withdrawal of inspection service

The Senate amendment adds a new subsection (e) to section 401 providing that the Secretary may temporarily withdraw inspection service under title I of the Act with respect to any establishment for a period necessary to ensure the safe and effective performance of official duties under the Act if the Secretary determines, after an opportunity for a hearing on the record, that an officer, employee, or agent of the establishment threatened to forcibly assault, forcibly assaulted, forcibly intimidated, or forcibly interfered with an employee of the United States engaged in, or on account of, the performance of any official duty. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision (Sec. 403.)

(j) Temporary suspension

The Senate amendment provides that the Secretary may temporarily suspend inspection service under title I with respect to any establishment, pending an expedited administrative hearing on the record and judicial review of the order of the Secretary based on the record, if the Secretary determines that temporary suspension of inspection service is necessary for the safety of any employee who performs official duties under the Act. If the Secretary receives, before or after temporarily suspending such inspection service, adequate written assurances from the recipient of inspection service, or the individuals involved, that the conduct or circumstances that threatened the safety of the employee will not continue or recur, the Secretary may continue or restore inspection service on the condition that the assurances are fulfilled. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(k) Secretarial discretion

The Senate amendment amends subsection (b) of section 406 of the Act by adding a new provision to specify that, in determining whether the public interest could be adequately served by a written notice of warning (in lieu of criminal prosecution under subsection (a) of section 406), the Secretary must take into account, among other factors—

(1) the compliance history of the establishment;

(2) the magnitude of the violation;

(3) whether compliance with the Act likely would be obtained as a result of the notice; and

(4) whether the violation is of a minor or technical nature. (Sec. 603.)

(NOTE.—Currently, subsection (b) states that nothing in the Act can be construed as requiring the Secretary to report for prosecution or for the institution of libel or injunction proceedings, minor violations of the Act whenever the Secretary believes that the public interest will be adequately served by a suitable written notice of warning.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(l) Notice

The Senate amendment amends section 406 of the Act by adding a new subsection (c) to provide that, unless the Secretary by regulation provides otherwise, before any violation of the Act is reported by the Secretary for criminal prosecution, the Secretary must give the person alleged to have committed the violation reasonable notice that the Secretary intends to report such violation for prosecution, and an opportunity to present to the Secretary, orally or in writing, views with respect to the proceeding. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 403.)

(m) Conforming amendments

The Senate amendment makes conforming amendments to sections 9 and 21 of the Act, and provides that the amendments to the Act made by the Senate amendment will not be construed to authorize the Secretary of Agriculture to refuse to provide inspection under the Act at an establishment solely because the establishment does not participate in a total plant quality-control program. (Sec. 603.)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 403.)

(n) Sunset

The Senate amendment, effective 6 years after the date of enactment of the bill, amends sections 6, 9, 21, 401, and 406 of the Act to read, respectively, as the sections read immediately before the date of enactment of the bill. The effect of the provision is to "sunset" the amendments to the Act to be made by the bill in 6 years.

The Senate amendment contains a savings provision that states that the sunset provisions will not have the effect of releasing and penalty, forfeiture, or liability incurred under the Act, as amended, or regulations issued thereunder. (Sec. 604.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision making the amendments to sections 6, 9, 21, 401, and 406 effective for 6 years. (Secs. 403, 404.)

(o) Detection of residues

The Senate amendment provides that it is the sense of Congress that the Secretary of Agriculture should carry out a program to detect residues in livestock that are subject to inspection under title I of the Act, and evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under title I to identify the producer of the livestock. (Sec. 605.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 405.)

(p) Report to Congress

The Senate amendment provides that, not later than 1 year after the date of the enactment of the bill and annually thereafter, the Secretary of Agriculture must submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a report describing any action proposed or taken by the Secretary—

(1) to implement the amendments made by title VI;

(2) to carry out a program to detect residues in livestock that are subject to inspection under title I of the Act;

(3) to evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under title I in order to identify the producer of the livestock; and

(4) regarding personnel, as a result of the amendments made by title VI, plus any effort made by the Secretary to minimize any adverse economic effect of the amendments on employees of the Department of Agriculture. (Sec. 605.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision (Sec. 406.)

(q) Congressional evaluation

The Senate amendment requires Congress, not later than 6 years after the date of enactment of the bill, to evaluate the operation and effects of the amendments to the Act made by title VI, for the purpose of determining whether to extend or modify the operation of the amendments, and enact legislation necessary to efficiently and effectively carry out the Act. (Sec. 607.)

The House bill contains no comparable provision.

The Conference substitute incorporates the substantive points of the Senate provision. (Sec. 407.)

(r) Effective date

The Senate amendment provides that, except as specifically provided, the amendment to the Act made by title VI will take effect on the date of enactment of the bill. The Senate amendment provides that section 6, 9, and 21 of the Act, as in effect immediately before the date of enactment of the bill, will apply with respect to establishments until the Secretary first issues regulations as provided in the amendment made by section 603. (Sec. 608.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision. (Sec. 408.)

E. DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
CHARLES W. STENHOLM,
ROBIN TALLON,
E. THOMAS COLEMAN,
BILL EMERSON,

Additional conferees only for consideration of sections 407 and 501 of the Senate amendment:

JERRY HUCKABY,
ARLAN STANGELAND,

Additional conferees only for the consideration of section 407 of the Senate amendment:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
ED JENKINS,
RICHARD A. GEPHARDT,
JOHN J. DUNCAN,
PHILIP M. CRANE,
BILL FRENZEL,

Additional conferees only for consideration of section 503 of the Senate amendment:

CHARLIE ROSE,

Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
PETE WILSON,
EDWARD ZORINSKY,
JOHN MELCHER,
DAVID BOREN,
HOWELL HEFLIN,

Managers on the Part of the Senate.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 4899, PATENT EQUITY ACT

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4899) to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out all including line 1 over to and including line 25 on page 4 and insert:

TITLE 1—PATENTED PROCESSES

SEC. 101. This title may be cited as the "Process Patent Amendments Act of 1986."

SEC. 102. (a) Section 154 of title 35, United States Code, is amended by inserting after "United States," the following: "and, if the invention is a process, of the right to exclude others, to the extent provided in section 271(a)(2), from using or selling products produced thereby throughout the United States, or importing products produced thereby into the United States,".

(b) Section 271 of title 35, United States Code, is amended by—

(1) inserting "(1)" after "(a)";

(2) adding at the end of subsection (a), the following:

"(2) If the patented invention is a process, whoever without authority uses or sells within, or imports into, the United States during the term of the patent therefor a product produced by such process, infringes the patent. A product will no longer be considered to have been produced by a patented process once it has been materially changed by subsequent steps or processes.".

(c) Section 287 of title 35, United States Code, is amended by—

(1) striking out "Limitation on damages" in the section heading and inserting in lieu thereof

"Limitation on damages and other remedies";

(2) inserting "(a)" before "Patentees,"; and

(3) adding at the end thereof the following new subsection:

"(b)(1) An infringer under section 271(a)(2) shall be subject to all of the provisions relating to damages and injunctions set forth in this title except to the extent that those remedies are limited by this subsection or section 3. The limitations or remedies set forth in this subsection shall not be available to any party who—

"(A) engaged in the actual practice of the patented process;

"(B) is owned or controlled by the party who engaged in the actual practice of the patented process;

"(C) owns or controls the party who engaged in the actual practice of the patented process;

"(D) having made a request for disclosure as provided in subsection (b)(5), fails to notify its supplier of patents identified in response to the request and to instruct its supplier to refrain from infringement of such patents; or

"(E) had knowledge prior to the infringement that a patented process was used to produce the product whose importation, use, or sale constituted the infringement.

"(2) No damages shall be recovered by the patentee unless the infringer had notice of the infringement and continued to infringe thereafter. Damages may be recovered only for infringement that occurred after notice of infringement.

"(3) No remedy may be obtained during the eighteen months after the date of notice for retail sales of a normal volume of products in inventory or on order at the time of notice, obtained from a party in the United States who did not use the patented process, provided the retailer discloses to the patentee, within 30 days from notice, the identity and location of the party from whom the products were purchased. Normal quantity of products in inventory and on order shall be determined by previous business practices, and could include units of a product ordered prior to notice and received within a period not to exceed eighteen months after notice.

"(4) The remedy for the importation, use, or sale of units of the infringing product ordered prior to notice and imported, used, or sold in a manner consistent with the normal business practices of the infringer during the six months after the date of notice shall be limited to a reasonable royalty. The limitation in this subparagraph shall not be available to any party who failed to make a request for disclosure, as defined in subparagraph (5), of the party asserting infringement or its licensee.

"(5)(A) For purposes of this paragraph, a 'request for disclosure' means a written request made to a party then engaged in the manufacture of a product to identify all process patents owned or licensed to that party as of the time of the request that could reasonably be asserted to be infringed under section 271(a)(2) if that product were imported into, or sold or used in, the United States by an unauthorized party. A request for disclosure is further limited to a request—

"(i) made by a party regularly engaged in the sale of the same type of products as the party to whom the request is directed, or a request which includes facts showing that the requester plans to engage in the sale of such products; and

"(ii) made prior to such party's first importation, use, or sale of units of the product produced by an infringing process and prior to notice of infringement.

"(B) In any action where the infringer made a request for disclosure from the party asserting infringement and the infringed patent was not identified within 60 days, the remedy for the importation, use, or sale of units of the infringing product which are imported, used, or sold by the infringer in a manner consistent with the normal business practices of the infringer during the eighteen months after the date of notice shall be limited to a reasonable royalty.

"(C) For the purposes of the limitations on remedies in this subsection—

"(i) no party may make more than one request for disclosure of the same party for the identification of process patents for producing a particular product; and

"(ii) no party who had received the benefit of the limitations of this paragraph or paragraph (4) with respect to the infringement of one process patent shall be entitled to that benefit in the event of a subsequent infringement of any process patent for producing the same product owned by the same patentholder at the time of the first infringement.

"(6) For the purposes of the remedy limitations in subsection (b), notice of infringement means actual knowledge, or receipt of notification, that a product was produced by a patented process without authorization of the patentee. A notification shall constitute notice of infringement only if it is in writing and sets forth facts which are sufficient to establish that there is a substantial likelihood that the product was made by the infringing process. Filing an action for infringement shall constitute notice of in-

fringement only if the pleadings or other papers filed in the action meet the requirements of a notification.".

(d) The table of sections for chapter 29 of title 35, United States Code, is amended by amending the item relating to section 287 to read as follows:

"287. Limitations on damages and other remedies; marking and notice.".

SEC. 103. (a) This title and the amendments made by this title shall apply only to products produced or imported after the date of enactment, and shall not abridge or affect the right of any persons or their successors in business to continue to use, sell or import any specific product already in substantial and continuous sale or use in the United States on July 1, 1986, or for which substantial preparation for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date.

(b) This title and the amendments made by this title shall not deprive a 'patent' owner of any other remedies available under section 271 of title 35, United States Code, section 337 of the Tariff Act of 1930, or any other provision of law.

SEC. 104. Beginning on the date one year after the date of enactment of this title and each year for 4 additional years thereafter, the Department of Commerce shall submit an annual report to the Congress on the effect of this title and the amendments made by this title, on the importation of ingredients to be used for manufacturing products in the United States in those domestic industries that submit formal complaints to the Department alleging that their legitimate sources of supply have been adversely affected.

SEC. 105. (a) Chapter 29 of title 35, United States Code, is amended by adding at the end thereof the following:

"§ 295. Presumption: product produced by patented process

"In actions alleging infringement of a process patent based on use, sale, or importation of a product produced by the patented process, if the court finds (1) that a substantial likelihood exists that the product was produced by the patented process and (2) that the claimant has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine, the product shall be presumed to have been so produced, and the burden of establishing that the product was not produced by the process shall be on the party asserting that it was not so produced.".

(b) The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

"295. Presumption: product produced by patented process.".

□ 1630

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CRIMINAL JUSTICE ACT REVISION OF 1985

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3004) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Criminal Justice Act Revision of 1986".

SEC. 2. (a) Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5, on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate

defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b)(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 3. Section 223(e) of the Comprehensive Crime Control Act of 1984, title II, Public Law 98-473, 98 Stat. 1837, October 12, 1984, is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by deleting 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by deleting subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by deleting 'petty offense' and substituting 'Class B or C misdemeanor, or an infraction'.".

SEC. 4. Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, where the payment of such fees and mileage is to be made by the United States marshal under this section.".

SEC. 5. This Act and the amendments made by sections 2, 3, and 4 of this Act shall take effect 120 days after the date of enactment. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 2(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this Act. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 2(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for services performed on or after the effective date of this Act. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 2(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this Act.

SEC. 6. Section 631(d) of title 28, United States Code, is amended by—

(1) striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title (allowing retired magistrates to be recalled to serve), no";

(2) striking out "unanimous" and inserting in lieu thereof "majority"; and

(3) inserting after "courts," the following: "taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

SEC. 7. Section 636 of title 28, United States Code, is amended by adding at the end thereof the following:

"(h) A United States magistrate who has retired may, upon consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the conference, subject to the restrictions on the payment of an annuity in subchapter III of chapter 83 or chapter 84 of title 5. The qualification requirements of subsections (a), (b), and (d) of section 631 shall not apply to the recall of a retired magistrate.".

SEC. 8. Section 633(b) of title 28, United States Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 9. Section 8331 of title 5, United States Code is amended by—

(1) redesignating subparagraphs (A) and (B) of paragraph 22 thereof as items (i) and (ii);

(2) adding immediately after the word "individual" in paragraph 22 the following: "(A) who is";

(3) adding at the end of item (i), as so redesignated, the following: "or";

(4) redesignating subparagraph (C) of paragraph 22 as subparagraph (B);

(5) striking out "and" at the end of paragraph (23);

(6) striking out the period at the end of paragraph (24) and inserting in lieu thereof a semicolon; and

(7) adding at the end thereof the following new paragraphs:

"(25) 'magistrate' or 'United States magistrate' means an individual appointed under section 631 of title 28; and

"(26) 'Claims Court judge' or 'judge of the United States Claims Court' means an individual appointed under section 171 of title 28 or serving under section 167 of Public Law 97-164, 96 Stat. 50.".

SEC. 10. (a) Section 8334(a)(1) of title 5, United States Code, is amended by inserting after "Member", the following: ", a United States magistrate, a judge of the United States Claims Court,".

(b) Section 8334(c) of title 5, United States Code, is amended by inserting at the end of the table thereof the following:

"United States magistrate or judge of the United States Claims Court.	2½.....	August 1, 1920, to June 30, 1926.
	3½.....	
	5.....	July 1, 1926, to June 30, 1942.
	6.....	
	6½.....	July 1, 1942, to June 30, 1948.
	7.....	
	8.....	July 1, 1948, to October 31, 1956.
		November 1, 1956, to December 31, 1969.
		January 1, 1970, to December 31, 1986.
		After December 31, 1986.".

SEC. 11. Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge, magistrate, or judge of the United States Claims Court who is separated from the service, except by removal, after becoming sixty-two years of age and completing five years of civilian service or after becoming sixty years of age and completing ten years of service as a bankruptcy judge, magistrate, or judge of the United States Claims Court is entitled to an annuity.".

SEC. 12. Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a United States bankruptcy judge, a United States magistrate, or a judge of the United States Claims Court is computed with respect to service as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, as a United States commissioner, as a judge of the United States Claims Court, and as a commissioner of the Court of Claims and military service (not exceeding five years) creditable under section 8332 of this title by multiplying 2½ percent of his average annual pay by the years of that service.".

SEC. 13. Chapter 84 of title 5, United States Code, as added by section 101 of the Federal Employees' Retirement System Act of 1986 (Public Law No. 99-335; 100 Stat. 514) is amended—

(1) in section 8401, by—

(A) striking out "and" at the end of paragraph (30);

(B) striking out the period at the end of paragraph 31 and inserting a semicolon in lieu thereof; and

(C) adding at the end thereof the following new paragraphs:

"(32) the terms 'bankruptcy judge' and 'United States bankruptcy judge' mean an individual appointed under section 152 of title 28;

"(33) the terms 'magistrate' and 'United States magistrate' mean an individual appointed under section 631 of title 28; and

"(34) the terms 'Claims Court judge' and 'judge of the United States Claims Court' mean an individual appointed under section 171 of title 28.";

(2) in section 8412(f), by adding immediately after the word "Member" the following: ", magistrate, bankruptcy judge, or judge of the United States Claims Court";

(3) in section 8415(b), by—

(A) designating the existing text thereof as paragraph (1); and

(B) adding at the end thereof the following new paragraph:

"(2) The annuity of a United States magistrate, a United States bankruptcy judge, or a judge of the United States Claims Court retiring under this subchapter is computed under subsection (a), except that if the individual has had at least 5 years of service as a magistrate, bankruptcy judge, or judge of the United States Claims Court, or any combination thereof, so much of the annuity as is computed with respect to such type of service (or a combination thereof), not exceeding a total of 20 years, shall be computed by multiplying 1⅞₀ percent of the individual's average pay by the years of such service."; and

(4) in section 8422(a)(2), by adding immediately after "air traffic controller," each time it appears the following: "United States magistrate, United States bankruptcy judge, judge of the United States Claims Court,".

SEC. 14. (a) Chapter 17 of title 28, United States Code, is amended by adding, immediately after section 374 thereof the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A United States bankruptcy judge appointed under chapter 6 of this title, a judge of the United States Claims Court appointed under chapter 7 of this title or a United States magistrate appointed under chapter 43 of this title who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title may agree to be recalled to serve under this section during the next five years, upon certification that substantial service is expected to be performed during such five-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive five-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made by—

"(A) The judicial council of the circuit in which the judge's or magistrate's official duty station at the time of retirement was located, in the case of a United States bankruptcy judge or a United States magistrate; and

"(B) The Chief Judge of the United States Claims Court, in the case of a judge of that court.

"(b) A judge or magistrate recalled under this section may exercise all the powers and duties of the office held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the time that a certification under subsection (a) of this section is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which recalled.

"(d) Nothing in this section shall affect the right of judges and magistrates to whom it applies and who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as re-employed annuitants in accordance with the provisions of title 5 or any other provision of law.

"(e) For purposes of determining the eligibility for recall under this section, any service as a United States bankruptcy judge, a judge of the United States Claims Court or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner may be credited.

"(f) Except as otherwise specifically provided in this section, a judge or magistrate recalled under this section shall be deemed a reemployed annuitant under chapter 83 or chapter 84 of title 5.

"(g) The Judicial Conference of the United States may promulgate rules and regulations to implement this section.".

(b) The item relating to section 375 in the sectional analysis of chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 15. Section 374 of title 28, United States Code, is amended by adding, immediately after the words "a retired judge", the following: "or a judge or magistrate recalled under section 155, 375, 636, or 797 of this title".

SEC. 16. (a) Section 155(b) of title 28, United States Code is amended by inserting immediately after the words "chapter 83" the words "or chapter 84".

(b) Section 797(a) of title 28, United States Code, is amended by inserting immediately after the words "chapter 83" the words "or chapter 84".

SEC. 17. Section 6 to 16 and the amendments made by section 6 to 16 of this Act shall take effect on the date of enactment.

House amendment to the Senate Amendment: Strike the matter proposed to be inserted by the Senate amendment and insert the following:

TITLE I—CRIMINAL JUSTICE ACT REVISION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Criminal Justice Act Revision of 1986".

SEC. 102. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) In Geneva—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following—"in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following.

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "person".

(3)(A) Subsection (d)(1) is amended by striking out "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the precedng sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph Attorneys."

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000"; and

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRICE REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following.

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) ADDITIONAL AMENDMENTS.—(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (l), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 103. TECHNICAL AMENDMENTS.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (l) by striking out subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction'.".

SEC. 104. WITNESS FEES.

Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceeding before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceeding in forms pauperis for a writ of habeas corpus, and in proceedings in forms pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forms pauperis,

except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceeding in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section".

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 120 days after the date of enactment of this Act. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 102(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this title. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 102(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for services performed on or after the effective date of this title. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 102(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this title.

TITLE II—RECALL AND ANNUITIES OF CERTAIN JUDICIAL OFFICERS

SEC. 201. RECALL OF CERTAIN RETIRED JUDICIAL OFFICERS.

(a) MAGISTRATES.—(1) Section 631(d) of title 28, United States Code, is amended—

(A) by striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title, no";

(B) by striking out " the unanimous" and inserting in lieu thereof "a majority"; and

(C) by inserting after "courts," the following: "which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

(2) Section 636 of title 38, United States Code, is amended by adding at the end the following:

"(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in subchapter III of chapter 83, and chapter 84, of title 5. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.".

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—(1) Chapter 17 of title 28, United States Code, is amended by inserting after section 374 the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive 5-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made—

"(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

"(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.

"(3) For purposes of this section—

"(A) the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

"(B) the term 'judge of the Claims Court' means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.

"(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate is recalled.

"(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

"(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges and magistrates who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate.

"(f) For purposes of determining the years of service requirements in order to be eligible for recall under this section, any service as a bankruptcy judge, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner, may be credited.

"(g) Except as provided in subsection (c), a judge or magistrate recalled under this section shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

"(h) The Judicial Conference of the United States may promulgate regulations to implement this section.".

(2) The item relating to section 375 in the table of sections for chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 202. RETIREMENT ANNUITIES.

Subchapter III of chapter 83 of title 5, United States Code, is amended as follows:

(1) DEFINITIONS.—Section 8331 is amended—

(A) by amending paragraph (22) to read as follows:

"(22) 'bankruptcy judge' means an individual—

"(A) who is appointed under section 34 of the Bankruptcy Act (11 U.S.C. 62) or under section 404(d) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), and—

"(i) who is serving as a United States bankruptcy judge on March 31, 1984; or

"(ii) whose service as a United States bankruptcy judge at any time in the period beginning on October 1, 1979, and ending on July 10, 1984, is terminated by reason of death or disability; or

"(B) who is appointed as a bankruptcy judge under section 152 of title 28;";

(B) by striking out "and" at the end of paragraph (23);

(C) by striking out the period at the end of paragraph (24) and inserting in lieu thereof a semicolon; and

(D) by adding at the end the following new paragraphs:

"(25) 'magistrate' or 'United States magistrate' means an individual appointed under section 631 of title 28; and

"(26) 'judge of the United States Claims Court' means an individual who is appointed under section 171 of title 28 or who has served under section 167 of the Federal Courts Improvement Act of 1982 (28 U.S.C. 171 note).".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 is amended—

(A) in subsection (a)(1)—

(i) by striking out "and" after "Member" and inserting in lieu thereof ", a United States magistrate, a judge of the United States Claims Court,"; and

(ii) by inserting a comma after "Military Appeals"; and

(B) in subsection (c) by inserting at the end of the table the following:

"United States magistrate or judge of the United States Claims Court:	
2½	August 1, 1920, to June 30, 1926.
3½	July 1, 1926, to June 30, 1942.
5	July 1, 1942, to June 30, 1948.
6	July 1, 1948, to October 31, 1956.
6½	November 1, 1956, to December 31, 1969.
7	January 1, 1970, to December 31, 1986.
8	After December 31, 1986.".

(3) IMMEDIATE RETIRMENT.—Section 8336(k) is amended to read as follows:

"(k) A bankruptcy judge, United States magistrate, or judge of the United States Claims Court, who is separated from service, except by removal, after becoming sixty-two years of age and completing five years of civilian service, or after becoming sixty years of age and completing ten years of service, as a bankruptcy judge, United States magistrate, or judge of the United States Claims Court, is entitled to an annuity.".

(4) COMPUTATION OF ANNUITY.—Section 8339(n) is amended to read as follows:

"(n) The annuity of an employee who is a bankruptcy judge, a United States magistrate, or a judge of the United States Claims Court is computed, with respect to service as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, as a United States commissioner, as a judge of the United States Claims Court, and as a commissioner of the Court of Claims, and with respect to the military service of any such individual (not exceeding five years) creditable under section 8332 of this title, by multiplying 2½ percent of the individual's average annual pay by the years of that service.".

SEC. 203. TECHNICAL AMENDMENTS.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended by inserting ", and chapter 84," after "chapter 83".

(b) OFFICIAL DUTY STATION.—Section 374 of title 28, United States Code, is amended by adding at the end the following: "The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.".

(c) RECALL OF CLAIMS COURT JUDGES.—Section 797(a) of title 28, United States Code, is amended by inserting ", or chapter 84," after "chapter 83".

(d) CLERICAL AMENDMENT.—Section 633(b) of title 38, United States Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 204. EFFECTIVE DATE.

(a) IN GENERAL.—This title and the amendments made by this title take effect on January 1, 1987.

(b) PRIOR ANNUITIES NOT AFFECTED.—The amendments made by section 202 of this Act do not authorize the recomputation of any annuity commencing before the effective date of this title.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I want to ask the chairman of the subcommittee, does this bill contain the magistrate retirement provisions that it previously did?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of H.R. 3004, the "Criminal Justice Act Revision of 1986." The Criminal Justice Act (18 U.S.C. 3006A) provides for representation of criminal defendants, material witnesses, and others—including probationers and parolees—in Federal court proceedings, when the defendants and others cannot afford to pay for representation. I am pleased that the gentleman from California and ranking minority member of the subcommittee, Mr. MOORHEAD, has joined me in cosponsoring the legislation, which was introduced at the request of the Judicial Conference of the United States.

The legislation is primarily an updated version of H.R. 4307, the "Criminal Justice Act Revision of 1984," which was reported favorably by the Committee on the Judiciary (H. Rept. 98-764) and passed the House without objection on May 21, 1984. Although H.R. 4307 was not acted on by the other body during the 98th Congress, some revision of the Criminal Justice Act was contained in the Comprehensive Crime Control Act of 1984, Chapter XIX, Comprehensive Crime Control Act, Public Law 98-473, which doubled the hourly rates—to $40 for out-of-court representation and $60 for in-court representation—and increased the case maximum rates. Although the 1984 amendment was a step in the right direction, more comprehensive revision of the Criminal Justice Act is necessary. During this Congress, further modifications were incorporated into a new bill, H.R. 3004. H.R. 3004 was approved by the House Judiciary Committee on November 19, 1985, by voice vote without any objections. It passed this body on December 9, 1985, by suspension. H.R. 3004 was approved on October 6, 1986, by the other body with an amendment relating to the Criminal Justice Act and to the retirement and recall of certain judges and magistrates.

I think that the portion of the amendment of the other body relating to the Criminal Justice Act is reasonable although if we had more time we would have conferenced some of the differences. The Senate amendment retains current law authorizing hourly rates of up to $40—out of court—and $60—in court—for representation under the CJA Act. We would have had a single rate of $50 per hour. H.R. 3004 and the Senate amendment thereto allow payment up to $75 per hour if the Judicial Conference determines a higher rate is justified for a particular district or circuit. The Senate amendment has lower general case maximums than we did, but these maximums can be waived by the chief judge of the circuit or his delegate. The new general maximums would be $3,500 for a felony, $1,000 for a misdemeanor, $2,500 for appeals, and $750 for other cases. These are modest increases over current law. The Senate amendment makes other changes to the Criminal Justice Act but none are controversial, and many are technical changes suggested by the Judicial Conference.

The Criminal Justice Act legislation has wide support from the National Association of Former U.S. Attorneys, the American Bar Association, the National Legal Aid and Defender Association, and the Federal Public and Community Defenders, as well as from the Judicial Conference. I know of no opposition to H.R. 3004.

I urge my colleagues to concur in the Senate amendment with an amendment to H.R. 3004. The legislation will improve the criminal justice system.

RETIREMENT AND RECALL OF CERTAIN JUDGES AND MAGISTRATES

The Senate amendment to H.R. 3004 adds a provision relating to the retirement and recall of certain judges and magistrates. The Senate amendment to the House bill provides for the recall of U.S. magistrates who have retired. The ability of the courts to recall magistrates will provide additional flexibility for the courts to cope with increasing caseloads and will retain the wisdom and experience of these senior judicial officers in service to the courts. Similar authority already exists to recall bankruptcy judges and judges of the U.S. Claims Court.

The amendment also provides for an alternative system for the recall of magistrates, bankruptcy judges, and judges of the Claims Court. The nature of judicial service is not conveniently quantifiable in statistical terms such as hours on the bench or number of cases decided. Substantial service may be provided by presiding over long hearings such as were generated in the Continental Airlines bankruptcy case or by reviewing in chambers the records and briefs associated with numerous Social Security appeals. Current provisions for the recall of a retired bankruptcy judge or Claims Court judge, however, effectively require these officers to "punch a time clock" for the first time in their judicial careers. During the hours that the judge is working, the amount of the retirement annuity is deducted

71-059 O-87-32 (Pt. 21)

from the judge's pay, with the result that the judge provided full-time service for part-time pay. Moreover, there is no guarantee that a judge will be recalled for more than one assignment, creating uncertainty as to the amount of income the judge can anticipate. The result has been that judges tend to remain on the bench longer or leave to practice law and the pool of available "recalled" bankruptcy and Claims Court judges has been very limited.

The amendment improves the situation by providing an assured period of recall service for 5 years upon certification by the pertinent circuit judicial council, or the chief judge of the Claims Court, that "substantial service" will be performed during that period. During the 5 years, the judge or magistrate will receive the difference between the retirement annuity and the salary of the position as compensation for the services rendered and for forgoing the practice of law so as to remain available for assignments. The judge or magistrate will be available for service in any judicial district should there not be sufficient need in the district served while in active status. The Judicial Conference of the United States is authorized to promulgate regulations to implement this new system and safeguard against its abuse.

In conclusion, I would urge that this body concur in the Senate amendment with an amendment.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, H.R. 3004, with the Senate passed amendment covers two issues. One, is that it contains amendment to the Criminal Justice Act relating to fees for attorneys appointed by the court for defendants in criminal cases, and Two, retirement of U.S. magistrates and Court of Claims.

The House would have raised the hourly rate of compensation under the Criminal Justice Act from $40, out of court, and $60, in court, to a flat $50 with no distinction. This would have saved the court some paperwork and would have been fairer, in my opinion. The Senate amendment retains the current law with the $40/$60 distinction, but includes the House language allowing the Judicial Conference to determine what, if any, districts or circuits should have their hourly rate raised up to $75. Senate amendment is reasonable and will cost the taxpayer about $4.5 million less than the House bill would. I urge support for the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

ATTORNEYS AND THE FAIR DEBT COLLECTION PRACTICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on July 9, legislation repealing the attorney exemption to the Fair Debt Collection Practices Act became law. That legislation, which I introduced, requires that attorneys in the debt collection business comply with the law that protects consumers against abusive, deceptive, and unfair debt collection practices. The legislation was a direct response to the explosive growth in the number of law firms that had entered the debt collection business and were abusing the exemption the original Fair Debt Collection Practices Act provided. With the repeal of the exemption, attorneys in the debt collection business must comply with the act when they collect consumer debts.

The proliferation of attorney collectors has grown dramatically over the past several years, and an estimated 5,000 attorneys are now involved in debt collection. Repeal of the exemption was intended to place attorney collectors and lay collectors on an equal footing. It ensures that attorneys use fair debt collection tactics. It ensures that lay collectors, who are required by the act to refrain from using abusive tactics, are not competitively disadvantaged by the act.

Ethical attorneys need have no concerns about the impact of the act on their practice. The Fair Debt Collection Practices Act regulates debt collection, not the practice of law. Congress repealed the attorney exemption to the act, not because of attorney's conduct in the courtroom, but because of their conduct in the backroom. Only collection activities, not legal activities, are covered by the act.

Not all attorneys are covered by the act. It does not apply to the collection of commercial debts. It applies only to those attorneys whose business has the principal purpose of the collection of debts or who regularly collect or attempt to collect dues to third parties. Attorneys, like any other persons who only irregularly or occasionally collect debts, are not covered.

Some attorneys have claimed that the act will restrict their ability to practice law. Nothing could be further from the truth. The act applies to attorneys when they are collecting debts, not when they are performing tasks of a legal nature.

Suggestions that the repeal of the attorney exemption prohibits bringing legal action is an absurd reading of the act. The act only regulates the conduct of debt collectors, it does not prevent creditors, through their attorneys, from pursuing any legal remedies available to them.

Actions which can only be taken by those possessing a license to practice law are outside the scope of the act. The filing of a complaint is not covered by the act. Since it is not covered under the act, there is no requirement that attorneys include the notices required under section 809 of the act in legal filings. Further, there is no requirement that the attorney must provide verification of the debt as required under that section of the act in the context of legal proceedings. Since the attorney will be required to prove the validity of the debt as an element of the legal proceedings, there is no need to require additional validation.

Repeal of the attorney exemption does not infringe upon the practice of law by attorneys. It does assure that consumers are protected from unfair and unethical debt collection practices, regardless of the profession of the collector.

GORBACHEV ADDRESS CARRIED LIVE ON CABLE TV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I wanted to point out in all of the fallout—pardon the expression—from Iceland that, while Secretary Shultz was meeting in the Foreign Affairs Committee room with those Members who have an intense interest with this whole ongoing arms process, Mr. Gorbachev was speaking live for 1 hour, uninterrupted on the Soviet evening news. They do not have a 7 o'clock and an 11 o'clock news situation as we have in the United States; they have one major news program at 9 o'clock. So just as President Reagan spoke to us last night, General Secretary Gorbachev was speaking to his nation.

The unique facet of Mr. Gorbachev's 1-hour address giving a twisted, in my viewpoint, the Soviet view of what took place in Iceland was that it was carried in this country coast to coast live by Cable Network News.

Of course, nothing will be seen of Mr. Reagan in the Soviet Union giving his views of what transpired in Iceland. But here in the United States on the Eastern Seaboard from 2 to 3 o'clock, uninterrupted by one solitary commercial message, an instant simulcast of General Secretary Gorbachev talking though 11 time zones to the gigantic land mass of the Soviet nation, their 15 so-called republics, and talking at 11 o'clock in the morning California time, or 9 o'clock in the morning in Hawaii, to every single American who is wired to cable television.

I am not criticizing Cable Network News. I would not have it any other way. I actually had to tear myself

away from what Mr. Gorbachev was saying to go over and hear our Secretary of State talk to us Members of Congress in a private session in the Foreign Affairs Room.

But it just gives Americans a little different appreciation of what you can do in a closed society, the Soviet Union, and what can happen in the free world. By cable, I am sure Mr. Gorbachev's speech was available to Europe. Although they are about a decade behind us in sophistication of reaching out with political messages to all of their people or the carrying live gavel-to-gavel of both the Senate and the Congress of the United States to anyone who avails themself of wiring into a cable system, we are placed through our love of freedom and liberty at a disadvantage.

□ 1640

One other thing that I wanted to comment on here was that I was unable, because of Mr. Shultz' appearance, to help us in the Congress understand what was going on in Iceland. I had wanted to speak today toward the Korean War Memorial that I am happy to say was passed by voice vote in this House this afternoon.

This requires about $1 million of taxpayer money which the Vietnam Memorial did not. However, there has never been an example in this country of skipping over one conflict where 33,629 Americans gave the full devotion of their love of country. Dying from the freezing cold of the Chunchon Reservoir all the way down to the tip of Korea to fight all the way back to the Yalu and then be pushed back down to a quite different 38th Parallel than the one that existed on June 25, 1950, when the Communist troops decided to attack the forces of the United Nations along that 38th Parallel.

I believe that it is fitting and proper that this country should memorialize those veterans of the Korean war. I never heard this expression "Korean era veteran," or "Vietnam era veteran," until we started seeing veterans' groups formed with only political objectives in mind, most of them attacking Reagan. Then suddenly all the Vietnam veterans were spread out and called era veterans, which would certainly have included me. Since I was about to enter pilot training when the Korean war ended, I have never been a Korean vet although I would never describe myself as such because I never served in Korea under combat conditions.

As someone who was in training, about to go to pilot training, looking forward to flying an airplane that I eventually flew, the F-86 Sabre, willing to defend the freedom of South Korea, I do have a vested interest since it was men just 1 or 2 years older than me who died in that Korean effort that started out as a police conflict and certainly ended up as a war that had almost as many combat casualties as World War I, my father's war.

We must find a proper site somewhere in this great city of ours to give equal respect to those young men and women who died facing communism on the Peninsula of Korea as we have engraved their names on that black marble that brings tears to so many peoples' eyes giving respect to the over 58,039, and that figure will grow as more and more missing in action are transferred over to the killed in action list. That Vietnam Memorial is the most visited site in Washington, DC, of any memorial. I believe that it was a peculiar, a weird oversight that we passed over all our heroes from the Korean conflict.

I would ask my colleagues to join me on a letter to President Reagan asking that one of our Members who saw combat duty as an F-84 Thunderjet pilot in the Korean conflict, was almost killed when his plane was shot down by a Mig and it jammed the canopy railing. He was unable to bail out. He crashed into powerlines, tore off the wings, the tail; only the cockpit section was left, and it rolled into the mud in a rice paddy and popped off the canopy and he stepped out with a Purple Heart from the Mig gunshot wounds from schrapnel to his face. That Member is STAN PARRIS.

I think STAN PARRIS of northern Virginia should receive the encouragement of this House to be appointed by President Reagan to sit on that Korean War Memorial Commission so our interests are protected and that we know the House and the American people are represented through STAN on a proper memorial for our heroes from the Korean war.

THE HONORABLE VERMONT STATE SENATOR ARTHUR GIBB

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

Mr. JEFFORDS. Mr. Speaker, I would like to honor one of Vermont's most renowned legislators, State Senator Arthur Gibb, who is stepping down from State legislative service this year.

For more than two decades, since 1963, Art Gibb has served his constituents with exceptional care and skill—first in the Vermont House of Representatives and, for the last 8 years, in the Vermont Senate.

As a lawmaker, he has been a master of reconciliation—one of Vermont's great nonpartisan leaders who, while Republican, has long enjoyed the respect and attention of leaders from both major political parties. Art has never been a publicity seeker. Rather, he has been a lawmaker who, shunning publicity, has worked tirelessly and effectively for the protection of the environment and for the cause of conservation.

All of us here are well aware of the need for greater efficiency in bureaucracy, and we know what problems we encounter whenever possibilities arise over reorganizing that bureaucracy. Some years ago, Vermont set about reorganizing one of its own bureaucracies—its public service department and public service board, which oversee utilities. Of course, the usual happened: The negative forces that tend to fight any change were there. Yet today, the problems attendant to that change have been resolved and the process made far more workable. And the credit for that major achievement goes largely to Senator Gibb. Art, however, would be the last one to take credit for this, since he is a man who thinks first of his constituents and not the headlines that he might obtain.

A number of years ago, I had the opportunity to meet with many Vermonters who were involved in the passage of Act 250, Vermont's landmark environmental and land-use control law. The meeting was called to provide an oral history of the passage of Act 250. Art was a key figure in this history, since he had been chosen by then Gov. Deane Davis to sit on the Governor's Commission on Environmental Control in 1969, a formative year for Act 250.

With his characteristic zeal and dry humor, Art recounted for those at the oral history meeting how he and his wife, Barbara, decided to personally investigate the problems the State was encountering with land speculators who were attempting to literally steal Vermont right out from under Vermonters.

On one particular day while they were in Grand Isle County, he recalled, Art decided to send Barbara into a local land development office to meet with its high-pressure salesmen. Barbara, to quote Art, "played a dumb woman customer" and found herself receiving the fast and slick sales treatment. The experience gave both Barbara and Art a better insight into the way Vermont was being sold. This little extra effort helped Art formulate the policies that made Vermont an example for other States to follow in protecting the environment and quality of life. For this, all of us in Vermont owe Art a tremendous debt of gratitude for what he has done for us, for our children, and our children's children.

In recognition of his environmental efforts and his leadership as chairman of the Vermont Natural Resources and Energy Committee, in fact, the U.S. Environmental Protection Agency chose Art just last December as one of

only a handful of Americans to receive the Environmental Merit Award.

It is easy to dwell at length on Art Gibb's legislative endeavors, but his accomplishments outside the statehouse also are formidable. Art has frequently been recognized, for instance, for his many community contributions. His long list of civic involvements include the presidency of the board of the Porter Medical Center in Middlebury, VT, as well as 30 years on its board of trustees. He continues to lend his financial expertise to the hospital's fundraising efforts. He has spent many years as a Rotarian and has served as chairman of the Addison County Regional Planning Commission. Beyond his home county, Art also has served as director of the YMCA and, among other things, has contributed a great deal of time in Burlington, VT, as director of the Baird Children's Center, which serves orphaned and troubled children.

As a fellow captain in the Naval Reserves, I'd also like to take my listeners back in history for a moment to review Art's service in the Pacific during World War II. In the course of his distinguished Navy career, Art received the Bronze Star, the Presidential Unit Citation and no less than 10 battle stars. This courage and tenacity has continued to serve Art well throughout his professional career.

Yet Art has never allowed his demanding career and many responsibilities to alter his own lifestyle. Despite the many constraints on his time, he continues to manage his farm in Weybridge. And it is not unusual to see Art biking his way around his district, meeting with his constituents and hearing their concerns, while at the same time continuing his commitment to conservation and good health.

Finally, no testimony to Art Gibb would be complete without mentioning his lovely wife, Barbara, who has been his helpmate throughout. Not only has Barbara been at Art's side through the long legislative sessions all these years, but she has been—and continues to be—deeply involved in many civic organizations, including the League of Women Voters and the American Association of University Women.

Montpelier—Vermont's State capital—will sorely miss Art's unusual abilities as a legislator, a crafter of compromise. I am more than certain, however, that all of us in Vermont will continue to benefit from his wit, his intelligence, his commitment, and his grace for many, many years to come.

EPA'S EMERGENCY BAN ON PESTICIDE UNDERLINES NEED FOR WORKER PROTECTIONS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, just last week, Mr. Lee Thomas, Administrator of the Environmental Protection Agency [EPA], issued an emergency ban on the use of dinoseb, a widely used pesticide, because it poses a very serious risk to the health of both farmers and farmworkers.

According to an article in the Washington Post, the ban has been instituted because recent studies indicated that exposures to the chemical in the field "pose a very serious risk of birth defects to the unborn children of pregnant women and a significant risk of sterility to male farmworkers."

Further, other studies indicated the exposure to dinoseb, which is acutely toxic and has caused several deaths, may also cause cancer, immune system damage, and cataracts.

As the chairman of the Subcommittee on Health and Safety, I commend Mr. Thomas for his order instituting this emergency ban on the use of dinoseb while he and EPA seek a permanent ban on its usage.

However, as the chairman of the subcommittee with direct jurisdiction over the health and safety of Americans in their workplace, whether those workplaces be a factory, an office, a hospital, or a farm, I have some serious concerns about our willingness to make the sacrifices necessary to save and protect the lives and well-being of those workers.

This emergency ban on dinoseb, for example, will prevent more than 25,000 workers—those who mix, load, and spray the pesticide as well as those who harvest the sprayed crop by hand in most cases—from exposure to this highly toxic substance. But what about those who have been exposed in the past? What about those exposed to some residual amounts of dinoseb?

Dinoseb has been in use since 1948, almost 40 years. It is the active ingredient in about 180 different pesticide products manufactured by 80 different companies. It has been estimated that between 7 million and 11 million pounds of this chemical have been applied annually in a number of different ways.

Products containing dinoseb are used on soybeans, cotton, potatoes, peanuts, and is registered for use on some four dozen other crops, including raspberries, nuts, pumpkins, and hops.

As we can see, dinoseb is a product with far-reaching implications for the health and safety of a great many workers. How many other substances, either combinations of chemicals or individual ones, are there that are also threatening the lives and well-being of our workers? How many American workers will have to die before we agree that products are dangerous and must be removed from the marketplace.

Also, what about the long-term effects of some of these products? Can we afford to wait for 10, 20 or more years in order to count the bodies before we decide to prohibit the use of these highly toxic materials?

It has estimated that in the United States today there are 5,000 to 6,000 manufacturing facilities producing chemicals and other toxic substances. It is also estimated that between 50,000 and 60,000 toxic substances are being used in a wide range of workplaces in a variety of industries.

And we do know that too many of these substances are highly toxic.

Methyl isocyanate, Mic, for example, is acutely toxic. We have already seen the results of an Mic spill. In Bhopal, India, some 2,000 people died as a result of direct exposure to Mic. What we don't know about Mic is whether those who were exposed and lived are going to contract some disease that may not become evident for another 5, 10, or 20 years as a result of that exposure.

We do know that as many as 100,000 workers die each year as a result of diseases directly related to their exposures to the wide range of substances that cause cancer, heart disease, and other ailments.

We do know that as many as 400,000 American workers are newly disabled each year by diseases directly related to exposures to hazardous and toxic substances.

We also know that farmworkers are far more likely to suffer from skin diseases and internal and parasitic illnesses at a far greater rate than other workers in our society because they are more directly exposed to chemicals and toxic substances with fewer opportunities to protect their own health.

For example, and I ask you seriously, can you think of any workplace in your district, be it a factory, an office, a hospital, or any other indoor location, that does not provide toilets, drinking water, and hand-washing facilities?

If you can, please tell me. I expect that the Occupational Safety and Health Administration [OSHA] would be very much interested in knowing it as well.

The chances are that you cannot think of such a place. And the chances are that there are very few indoor work locations that, by State law, are not required to provide those simple symbols of decency and good health.

Then, if I may ask, why are we denying these basic symbols of decency, dignity, and good health practices to our farmworkers?

Earlier this year, I introduced H.R. 4029, a bill to create a Federal standard for field sanitation. It wasn't the only such bill before the Congress, but it incorporated some elements other bills did not have.

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[illegible]4029 was introduced because it [illegible]ing more apparent that the De-[illegible]tment of Labor—and by that I [illegible]ean Secretary of Labor Bill Brock as well as the leadership of OSHA—is not going to promulgate a Federal standard.

It is no longer likely or possible that H.R. 4029 will be passed this year. In fact, no Member of the Senate has even introduced a comparable measure.

So, now we are in a sort of limbo. In April 1987, Secretary Brock will decide whether or not the States have created a satisfactory crazy quilt of field sanitation rules and regulations so that a Federal standard won't be necessary.

Well, Mr. Secretary, I will tell you now that I plan to reintroduce my field sanitation bill. I plan to encourage as many Members as possible to join me as cosponsors.

And, should you decide that a Federal standard isn't necessary, I will move that bill forward.

There are those among my colleagues who will ask why a Federal standard is necessary. They will want to know why we can't allow the States, which seemingly know what's in their best interest, to develop standards to meet what they perceive as the needs in this area.

It's very simple. Worker health and safety, especially for a highly mobile or seasonal workers is best handled on a Federal basis. Why should a migrant worker who may work in California for a month or two before going on to Oregon and Washington be subjected to three different standards? Or, even worse, why should that worker be faced with working in a state that has no standard?

In previous special orders, I have discussed the status of Activity within the various States with respect to the implementation and development of field sanitation standards, so, in the interest of brevity, let me summarize.

As of mid-September, 19 States either had or had recently implemented standards. Those States are: Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Maine, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Texas, Utah, Wisconsin, and Wyoming.

As of that same time, 12 States and Puerto Rico had agreed to develop standards. The States in this category are: Alaska, Hawaii, Indiana, Maryland, Massachusetts, Michigan, North Dakota, Ohio, Rhode Island, South Carolina, Tennessee, Virginia, and Washington.

In the final category, States not currently developing a standard, there are 18 States and the Virgin Islands. The States are: Alabama, Arkansas, Georgia, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, Oklahoma, South Dakota, Vermont, and West Virginia.

While it may be true that some of those States in the third category, such as Nevada and the Virgin Islands, have no workers engaged in hand harvesting and, therefore, really do not need a standard, other States in that category do have farmworkers to whom the standard would apply.

Without a Federal standard, workers doing hand harvesting in those States would be left out.

I know there are those among my colleagues who feel this bill has been unnecessary. They may even have worked for a period of time, during summers while in high school or college, picking crops and feel there was no imposition on them by not having toilet facilities available.

To them, I say that if they were doing it for a full-time occupation, they may think somewhat differently. It also depends on the kinds of harvesting being done. It is one thing to pick tree crops where it is always possible to duck behind another tree in an orchard. But when you are picking a field crop, generally a wide open space, there is more than just a little lack of privacy.

But, even if we forgo the issue of dignity and decency, we still have the concern about health.

A 1983 study in Indiana compared disease diagnoses for 2,570 migrant and seasonal farmworkers to 4,617 nonfarmworkers. There were 97 cases of eye problems among the farmworkers as compared to 25 for the nonfarmworkers. There were 107 cases of urinary tract infection among the farmworkers to 66 cases among the nonfarmworkers.

The same kinds of percentages stand for dermatitis and gastroenteritis. Of 164 total dermatitis cases, farmworkers had 117—just over 71 percent. Of 113 total cases of gastroenteritis, almost 78 percent—88 cases—involved farmworkers as compared to 25 cases among nonfarmworkers.

Studies in other States, notably Utah and Colorado, showed similar patterns and rates of illness and disease among migrant and seasonal farmworkers as compared to other populations that had not been exposed to pesticides.

Further, there is a wide range of communicable diseases that are transmitted among farmworkers, their spouses and children and others with whom they come in contact.

Many physicians and other public health personnel who work with migrant and seasonal farmworkers believe, and have testified, that the lack of toilets and, in particular, handwashing facilities has led to significantly higher rates of disease among those farmworkers.

Further, there is a higher rate of heat-related illnesses that result from a failure to provide sufficient amounts of drinking water in the fields.

I think it is interesting to note that EPA does have health and safety requirements for those people who mix, load, and spray the pesticides. These protective requirements include the wearing of goggles, boots, gloves, long pants, and long-sleeved shirts or coveralls, aprons in some cases, and respirators or dust masks.

On the other hand, those workers who are exposed to much of the pesticides through drift, when another field is being sprayed, or through handling fruit and vegetables on which residual amounts of the pesticide exist, are not covered at all.

There are those who might question the severity of exposure to such residual amounts of toxic substances, but, according to several studies, many of the toxic pesticides actually are more dangerous after a specified period of time than they are at the time of initial application.

Just 25 years ago, for example, 94 peach pickers in California, suddenly fell ill after working in orchards that had been sprayed with a common insecticide. Public health officials determined rather rapidly that the worst episodes occurred in orchards that had been treated as much as 5 weeks before the illness outbreak.

Further investigation by epidemiologists showed that as the initial insecticide degraded, it released a substance 55 times more toxic than the original formula when absorbed through human skin and that the secondary substance remains on the plant's leaves and branches for a long period of time, but did not exceed allowable standards in the food.

In other words, the tolerance levels set by law to protect consumers don't protect workers from exposure to foliage, soil, and other workplace sources.

For all we know, the same may well be true of thousands of workplace substances in use in our factories and offices as well as our fields.

It is becoming increasingly clear that we really have little information about the 50,000 to 60,000 chemical substances we produce and use in a wide variety of workplaces.

Hundreds of thousands of American workers are exposed to the many thousand toxic substances in the workplaces without really knowing what the future holds for them in terms of diseases and illness and, possibly disability and/or death.

The latency periods for so many of these diseases are as much as 10, 20, or

even 40 years after the exposure, so it is sometimes almost impossible to backtrack the patient's history in order to determine a specific cause of the disease.

In part, that is why I introduced H.R. 1309, the High Risk Occupational Disease Notification and Prevention Act, in February 1985.

H.R. 1309, very simply stated, seeks to notify workers that, because of the period for which they have been exposed to a particular toxic substance, they are at high risk of getting a specific disease.

The worker populations that would be at risk would be identified by a newly established Risk Assessment Board in the Department of Health and Human Services.

The individual workers would be notified by the Secretary of HHS and by States and private employers, if the latter so chose to assume that responsiblility.

The workers, once notified, would be encouraged, but not forced, to enter into a program of medical monitoring for the specific disease or diseases for which they were being notified.

Employers would be responsible for the cost of providing the medical monitoring only to those current employees whose notification covered an exposure while in the employ of that employer.

In cases where a notified employee was exposed to the toxic material while working for someone else, the current employer would be required to provide for the medical monitoring, but could pass the cost of that program on to the employee.

Despite the claims of employer organizations and the current administration, I don't believe there is an enormous new burden being placed on the employers. I don't believe that the program we are establishing puts an inordinate burden on the Government.

And, with authorizations of only $25 million a year for each of the first 2 years, I don't believe this is the kind of budget-busting bill the opponents of H.R. 1309 say it is.

Actually, in the purest sense, both H.R. 1309 and H.R. 4029 are very cost-effective measures.

Both bills are aimed at preventing diseases that arise from workplace exposures and, in the long run, will reduce the burden to both the public health system and the private health system.

As we learn more about the effects of pesticides and other toxic substances in the workplace, we can take precautions. We can develop better and more effective engineering systems to reduce exposures. We can use alternative, less toxic substances in place of the more dangerous ones. We can develop new and better systems of personal protection. And we can reduce the acceptable exposure limits.

Each of those actions, individually, would result in great gains in the field of health and safety. A combination of two or more actions could result in the saving of untold thousands of lives of American working men and women.

Why are we waiting to save these lives? It has been a part of this country's ethic that a single life is important. We take a great many actions to reduce the carnage on our highways. We develop programs to prevent the use and misuse of alcohol and drugs. We insist that medicines and other doctor-prescribed drugs are tested, retested, and then tested again before we allow their sale.

Yet, we seem to be unconcerned about the health and safety of American workers. We see nothing wrong in exposing a worker to all manner of toxic materials, but feel no compunction to see to his well-being if an illness develops.

Employers, denying the rationale of workplace-induced or caused disease, point fingers at smog in the air, polluted drinking water, smoking, drinking, and a host of other red herrings as factors in illness.

I don't totally disagree with them, but we already know of the effects of exposures to some substances. We are learning more every day. I think it is in the best interests of the country to insure the health, safety, and well-being of the American worker, whatever the setting.

It is just as much the labor of the worker on the factory floor or in the office or in the field as it is the mental, physical, and financial effort of those in the boardrooms of America that has made America great. We owe our workers as much as we owe our business leaders, not less.

□ 1700

ORDER OF BUSINESS

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

A TRIBUTE TO THE RETIRING MEMBERS OF THE MARYLAND DELEGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

GENERAL LEAVE

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special orders.

The SPEAKER pro
there objection to the r
gentlewoman from Mary
There was no objection.

Mrs. BENTLEY. Mr. Spe
pleasure to have this oppo
speak at this special order in
my distinquished colleague, the
orable MARJORIE S. HOLT, U.S. Re
sentative of the Fourth Congressio
District of Maryland. Her record as a
legislator is one to be admired. The achievements Mrs. HOLT has accomplished in this prestigious body are great.

On a very personal note, on numerous occasions as a freshman Member of Congress, I have looked to Representative HOLT for guidance and advice. She has provided me with wisdom and sound advice on several key issues facing this Congress. My service in the 99th Congress has only been enriched with having MARJORIE HOLT as a colleague and member of the Maryland delegation.

As a respected 14-year veteran of the U.S. Congress, Representative MARJORIE HOLT has served her country, her State, and her constituents with leadership and courage. Members of both the majority and minority have relied upon her knowledge and foresight. During her tenure in Congress, both political parties have provided leadership in the executive branch and the Congresswoman has worked in Congress as an effective lawmaker during several administrations.

Her contributions to our Nation go well beyond the State of Maryland. In 1973, as a member of the House Committee on Armed Services, Mrs. HOLT traveled to Egypt with four other colleagues and met with the late President Anwar Sadat. Then Secretary of State Henry Kissinger credited the group with "convincing Sadat that the United States wanted to be fair on the Middle East," paving the way for peace.

Her career is a testimony to her commitment to the equal right amendments legislation. Our colleague succeeded—and indeed excelled—in what many would have termed a man's world.

Born in Birmingham, AL, in 1920, MARJORIE grew up in Jacksonville, FL, graduated from Jacksonville Junior College, then earned a degree in sociology at the University of Florida. While her husband studied to be an engineer, she entered law school at the University of Florida. She graduated in 1949 and Mrs. HOLT was only one of just five women in her class.

Mrs. HOLT's sense of civil responsibility did not begin when she entered elective office. Soon after moving to Anne Arundel County, MD, MARJORIE entered into the practice of law. She found time to work for the PTA and become the first woman elder in her

Presbyterian Church. She was also active in the Republican Party at the precinct level. Eventually, though, the tables were turned. The people she had worked for at the precinct level helped elect her to Congress.

Elected seven times in landslide victories to Congress, she was the first woman from Maryland elected to the House in a general election. It was during her first term in Congress that Congresswoman HOLT introduced a housing bill that implemented the National Homestead Act, which allowed the Federal Government to sell houses that it had foreclosed on.

Because of her foresight, U.S. Housing and Urban Development later commended Representative HOLT for providing the guidance necessary for "one of our most successful housing programs still operating in many large American cities."

MARJORIE HOLT has also demonstrated leadership in the area of our defense. She has been a member of the House Committee on Armed Services and served her country well. Also as a member of the House Budget Committee during the 95th and 96th Congresses, Mrs. HOLT led the fight to slow the growth rate of Federal spending.

As early as 1978, MARJORIE introduced an amendment calling for a Federal budget cut of $21.4 billon. The amendment failed to pass by only six votes. However, her efforts have contributed to legislation needed to reduce the Federal deficit.

Representative MAJORIE HOLT will be missed by many in this Congress but her contributions will continue to endure. I for one am indeed privileged to have had the opportunity to serve with Congresswoman HOLT. We in Maryland are a stronger State for having elected MARJORIE HOLT to Congress and elected to keep sending her back to Washington for the past 14 years.

At the end of this 99th Congress, Maryland will be saluting a farewell to four members of the Maryland delegation elected to represent the State in the U.S. House of Representatives. Representatives MARJORIE HOLT, BARBARA MIKULSKI, PARREN MITCHELL, and MIKE BARNES will all be leaving their office in the House.

When BARBARA MIKULSKI first ran for office in 1976, I was asked by the Greater Baltimore Chamber of Commerce to give her a personal tour of Maryland's infrastructure and port. The tour was to provide Ms. MIKULSKI with a first hand view of the businesses that pay the bills of much of the State of Maryland. A good understanding of these businesses was necessary for working in Congress in the development of our State's economy.

Before I was elected to Congress, I served for most of my professional career in the business arena closely linked with Maryland's transportation infrastructure. My desire to share my enthusiasm with my colleague has paid off. BARBARA MIKULSKI had indeed served her constituents well for five terms.

PARREN MITCHELL will also be retiring after this session. Mr. MITCHELL has served in the Maryland delegation as dean. His wise counsel has brought all members of the delegation together and we have accomplished much through his leadership. It has been a privilege to serve with my distinguished colleague, PARREN MITCHELL.

Our fourth departing Member is MIKE BARNES who leaves this body with having served his constituents in all fairness. His contributions have been many through the committee leadership roles he has held. Maryland will miss having a voice on the committee positions of MIKE BARNES.

During the 100th Congress, it is my hope that we in the Maryland delegation will be as successful in accomplishing our goals as we have been in the 99th Congress.

Mr. Speaker, I have a number of tributes that I will include in the RECORD, and I would like to cull out some of the quotes from them.

The gentleman from Tennessee, Mr. JIMMY QUILLEN, described her as a "truly outstanding Member of the House and her retirement is a loss not only to her constituents in the Fourth Congressional District of Maryland—but to those of us who have had the privilege to serve with her in the House of Representatives."

The gentleman from the Seventh District of Texas, Mr. BILL ARCHER, says, "From her very first year in Congress, she has been a forceful voice for both her district and her deeply held convictions about the direction that our Nation should be taking. I have always found her counsel dependable and insightful. Especially in the area of defense where she has played such an important role as a member of the Armed Services Committee, I have rarely found myself in anything but total agreement with her astute judgment and recommendations."

The gentleman from Alabama, Mr. BILL DICKINSON: "While serving in her capacities on the House Armed Services Committee, Congresswoman HOLT was insurmountable in her efforts for the increased benefits of soldiers and their families, including pay increases and improved health care. She was also heavily involved in raising the quality of life on military installations by improving the housing standards."

From the gentleman from Ohio, Mr. DELBERT LATTA: "I can personally attest to MARJORIE's contributions to the Nation's needs for a sound economy when she served with me on the House Budget Committee. She fought hard for reduced Federal spending within the Republican structure, and she gained the respect of those who served with her on the committee.

And from the gentleman from Alabama, Mr. TOM BEVILL: "MARJORIE is highly respected on both sides of the aisle and she has had a notable career on the House Armed Services Committee."

Mr. ROYBAL. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Speaker, I would like to associate myself with the remarks that have just been made and with the written tributes that have just been read with regard to Congresswoman HOLT. I did not have the pleasure of working with her in any of the committees, but I did as a Member of this House.

I do agree that she is and has been an outstanding Member of the House of Representatives. I would like to wish her every success in whatever she is going to do in the days to come, but I will never forget the fact that she was always an outstanding Member of the House, and a fair Member of the House. No one can ask for any more.

Mrs. BENTLEY. I thank the gentleman. I am sure that she will appreciate those remarks.

Mr. STRATTON. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I would like to commend the gentlewoman from Maryland [Mrs. BENTLEY] for getting this special order for MARJORIE HOLT. I have had the pleasure and honor of serving with her during her 14 years in the Congress, and as we were both members of the Committee on Armed Services and we served on the same subcommittee, the Subcommittee on Procurement and Military Nuclear Systems, I must say that she has had a very distinguished record here in Congress. In fact, she was one of the first women, I believe, Members to serve on the Committee on the Budget.

In fact, she did an unusual job in that capacity, because those other members of the Budget Committee—and this was something that the Armed Services Committee usually was very unhappy about—the members of the Budget Committee usually forgot that defense was an important part of the national needs, and it took Mrs. HOLT, with her knowledge of defense and her feisty approach when she felt that an injustice was being perpetrated, she stood out of all of the members of the Budget Committee to try to bring some balance between defense and the domestic programs.

I think that many people probably are not aware that MARJORIE HOLT drove to and from her district every day that the House was in session, and

her district goes into Maryland to a very substantial extent beyond Annapolis. She spent, I think, something like 2½ hours driving back and forth, and yet she never missed a commitment with the subcommittee on Armed Services or the other committees when she was required to be there.

I think that she also has had a remarkable exposure to some of the major events of the last 14 years. For example, the Armed Services Committee in 1973, at the end of the Yom Kippur war, visited both Israel and Egypt, and we had the unique opportunity with that group—and Mrs. HOLT as the vice chairman of that subcommittee group—to meet not only with Golda Meir but also with President Sadat.

Our subcommittee was in fact that first group that had the opportunity to talk to Sadat and to bring back the word that he was really an unusual person, and the men and women making up that committee had a very unique experience.

Not only that, but Mrs. HOLT was also on another visit which had some very substantial consequences that the Armed Services Committee took to Somalia in 1975. At that time the Somalian Government was upset because Secretary Schlesinger had some overhead photography that indicated that there were several ships of Sovet vintage that were supplying the small port in Berbera in Somalia, and the head of Somalia said that this was not a Russian naval base, he said it was a Somalian base. But the people on our trip soon discovered that it was indeed a Soviet base, and the ships were Soviet, and in fact some of the Members even went into the barracks and found Russians there.

Within 2 years of that time, I cannot say that it was all done by MARJORIE HOLT, but within 2 years the Soviets were out of Somalia and no longer there.

One of the most staunch supporters of the National Guard—and I am not sure that my good friend from Mississippi will elaborate on this a little further—she has been throughout her entire career one of the strongest supporters for the Guard.

□ 1725

She was one of those who realized that if the National Guard was going to be effective as our second line of defense, we had to have training available to those people in the Guard and had to provide them with modern weapons and not the old hand-me-down weapons.

So this has been a very active Member of this body. We salute MARJORIE HOLT, and I know as the gentlewoman from Maryland [Mrs. BENTLEY] has said, it is going to be hard to replace MARJORIE HOLT, with her knowledge, with her drive, with her friendly attitude toward all of her conferees. She has been a leading light in the House of Representatives, and we are certainly going to miss her.

But again, she said that the reason she wanted to leave was to have more time for her grandchildren. I believe she has seven grandchildren, and she will probably be bringing them back here to the Hall of the House of Representatives to show where grandma was performing a great service to the United States of America over 14 years.

Mrs. BENTLEY. I thank the gentleman from New York.

Mr. DREIER of California. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentlewoman and compliment her for taking out this special order. I would like to associate myself with the remarks of my distinguished friend, the gentleman from New York [Mr. STRATTON] as well as the gentlewoman from Maryland [Mrs. BENTLEY].

It was a very sad day for the House of Representatives when our distinguished colleague, MARJORIE HOLT, took the well and made a very emotional announcement, having told us that she was not going to stand for reelection. That was a very difficult moment for her because as far as I am concerned, there is no Member of this House who is more committed to the cause of freedom and the United States of America than MARJORIE HOLT.

I have served with her for 6 of her 14 years now, and I will tell my colleagues that I actually became aware of MARJORIE HOLT's work before I came to Congress. In fact, it was her work, along with that of the gentleman from Ohio [Mr. REGULA] in offering what was known as the Holt-Regula amendment which many have said was actually the precursor to the Gramm-Rudman legislation. Had that actually been put into place, we would not be faced with the tremendous fiscal crisis that this country now faces.

She has been an expert in the area of national defense, and I have not served on a single committee with her, but I have constantly, as one who is concerned about the defense of this country, relied on her expertise. I will miss that when the 100th Congress convenes in January.

She is very dedicated to the Fourth District. I like to think that southern California is certainly the most beautiful part of the country, as I am very proud to represent that. If there is a second most beautiful part of the country, it certainly would be the Fourth District, Annapolis and along the Severn River, where she represents which is an absolutely beautiful spot. I know that she is going to look forward to returning there.

She has demonstrated a commitment to the Fourth District by serving as the chairman for the congressional campaign running there. I had the chance to go out with her and campaign on behalf of Bob Neal who is running for that seat. I have got to say that while many might leave, that when she decided that she was going to retire that she would not spend as much time and effort on this campaign, and it was very impressive to be with her and observe her work over the past several months. Many people could make an announcement that they were going to retire and ease right off into retirement, but she has demonstrated a great degree of dedication, and I congratulate her for that.

I will miss her and I wish her and her entire family very well in the years to come. I thank the gentlewoman for taking out this special order.

Mrs. BENTLEY. I am sure that she will appreciate the remarks of the gentleman from California.

Mr. MONTGOMERY. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to my distinguished colleague, the gentleman from Mississippi [Mr. MONTGOMERY].I90[H14OC6-B907]{H10037}MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I am very proud to join with the gentlewoman from Maryland, HELEN BENTLEY, and other Maryland colleagues, as well as my colleagues from other States, in paying tribute today to the gentlewoman from Maryland, MARJORIE HOLT. She is one of my best friends, if not my best friend in the Congress. I have really truly enjoyed working with MARJORIE over these 14 years. It certainly does not seem like it has been that long.

I have had the great pleasure of serving with her on the House Armed Services Committee. She has been the ranking minority member on the Personnel and Compensation Subcommittee as well as the ranking minority member on the Procurement Subcommittee.

MARJORIE HOLT was one of the original cosponsors of the new GI education bill. With her help we were able to pass a bill which has become a tremendous success today for the active forces as well as the National Guard and Reserve. With MARJORIE HOLT as a key worker on that legislation we were able to bring about that GI Education Act.

I also appreciate the dedication that she has shown over the years to improving the National Guard and Reserve. She has spent a lot of time, especially in Maryland, going out to different National Guard and Reserve units in her district and her State. As mentioned by the distinguished gen-

tleman from New York, SAM STRATTON, chairman of the Subcommittee on Procurement, MARJORIE HOLT was his ranking minority member, and because of those two people and a few other people on the Armed Services Committee, we started giving not hand-me-down equipment to the National Guard and Reserve, but giving them updated, frontline equipment. That has proven to be the right thing to do, and we all agree that the National Guard and Reserve are some of our strongest frontline forces. Thanks to MARJORIE HOLT and SAM STRATTON and others, this has come about.

Let me close by saying that I certainly want to wish MARJORIE the best in the future. She has been such a dedicated friend of the veteran in working with me on the Veterans' Affairs Committee. She is a great American and she has really made a difference on Capitol Hill. So she can be proud of the things she has done, and we are proud of her. I just want to wish Duncan and MARJORIE the best.

Mrs. BENTLEY. I thank the gentleman, and I know that MARJORIE feels very, very close to the honorable gentleman from Mississippi.

Before yielding to other of my Maryland colleagues, I would like to point out, Mr. Speaker, that there are four Members of the Maryland delegation in the Hall right now, the remaining four Members, I might say, because MARJORIE HOLT is not the only one who is retiring from this House. We are also losing three other Members, the other half of our delegation. They are BARBARA MIKULSKI, PARREN MITCHELL, and MIKE BARNES. We all have some remarks to make about all of them as well.

Mrs. BYRON. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentlewoman from Maryland.

Mrs. BYRON. I thank the gentlewoman very much for yielding.

It is a very interesting thing to note that Maryland is a very unusual State in many ways. First of all, there are eight Members of Congress from Maryland, four of whom the gentlewoman just said are retiring this year. But the other interesting thing is that there are four women and four men. Two of the women are retiring and two of the men are retiring, so the four of us that are left here today, the two men and two women, give tribute to two men and two women who are leaving us.

They are leaving us with a lot of guidance and a lot of years of service. We can start by looking at PARREN MITCHELL, who has been in Congress for 16 years. He first came in 1970 with my first husband. He is currently chairman of the Committee on Small Business, a very important committee as far as my congressional district is concerned because we have a lot of small businesses in Maryland.

□ 1735

We are sorry to see PARREN leave. He decided that he was going to go do something else. He thought for a while about being lieutenant governor of the State. He would have made a very good one.

Mrs. BENTLEY. Mr. Speaker, may I interject here that I have been very impressed with the way that Mr. MITCHELL has served as dean of the Maryland delegation, and the way he has brought all of the delegation with his wise counsel.

I think we have accomplished a lot in these part 22 months, as a united group under his leadership; and I feel very privileged to have served with him.

Mrs. BYRON. Mr. Speaker, one of the things that I have found the most delightful in the last 2 years, as chairman of the delegation PARREN has really pulled together and has worked extremely hard for the entire State.

We have not only an interesting delegation, but I think we transcend all philosophies and views and ideologies and therefore, it has been a pleasure to work as a delegation with him as the chairman.

We have been talking a little bit about MARJORIE and those of you who know that MARJORIE has been here for 14 years; we have talked about her expertise on the Armed Services Committee; we have talked about how she has been a viable member of the Budget Committee.

You mentioned several of the other Members and gave some quotes. I would like to say that Congressman STUMP has said that she demonstrates the ability to make a difficult decision confidentially, competently, and also has placed the Nation's interest high above partisan politics.

I think that is true when you look at the work she has done over the years for our national defense.

I also have an interesting situation with MARJORIE because for the first time, one of our counties, Howard County, discovered with the redistricting that they are put into three different congressional districts. That is quite unusual, but not really that unusual.

The interesting thing was that Howard County discovered that they not only had three Members of Congress, but they had three women Members of Congress.

Mrs. BENTLEY. That is unusual.

Mrs. BYRON. That is very unusual.

MARJORIE who has been in as we said for 14 years, and then BARBARA MIKULSKI, who joined 10 years ago, and I have been here for 8 years, all share Howard County. We decided that it would be an interesting thing to look at each other's section. I had originally had the entire county, but I thought since they were new into Howard County, it would be an interesting thing to share with them some parts of that; and we decided that we would take a tour of that county, and visit two different places in each of the three congressional districts.

I chose two in my section; BARBARA chose two in hers, and MARJORIE chose two in hers. It was a very interesting day, especially because BARBARA, who is also retiring, who is on the Energy and Commerce Committee, and also on the Committee on Merchant Marine and Fisheries, was not too well versed at that time in agriculture.

I can assure you she learned very quickly, because we were visiting a farm, a dairy farm in my section of Howard County. MARJORIE, in her usual fashion, always wears very high heels. I looked at MARJORIE going down the farm lane and I thought, "Well, I do not think I would have worn those high heels," but MARJORIE was perfectly at home and perfectly comfortable in her shoes.

BARBARA came along not really well versed in agriculture at that time—this was about 6 years ago—and we were in a dairy milking parlor at which time she asked, how many times a day do you milk. The dairy farmer said, "We milk twice a day."

BARBARA being from Baltimore City, not having at that time a lot of interest in agriculture, learned very quickly that "you milk 10 times a week." I said, "No, BARBARA, it isn't 10 times a week. You milk 14 times a week." You do not turn off on Saturdays and Sundays the spigots in agriculture.

I must admit that she learned very quickly, and she is probably now very well versed on her agriculture matters.

The interesting thing is the diversity of our three congressional districts, and the three of us as three Members touring the district, learning from each other, learning what we have found. I have listened to MARJORIE. She has educated me on many of the issues on the Armed Services Committee. She has educated me on many of the issues on the Budget Committee.

We were educating BARBARA on issues of Armed Services; we were educating BARBARA on issues of agriculture. That is one of the things that is such a pleasure with this body, is the fact that where you are not an expert in an area, you look to one of your colleagues for that expertise.

I think, Mr. Speaker, in the Maryland delegation with PARREN and his expertise in small business and in the black community; with MARJORIE with her expertise in the Budget Committee and also in Armed Services, and BARBARA with her expertise in the Energy and Commerce Committee and Merchant Marine and Fisheries, she has been very helpful with me; and in

transportation, when we were trying to save the Blue Ridge and the Amtrak trains.

So it is a give and take throughout our complete congressional delegation. We have one other Member, MIKE BARNES, that came to Congress with me 8 years ago. He has a great deal of expertise and is an authority in foreign affairs. He is also a member of the D.C. Committee, and has a great deal of knowledge in that area.

MARJORIE is going to be going off to practice law; the law firm she is going to be joining is already getting calls to find out when she is going to be in to start her practice.

BARBARA, we hope, is going to be going off to the Senate as our new Senator from Maryland.

MIKE, after his 8 years of very tough decisions down here, is going to be going out to practice law once again; but hopefully he will be able to go home with Claudia and see his two girls and watch them grow with a better timeframe than we work in this body.

So I think Maryland, by losing four Members at one time is going to be a very heavy loss, and the one Member in the Senate. But at the same time, they go with our understanding; they go with our concern; they go with the legacy that they have left each of us, in guiding us along as the newer Members of the Maryland delegation.

The only thing I hope is that the four of us that are here today are going to be able to give that same kind of guidance to the four new Members that are going to be joining us here in Washington, and have the warmth and the companionship that we have gotten from those four that have chosen, for one reason or another, not to seek reelection.

I would like to join with my Maryland colleague [Mrs. BENTLEY] in her taking this special order today for MARJORIE HOLT, but also for our three other colleagues that are not going to be with us next year.

Mrs. BENTLEY. I might say, along the lines of what my distinguished colleague from Maryland [Mrs. BYRON] was saying, that in helping each other along, when BARBARA MIKULSKI was running in 1976 for the first time, I was asked by the Baltimore Chamber of Commerce, then, would I please take her around and show her what the infrastructure was, and what the port was all about.

So we took her up in a helicopter and gave her a tour of all of the transportation segment of Baltimore so she would see firsthand what really made the area tick. She had been working in another area as a member of the city council, and when we flew over Hartmiller Island she said, "Is that what all this fuss is about?" She could not imagine it, but from that tour, BARBARA became a strong supporter of the port and of the transportation system.

Mrs. BYRON. I think the interesting thing is that each and every one of us have our own areas of expertise, and it is very beneficial for us to share that area, because we cannot be an expert in all areas, as much as we would like to be.

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Prince Georges County.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Baltimore County for yielding, and I am pleased to follow the new dean of the Maryland delegation to speak about the loss of four of our Members.

Mr. Speaker, as this session draws to a close, we in Maryland are losing half of our congressional delegation. We have only eight House Members. However, over the year we have come to take pride in our diversity. As a small delegation, we have had to spread our committee assignments over the broadest range in order to be effective. In each member that we are losing, we are losing a leader in a particular sphere of influence.

First of all, we are losing the dean, and unifier, of our delegation, Congressman PARREN MITCHELL of Baltimore. A historic figure in our State, Congressman MITCHELL is the first black citizen to be elected to the House from Maryland. He has served with tremendous distinction since his election in 1970, and has left his mark on a wide range of issues from small business and economic policy to civil rights.

Congressman MITCHELL is deservedly known as the "father" of minority small business programs. He has authored three major bills in the last decade to create set-aside programs in Federal contracts. Those set-aside bills have resulted in more than $1 billion in contracts for minority small business.

A less tangible achievement on the part of Congressman MITCHELL has been the role he has played in unifying our delegation. This past session has been one of great accomplishment for Maryland. I think in large part we can thank PARREN MITCHELL for those accomplishments, which were achieved by a delegation unified under his quiet leadership.

I said earlier this year on the floor of this House that when Congressman MITCHELL leaves, we will lose part of our conscience and a singular voice for justice for the poor and disadvantaged. I hope and I am sure that that voice will not be silent, however, on the issues which we all care about but which he cares about most deeply. The citizens of our State cannot afford to lose his active participation.

On the other side of the aisle, we will also be losing a historic figure in Congresswoman MARJORIE HOLT. When she was elected in 1972, Mrs. HOLT was the first woman from our State to serve in the House. She has become a respected Member of this House, and a visionary one in terms of Republican policy. Long before the Reagan "revolution," MARJORIE HOLT introduced Republican budgets of the sort that the President would have supported.

As a Member of the House Armed Services Committee, Congresswoman HOLT has fought for the strong national defense she believes in.

Though we have had our disagreements philosophically, no one can deny that MARJORIE HOLT has been a hard working Representative for the people of the Fourth Congressional District. Clearly they recognized and appreciated that hard work, for she has been returned to the House by overwhelming margins again and again.

We wish her all the best in her return to the practice of law. We know that she will bring to this new phase of her life the same dedication she brought to her work in this House for the people of Anne Arundel County.

In fact, if there is one thing that each of our four departing members has in common, it is that they are exceedingly popular in their home districts. Each one of them, no doubt, could have stayed in the House for years to come. It is our loss that they have chosen not to do so.

In 1976, Congresswoman BARBARA MIKULSKI joined our delegation. She is known for her ability to turn a phrase. And, she is equally well-known for her work on behalf of the people of Baltimore and the third district. We are on our way to getting Baltimore's harbor dredged, a project of vital importance to our State's economy. It wouldn't have happened without BARBARA MIKULSKI's leadership and doggedness. On issues of special concern to women and to children, there has been no stronger advocate in this House than she. BARBARA MIKULSKI has been a leader on child care issues and economic equity issues including insurance and pension reforms.

There is a good chance that BARBARA MIKULSKI will be moving over to the other body after this next election. She would be the first Democratic woman elected in her own right to that body. And, I would venture to guess would be the same breath of fresh air that she has been in this House.

Finally, Maryland will be losing one of its brightest young Members with the departure of Congressman MIKE BARNES of Montgomery County. Elected first in 1978, MIKE BARNES has come to be one of our best known lead-

State. He has had a meteor- this House. Given his tremen- ability, his success should not been unexpected.

After only 2 years in the House, Congressman BARNES was elected by his peers to chair the Western Hemisphere Subcommittee. For nearly 6 years, Congressman BARNES has been the point man in the House on Central American policy. Always he has fought for a sane policy in this area. Frequently he has succeeded and the House has followed his lead. Always his proposals have been thoughtful and sensible.

In domestic policy, MIKE BARNES has made a tremendous mark as well. Several years ago, he realized that the Federal Government could do something about drunk driving. Legislation adopted in 1982 has resulted in nearly every State toughening its laws against drunk driving. The lives that have been saved as a result are a monument to MIKE BARNES' effectiveness.

There is no doubt that the people of my State have not heard the last of MIKE BARNES. He is too competent and too popular among the people for this year to be the end of his political career.

Mr. Speaker, we are losing a combined total of 48 years of experience in this House. Though we have some fine people on the way to take the seats of the departing Members, it will be years before their record of dedication and their accomplishments are matched.

□ 1745

I thank the gentlewoman for yielding.

Mrs. BENTLEY. Mr. Speaker, I yield to the gentleman from Maryland [Mr. DYSON] the fourth Member with whom I share part of one county.

Mr. DYSON. I thank the gentlewoman for yielding; I might add that our colleague from Baltimore County also represents part of Harford County.

I would like to thank the gentlewoman at the very begining for organizing this special order for MARJORIE HOLT and also thank her for her indulgence in letting us expand her special order to include the rest of our colleagues from Maryland.

I think it has been said both by the gentlewoman from western Maryland, Mrs. BYRON, and the gentleman from Prince Georges County, Mr. HOYER, that our delegation has tremendous diversity. We also have tremendous diversity in our State, from the beautiful mountains out in Garrett County to the beautiful ocean in Worcester County. We are very fortunate in having a lot of urban and suburban areas which most of the rest of you represent.

Notwithstanding that, this delegation, though very small in number, has been able to work together whether it is to benefit the Eastern Shore on an issue such as the avian influenza or to work together on something like the dredging of the Baltimore Harbor. I would add that in both cases we were very successful.

I think a lot of that credit has to go to each of the Members individually but most especially to the chairman of our delegation, PARREN MITCHELL.

We are going to miss PARREN, and certainly MARJORIE, BARBARA, and MIKE. Each has offered something special to this delegation.

I listened to STENY talk about how hard MIKE BARNES and the rest of the delegation worked for the benefit of Federal employees. They make up a significant, if not predominant number of our work force in the State of Maryland.

BARBARA MIKULSKI and I serve together along with the gentlewoman in the well on the Merchant Marine and Fisheries Committee. We have been working very hard in the last couple of years to clean up our Chesapeake Bay. We have coordinated our efforts as a delegation. We shared one mission which was to clean up the bay. I have every confidence that that goal will be reached someday.

I have served together with Mrs. HOLT and Mrs. BYRON on the Committee on Armed Services. All three of us serve on the Procurement Subcommittee along with the subcommittee chairman, SAM STRATTON, who was here just a moment ago speaking for MARJORIE. I think that has benefited the defense industry in the State of Maryland. By that I mean jobs, jobs for people throughout our State.

PARREN has done a yeoman job as chairman of the Committee on Small Business. I am a small businessman myself. Our family has a small business in southern Maryland. That we can turn to him, turn to an individual who is a Marylander on that committee, has, I think, been beneficial. We have been very fortunate in the State. I did not realize until STENY HOYER spoke that we were going to lose 48 years of seniority in the Congress.

Our new delegation chairman, Mrs. BYRON, will be able to take the four of us who are left and the four who are coming and bring about the same kind of harmony we have experienced in the last couple of years.

I think that will be for the benefit of the entire State. I salute each and every one of them. I think maybe they are the wiser people here. They are going to have the 9-to-5 jobs, free weekends, perhaps expense accounts and all of these other things that we only dream of. They probably will not have the press breathing down their necks, will not have to do financial reports, will not have to raise money for elections and all of the other things that we have to do.

But on leaving, they should all know that they have made significant contributions to our State. I am very proud of each and every one them.

I would like to thank the gentlewoman from Baltimore and Harford County for getting this special order today.

Mrs. BENTLEY. I would like to point out that the gentleman from Maryland and I do share Harford County, as we said in the beginning, and we have really had a very good working relationship there because of the Aberdeen Proving Ground. We are there constantly at the same time and doing projects together.

Mr. DYSON. I would like to say that the gentlewoman is a good person to work with.

Mrs. BENTLEY. I thank the gentleman. I also share Baltimore County in part with both Congressman MITCHELL and Congresswoman MIKULSKI, and because it is such a vast county, we do not get together on as many things concerning that county as the gentleman, Mr. DYSON, and I do in Harford County. It has been a real privilege working with the gentleman on them, and I hope we will continue doing so.

I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentlewoman. I certainly appreciate her taking this time for a special order.

Mr. Speaker, I am pleased to join a special order recognizing the contribution of my colleague from Maryland, MARJORIE HOLT.

MARJORIE HOLT has served her constituents and the Nation well. She is a first-class legislator.

She brings to her service leadership and always a thoughtful understanding of the needs of this Nation.

Personally, I have a great respect for MARJORIE, having served with her for the past seven terms, particularly as a member of the Budget Committee. Our effort to slow down spending through the Holt-Regula budget reduction was the forerunner to many such efforts culminating in Gramm-Rudman.

MARJORIE is the epitome of integrity, and her service has set a high standard for those who will follow in Maryland's Fourth District.

Mary and I both have cherished her friendship and we join in wishing MARJORIE good health and future successes and especially lots of time to enjoy her grandchildren.

□ 1800

Mrs. BENTLEY. Mr. Speaker, I yield to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I thank the gentlewoman for this opportunity to make a comment with regard to MARJORIE HOLT.

MARJORIE was somebody who helped me out when I first got here. She took me under her wing, you might say. I have a lot of statements that I want to make about her, a woman of integrity, of principle, how hard she served, and I will cover all of these and put them in the RECORD whereby they will be there for future generations to see.

I think the ultimate compliment that you could pay MARJORIE HOLT is she is the type of person, and I know I do this, when you come in you look up at the board to see how MARJORIE has voted before you vote. We have the same type of districts. We represent a large number of Federal employees. We have the same type of traffic problems. We have the same type of airport problems. We have the same type of problems. She has been one who has really helped me so much.

So my comment here is that I just want to wish MARJORIE HOLT all of the very, very best as she takes up another career. I understand she will practice law after she leaves here. I just want her to know personally from the bottom of my heart that I appreciate so much all of the help and guidance that she has given to me as a Member of Congress, and let her know that she is an individual I have the greatest respect for. When I walked in, I looked up to see how MARJORIE HOLT had voted, and perhaps that may be the ultimate compliment.

One other comment if I may. I did not come over here to talk about other Members, and I heard somebody mention MIKE BARNES. I would just say two comments about MIKE.

One, we worked together on the drowning machine in the Potomac River, which took a lot of lives of a lot of innocent people here in the Washington metropolitan area. MIKE put a lot of time in on that. And with working together, that drowning machine has been repaired and no one has drowned there since that has been improved. I think MIKE ought to feel very good about that.

The other thing I think he ought to feel very good about is his efforts to raise the drinking age in the United States to 21. As a result of MIKE BARNES making the drinking age, for all practical purposes, 21, he has saved so much hurt and pain and suffering and anguish in the families of individuals who do not know how much they owe MIKE BARNES because they have not lost a loved one because MIKE BARNES worked to raise the drinking age. Had the drinking age stayed at 18 to 21, hundreds of families would have experienced the pain and suffering of losing a loved one. And because of MIKE and many others, but MIKE took the leadership in raising the drinking age to 21, he has really helped so many parents out there who will never know how much they actually know him.

I wish him very well as he moves on and takes up another career.

Mr. Speaker, I am very pleased to join my colleagues today to express my appreciation to and admiration for our retiring colleague from Maryland, Representative MARJORIE HOLT.

She is a woman of principle and integrity who has served Maryland's Fourth District with distinction for 14 years. Her departure from the House will be a significant loss not only for her constituents, but for the Nation.

As a member of the Armed Services Committee, she has recognized the importance of maintaining a strong defense and has fought to improve the pay and benefits of our Armed Forces. Earlier in her House career, she served on the Budget Committee and it was MARJORIE HOLT's initiative that produced the first Republican substitute budget which has become a vital part of the budget process today.

As Members of the House from the Metropolitan Washington area, Mrs. HOLT and I have worked together on many issues of interest to the Washington community. As a true and loyal friend of active and retired Federal employees, she has fought with me to protect their benefits and preserve the civil service system. We also worked closely together on regional transportation issues including the reconstruction of the Woodrow Wilson Bridge and the building of the Metro system.

The Almanac of American Politics characterizes Mrs. HOLT as a person with "a certain dogged persistence that one might expect from a woman who entered law school in 1946, a year that professional schools were flooded with male veterans returning from war."

MARJORIE HOLT has never been afraid to tackle an issue she believes in and work for changes to make Government better. She has been a persistent fighter, working for the betterment of our Nation and working to preserve our freedom. She has also been a fighter for her constituents and has gained a reputation as a Member of Congress who provides vital constituency services.

That reputation brought her victories with ease against liberal and conservative opponents alike in a heavily Democratic district. It speaks also of the way in which she has worked to get things done in Congress—in a bipartisan manner which has gained her the respect of colleagues from both sides of the aisle.

I salute MARJORIE HOLT as an outstanding public servant and want her to know how much I appreciate her valuable contributions as a Member of Congress to our Nation. She will be missed.

It has been a pleasure to serve with her in Congress and I wish her the best in her retirement years with her family. She well deserves it.

Mrs. BENTLEY. Mr. Speaker, I am glad the gentleman pointed that out, because that is indeed a very important matter for all families throughout this Nation.

Mr. Speaker, I yield to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speak[er], the gentlewoman from Ma[ryland] yielding to me.

I, too, would like to rise in co[m]mendation for our colleagues from Maryland who will be leaving us, MIKE BARNES, PARREN MITCHELL, MARJORIE HOLT, and BARBARA MIKULSKI.

I had the privilege of serving on the Armed Services Committee with MARJORIE, and she is certainly a very devoted and very dedicated lady. She served in this body for seven terms, and I have come to count on her as one of my very dear friends. We became friends during my first term here, and certainly I am going to miss MARJORIE.

She is a lady who certainly commands respect of all the Members and her presence in this hall has been felt for these years.

She worked very hard on the Budget Committee, as well as the Armed Services Committee. I think she was the one who really established the standard of having an alternative budget proposal. Since she did leave the Budget Committee, I think that has been the standard.

But she really has given her whole being and worked so hard on the Armed Services. She has given of herself to the Congress, to her committees, as well as to her party. But her work on the Armed Services Committee, and I served on the Procurement Subcommittee and she is the ranking minority member, has been excellent. We are both very concerned not only for active duty military personnel, but for our defense systems as well. We were allies on many issues.

We will miss MARJORIE, and we wish her the best of luck. And to MARJORIE and Duncan, their children and their grandchildren, we wish you well and many happy days ahead.

Mr. Speaker, I would also like to express my appreciation for BARBARA MIKULSKI. Although I do not serve on committees with BARBARA, she is certainly a dear friend of mine. She will be a fine Senator as she has been a fine representative.

BARBARA MIKULSKI is a lady who lives her convictions. She has a very big, a very warm, heart, and a very deep concern for the people who she represents, for all Americans that need help. She is a fighter, Mr. Speaker, but BARBARA MIKULSKI is also a good listener with a great big heart.

Early in her House career she tackled some of our most controversial subjects through her work on the Commerce Committee in trying to balance the industrial needs with our environmental concerns. Certainly her positions on Energy and Commerce and on Merchant Marine and Fisheries has been very important to Marylanders and to her district. It is going to take a big commitment to the

Senate as she goes to work on these concerns as well. I know the gentlewoman from Maryland will miss her, because she has worked with her as well.

BARBARA MIKULSKI is certainly a presence that will be missed, but we look forward to seeing her as she serves in the other body.

Mrs. BENTLEY. Mr. Speaker, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, time does not permit an elaborate statement, and I will submit my entire statement for the RECORD.

I just want to say to the gentlewoman from Maryland and to her friend, MARJORIE HOLT, MARJORIE and I came to the Congress together the first time 14 years ago. We struck up a friendship which has endured since that time.

I have the highest possible admiration for her as a person and for the job that she has done in the 14 years for her constituents and for the Nation.

I say to her as she goes on to perhaps more rewarding things, the one thing that MARJORIE HOLT has been in all of the years that I have known her, is a true lady, and for that I thank her.

Mrs. BENTLEY. Mr. Speaker, I yield to the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Speaker, while I have done no research on the subject, I suspect it is an unusual thing for a State to lose one-half its delegation in a single year. Beyond question, words of praise and appreciation will be accorded all those retiring members of the Maryland delegation, but I should like to confine my own statement to the two whom I know best—MARJORIE HOLT and PARREN MITCHELL.

It has been my privilege to serve with MARJORIE HOLT on the Armed Services Committee since she was elected in 1972. Although we have occupied opposite sides of the aisle, we have shared common goals and attitudes insofar as defense issues are concerned, and in many other areas as well. MARJORIE has served the Nation and the people of Maryland in a exemplary manner, and her successor will be following a very tough act.

PARREN MITCHELL I have known in an entirely different context. We served on no committees together, and it is no secret to anybody—least of all to PARREN—that our positions on legislation were opposite. Yet, I cannot let his leaving go unnoted. PARREN was my office neighbor for a number of years, and I have never known an individual who better embodied the meaning of the word "neighbor." In my observation, he was at all times a conscientious steward of his constituent's interests, and always a pleasure to be around.

Maryland has been well-served by its departing Representatives, and I join with all their friends in wishing them well as they move on to another arena.

Mrs. BENTLEY. Mr. Speaker, I yield to the minority leader [Mr. MICHEL].

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Mr. MICHEL. I thank the gentlewoman for yielding to me.

Mr. Speaker, before making a comment relative to the great stewardship of MARGIE HOLT, I would like to just make a comment with respect to the gentlewoman's own campaign for reelection.

I have either heard or saw, I cannot quite remember, some charge that I, at the time, thought was erroneously leveled against the gentlewoman being against Medicare. Of course, it was something to the effect that she supported the Michel amendment on the health and human services appropriation bill.

I would just like to say that the charge has no foundation because the Michel amendment was directed at discretionary spending and not entitlement programs as is the case with Medicare. Frankly, those kinds of ads have no foundation. I hope the general public takes note of that because it is, again, one of those erroneous charges that will crop up during the course of the campaign.

Mr. Speaker, I am delighted to have this chance to join with our colleagues in paying tribute to MARJORIE HOLT.

As a lawyer and then in local offices in Anne Arundel County, MD, MARJORIE showed the kind of dedication to her community that eventually led to her successful race for a House seat in 1972. We all know her great work as a member of the Armed Services Committee and, as Republican leader, I can personally attest to her support of strong national defense. This support has come not only when it was easy and popular to do so, but also in times when some said we should slash the defense budget. We could always rely on MARJORIE HOLT to provide not only the rhetoric but the votes needed for our national security.

MARJORIE also served on the Budget Committee and has had the opportunity to see the entire budget process unfold in all its complexity. She brought to that task the same concern for tax dollars and for national security that has marked her career since she first began in local politics.

The Almanac of American Politics 1986 says MARJORIE HOLT has "a certain dogged persistence." I like that quality—her ability to, as we say, "hang in there," when it might seem more prudent to avoid a tough issue.

MARJORIE, we are going to miss you around here. Your fine work for your constituents and for this country, especially in the field of national security, has been one of the greatest strengths on our side of the aisle for 14 years.

Mrs. BENTLEY. I thank the minority leader for his remarks and also for pointing out that I have never voted against Medicare. I appreciate that very much.

Mr. Speaker, I want to thank all of the Members who have joined in this tribute to MARJORIE and to other Members of the Maryland delegation who are retiring and particularly to the other three Members of the Maryland delegation who, the four of us are, let us say, the last four horsemen.

Mr. QUILLEN. Mr. Speaker, I want to join my colleagues in paying tribute and wishing good luck in the future to Congresswoman MARJORIE S. HOLT of Maryland, who is retiring at the end of this Congress.

Mrs. HOLT is a truly outstanding Member of the House and her retirement is a loss not only to her constituents in the Fourth Congressional District of Maryland who she has represented so well in the House, but to those of us who have had the privilege to serve with her in the House of Representatives.

She is a valued Member of my party in the House and her views have always carried great weight with me, particularly in matters relating to the armed services and the national security of the United States. Mrs. HOLT serves with distinction on the House Committee on Armed Services and she has created an outstanding record over the years as a thoughtful and hard-working member of that committee who is absolutely committed to an American defense capability second to none. She is firm in her support for providing what is necessary to our armed services to see that they can perform their mission for the defense of this country. I wish to express my appreciation to Congresswoman HOLT on this account and note that in her leaving the Congress and the Committee on Armed Services, the country has lost a strong voice for the maintenance of a powerful national defense system.

It has been a pleasure serving with Congresswoman HOLT in the House during the past 14 years. She is a fine person and I will miss her. For the future, let me just say best wishes in all your endeavors, and may the best of everything come your way.

Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to bid farewell to MARJORIE HOLT, who has been not only a highly respected colleague, but also a very dear friend. MARJORIE'S contributions to this body are innumerable, and her presence will be sorely missed.

MARJORIE HOLT is indeed a fine person; when we refer to her as the "Gentlelady from Maryland," the term is extremely fitting. However, she is also a capable, outspoken, and committed legislator, one who's guidance and leadership I have always admired, particularly in the area of defense. MARJORIE has always set a fine example, balancing national security requirements with sound judgment and common sense. She is a strong voice of reason in the defense arena, and her accom-

plishments have transcended partisan politics and parochial concerns.

While I will certainly miss MARJORIE, and her shoes will be hard to fill, I certainly wish her all the best in her future endeavors. Her efforts on behalf of her district, the State of Maryland, and the Nation will not be forgotten. It is a pleasure to be able to say "thank you" to her for so many years of dedicated service.

Mr. MILLER of Ohio. Mr. Speaker, with this session of Congress, one of the most outstanding individuals to have served us in the House will retire. After 14 years in this Chamber, Representative MARJORIE S. HOLT will terminate her public service career, and we will miss her greatly.

Her contributions to her country go far beyond her interests in her district or Maryland. She was instrumental in key foreign affairs issues, the House's work on the equal rights amendment, and critical Armed Forces issues that had a direct bearing upon the readiness of this Nation's military services.

It is impossible to adequately outline the vast contributions she has made while serving here. What we must do at this point is state the obvious: She will be greatly missed. Her record of outstanding service will remind us all that she worked in the best interest of the Nation while, also, doing her very best for Maryland and her congressional district.

I welcome the chance to wish MARJORIE the very best and I join in this tribute enthusiastically, knowing that we've been privileged to have served here with one of the best.

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my good friend Congresswoman MARJORIE S. HOLT who is retiring after 14 distinguished years in the U.S. Congress.

I have enjoyed working with MARJORIE and attending our prayer breakfasts together. She is a fine person and an outstanding Member of Congress.

MARJORIE is highly respected on both sides of the aisle and she has had a notable career on the House Armed Services Committee.

MARJORIE has worked hard in the national interest and she has also dedicated herself to helping her constituents in Maryland's Fourth District.

Her talents will be missed, but not forgotten. I am sorry to see her go, but I would like to wish MARJORIE well in her future endeavors.

Mr. LATTA. Mr. Speaker, it is an honor for me to pay tribute and to express my personal thanks to Representative MARJORIE HOLT upon her retirement from the House of Representatives.

MARJORIE in her 14 years in the Congress has established herself as one of our country's chief proponents in rebuilding our defense capability. She has never wavered from a conviction that America is the bastion of freedom in a world populated by regimes that do not share our commitment to liberty. This conviction has been translated into both renewed military power and a rebirth in our confidence to defend ourselves and the values we cherish in this beloved country.

I can personally attest to MARJORIE's contributions to the Nation's needs for a sound economy when she served with me on the House Budget Committee. She fought hard for reduced Federal spending within the Republican structure, and she gained the respect of those who served with her on the committee. She has been one of the outspoken Members advocating less taxes and less regulatory burdens on the individual.

I congratulate MARJORIE on a distinguished career and wish her the very best of health and happiness for years to come as she returns to her family and friends in Arundel County, MD. She will be missed but always remembered.

Mr. DICKINSON. Mr. Speaker, I rise today on behalf of my illustrious colleague, MARJORIE HOLT, on the occasion of her retirement from the U.S. Congress.

During her tenure on the House Armed Services Committee, she excelled in her subcommittee assignments as the ranking minority member of the Subcommittee on Procurement and Military Nuclear Systems, and as a leader of the Subcommittee on Military Personnel and Compensation.

While serving in these capacities, Congresswoman HOLT was insurmountable in her efforts for the increased benefits of our soldiers and their families, including pay increases and improved health care. She was also heavily involved in raising the quality of life on military installations by improving the housing standards.

Prior to the Reagan administration, our national defense capabilities were rapidly deteriorating. MARJORIE HOLT worked hard toward the total rebuilding or our nationl defense to where it is today.

I have worked very closely with the gentlelady from Maryland for 14 years, and will miss having her wisdom and insight. I would like to congratulate her on a job well done, and to extend my best wishes to her on her endeavors in the years ahead.

Mr. ARCHER. Mr. Speaker, It is with great sadness that I bid a fond farewell to a dear friend and trusted colleague, Congresswoman MAJORIE HOLT. I will deeply miss her and the wise counsel that she has always provided to me.

In 1972, when MARJORIE began her first term as the Congresswoman from Maryland's Fourth District, I was starting my second Congress. Except for this one-term difference in our congressional service, our congressional careers have covered an identical period. We have had to deal with the same problems and the same issues. She has always stood up as an intelligent and reasoned voice of a commonsense approach to solving those problems.

From her very first year in Congress, she has been a forceful voice for both her district and her deeply held convictions about the direction that our Nation should be taking. I have always found her counsel dependable and insightful. Especially in the area of defense where she has played such an important role as a member of the Armed Forces Committee, I have rarely found myself in anything but total agreement with her astute judgment and recommendations.

During her 14 years in the House, I have come to value her presence and leadership as one of those Members who was always willing to stand up and be counted on the issues which mean so much to both of us—to stand up for fiscal responsibility, a strong national defense and a government of which all Americans can be proud. I think that what I cherish most about knowing MARJORIE HOLT through these years has been the friendship that I have gained. I and all my House colleagues have benefited from her presence.

MARJORIE, please know that you will be missed. Maryland is losing a premier legislator. I wish you good luck and extend to you the very best wishes of myself and my constituents as you leave this body. People like MARJORIE HOLT have made my service in Congress a pleasure. She's the type of legislator of whom all Americans can be proud.

Mr. STUMP. Mr. Speaker, I rise to join my colleagues in honoring the distinguished Congresswoman from Maryland, MARJORIE S. HOLT, on the occasion of her retirement from the U.S. House of Representatives.

For the past 14 years MARJORIE HOLT has been one of the most effective and respected Members of the House of Representatives. It has been a pleasure and a privilege serving with her. She has demonstrated the ability to make difficult decisions confidently, and has always placed the national interest high above partisan politics.

Citizens of Maryland's Fourth Congressional District are to be congratulated for having the wisdom to send Mrs. HOLT to Washington to represent their interests. She has done an outstanding job and has amassed an enviable record of service to her constituents.

As an outspoken advocate of a strong national defense, Congresswoman HOLT has served her country in an extraordinary manner. By recognizing that providing for our national security is the fundamental function of the Federal Government, she has steadfastly fulfilled her sworn duty to protect and defend the Constitution of the United States.

The House is losing a most effective Member who will be missed by all. My wish for MARJORIE is that she enjoys life to the fullest and continue contributing her ideas and energies to the important issues faced by our country.

Mr. BENNETT. Mr. Speaker, I rise at this point to express how much I regret seeing Congressman PARREN MITCHELL leave this body. I have this regret because of his great leadership here for all things that are good for our country and for mankind. As some of us know, he served in the U.S. Army as a company commander in the infantry, received a Purple Heart and distinguished himself in every respect in combat in World War II. He has been a combatant for good things here in the Congress, and I have personally cherished his advice and counsel on unnumbered occasions. In fact, I have found him a man of such sound judgment and thoughtful concern that it has brought between us a very real and lasting friendship, something I will always cherish. We will miss PARREN, but we know wherever he is he will be doing good for those about him, and for those he doesn't even see or know individually.

Mr. Speaker, all of us in Congress will greatly miss our colleague, MARJORIE HOLT's presence in the House of Representatives next year—not only because of her great leadership, intellect, and charming personality, but also because of the beautiful friendship she has with each Member of the House. We not

only respect her magnificient attainments and her spirited leadership here, but we treasure her friendship and know that it will not cease just because she is going to other fields of endeavor. During my considerable years of service in the House, I do not remember anyone who more genuinely deserves the title of a good fighter for things that are good for America and mankind. She is certainly an outstanding legislator, and we will miss her greatly.

Mr. Speaker, BARBARA MIKULSKI will be leaving us to go on to other achievements, and she certainly will be tremendously missed in the House of Representatives. She is an exciting, vigorous fighter for all things that are good and has set a standard of excellence in legislation which will be hard for any of her successors to equal.

Mr. Speaker, when Congressman MIKE BARNES decided to run for the Senate, all of us had a regret that someone who had so recently come to the House would leave us so promptly, particularly in view of his outstanding service in the House. The former marine and graduate of the University of North Carolina with postgraduate study at the Institute of International Studies in Geneva, Switzerland, brought distinction to the debates in Congress, demonstrated courage, and tenacity, and ability at every step of the way. Even in his recent defeat for the nomination to the Senate, and what followed, he has shown high qualities of character which we can all admire. We all know that his service here in the House was of such excellence that his future is assured where fate may take him. Since he lives close to the Federal Capital, we can all hope that he will be a frequent visitor on many occasions.

Mr. DARDEN. Mr. Speaker, I would like to join my colleagues in paying tribute to our good friend, Representative MARJORIE HOLT, as she leaves the House of Representatives after 14 years of distinguished service to the State of Maryland and this Nation.

It has been a great pleasure working with MARJORIE on the Armed Services Committee. My wife, Lillian, and I developed a close friendship with MARJORIE and her husband, Duncan, during the committee's trip last winter to the South Pacific and Antarctica. I might add that MARJORIE was a hale and hardy member of what otherwise was an all-male excursion to the South Pole during that journey.

MARJORIE has been an articulate spokeswoman for Republican causes here in Washington, but few people know that her first political experience was as an employee of the Democratic Georgia Legislature, where I served before coming to Congress.

Mr. Speaker, I know all of us wish MARJORIE HOLT well, and I thank her for her friendship and assistance during our service together in the House of Representatives.

Mr. LAGOMARSINO. Mr. Speaker, I am honored to have the opportunity to pay tribute to a good friend and colleague, Congresswoman MARJORIE HOLT.

I remember when I was a freshman, MARJORIE was one of the people I looked to, and she was always willing to assist and lend advice. Like myself, MARJORIE was a practicing attorney, and her astute grasp of legislative issues and procedures was an asset which we will sorely miss.

As a member of the Committee on Armed Services, she has been invaluable in the drive to build up our Nation's defenses. And she was just as active in diplomatic matters. She is credited with being one of the key people in convincing President Anwar Sadat to undertake his efforts in behalf of peace in the Middle East, during a visit to Egypt.

MARJORIE entered politics at a time when it was difficult for women to advance. She blazed the trail that many others have followed in her own State of Maryland. She is respected and liked by Members on both sides of the aisle, and her retirement at the end of this session will leave a gap in our ranks.

Mr. Speaker, I would like to add my plaudits to those of my colleagues for MARJORIE and her husband, Duncan, and say that I hope she will continue to grace us with her lovely presence in years to come.

Mr. RUSSO. Mr. Speaker, I am pleased to have the opportunity to praise a colleague for whom I have great respect, but I am sad to have to say goodbye to this good friend. Representative MARJORIE S. HOLT will be greatly missed here.

MARJORIE would roll up her sleeves and put in the hard work required to complete the job. As a result, she's been a real asset to the Congress and the Nation and her constituents have been well served. Working as an effective lawmaker during several administrations, she has left her mark.

I admire MARJORIE. She's tough. She's straightforward. And I think it is one of the great things about Congress that despite the fact you may have differences on issues and serve on different sides of the aisle, you nevertheless can be friends with those with whom you disagree. Often MARJORIE and I are not on the same side on issues, but I always know we can talk, share our views, and maintain our friendship. That's the caliber of people here, and especially MARJORIE.

For 14 years, she has been a dedicated Member of this body and we have all benefited from her knowledge and her skills. MAJORIE HOLT deserves our recognition and our praise and I wish the gentlewoman Maryland all the best. She certainly has earned it.

Mr. BIAGGI. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to MARJORIE HOLT, the distinguished and able Member from the Fourth Congressional District in Maryland. As we all know, MARJORIE HOLT has elected to retire at the end of this session of Congress after 14 years in the House.

The term we are most familiar with in this House to describe MARJORIE HOLT is the gentlelady from Maryland. How apt a description that is of MARJORIE HOLT. She is a woman of great style and charm with a sincerity that is infectious.

MARJORIE HOLT has been a leader over these past 14 years as a member of the Armed Services Committee. She has played a major role in the development of our defense policy during these years. She amassed a reputation of being extremely knowledgeable on the many complex issues that come before this committee each year. She is the ranking minority member on the Subcommittee on Procurement, and has played an especially pivotal role in the various and critical procurement reforms that have emerged from this Congress.

MARJORIE HOLT also served with distinction on the House Budget Committee. She actively sought to make important reforms in the budget process some of which in retrospect might have eliminated the need for more radical approaches such as Gramm-Rudman.

MARJORIE HOLT is a revered figure in her congressional district because of her outstanding level of constituent service that she provides. She is a regular and visible figure in all the communities that make up the Fourth Congressional District, She has established a standard of excellence that any Member, Republican or Democrat, would be wise to emulate.

I am confident that whatever MARJORIE HOLT elects to do after she retires from the HOUSE, she will succeed—as she did in her House career. I am also comforted by the fact that her district's and home's proximity to Washington will allow us the occasion to see MARJORIE more often than other of our colleagues who are retiring. It has been both an honor and a delight to have known and worked with MARJORIE HOLT these past 14 years. She leaves behind a positive legacy of service and involvement that will endure for years to come.

Mr. RUDD. Mr. Speaker, I am pleased to participate in honoring the gentlelady from Maryland tonight. Congresswoman MARJORIE HOLT has served with distinction in the House of Representatives since her election to Maryland's Fourth Congressional District in 1972.

She has proven to be an influential and dedicated member of the powerful Armed Services Committee. Her leadership in safeguarding America's defense, coupled with her fiscal conservatism and watchful eye, have helped immeasurably to protect both the taxpayers' hard-earned dollars and the freedoms we all enjoy.

Mr. Speaker, MARJORIE HOLT has shown during her tenure in Congress that both a dedication to the national good and local concerns can be carried out with distinction, dedication, and dignity. She has been reelected seven times in landslide victories to the House of Representatives, but has decided to step down at the end of this 99th Congress.

MARGIE will be missed by this body, and this Congressman. Both Maryland and the United States of America have lost a strong, sincere, and effective Member in the U.S. House of Representatives. But, I'm sure, others will be the lucky recipients of her good company and great abilities after MARJORIE leaves this body. I would like to wish my good friend MARGIE and her family the best of all possible things in all their future endeavors.

Mr. SOLARZ. Mr. Speaker, I rise tonight to pay tribute to one of my colleagues, the Honorable MICHAEL BARNES, who has ably and conscientiously represented the interests of his constituents in the Eighth District of Maryland in the finest tradition of this House.

Mr. BARNES, with whom I have had the distinct pleasure to serve with for the past 8 years as a member of the Committee on Foreign Affairs. As an active member of the com-

mittee he has diligently, ably, and conscientiously worked to preserve and protect the interests of the United States.

For the past 6 years he has chaired the Subcommittee on Western Hemisphere Affairs where he became, in effect, the Democratic spokesman for a rational policy in Central America. MIKE BARNES played a crucial role in reshaping American foreign policy in that region. He has been a major force in formulating United States policy and assistance to El Salvador. He has vigorously resisted the tendency to allow our policy toward Nicaragua to be determined solely on military grounds. He has been a calm and rational voice in the often heated debate on Central America in the Congress.

He has proven himself to be one of the strongest supporters of Israel in the Congress. He was one of the leaders in the effort to prevent the sale of AWACS to Saudi Arabia. And each year he could be counted upon to support essential levels of assistance to Israel to ensure the security and survival of our most reliable democratic ally in the Middle East.

MIKE BARNES is a man of great personal integrity and a man upon whom his colleagues came to rely because of his good judgment and his reliability. I am proud to know MIKE BARNES and consider him a good friend. I am happy to have had the opportunity to serve with him and to have worked with him on some of the great issues of our times: arms control, South Africa, human rights, refugee protection, and of course, a more rational policy in Central America.

Knowing MIKE BARNES, I have no doubt that we in this House will not have heard the last of him. He has been a good Congressman, a good friend, and a great colleague,

Mr. STOKES. Mr. Speaker, I appreciate the thoughtfulness of the Maryland delegation in reserving this time for Members to pay tribute to an outstanding legislator, politician, and leader, Congresswoman BARBARA MIKULSKI.

BARBARA has been an outstanding Member of Congress and she is admired and respected on both sides of the aisle.

I had the opportunity to get to know BARBARA well when she and I traveled to the Soviet Union in July 1985 under the auspices of the National Council on Soviet Jewry. We had the chance to talk and work together on that trip, and continued to work together upon our return to secure the freedom of Jews in the Soviet Union. BARBARA is a leading spokesman in Maryland and Congress on the plight of Soviet Jews and as with other issues, she is effective and committed to assisting the refuseniks.

I also had the opportunity to enjoy BARBARA's great wit and keen analytical mind as we discussed many shared areas of concern: the plight of minorities, the poor, women, and the disadvantaged of our society. I found her to be extremely articulate and sensitive to the problems of others and innovative and creative in her proposed solutions.

Mr. Speaker, BARBARA MIKULSKI is destined for greater roles of leadership in the United States Congress. Her talents, foresight, skill, and leadership will be missed in this body. I wish her the best of luck in her future endeavors.

Mr. Speaker, I appreciate this opportunity to salute Congresswoman MARJORIE HOLT, who is retiring after 14 years of service in the House of Representatives.

I have long admired Representative HOLT for her leadership, dedication and effectiveness in this body. During her tenure in Congress she has successfully served both the interests of her constituents of the Second District of Maryland and the interests of our Nation in the areas of foreign affairs and equal rights for women. She has been at the forefront in the effort for peace in the Middle East and during a trip to Egypt in 1973, utilized her considerable persuasive skills in urging the late President of Egypt, Anwar Sadat, to pursue peace in that region. She is also widely admired for her distinguished leadership in the fight for passage of the equal rights amendment and serves as a fine example for those women who seek to run for public office in order to contribute to the political process.

I had the good furtune to serve with Congresswoman HOLT on the Budget Committee and witnessed first hand her ability to work on an equal plane with her Budget Committee colleagues. In addition, due to the close proximity of our offices in the Rayburn House Office Building, we frequently rode the elevator together and engaged in many pleasant and thought-provoking conversations. I found her to be a friendly, intelligent, and extremely competent colleague.

Mr. Speaker, I have the greatest respect for Congresswoman HOLT's legislative talents and am confident that she will enjoy comparable success when she leaves the House for different pursuits. I join with my colleagues in wishing Congresswoman MARJORIE HOLT the best of luck in all future endeavors. She will be missed.

Mr. Speaker, I would like to thank my colleagues from Maryland for reserving this special order so that Members of the House may pay tribute to the gentleman from Maryland, Mr. BARNES.

I never had the opportunity to serve on a committee with MIKE BARNES. I have, however, paid close attention to his accomplishments in the House, and am pleased to have this opportunity to congratulate him on the fine work he has done in the area of foreign affairs.

MIKE was particularly impressive in his intelligent, articulate and impassioned battle against aid to the Contras in Nicaragua. I shall always remember his leadership in that worthwhile battle, and believe that it was demonstrative of his dedication to public service.

Mr. Speaker, I would like to convey my best wishes to MIKE BARNES. His leadership and tenacity will be sorely missed here on the Hill.

Mr. Speaker, it is with tremendous regret that I bid farewell to one of the finest gentlemen in the House, Mr. MITCHELL of Maryland. During his tenure he has amassed an amazing list of legislative accomplishments and earned the respect and admiration of his colleagues in the House on both sides of the aisle.

Shortly after coming to Congress in 1970, PARREN chose the two committees from which he would launch his legislative attack on problems in which he had the greatest concern. These were the Housing Subcommittee of the House Banking, Finance and Urban Affairs Committee and the House Small Business Committee.

In an effort to maximize his effectiveness as a committee member, PARREN, a sociologist by training, sought the guidance of blacks from across the country involved in the business and housing areas. Initially in small numbers, black experts came to Washington quarterly, totally at their own expense, to anonymously advise PARREN through grueling day-long work sessions. The seed for "Black Congressional Brain Trusts" had been planted. PARREN followed up on this idea during his tenure as chairman of the Congressional Black Caucus during the 1970's and encouraged each of us to establish brain trusts in our areas of committee expertise. Through our response to his leadership, there are now more than 16 different brain trusts involving thousands of persons of all races, ages, and walks of life in the highest levels of the legislative process. Moreover and equally important, they form a network of individuals throughout the entire United States capable of mobilizing on legislative matters within 24 hours.

Mr. Speaker, perhaps PARREN's greatest victory on the House floor was in 1976 when the first, now famous, Mitchell amendment was put on the public works bill. That amendment compelled State, county, and municipal governments seeking Federal grants to set aside 10 percent of each grant to retain minority firms as contractors, subcontractors, or suppliers. This amendment has now resulted in $625 million going to legitimate minority firms. In 1978, he won passage of his highly acclaimed bill known as Public Law 95-507 which requires Federal agencies to seek proportionate contracting awards to small disadvantaged minority business.

Following this, his next victory came when he won passage of a 10-percent set-aside to the Surface Transportation Act of 1982. This set-aside has resulted in hundreds of contracts to minority firms totalling billions of dollars.

Winning passage of this landmark legislation, however, did not end the battle. Due to the continuous legal challenges to his bill, in 1983 PARREN founded the minority Business Enterprise Legal Defense and Education Fund. The fund serves as a justice system for minorities which focuses its legal efforts on class action lawsuits and potential landmark decisions affecting minority business. Private contributions finance the nonprofit fund which PARREN fondly refers to as "my baby."

There is not enough time, nor enough space in the CONGRESSIONAL RECORD for me to do justice to PARREN MITCHELL's distinguished legislative career. I have not even touched upon his 6 years of outstanding service on the Budget Committee, paving the way for Congressman BILL GRAY to become chairman of that committee; nor have I touched upon his floor oratory in defense of the poor, the homeless, the disadvantaged, and the voiceless for whom he is so articulate.

In his own inimitable way, PARREN MITCHELL has left his own indelible mark on this U.S. Congress. In doing so, he followed no blueprint—he did it his way. To describe him finally

as a legislator's legislator would not only be trite—but it would also be inaccurate. More accurately I predict that historians will say of him: PARREN J. MITCHELL—legislator—one of a kind.

Mr. FASCELL. Mr. Speaker, I rise today to join in saluting our colleague, the Honorable MIKE BARNES of Maryland. We will miss him in the 100th Congress when the Committee on Foreign Affairs convenes and he is no longer a member of the committee. MIKE has served on the committee since his election to the 96th Congress and has chaired the Subcommittee on Western Hemisphere Affairs since 1981. In that position, MIKE has been an effective critic of U.S. foreign policy toward Latin America.

As issues in Central and South America have assumed major importance in foreign policy in recent years, MIKE has been a central figure in shaping the debate. He and I have not always agreed, but we have always been able to accommodate our differences honorably and worked together frequently toward a consensus on these contentious matters.

MIKE recommended that the subcommittee change its name from Inter-American Affairs to Western Hemisphere Affairs in order to indicate more specifically our concern with relations to our Northern neighbor, Canada. MIKE has also served as chairman of the United States-Canadian Parliamentary Exchange and on many occasions provides the knowledge and expertise required to help us all better understand the issues involved in relations between our two countries.

On the national level, MIKE BARNES has played a vital part in the formulation of U.S. foreign policy. In Congress he has been an effective legislator and statesman, and the people of his congressional district have lost a dedicated representative.

I join MIKE's many friends in saying thanks and wishing him all the best in his new career.

Mr. HORTON. Mr. Speaker, as the cofounder and cochairman of the Northeast-Midwest Congressional Coalition, I have had many opportunities to deal on a one-to-one basis with each of the Members of the Maryland delegation. As we finish the business of the 99th Congress, it is only fitting that we bid a proper adieu to fully one-half of Maryland's eight-person congressional delegation. Each has brought his or her own unique talents to this Chamber, and each has made an indelible mark on me and on the House of Representatives.

The veterans of the crew, PARREN MITCHELL of Baltimore, has been for 16 years a leader in civil rights and the rights of the poor. PARREN leaves this House with eight terms of diligence in fighting for basic human dignity.

The gentleman from Baltimore is perhaps best known as the chairman of the House Small Business Committee. Following the many horrible tales of $2,000 coffee pots and $400 hammers, PARREN worked toward legislation to create greater competition for Federal spare parts contracts. His efforts to increase the quantity and success of minority-owned businesses played a major role in the minority "set-asides" on Federal projects.

I also had the pleasure of serving with PARREN's brother Clarence, a number of years ago. The Mitchell family has served Maryland well; Their legislative successes have been innumerable. The people of Baltimore will miss such a seasoned veteran fighting for them. His eloquent rhetorical and debating skills will be missed by all who seek floor debates with substance and indepth analyses.

Quiet but effective. That's the way I've often heard our seven-term colleague MARJORIE HOLT described. MARJORIE will be remembered for her continual efforts to maintain a strong national defense. As a senior member of the Armed Services Committee, for years she has fought—and usually won—battles to ensure reasonable pay and housing benefits for enlisted servicemen and women. She currently serves as the ranking Republican on the Subcommittee on Procurement and Military Nuclear Systems, chaired by my good friend and fellow New Yorker SAM STRATTON. On more than one occasion SAM has complimented Mrs. HOLT on her broad knowledge of the issues and ability to work with her committee members on complicated legislative matters.

MARJORIE made her mark on the 1960's and 1970's as a conservative but pragmatic political leader. In 1984, she was the Maryland director of the Reagan reelection committee. As she begins her retirement, I am sure that the President will continue looking to MARJORIE for her tremendous insight into budget and defense-related issues.

MICHAEL BARNES, Maryland Representative from the Eighth Congressional District, is also leaving the body. MIKE will be long remembered for his tremendous insight into the turmoil in Central and South America. From his position as chairman of the House Foreign Affairs Committee's Subcommittee on Western Hemisphere Affairs, MIKE has proved to be one of the Nation's foremost experts on Nicaragua.

The gentleman from Maryland has an interesting problem, in that liberals portray him as too conservative; conservatives claim he is too liberal. Often that means that MIKE can't be labeled simply in one faction or another, and then be expected to follow some pattern of voting. His support of the invasion of Grenada and his opposition to military aid to the Contras are perhaps the best examples of his individual style and determination to look toward long-term benefits of particular foreign policy moves by this country.

MIKE has also been a friend of our longtime ally—Israel. His dedicated work opposing the sale of sophisticated arms to Saudi Arabia and other Arab nations that refuse to recognize Israel's right to exist is work that will not soon be forgotten by Israel's supporters.

Last but certainly not least, the House will lose five-term Congresswoman BARBARA MIKULSKI, who won the Democratic nomination for the U.S. Senate seat in Maryland. She is currently locked in a struggle with Republican Linda Chavez.

BARBARA is small in stature, but her aggressiveness and earthiness make her a formidable opponent for anyone on the other side of an issue. From her position on the Merchant Marine and Fisheries Committee, BARBARA has been a staunch supporter of shipping for east coast ports, Baltimore in particular. She also has been an assiduous worker on the Energy and Commerce Committee, fighting for consumer rights and the environment.

Mr. Speaker, whether liberal or conservative, Democrat or Republican, one has to admire these four retiring Members of Congress from the Free State. Their collective wisdom will be sorely missed in the 100th Congress. My wife Nancy and I wish them all the very best on future endeavors, political and personal.

Mr. RUSSO. Mr. Speaker, I am pleased to have the opportunity to praise a colleague for whom I have great respect, but I am sad to have to say goodbye to this good friend. Representative MARJORIE S. HOLT will be greatly missed here.

MARJORIE would roll up her sleeves and put in the hard work required to complete the job. As a result, she's been a real asset to the Congress and the Nation and her constituents have been well served. Working as an effective lawmaker during several administrations, she has left her mark.

I admire MARJORIE. She's tough. She's straightforward. And I think it is one of the great things about Congress that despite the fact you may have differences on issues and serve on different sides of the aisle, you nevertheless can be friends with those with whom you disagree. Often MARJORIE and I are not on the same side on issues, but I alway know we can talk, share our views and maintain our friendship. That's the caliber of people here, and especially MARJORIE.

For 14 years she has been a dedicated Member of this body and we have all benefited from her knowledge and her skills. MARJORIE HOLT deserves our recognition and our praise, and I wish the gentlewoman from Maryland all the best. She certainly has earned it.

Mr. GARCIA. Mr. Speaker, I want to make note of a number of our distinguished colleagues who are retiring: Representatives HOLT, KINDNESS, LOEFFLER, MITCHELL, MIKULSKI, and BARNES. While I did not have the opportunity to work closely with my colleagues from the other side of the aisle, I nonetheless, know them to be of fine reputation and good character. I wish them well in their future endeavors.

There has been no finer statesman to serve this institution than the distinguished dean of the Maryland delegation: Congressman PARREN J. MITCHELL of Baltimore.

This great champion of the civil rights movement, professor and Member of Congress since 1970, has been a strong voice for the poor and disenfranchised throughout his distinguished career. Congressman MITCHELL is affectionately known as Mr. Small and Minority Business, and has fought relentlessly for the rights of small and minority business interests throughout the Nation.

I cannot come up with all of the superlatives to rain upon my distinguished colleague. But, I believe he summed up his distinguished career in a recent speech by reciting the words of a popular song, "For what is a man; what has he got, if not himself he has not; to say the things he truly feels and not the words of one who kneels. The record shows, I took the blows, and did it My Way." Over the years, my colleague has done things his way!

Representative BARBARA MIKULSKI has been an example for all of us through her hard work and determination to serve her district and her State. BARBARA has been at the forefront of the women's movement and the entire civil rights movement. She has fought injustice at every turn and proved herself to be a constant friend to the less fortunate.

BARBARA has also fought hard for her home city of Baltimore and the entire State of Maryland. She has used her considerable legislative skill and determination to help the people back home. She has worked hard for consumer's rights as well, and she has never forgotten her roots.

Surely this body will miss BARBARA MIKULSKI and her fine sense of humor and boundless energy. It's nice to know, however, that we can expect to see her on the other side of the Capitol next year and for years to come.

We are losing another friend and colleague this year, MIKE BARNES. I have had the privilege of working with MIKE as a member of his subcommittee. It was a rewarding experience. I say that because I found MIKE to be both fair, yet faithful to his own principles. MIKE is one of those rare individuals who is a big enough person to hold fast to his own point of view, while at the same time be able to allow those who disagree with him the room to express themselves.

MIKE has been our party's standard-bearer for United States policy toward Latin America for the past 6 years. In that capacity, he has taken a lot of heat, but he has served his party, this body, and his country well. MIKE has made sure that Latin America was not forgotten in the course of our debates over United States foreign policy. He has also helped to ensure that America has projected a human face itself to our neighbors south of the border.

I will miss MIKE and his excellent subcommittee staff. They have served their Congress and country with distinction. But more importantly, they have been my friends, and I hope and believe that the future will be full of promise for all of them.

Mr. STENHOLM. Mr. Speaker, as a member of the House Small Business Committee and chairman of one of its subcommittees, I am very pleased to join with my colleagues from the Maryland delegation in paying tribute to the chairman of the House Small Business Committee, the Honorable PARREN J. MITCHELL, on the occasion of his retirement at the end of this Congress, after representing the Seventh Congressional District of Maryland for the past 16 years.

Chairman MITCHELL's contributions to public service go back much further than the eight terms he has served here in the House of Representatives. PARREN was one of the leaders of the civil rights movement, and continued to champion the cause of minority and disadvantaged individuals who have not always had an equal opportunity to participate in the American dream.

PARREN has effectively used the House Small Business Committee chairmanship to act as an advocate for America's would-be entrepreneurs who had viable products, services, and ideas, but who had found diminished capital and credit opportunities in the marketplace. These future business people had a friend in PARREN MITCHELL, who made every effort to continue the various SBA loan programs which, like so many other programs, have been subject to cuts in Federal spending in recent years.

And it was largely through the efforts of Chairman MITCHELL that the budget-cutting plans of this administration to dismantle the SBA were thwarted. The recent White House Conference on Small Business, which called to Washington, DC business men and women from across the country, affirmed the support and need for a strong SBA.

The citizens of the Seventh Congressional District of Maryland are losing a dedicated and effective public servant. Business men and women across America are losing an effective advocate and champion of small business, and we in the Congress are losing an able colleague and a friend. I join with my many colleagues in wishing Chairman MITCHELL a productive, happy, and well-deserved retirement.

Mr. WOLF. Mr. Speaker, I am very pleased to join my colleagues today to express my appreciation to and admiration for our retiring colleague from Maryland, Representative MARJORIE HOLT.

She is a woman of principle and integrity who has served Maryland's Fourth District with distinction for 14 years. Her departure from the House will be a significant loss not only for her constituents, but for the Nation.

As a member of the Armed Services Committee, she has recognized the importance of maintaining a strong defense and has fought to improve the pay and benefits for our Armed Forces. Earlier in her House career, she served on the Budget Committee and it was MARJORIE HOLT'S initiative that produced the first Republican substitute budget which has become a vital part of the budget process today.

As Members of the House from the Metropolitan Washington area, Mrs. HOLT and I have worked together on many issues of interest to the Washington community. As a true and loyal friend of active and retired Federal employees, she has fought with me to protect their benefits and preserve the Civil Service System. We also worked closely together on regional transportation issues including the reconstruction of the Woodrow Wilson Bridge and the building of the Metro system.

The "Almanac of American Politics" characterizes Mrs. HOLT as a person with "a certain dogged persistence that one might expect from a woman who entered law school in 1946, a year that professional schools were flooded with male veterans returning from war."

MARJORIE HOLT has never been afraid to tackle an issue she believes in and to work for changes to make government better. She has been a persistent fighter, working for the betterment of our Nation and working to preserve our freedom. She has also been a fighter for her constituents and has gained a reputation as a Member of Congress who provides vital constituency services.

That reputation brought her victories with ease against liberal and conservative opponents alike in a heavy Democratic district. It speaks also of the way in which she has worked to get things done in Congress—in a bipartisan manner which has gained her the respect of colleagues from both sides of the aisle.

I salute MARJORIE HOLT as an outstanding public servant and want her to know how much I appreciate her valuable contributions as a Member of Congress to our Nation. She will be missed.

It has been a pleasure to serve with her in Congress and I wish her the best in her retirement years with her family. She well deserves it.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the Honorable BARBARA A. MIKULSKI, who is leaving the House of Representatives after 10 years of dedicated service to her constituents, to run for the U.S. Senate from the State of Maryland.

Congresswoman BARBARA MIKULSKI served in the Baltimore City Council from 1971 to 1976 before coming to the House of Representatives, and has tirelessly represented her constituents from the Third Congressional District of Maryland since her first election to Congress in 1976.

As a member of the Subcommittee on Merchant Marines of the House Merchant Marine and Fisheries Committee, and as a member of the Subcommittee on Health and the Environment of the House Energy and Commerce Committee, BARBARA MIKULSKI has compiled an outstanding record of achievement. She is a Congresswoman of deep compassion and courage, who has provided exemplary service to her constituents and to the people of this Nation.

Mr. Speaker, I extend to BARBARA MIKULSKI my best wishes for continued success as she continues in her life of public service in devotion to the highest principles.

Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to say a few words in tribute to MARJORIE HOLT. She has served with distinction for 14 years and been an excellent Representative of the people of Maryland's Fourth District.

MARJORIE and I have several things in common. I was born in Jacksonsville, FL, and, although MARJORIE was born in Alabama, she attended Jacksonville University and received her bachelor's degree. She has her law degree from the University of Florida where I received my bachelor's degree. She has also received the Distinguished Alumnus Award from the University of Florida for her tremendous efforts on behalf of our Nation and the university is very proud of her accomplishments.

As MARJORIE steps down after 14 years of honorable service, I wish her the very best in the years to come.

Mr. WOLF. Mr. Speaker, it is a pleasure to join my colleagues today in this special order in tribute to our colleague from Maryland, Representative MICHAEL BARNES, who will be leaving public service at the end of the 99th Congress after a distinguished 8 years in the House of Representatives.

While we come from different sides of the aisle, as Members of the House from the Metropolitan Washington area, MIKE BARNES and I have worked together on many issues of in-

terest to the Washington community. He has been a fervent supporter of Federal employees and retirees and has worked tirelessly to protect their pay and benefits and focus attention on the importance of a quality Federal work force.

We also have worked closely on area transportation issues and he has been a leader in the fight to continue the Federal commitment to build the regional Metro system.

Several years ago, when the Potomac River which separates our Maryland and Virginia districts was siphoning people to their deaths in its treacherous "drowning machine" at the Little Falls Dam, MIKE joined with me in working with local and State officials and the Army Corps of Engineers to redesign the dam and save lives.

This is an appropriate time, too, to salute MIKE BARNES for his extraordinary efforts to strengthen the drunk driving laws in our Nation. He was the driving force several years ago when Congress enacted a measure to cut off Federal highway aid to States that do not raise their drinking age to 21. The Nation owes him a debt of gratitude for his efforts to end the tragedy of "blood borders" which have taken the lives of so many young people.

MIKE BARNES has been a valued and respected colleague and an outstanding public servant and I wish him well in his future endeavors as he returns to the private sector, where I'm certain he will enjoy continued success.

Mr. BROOKS. Mr. Speaker, four of our colleagues from the State of Maryland will be leaving the House later this year. I have known them all throughout their tenure in this body and they will all be missed.

Chairman PARREN MITCHELL of the Small Business Committee has been an inspiring leader in the Nation's fight for civil rights and liberties and has championed the causes of small business as this sector of the economy has become increasingly important.

Congresswoman MARJORIE HOLT has lent a dignified and reasoned voice to the deliberations of this Chamber. Her work to help build a strong and well-managed national defense has been most notable, as well as her leadership in establishing the National Homestead Act.

Congresswoman MIKULSKI—although only a short time in the House—has demonstrated her broad knowledge of issues of critical importance to the Nation. Her leadership in the area of improved conditions for women and her strong support for Federal workers are two accomplishments, among many, which are to her credit.

Finally, Congressman MIKE BARNES has served not only the Eighth District as a strong spokesman for Federal workers but also as a conscience for this body as we deliberate policies in Latin America. His strong and able leadership of the Western Hemisphere Affairs Subcommittee has been greatly appreciated by those of us who share his concerns.

Mr. Speaker, it is rare that this House loses so many able and respected Members at one time. Although all will be missed, I join their many friends and supporters in expressing appreciation for their contributions and best wishes for the lives they now enter.

Mr. MONTGOMERY. Mr. Speaker, I am very proud to join Mrs. BENTLEY and our other colleagues in paying tribute today to the gentlelady from Maryland, MARJORIE HOLT.

She has been one of my closest friends in the Congress. I have truly enjoyed working with MARJORIE over these past 14 years. I have had the pleasure of serving with her on the Armed Services Committee, and especially on the Personnel and Compensation Subcommittee. MARJORIE has also provided great leadership in her role as ranking minority member on the Procurement Subcommittee.

Mrs. HOLT was one of the original cosponsors of the new GI education bill. With her help, we were able to pass the bill which has become a tremendous success today in both the Active and Reserve Forces. The GI bill has saved the All-Volunteer Force and MARJORIE HOLT had a very big hand in making it happen.

I also appreciate the dedication she has shown over these years to improving our National Guard and Reserve Forces. She has been a very strong advocate for our Reserve components. Later this week, she will be honored by the National Guard for her work here in the Congress.

I want to wish MARJORIE all the best in the future. She is a great American and has made a very positive difference here on Capitol Hill. She can, and should, be proud of the things she achieved while in service to her State and her country. I know I am proud to have had the chance to serve with her.

Mr. RINALDO. Mr. Speaker, it gives me great pleasure to join with my colleagues in paying tribute to MARJORIE HOLT who is leaving Congress at the conclusion of this session after having ably and effectively represented the residents of Maryland's Fourth District since 1972.

During her 14 years of service, she has brought to the deliberations of the House a strong sense of personal conviction, integrity and high moral character. In establishing an outstanding record of public service, she has contributed creatively and constructively to legislation advancing the welfare of the Nation.

Her dedication and her love of her district, State, and country had a positive influence on all of us who knew and worked with her. She has won respect from her colleagues on both sides of aisle and from people familiar with her accomplishments.

I express my admiration and gratitude for a job well done, and I wish MARJORIE success and happiness in her future endeavors.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the Honorable PARREN J. MITCHELL, who is retiring from Congress, after 16 years of dedicated services to the people of the Seventh Congressional District of Maryland.

PARREN and I serve on the House Banking, Finance and Urban Affairs Committee, and he is a member of the Subcommittee on Consumer Affairs and Coinage, which I have the honor to chair, and I have had the opportunity to work with him and have come to know and respect PARREN for his legislative and leadership abilities.

Before coming to Congress, PARREN MITCHELL served our country with distinction in the U.S. Army in the 92d Infantry Division during World War II, as a commissioned officer and company commander. For his heroic actions during the war, he was awarded the Purple Heart. PARREN MITCHELL also served as the executive director of the Maryland State Human Relations Commission and as executive director of Baltimore's Community Action Agency.

Elected to the 92d Congress in 1970, PARREN MITCHELL has distinguished himself as the chairman of the House Small Business Committee, and as a member of the Joint Economic Committee, and as a member of the House Banking, Finance and Urban Affairs Committee, and its Subcommittees on Consumer Affairs and Coinage and on Housing and Community Development. He has worked tirelessly on behalf of the small businessman, the poor and all working Americans, and his unwaivering commitment to civil and human rights is most commendable and worthy of recognition.

Mr. Speaker, Congressman PARREN MITCHELL will be sorely missed by all of us in Congress who have had an opportunity to work with him, and I extend to PARREN MITCHELL my best wishes for continued good health and much happiness in the years ahead.

Mr. SCHULZE. Mr. Speaker, I am pleased to be paying tribute to MARJORIE today, while deeply regretting her retirement from the House. We are losing a truly dedicated servant of the people.

I served with MARJORIE on the Armed Services Committee when I first came to Congress 12 years ago. She isn't flamboyant, but she does get her point across. She doesn't speak loudly, but she does speak out. Her quiet manner belies a fierce determination, and those of us who know and respect MARJORIE know that she is about as effective a Member of Congress as there can be.

MARJORIE entered law school at a time when few women were entering the professions, and she ran for Congress when only a few women had won seats in either body. She has reached each of the goals she has set for herself with persistence, grace, and dignity. And she serves her constituents and her country with those same qualities that have meant personal success. MARJORIE is exacting when it comes to giving the residents of Maryland's Fourth District the service they deserve. No one can question that she does an excellent job, for she's won seven congressional races against Republicans and Democrats alike. In a district that has more registered Democrats than Republicans, that's certainly a tribute to her good constituent services.

But that isn't how I know MARJORIE best. I know her best as a person concerned about our national priorities in the areas of fiscal responsibility and a strong national defense. She has an extensive knowledge of these issues and is an able and articulate defender of her beliefs.

MARJORIE is hard working and committed and her talents and intelligence will be missed by her colleagues in this House. I am certain, however, that our loss will be another's gain,

for she is not one to be idle. Best of luck to you and Duncan in whatever you next endeavor.

Mr. ROE. Mr. Speaker, it is indeed a great honor to rise today to join my colleagues in this well deserved salute to four outstanding House Members from the great State of Maryland who will be leaving us at the end of this session.

Representatives BARBARA MIKULSKI, MARJORIE HOLT, PARREN MITCHELL, and MIKE BARNES have all had a record of distinguished service in the House.

Mr. Speaker, while there is sadness in my heart that BARBARA MIKULSKI will not be counted among our numbers next year, there is the great joy that come January she may indeed join our Senate colleagues as a Member of that body. Her drive and feisty determination to achieve a better America for all will be sorely missed in this Chamber.

BARBARA MIKULSKI is truly a "people's Representative," deeply concerned with the needs and problems of our Nation. Whether it be consumerism, women's rights or other causes, BARBARA MIKULSKI has been there fighting for a better America. I wish her continued success in that effort.

During her 14 years of service in the House, MARJORIE HOLT has served her country with leadership and courage. As a key member of the House Armed Services Committee she has been a leader in the effort to secure a strong national defense for our Nation.

In 1973, MARJORIE HOLT participated in the historic mission to Egypt that met with the late Egyptian President Anwar Sadat, a meeting which opened the door the door to peace negotiations in the Middle East. Her expertise in those areas will be sorely missed.

Mr. Speaker, all House Members owe a particular debt of gratitude to PARREN MITCHELL, our good friend from the Seventh Congressional District of Maryland. During the 16 years he has served in the House, PARREN MITCHELL has been a guiding light in our fight to end all forms of discrimination in our society.

His work as chairman of the Small Business Committee has spearheaded the passage of legislation that has created literally thousands of jobs for minority-owned businesses throughout America.

I for one will miss his eloquent voice in the years ahead as we deal with key economic matters. My very best to PARREN in whatever new endeavor he undertakes in the future.

MIKE BARNES has become a recognized leader in the area of foreign affairs. As chairman of the Foreign Affairs Subcommittee dealing with Latin America, he has been in the forefront of efforts to limit our involvement in the turmoil taking place in that part of the world. His has been a voice of moderation in a sea of inflamed rhetoric.

MIKE has also become a champion of the Federal worker, fighting for their rights at a time when that segment of our population has become the scapegoat in the battle to reduce our record Federal deficits. While he may be leaving us now, I am sure we will be hearing from MIKE BARNES in some other forum in the very near future.

My congratulations to the people of Maryland for electing such fine Representatives to Congress and my shared sorrow that they are moving on to new careers away from Congress.

Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to say a few words in tribute to our retiring colleague, PARREN MITCHELL. PARREN is one of the most respected Members of this body and all who have had the honor to serve with him realize that Congress will badly miss him.

As a former chairman of the Congressional Black Caucus and as the current chairman of the Small Business Committee, PARREN has been a leader in the quest for equality and justice in America. He has served with great dignity and distinction and I am proud to call him my friend.

As he retires, I wish PARREN the very best in the years to come.

Mr. COURTER. Mr. Speaker, it is with great pleasure that I rise today to recognize my colleague, MARJORIE HOLT, for her 14 years of service in the House of Representatives.

Prior to her election in 1972, MARJORIE served 6 years as the clerk of the circuit court of Anne Arundel County. Her remarkable leadership qualities and concern for the county were quickly recognized by the constituents of the Fourth District in Maryland as they made her the first woman elected to Congress in a general election in Maryland. During her term in Congress, she has been at the forefront of debate on national security and budgetary issues. As a fellow member of the Armed Services Committee, I have seen firsthand her concern for a strong national defense and peace and security in the world. MARJORIE also served on the House Budget Committee during the 95th and 96th Congresses, where her fight to restore fiscal responsibility in the Government received nationwide recognition.

MARJORIE HOLT is a woman of fine accomplishment. She will be missed by all of us who have come to respect and rely on her opinions and wisdom. I wish for her great happiness in her retirement years.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in paying tribute to the Honorable MARJORIE S. HOLT, who has conscientiously represented her constituents from the Fourth Congressional District of Maryland, since her election to Congress 14 years ago.

Before coming to Congress, MARJORIE HOLT received her law degree form the College of Law of the University of Florida, and she was the clerk of the circuit court of Anne Arundel County from 1966 to 1972. Also, she served two terms as the supervisor of elections for the county.

Elected to Congress in 1973, she has distinguished herself as the ranking minority member of the Subcommittee on Procurement and Military Nuclear Systems of the House Armed Services Committee, and as a member of the House Military Personnel and Compensation Committee.

MARJORIE HOLT is a dedicated public servant, and a fine legislator, who has served her constituents, and this Nation with diligence.

Mr. Speaker, I extend to MARJORIE HOLT my best wishes for continued success in all of her future endeavors in devotion to the highest principles.

Mr. FUSTER. Mr. Speaker, I must take time to honor today our colleague from the fair State of Maryland, MIKE BARNES, who will not be with us next year. Congressman BARNES will be sorely missed by the people of Puerto Rico who have found in him a tireless advocate and friend.

Personally, I feel that the U.S. Congress will lose an able leader who has been a staunch supporter of many important causes and who has left an indelible mark as chairman of the Western Hemisphere Subcommittee of the Foreign Affairs Committee.

MIKE's dedication to intercultural understanding in our Hemisphere, his tireless defense of Federal employees and women's rights and his concern for the well-being of his State and the District of Columbia have gained him special recognition in many fora.

For all the energy and vision that MIKE BARNES put into helping with the issues of fairness that often get neglected in support of the Commonwealth of Puerto Rico and Hispanic issues in the United States, he always holds, a position of honor among my people. We wish him the best in his future endeavors and hope he will some day return to the Halls of Congress.

Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to tell BARBARA MIKULSKI how very much I appreciate the opportunity to serve with her in Congress and to wish her the best in her quest for the Senate.

BARBARA's district and my district are quite different and yet she always took the time to learn and understand the problems of farmers and those living in rural America. She has been called a gutsy fighter for what she believes in, and that she is. She is also a very capable legislator who has accomplished much in her tenure in this body.

I wish her luck in November and the best in the years to come.

Mr. BADHAM. Mr. Speaker, I am here to honor my distinguished colleague and good friend from Maryland, Congresswoman MARJORIE HOLT. For 14 years, MARJORIE has effectively served the Fourth District of Maryland in this House. As a Member from California, I must admit some envy about her short commute between Washington and her district. But, while MARJORIE has been an extremely effective spokesperson for her own constituents, she has also been a strong Representative for all of Maryland.

In addition, I have had the honor of serving for nearly 10 years with Congresswoman HOLT on the House Armed Services Committee. MARJORIE has always been a strong proponent of a strong national defense, and has been especially effective as the ranking Republican on the Subcommittee on Procurement and Military Nuclear Systems. She has been a strong leader and fair negotiator for the Armed Services Committee, which will most certainly miss her participation.

I am sorry to see MARJORIE retire from Congress, but I am happy to have had the opportunity to work closely with her for the last 10 years. MARJORIE HOLT has left her indelible imprint in the U.S. House of Representatives as an outstanding servant of the people of Maryland and of our Nation. MARJORIE, good luck and best wishes in your future pursuits.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in paying tribute to the

able MICHAEL D. BARNES, who has ably ented the people of the Eighth Con- ional District of Maryland during the last years. His efforts on behalf of his constituency, and on behalf of the citizens of this Nation are both respected and admired, and are most worthy of recognition.

Before coming to Congress, MIKE BARNES received his law degree from the National Law Center of the George Washington University, and practiced law with the law firm of Covington & Burling.

Elected to the 96th Congress in 1978, MIKE BARNES has served with diligence and distinction as the chairman of the Subcommittee on Western Hemisphere Affairs on the House Foreign Affairs Committee, and as a member of the Subcommittee on Asian and Pacific Affairs. He has also provided exemplary service as the chairman of the Subcommittee on Government Operations and Metropolitan Affairs of the House District of Columbia Committee, and as a member of its Subcommittee on Judiciary and Education, as well as a member of the House Budget Committee.

Congressman MIKE BARNES is a fine legislator, who will surely be missed by those of us in the House of Representatives who have had the pleasure of working with him and knowing him.

Mr. Speaker, I extend to MIKE BARNES my best wishes for continued success in all of his future endeavors in devotion to the highest principles.

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to say goodbye to a respected colleague and a dear friend of mine, the Honorable TOM LOEFFLER of Texas. I consider it an honor to call TOM my friend. In a place where one's party affiliation determines most friendships, I am pleased that I have been able to maintain a valued and trusted friendship with this man in spite of our opposing party affiliations.

TOM LOEFFLER'S contributions to this body have been great. Having served in some capacity of public service since 1971, including a stint as a congressional lobbyist under the Ford administration, he has brought with him a tremendous amount of experience, despite his youth. He has served the people of his district and his State of Texas well in his seats on the Appropriations and Budget Committees. Considered an astute political tactician, he has also served as the chief deputy whip for the minority. He truly represents the very nature and history of the people of Texas—independent, principled, and hard working.

As we bid farewell to TOM, we do so in hopes that our paths will cross again at some time in the future. He is a very talented individual who will continue to be a leader for Texas in years to come.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4613, FUTURES TRADING ACT OF 1986, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-996) on the resolution (H. Res. 590) waiving certain points of order against the conference report on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2638, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1987, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. 99-997) on the resolution (H. Res. 591) waiving certain points of order against the conference report on the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1200, IMMIGRATION REFORM AND CONTROL ACT OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-998) on the resolution (H. Res. 592) waiving certain points of order against the conference report on the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 738, CONTINUING APPROPRIATIONS, 1987, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-999) on the resolution (H. Res. 593) waiving certain points of order against the conference report on the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

PARLIAMENTARY INQUIRY

Mr. ROYBAL. Mr Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The gentleman will state it.

Mr. ROYBAL. Mr. Speaker, was this filed under unanimous consent, or was it filed as a privileged report?

The SPEAKER pro tempore. Rules may be filed during special orders without unanimous consent.

Mr. ROYBAL. I still want to know whether unanimous consent was requested, or how was it filed?

The SPEAKER pro tempore. They were filed as privileged.

Mr. ROYBAL. And, as a privileged matter, it can be, filed without asking for unanimous consent, is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ROYBAL. Then the procedure used is a correct procedure, but nevertheless they have still accomplished the purpose that they wanted to accomplish with regard to waiving all points of order in a subject matter that is to be filed by midnight tonight, is that correct?

The SPEAKER pro tempore. The House still must adopt the resolutions to make them effective.

Mr. ROYBAL. But when must the House adopt that resolution? Is that to be adopted tonight, or is that a subject matter for tomorrow's deliberations?

The SPEAKER pro tempore. They are scheduled for consideration later in the week.

Mr. ROYBAL. That can then be anytime during the week, but it can start anytime tomorrow and any day thereafter, is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ROYBAL. Then since it was done under that particular procedure, the Rules Committee can proceed to

bring in a rule waiving all points of order prohibiting debate of any kind and in so doing continue to violate the rights of individual Members of the House?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry. I am not sure whether he is making a statement or making an inquiry.

Mr. ROYBAL. I am asking whether or not that would be the effect of the request that has been made and has already been filed.

The SPEAKER pro tempore. The Chair will not entertain any motions, I am certain, that will violate the rights of any individual on the floor.

Mr. ROYBAL. Well, I contend that that is the end result of it. I will no longer pursue the subject matter because things are already greased, the report filed, and a point of order cannot be called on the many violations in the so-called immigration bill.

IN TRIBUTE TO HON. JAMES WEAVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. SEIBERLING] is recognized for 60 minutes.

Mr. SEIBERLING. Mr. Speaker, it is with a sense of privilege and great personal pleasure that I take time today to honor my beloved colleague and friend, JIM WEAVER. JIM like me, will be retiring from Congress at the end of this year.

JIM WEAVER was first elected to Congress in 1974, and has been ably representing Oregon's Fourth Congressional District ever since. JIM has lived in Eugene, OR, for almost 40 years, having moved from Iowa in 1947 after having had a career in the U.S. Navy. JIM enlisted in the Navy at the age of 17 and served on an aircraft carrier in the South Pacific. Returning to Eugene, he earned a bachelor of science degree in political science from the University of Oregon in 1952. After working as a publisher's representative for Prentice-Hall Co., he served as staff administrator for the Oregon Legislative Assembly Interim Committee on Agriculture. Then, from 1960 to his election to Congress, he was a builder and developer in Eugene.

I first got to know JIM WEAVER when he joined the House Interior Committee in 1975. He also serves on the Agriculture Committee and became a Chairman of its Subcommittee on Forests in his second term, a post he held for 6 years until 1983, when he became Chairman of the Interior Subcommittee on Mines and Mining, Forest Management and the Bonneville Power Administration. In 1985 he became chairman of the Interior Subcommittee on General Oversight, Northwest Power and Forest Management.

Although he long ago gave up his business as a builder, it is accurate to say that as a legislator JIM WEAVER has also been a builder. His legislative career is distinguished by many outstanding achievements. JIM helped write and pass the National Forest Management Act of 1976, which laid down the basic format for management of the National Forests under a rational planning process, something that had been desperately needed for decades. As a freshman Congressman, JIM managed the Payment in Lieu of Taxes Act, which has helped many local governments with large amounts of Federal land within their boundaries which are unable to obtain any tax or other revenue from these lands. JIM WEAVER also fought successfully to keep the sustained yield harvest amendment in the National Forest Management Act. This amendment prohibits the Forest Service from cutting trees in the national forests at a rate faster than the regeneration rate that the particular forest is capable of. JIM has also campaigned ceaselessly against the flagrant violations of this amendment of the act by the Reagan administration. JIM authored and passed the Wood Waste Utilization Act, so important from the standpoint of energy conservation.

Indeed, JIM WEAVER has been a leading spokesman and champion in Congress for energy efficiency and energy conservation. JIM authored and kept in law the cost-effective requirements of the Northwest Power Act and wrote and fought for the energy conservation provisions included in that bill. JIM was appointed to chair the Interior Committee's investigation into the Three Mile Island accident and has been a leading member of the Energy and Environment Subcommittee of the Interior Committee.

It has always been a source of wonder and admiration to me that JIM WEAVER, even though representing an area dominated by the timber industry, has managed to be a courageous champion of wilderness legislation, despite the continuous opposition of powerful members of that industry in his district. As chairman of the Public Lands Subcommittee, I could always count on his unfailing support in any fight over wilderness legislation. It should come as no surprise that he was the chief sponsor of the Oregon Wilderness Act of 1984, which added 1.2 million acres of designated wilderness in the national forests in Oregon.

It is not surprising, either, that JIM WEAVER has been nationally recognized by conservation groups all across America, who have given him numerous awards for his efforts to preserve our Nation's forests, water, energy, and other national resources. Congress and the Nation will be losing one of the great conservationist legislators of our age when JIM WEAVER retur[illegible] private life.

JIM WEAVER's interests, however, [illegible] way beyond conservation in the narrow sense. JIM is a deep and original thinker about the problems of maintaining peace and a viable national economy. A conversation with him is a delight and an education. JIM is a humanitarian and a fighter for the common man and the underdog. JIM has been honored many times by Bread for the World, Americans for Democratic Action, senior citizen organizations, and many others dedicated to assuring greater equality and fairness in the policies of our country. JIM's interests in these areas have been appropriately recognized by his colleagues who elected him cochairman of the House Populist Caucus.

My friends, I have given only the barest outline of JIM WEAVER's achievements in his 12 years in Congress. In any case, words and a mere recital of his accomplishments can scarcely convey the true measure of this man. JIM and I sit together as the No. 2 and No. 3 ranking Democrats of the Interior Committee. Our offices join each other. I think I can safely say that I have been closer to JIM than any other Member of the House. JIM WEAVER is a person of the highest intellectual honesty and personal integrity. He has contempt for sham and pettiness. He is a person with a clear head and a loving heart, a person of great compassion. In a world, and particularly in an institution, which has more than we would like of posturing and dissembling, JIM WEAVER stands out as a genuine person, a straight shooter. He will be missed by his colleagues. However, because he is returning to Oregon, JIM's constituents will see more of him. Losing JIM WEAVER as a Representative, they will be regaining him as a neighbor and friend. I, too, look forward to keeping him as a friend for the rest of our days.

□ 1820

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to my distinguished colleague, the gentleman from the State of Texas.

Mr. GONZALEZ. Mr. Speaker, I, in turn, thank my colleague, the gentleman from Ohio, for this opportunity to join him and associate myself with the remarks he has made, and is making, with respect to a man I consider one of the most outstanding Members of the House that I have had the privilege of knowing and working with in the 25 years I have been honored to serve in this body.

Like the gentleman at the well, who is sponsoring this special order, JIM WEAVER represents that genre, or that

kind of Congressman, who, I believe, perhaps only in America, is really produced under our parliamentary system or unique representative system, and particularly in the deliberative representative body known as the House of Representatives.

I believe very sincerely that in our country, particularly at this time, one of the basic functions, besides being accessible to his constituents and not preferential accessibility to those who have contributed to his campaigns, that one of the main functions of a representative or a lawmaker or a public official in America today is to be cast in the role of an educator.

He has to take the lead in informing. Education implies importation of information and knowledge and our constituents, given the intricacies, the complexities to today's life, have to depend on those they elect to represent them to kind of point out the facts on issues.

They trust that we will have the fortitude and the intelligence to stand up and be counted, even in those very difficult issues that the constituents themselves may feel passion and great emotion. So that in his capacity, and judged by that standard, JIM WEAVER ranks very high in my estimation.

The gentleman from Ohio [Mr. SEIBERLING] has done us a great service by outlining, and I am sure, in an abbreviated form, some of the accomplishments, every one of them creative. Because JIM WEAVER has served in the House of Representatives, our natural resources, our forests, all of the other natural resources that have become so embattled to be protected, will be better preserved for our children and grandchildren because of the efforts made successfully, and sometimes with great difficulty, by JIM WEAVER.

I want to say, for the record, that the greatest tribute that time will give JIM WEAVER is this sense of acomplishment in this respect: Getting elected, getting reelected in itself, yes, in today's context, is an accomplishment in a way, but it really is only providing the license for us to come up and then do the work.

So many times, Members find it so difficult and so expensive to get elected that they feel that once having been elected, they have done the job. The truth is that JIM WEAVER is the kind of fellow that sought the job with well-defined purposes in mind and he was not dissuaded from carrying out those basic purposes.

It was evident, when one would listen to him speak in special orders, speak before committees and hearings on some issues that involved, not only his particular State and area, but ours, too, in other parts of the Nation.

I compare him very much and put him in the company of the distinguished gentleman who has given us this chance to have this special order, and make note and mark for the RECORD our high esteem, our great respect and our very, very sincere hope that JIM will be happy and successful in whatever he undertakes after he leaves the House.

I thank the gentleman again for this opportunity.

Mr. SEIBERLING. Mr. Speaker, I thank my distinguished colleague and dear friend, the gentleman from Texas [Mr. GONZALEZ] for those remarks.

I might say that the gentleman from Texas himself is an example of a person of great compassion and great intellectual perception and one who, like JIM WEAVER, has done much to enlighten and educate many of us here in this House.

I think his words should carry particular weight as a result of that.

Let me just say that one of the things that I particularly treasure about JIM WEAVER is that he has never pandered to the people who would want cheap and simple and easy solutions to the problems of our times. He is a person who wants to discuss real issues, not phony issues. You will not see him running ads in the political campaign or elsewhere trying to trump up phony issues that do not have any real relationship, but are merely creatures of the media experts of the kind we are seeing all too much right in this current election.

In my district, you can see them on Washington, DC, TV, et cetera. It really is a shame that so many would-be Members of Congress, or even existing ones, resort to that kind of tactic, instead of discussing the real problems before the people of this country.

The gentleman from Texas [Mr. GONZALEZ], like the gentleman from Washington, has tried to discuss the real issues, the real problems, and I think we are all the richer for it.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the distinguished gentleman from Oregon, who, likewise, has tried to stick to discussing the real problems that we face and has, again, helped to educate us as a Member.

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman yielding me this time and thank him for taking this time so that the colleagues of the gentleman from Oregon [Mr. WEAVER] can pay appropriate tribute to the contributions he has made in the time he has served in the House.

I want to say to the gentleman from Ohio [Mr. SEIBERLING], who has taken this time, that I think JIM would appreciate very much, as I know his supporters and his friends do, that it is the gentleman from Ohio, who has served so brilliantly, if I may say so, as the chair of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, that it is he who has taken out this time because JIM WEAVER is a man like the gentleman from Ohio, who believes in the land.

□ 1830

Among the many causes he has given his time to and his energies to, it has been the issue of this land of ours and how it is managed and how it is husbanded and how we exercise stewardship to ensure that it is handled wisely and well for future generations; so it is very appropriate that the gentleman has taken out this time.

I can think of many things that I might talk about tonight as I think about my colleague from southern Oregon. It is no secret, I am sure, I know it is not to the gentleman from Oregon [Mr. WEAVER] and I think to those who know both of us well, that there has been times when the gentleman from Oregon and I have had serious fights. Frankly, I would tell the gentleman from Ohio that there have been times when months have passed since we first arrived here in Congress together when we would not even speak to each other, JIM and me, but there have been other times when the opposite has also been true, when we have had the most outstanding cooperation between the two of us. As a result, concrete benefits and results have been delivered to the people of Oregon. No better example of that, it seems to me, is the Oregon wilderness bill, which Mr. WEAVER and I worked on and worked very closely I might say with the gentleman from Ohio in getting that Oregon wilderness bill through his committee with his great assistance and today as a consequence Oregonians can enjoy the use of some of the most pristine natural areas and wildlands in Oregon and it will be there in perpetuity for their use and their children's use and those who follow them.

I will never forget the time that JIM and I had dinner together here in Washington, DC. I think we were just patching up one of our old fights when we agreed that the time had come to bury our differences on one of those things, the differences that come and go, and work together in concert shoulder to shoulder to get this Oregon wilderness bill through. We had an unforgettable dinner at a restaurant here in Washington, DC. I hope very much that we can dine again there shortly and reminisce a bit before he leaves Washington, because it would be appropriate to do so.

We plotted our cooperation and planned our strategy and tried to pass a wilderness bill in a lameduck session of that Congress. We failed. We came within an inch of doing it. Though we failed, we came back in the next Congress and working with most of the Members of the Oregon delegation, the House and the Senate working to-

gether, and certainly with the leadership of the gentleman from Ohio, we passed in Oregon a wilderness bill that I think will be a monument to the contributions that Mr. WEAVER has made.

One of the other things I would like to say tonight and it is worthwhile for Members to pause and think about has to do with something that the gentleman from Texas [Mr. GONZALEZ] mentioned just a minute ago and that is what is it like to be a Member of Congress who comes here not with the objective of just securing one's next reelection, but rather comes with a set of specific issue objectives that they want to achieve, real differences in policy for this country, some of which may be controversial, as the gentleman from Ohio knows, and how lonely that course can be for such a person.

You know, it is not easy to stake out a tough position that runs perhaps against the grain of public opinion polls or the prevailing political winds in any 1 given year, but JIM WEAVER consistently has done that. I have differed with him on some of those stances he has taken. I have agreed with him on others, but in each of them I have admired that all too rare willingness to risk personal popularity, to risk impatience with one's colleagues or even among one's constituents, to fight for that which he believes in.

There is no Member in this body that I have served with, and we did, as I indicated, arrive together as freshmen in 1975, who I have observed in the 12 years I have served here who has been better at risk-taking than JIM WEAVER.

JIM WEAVER was the first Member of the Northwest delegation to call attention to and ring out the warning about the financial house of cards of the WPPS public power system represented in Oregon in the Pacific Northwest. It was not very popular to do it at the time. He stepped on a few toes here in this body in doing so. Members thought it easy to kind of disassociate themselves from JIM's stand at the time; but do you know what, the gentleman from Ohio knows this and I know the people or Oregon now know it, the people of the region know it, JIM was right. JIM has been shown to be right, and that is only one of many, many instances where that tough, courageous, early stance has been shown to be right and stood the test of time. I suspect there are other cases of that kind that will be shown as the years unfold and with each passing year this irascible gentleman, who is a friend and a foe all wrapped up in one, who is loved and hated almost at the same time, is going to be looked upon as being someone who really set out some benchmarks as to what leadership is about in the Congress; more importantly, why it is important, no matter what one's instincts, one's sense of conscience, and to provide that kind of representation rather than simply read the polls, lick one's finger and hold it to the wind and then go accordingly. That is not JIM WEAVER.

The legacy JIM leaves for those to follow and for the delegation that now has to carry on the work of the State of Oregon is to match that, maybe coming down differently on issues, but match that sense of risk-taking in the pursuit of that which one thinks is right.

So I appreciate the gentleman from Ohio taking this time and for letting me participate for somebody I have had a great deal of respect for, both through the fights as well as through those rare and priceless moments of cooperation.

Mr. SEIBERLING. Mr. Speaker, I thank my dear colleague, LES AUCOIN, for those penetrating remarks.

Let me just respond very briefly. The gentleman has put his finger on something we all admire about JIM and that is that he came here because he believed in certain things, not because he wanted the prestige of this office. Anybody who has been in this office very long knows that prestige is not all that great. In fact maybe you are less prestigious after you have been a Congressman than you were before.

Also, the fact that JIM has been prepared to lose because of what he believes, I think maybe that is one reason I relate to JIM. My first year in Congress in 1971, the first time I ever got a vote on an amendment I offered was an amendment to separate out the funds in the continuing resolution for the continuing of the Vietnam war from everything else. I said I thought it was unfair to make Members who oppose the war vote for the money in order to get the other things that we needed to keep our country and our districts going.

Well, it was about 1:30 in the morning and I only got 10 votes; but nevertheless, I felt that at least I had a chance to make my point. Of course, 3 years later the Congress voted to cut off all funds for the war, so I felt in the end vindicated. I know JIM has felt that way and has been vindicated on many issues. You win a few and lose a few, but if you do not try, you are never going to win any or accomplish anything.

Mr. Speaker, I am happy to yield at this time to JIM's distinguished colleague, our friend, the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I thank the gentleman for yielding.

I, too, very much appreciate the gentleman taking out this special order.

I was a director of the Gray Panthers in Oregon for about 7 years before I got elected to the Congress. Even in those years JIM WEAVER was a champion of senior citizens' concerns. I remember when the Gray Panthers were interested in bringing more visibility to senior citizens' concerns and wanted to start a senior citizens' intern program, JIM had just gotten elected and the whole group said sure enough, that JIM WEAVER would be very supportive of this kind of effort. In fact, we met with them and he very readily agreed to support that kind of effort and has been a champion of consumer issues year after year in the Congress.

In fact, one of the really memorable times that I had on senior citizens' issues in Congress was an instance where in effect the Federal Government had really expropriated the land of some senior citizens in JIM's area; something like 3 acres, I think was involved. JIM had passed legislation to help these older people. They were really very advanced in years. The President, believe it or not, vetoed the legislation. JIM came back and I think really made a very eloquent case and we overrode the veto. I think there are few instances like that anybody can recall where on an issue of senior citizens' rights we were able to override the President's veto.

So JIM's record on consumer issues and elderly issues is really one that is exemplary.

Now, my colleagues have talked about some others that are very important. One other area that I think has been particularly valuable has been in the area of oversight. Frankly, I think a lot of our colleagues would say that we do not do enough oversight here in the House of Representatives. We spend a lot of time trying to work on new bills, new laws, and new programs, but really not anywhere enough time trying to make what is on the books work a little bit better.

I serve on the Commerce Oversight and Investigation Subcommittee, which is chaired by a master of oversight, Chairman DINGELL of Michigan. I see the best really there on a regular basis; but I can tell my colleagues in the House that JIM just does an exemplary job in the oversight process. I think he has really brought a very healthy skepticism to the way these decisions are made by agencies, and frankly his work in the oversight process really ought to be a model for young Members who want to work in the oversight area.

Now, my colleagues have mentioned a lot of bills. It seems more and more we go today on the basis of how many bills you got passed. The fact of the matter is that JIM's record stands with anybody on that. He has been a sponsor of the timber relief legislation, which is just one example. In addition to the long line of bills he passed in our region, he was really the first, I think along with our colleague from Washington, Mr. LOWRY, to blow the

whistle on the colossal mismanagement of the WPPS plant, something which our great peers are still trying to dig out from under.

Of course, there is his emphasis on conservation and renewable energy resources purchases to be made by the Bonneville Power Administration. Those have just been critical, because frankly, had we done more of that years ago, we might not have faced some of the WPPS decisions that were before us on a later basis and some mistakes might possibly have been avoided.

So I think there is no question that JIM has been part of that Oregon tradition that says you call them like you see them and you are not afraid or reluctant to speak out on those issues.

Wayne Morris really set a standard of conscience for us and JIM WEAVER has spoken out on that in that very same way. It is something so important and something to be long remembered.

So I appreciate my colleague taking the time and I know others of our colleagues want to speak as well.

Mr. SEIBERLING. Mr. Speaker, I certainly thank RON WYDEN, our good friend and distinguished colleague, for those very appropriate remarks.

If I may just respond briefly, let me say that I have participated with JIM in many an oversight hearing. He has done an outstanding job on that.

I remember some years ago when we learned that the Justice Department and the Forest Service, the Agriculture Department of this administration, had really neglected their duties in not suspending some of the timber contracts in the Tongass National Forest in Alaska after a very clear indication that there had been all kinds of antitrust violations and conspiracies in restraint of trade by the companies involved and the running out of business of several smaller timber companies as the result, and yet the Forest Service and the Department of Justice just went narrowly on ignoring that. It was necessary to hold some rather extensive joint hearings to bring out the really outrageous things that had been going on.

□ 1845

JIM did a great job on that sort of thing, and I am glad that the gentleman from Oregon pointed that out.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for yielding, and I join in the thanks to him for calling this special order for one of our outstanding Members whom we are all going to miss very much.

I would like to add just a few words to those which I heard as I walked over by two excellent Members of the Oregon delegation, Mr. AUCOIN and Mr. WYDEN, as well as the gentleman's, about what a pleasure it has been to work with JIM WEAVER, a person whom I have found to be of the highest integrity, who always put what he thought was right ahead of political expediency. He really had the courage and the ability to question the general consensus, which I have found JIM WEAVER found was usually wrong.

On the huge mistake of WPPS JIM WEAVER had the sense to say—when all the utilities came marching in and many labor unions came marching in, and most public power associations came marching in and just about all of the leadership of this institution came marching in, and all of the leadership of the other institution came marching in—to say, "Let's take a look at this." And if the position that JIM WEAVER continually tried to get this Congress to listen to for years on the disaster of the nuclear powerplants in the Northwest, WPPS, would have been listened to, it would have been a giant savings for many investors in this country and to the people of the Northwest in general. He was right and they were by and large wrong.

What did JIM WEAVER really have the ability to do? Just because all of that power came out, just because they came in with their $500-an-hour lobbyists and made those grand presentations with all those charts, JIM WEAVER said, "It doesn't make sense to me." And it did not make sense to him, and he was right.

I am particularly, delighted the gentleman in the well, Mr. SEIBERLING called this special order because JOHN SEIBERLING so often joined JIM WEAVER in their important fights for our national heritage and I might add, on other issues, our national conscience. I want to take this opportunity to express my gratitude to JOHN SEIBERLING for his service and his personal leadership. I want to say to the gentleman in the well that he too will be greatly missed both for his leadership and his friendship. Thank you JOHN.

Like JOHN SEIBERLING, JIM WEAVER understood that not only was there no conflict between good environmental policy and good economic policy, JIM WEAVER understood that they were the same thing—that good conservation policy made good economic policy. He consistently, consistently tried to get the rest of us to have the foresight that he had to see that, to see that those dollars wasted, that those megawatts wasted, that those fishery runs wasted, that those resources lost to the expediency of the moment, that he tried so hard and worked so hard to protect, were not only just good environmental policy, those were correct economic policy.

I am going to miss JIM WEAVER a lot, as is, I know, the gentleman in the well, and the Members who spoke before us.

JIM WEAVER did not get swept aside by a lot of flowery little things, we had a little thing in the bill and so we get some little very small, incidental project, by which we miss the whole massive question of what was really there. JIM WEAVER never missed those things.

He was the conscience that we all need; he had the courage to question what others would not question; he was the height of integrity; and he was an excellent representative of the people of the State of Oregon. I am going to miss him, and we are all going to miss him.

Mr. SEIBERLING. Mr. Speaker, I want to thank our colleague, the gentleman from Washington, Mr. MIKE LOWRY, one of the fearless Members of this House and one of the straight thinkers, for those penetrating remarks.

In response, let me say that JIM WEAVER had not only the ability to see beyond the immediate issue presented, but he also had the ability to think constructively for his own part of the country, as the gentleman mentioned.

I remember when we held hearings about the Oregon wilderness bill a number of years ago, and I was out in Portland, OR, with JIM, and we held a hearing in I guess it was the courthouse there, and Chamber of Commerce of Portland came in, as I recall, and opposed the bill.

I said to them, "you know, you fellows really ought to rethink your position. I think that you are out of your cotton-pickin' mind. My State of Ohio would give its eyeteeth to have just one of these potential wilderness areas in our State because we would understand that it not only is an attraction for the business of tourism, but that it gives us the kind of outdoor recreational resource that businesses want to know exists before they decide to build a plant or put an office in the area, because they want to go where they know that they can attract the kind of people that they want to work in their business, and where their employees can have outdoor recreation."

I said, "Oregon has such magnificent potential for this purpose that they are just missing a tremendous trick in attracting high-technology industry to their State." I said that actually I should not be telling them this, because it means that they are being told that they have another way of attracting investment from my part of the country. JIM WEAVER understands that, and the chamber of commerce of this town is so shortsighted that all they are thinking about is to continue their one-industry economic base, which is timber, and not thinking about how to attract high technology and all the other industries that

having wilderness areas will do. I think that probably by now they are beginning to realize that they do have that kind of an asset.

Of course, Portland is a very forward looking city, but I thought that their chamber of commerce was way behind JIM WEAVER.

Another time, JIM decided to hold some hearings in San Francisco on the forest management practices in northern California. We had some of the most interesting testimony that I have ever heard by people in the fishing industry in California who were in there starting to educate us and the rest of the State on the importance to the fishing industry of preserving the last vestiges of wilderness in California.

Why was it important? Well, they pointed out this, that 100 years ago the State of California had 6,000 miles of salmon spawning streams in the State of California, and today there are only 300 miles left.

Can you imagine the incredible economic loss that that represents? Where did it all come from? JIM WEAVER pointed out, and we all now realize, that it came from the logging practices on the granitic soils and steep slopes of the California mountains, so that the minute you cut that forest cover, the soils start to wash into the stream, the salmon spawning gravel beds silt up, and goodbye salmon run.

□ 1855

One of the interesting things that came out of that was that the Congressman who represented that area, and I will not mention his name, he is no longer with us, suddenly woke up to the fact that he had a real problem because he had been working to try to prevent wilderness in northern California, and all of a sudden the fishing industry, which is also big in his district, came in and said, look we want wilderness here. And JIM WEAVER got that all started in terms of our articulating it as a practical issue.

There is one other thing I think is important to say, and the gentleman from Washington [Mr. LOWRY] called it to my mind. I sat here last week in the gallery and I listened to some of my colleagues make some very kind, though somewhat exaggerated remarks about my career in Congress. I realize now, though, that although it is a little bit embarrassing because you know that they are exaggerating a little bit your virtues and playing down your weaknesses, that this is an important part of our relationships here. We are all so busy that we do not have time to talk to each other on a human relationship basis and share our feelings about what we like about other Members, and it does seems to me that this is an opportunity that is not only good for those who are receiving the accolades, and perhaps it is not even good for them to think that they are really as good as their colleagues have said, but it is important to know that there are other Members, including many who will still be here, like the gentleman himself, who share those kinds of ideals and those kinds of principles and that kind of admiration for a man of courage like JIM WEAVER.

So again I want to thank my colleague, the gentleman from Washington, Mr. LOWRY, and express my affection for him, as well as the gentlemen from Oregon, Mr. AUCOIN and Mr. WYDEN, as well as the gentleman from Texas, Mr. GONZALEZ and others who have spoken here.

Let me just say one other thing. The gentleman from Arizona, Chairman UDALL of the Interior and Insular Affairs Committee, told me he would try to be here this evening, but he might have to step out because of other commitments. But none of us who are chairman of subcommittees of the Interior and Insular Affairs Committee, as JIM WEAVER and I have been, could have accomplished very much without the fantastic leadership and the example and the moral support of Mo UDALL. The longer I think about it, the more I am aware of just what a tower of strength Mo UDALL is, not only for our committee but for all of the Members of this House. I want to take this opportunity to express my appreciation for the privilege of working with Mo in all of these years on the Interior and Insular Affairs Committee and emulating his leadership in the field of conservation.

There is only one other thing I think of, and this has nothing much to do with JIM WEAVER, but the other committee I served on, the Judiciary Committee, has been chaired for all but the first 2 years when I was on it by the gentleman from New Jersey, PETER RODINO, one of the most outstanding men that it has been my privilege to know in my lifetime. I think it is entirely fitting that this week we will be considering a conference report on an immigration bill to deal with the serious problem of illegal immigration.

When I first came to the House in 1971 I was on the Immigration Subcommittee, and the very first thing I went to work on was the problem of illegal immigration. This issue was kind of like the famous novel by Charles Dickens, "Bleak House," which you will remember was about a lawsuit, Jarndyce versus Jarndyce, which went on for generations and generations until finally the estate itself was exhausted after all of the original beneficiaries had died. The immigration bill is probably the legislative equivalent of the "Bleak House" story.

But I think it looks like it is about to have a happy ending, and I am happy that before I leave this House after 16 years I may have the opportunity to vote on an immigration bill conference report which will go to the President and be signed into law.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to my very good friend and distinguished colleague, the gentleman from Massachusetts, who is also a member of the Committee on Interior and Insular Affairs.

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding and thank him especially for conducting this special order for our colleague, JIM WEAVER, from the State of Oregon. I have served for 10 years on the Interior and Insular Affairs Committee with JIM, as I have with the gentleman from Ohio, and with those two gentlemen, along with others, but most notably those two, we have fought many, many issues, almost always on the same side. I would be hard-pressed to be able to identify an issue where we have parted company.

I come here with a great deal of sadness because I do recognize that this is the passing of an era. JIM WEAVER is without question sui generis, one of a kind, somebody special, somebody who is different than other politicians. When you look up the word "politician" in the dictionary, JIM WEAVER's picture will not be next to that word. He created a special type of character, and by that I mean his character, his integrity, his sense of right and wrong, his sense of what ought to happen, and he let the chips fall where they may. He called every shot I think according to his own best judgment.

That is why I think it is so important for us to be here tonight honoring him, because even those who I think might have disagreed with him over the years have to recognize that he always acted with the utmost of integrity, always intellectually tried his best to represent the views that he believed this country should hold most dearest, and fought for the principles that he believed this country should stand for.

The issues of nuclear power, the issues of Alaska wilderness, the issues of nuclear weaponry in this country, all of those issues plus a myriad of others have been among the most controversial that our country has had to debate over the past decade. JIM WEAVER has always tried to put himself at the cutting edge of all of those issues. It was he who sat very patiently with me back 8 or 10 years ago and tried to explain to me what was going to go wrong with a group of nuclear powerplants called WPPSS, as he always told me they were so aptly named up in the Pacific Northwest. And I have to admit that even as he foretold as a seer this financial catastrophe which was moving almost gla-

[redacted]ne consuming public
, I cast an arched eye-
But the more that he
never stopped talking,
oarker or a proselytizer
convince the world that
is great danger coming if
t reform your ways and try
cording to the good, solid eco-
principles of Adam Smith that
ways believed should apply to the
wer generators of the Northwest, as
they should apply to every other entrepreneurial enterprise in this country, and almost everything he said would happen did happen and is happening, and the same thing I could point out, if I had the time and the patience of the House, the same kind of thing has happened in area after area.

□ 1905

It is not oftentimes a popular position to have to take in this Congress. There is a great deal of importance which is attached to collegiality; but he I think intuitively knew where the line of collegiality had to end and the position of principle and courage and integrity had to take over.

So I am very, very saddened by the passing out of this body of the gentleman from Oregon [Mr. WEAVER]. I sometimes in these special orders for Members who are leaving feel as though the body is in a casket at a wake, but that the person is living and looking up at us and listening to every single word that we are saying; so it is a kind of awkward procedure that we go through here, since he is really not passing away; he is just passing on, probably to a better and more satisfying life, but at the same time one that will not as much benefit the public, the country, and us who have known him and loved him over the years.

I am going to miss JIM WEAVER. I am going to miss being able to yield to the gentleman from Oregon, so I could take a brief respite in my questioning of particular ne'er-do-wells that might appear before the Interior Committee.

I am as well going to miss the gentleman from Ohio, because very rarely have there been any with the integrity, the intelligence, the good sense, the good judgment, the good humor that the gentleman from Ohio [Mr. SEIBERLING] has brought to Congress in his many, many years, that far predate my coming to this body.

I have admired the gentleman; I have learned from the gentleman; and I very much regret that he is moving on; but he leaves a legacy, a very important legacy, and he will not be forgotten. I think that all of our actions here will in some way or another be touched by the words and the actions of the gentleman and trying to meet the high standards that he and others like him, a certain type of breeding that we who come from a lesser stock cannot quite appreciate; but the gentleman from Ohio and the gentleman from Arizona [Mr. UDALL], the gentleman from New York; that type of background and breeding that represents, I believe, the highest form of contribution to public service that this country can know.

I thank the gentleman for all of his service here. I thank the gentleman from Oregon, wherever he may be. There is a certain omnipresent quality to Mr. WEAVER. You knew that wherever there was an issue of any importance, that somehow, some way, that he would get his two cents in and let everyone know what he felt about it.

I want to thank both of you for all of your service and let you know that you will be gone but not forgotten for a long, long time.

Mr. SEIBERLING. Mr. Speaker, I want to thank my good friend, ED MARKEY. One of the reasons why JIM and I can feel that we can leave Congress in good conscience is because we have people like ED MARKEY and MIKE LOWRY and LES AUCOIN and of the others who spoke here tonight to carry on after we have left.

If I thought we did not, I probably would have not decided to retire at the end of this year; but it makes it a lot easier when we have ED MARKEYS to carry on, and I know that he will. It has been a great pleasure to serve with the gentleman from Massachusetts and to be educated by the process of learning what you have to give us all in the fields that you are most interested in.

I thank the gentleman from Massachusetts and I want him to carry on for the cause of peace and nuclear safety and a decent world and a world that is still viable as a natural ecosystem.

Mr. MARKEY. Mr. Speaker, I will say to the gentleman: Your wish is my command. I will try to serve as you have in this body.

Mr. SEIBERLING. Thank you. It has also been a pleasure to serve with the gentleman from Wisconsin, a member of the Interior Committee, Mr. MOODY. I am happy to yield to him.

Mr. MOODY. Mr. Speaker, I want to join in these comments to pay tribute to our friend from Oregon who is leaving us; leaving us in body but not in spirit, because as a very junior Member here, I will never forget my first session with JIM WEAVER, sitting near his side in the Interior Committee, and in other places, as he brought his wit and humor and rock-rib integrity to the proceedings.

I think JIM WEAVER will always be remembered here as a free thinker; a man who is untrammeled by the pomposity and the procedural vigors that sometimes overtake this body; a man who cuts to the heart of the issue; a man who is fearless in his views, paying little if any heed to the political consequences that may flow from his spoken word or voting record.

We always know that JIM will absolutely vote his conscience, at every moment; he will not yield to pressure from any groups. He is a fighter for the little guy. I know JIM WEAVER will always be a fighter for the little guy. He has always been a fighter for the person without the power and the resources that the big groups have.

JIM WEAVER is an insightful man, and despite his laid-back demeanor and his humor, he also gets to the heart of many important issues. His insights on the WPPSS debacle, and the fiasco surrounding that whole matter, I think really showed many people that JIM WEAVER was not just a fighter for the little guy, but also had a lot of insight into an impending disaster.

Many people have thought he was just out to lunch when he brought this matter up, but we all learned to respect his analysis in this regard, as we did in many other areas.

JIM WEAVER has fought for sanity respecting forest lands and management, and he has fought the, what you might almost call the "timber robber barons" who have insisted on the one hand of free-spirited capitalism and untrammeled, non-Government interference; on the other hand they have insisted on socialism in the form of roads to timber areas that should probably never be cut; and it has been delightful to hear JIM WEAVER take off after those groups.

Again, his analysis was accurate, in my judgement; it was certainly fearless. So JIM WEAVER should be remembered by us all as a man of free and independent spirit, a man with fearless political instincts, a man of good humor, a man who was never pompous, and a fighter for the little guy.

Mr. Speaker, I am glad to be here today to join in this special order.

Mr. SEIBERLING. I thank the gentleman from Wisconsin [Mr. MOODY], Mr. Speaker. He is another person whose continued presence in this body makes me feel a little bit better about leaving it; it is being left in good hands.

If I may just say one other thing, I think that JIM WEAVER's vision of the kind of world we hope we will have some day is probably best summed up in encapsulated form by the famous line from Robert Burns' poem, which ends:

"for a' that and a' that,
It's comin' yet,
for a' that,
When man to man
The world arun
Shall brithers be,
for a' that!"

Mr. HORTON. Mr. Speaker, our colleague JIM WEAVER is retiring from Oregon's Fourth Congressional District seat after 12 dedicated

and successful years of service. JIM has made a name from himself as a defender of the environment. He has managed to balance the needs of environmental stability and the logging interests so crucial to his district and his State.

A self-proclaimed populist, JIM's eloquence and aggressiveness made him a force to be reckoned with immediately after his arrival to these Chambers over a decade ago. From his post as the chairman of the Interior and Insular Affairs Committee's Subcommittee on General Oversight, Northwest Power and Forest Management, JIM's immense knowledge of environmental, conservational, and agricultural issues made that subcommittee an excellent forum for potential long-term ramifications of issues relating to the environment.

JIM's tenacity will be missed by all who enjoy serious deliberations on important policy questions. My wife Nancy and I wish JIM, his wife Jane, and the Weaver family the very best in all they do.

Mr. ENGLISH. Mr. Speaker, it is my pleasure to rise to mark this day in honor of my distinguished colleague from Oregon, the Honorable JIM WEAVER who is retiring at the end of this Congress.

The gentleman from Oregon has done much for the country and for his constituency in particular as evidenced by his many victories in environmental legislation.

His accomplishments on the National Forests Management Act and other endeavors have helped to ensure that his pristine State maintains its natural beauty and abundant resources.

His awards and recognitions from Oregon and other conservation groups for his efforts to preserve America's resources are numerous and I'm sure familiar to all assembled here.

His honors awarded him by various groups such as Bread for the World, Americans for Democratic Action, and others have demonstrated his dedication to assuring greater equality and fairness in U.S. policies.

Mr. WEAVER has ably represented the Fourth Congressional District of Oregon for many years, since 1975 in fact, and is a recognized leader on matters affecting agriculture, conservation, and the preservation of a livable environment.

I would ask that my other colleagues take a moment to recognize Mr. WEAVER's outstanding accomplishments and his devotion to public service as a U.S. Congressman.

Mr. UDALL. Mr. Speaker, I join my colleagues today in paying tribute to JIM WEAVER, who is retiring from this House at the end of this term.

JIM WEAVER, has been one of the hardest working members of the Committee on Interior and Insular Affairs. He served with distinction both as chairman of the Subcommittee on Mines and Mining, Forest Management and the Bonneville Power Administration, and the Subcommittee on General Oversight, Northwest Power and Forest Management.

I've known JIM as a tenacious and spirited figther. He's a man who has a keen instinct for the basics, doesn't back away from his principles, and through it all, he's always been as fair as he has been tough.

I've enjoyed working with JIM through the years. His environmental and conservation achievements are considerable. He helped write and enact the National Forests Management Act, chaired the Interior Committee's investigation of the accident at Three-Mile Island and was chief sponsor of the 1.2 million acre Oregon Wilderness Act.

The people of the Fourth Congressional District have been served well by this man from Oregon, and I wish him all the best in the years ahead.

JIM, thanks for being a friend, and thanks for all that you did.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TRIBUTE TO HON. G. WILLIAM WHITEHURST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. DANIEL] is recognized for 60 minutes.

Mr. DANIEL. Mr. Speaker, we have requested this time for the purpose of paying deserved tribute to Congressman G. WILLIAM WHITEHURST, of Virginia, who is retiring at the close of this year.

This is an occasion for special memories for me, because BILL and I entered the House on the same day, 18 years ago. He came from an academic background and I from private industry, but it was soon obvious that we shared many of the same concerns, and our philosophies had a common ground.

We began service on the Armed Services Committee and all those with whom he has served can attest to his dedication, sincerity, and expertise in national defense matters. His has been a valuable contribution to our committee and his eloquence on the floor of this Chamber is well known.

Before coming here, BILL had already made a valuable and significant contribution to the future of those students with whom he had been associated at Old Dominion University in Norfolk. Now he will return to the university, under an arrangement which offers him a singular opportunity. His years here will obviously be reflected in his future academic endeavors and this in itself is fortunate for the university.

His investment in public service has paid rich dividends for his constituents in the Second Congressional District. He has been a good and effective Congressman, and he can leave with the assurance that he has done his best and that he has the es[illegible] whelming majority of h[illegible]

His return to the worl[illegible] lectures, and report car[illegible] him still another opportu[illegible] His knowledge, his experie[illegible] keen sense of motivation wi[illegible] students all the more rich be[illegible] his decision.

BILL, we wish you well. We th[illegible] you for your fine service here, a[illegible] trust that the coming years will provide both you and Janie satisfaction and enjoyment.

□ 1915

Mr. Speaker, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, I am deeply honored today to have the opportunity to join with my colleagues in paying tribute to one of Virginia's most esteemed public servants, the Honorable G. WILLIAM WHITEHURST, who is leaving Congress this year after 18 years as one of Virginia's most capable and able Representatives.

As much as any Member of this body, it has been my privilege to have been a witness to the leadership, dedication, and selflessness that has characterized the service of Congressman "BILL" WHITEHURST.

When I was first elected to Congress in 1972, I was very fortunate to be able to seek counsel and guidance from BILL WHITEHURST. He had then, and he continues to have today, a keen intellectual capacity to grasp even the most difficult issues facing our Commonwealth and our Nation and to priortize them as to their potential impact on the daily lives of the people of Virginia.

I am pleased today to have this forum with which to thank BILL WHITEHURST for his assistance to me over the years and to salute him for his legislative and political skills and his distinguished career—a career that began with his education in the public schools of Norfolk, VA—continued in the skies of Japan as he saw combat in World War II—and began its dramatic ascent in the field of education as he graduated from Washington and Lee University and the University of Virginia and joined the faculty of Old Dominion University, where he served as dean of students prior to his election to Congress in 1968.

Since he has been in Congress, BILL WHITEHURST has been known and acknowledged as a Member of Congress who not only was willing to share his skills and abilities with his colleagues, but also as an international expert on many of the pressing defense and international issues of the day.

As a former ranking member of the House Select Committee on Intelligence and as a leading member of the

House Armed Service Committee, BILL WHITEHURST has been an effective and forceful spokesman for an efficient, flexible, and mobile military capability.

As a founder of the Congressional Military Reform Caucus, he has earned national recognition for his efforts to ensure that America's defense funds are spent wisely. He has also been recognized for his service on the House Ethics Committee and his work with the House of Representatives Page Board.

BILL WHITEHURST. He has been a steadfast voice in his efforts to preserve the future of Virginia and America for our children and our children's children. He has been an exceptional Representative for Virginia's Second Congressional District for the past 18 years. And * * * he has been my very good friend.

I will miss him. My colleagues will miss him. Virginia will miss him. But he is on to grander and perhaps more rewarding activities * * * and we wish him God's speed.

I thank the gentleman for yielding.

Mr. DANIEL. Mr. Speaker, I take pleasure in yielding to my good friend, FRENCH SLAUGHTER, with whom I served in the Virginia General Assembly for many years and later he served as rector at the University of Virginia.

Mr. SLAUGHTER. I thank the gentleman for yielding.

I am happy to have this chance to pay a small tribute to BILL WHITEHURST, who has served in Congress for 18 years representing a district now composed of Norfolk and Virginia Beach. I did not know BILL when he was elected, but I certainly knew him from the time he was elected, very well by reputation, and later I came to know him personally.

But he has epitomized the best kind of service that a person can render in Congress and render to his constituents.

He knows his district, and I have never heard anyone in his district say other than the fact that BILL WHITEHURST had been a fine public servant for the area he represents in Congress.

He is recognized in Virginia as one of the outstanding men in public life.

He has had a distinguished career in education, and he is returning to education after his service in the Congress. His work has been cited here by Mr. PARRIS and others during his service in Congress. I think that the people of America, people all across the country owe BILL WHITEHURST a debt of gratitude for the great work that he has done in building up the defense capabilities of this country and preserving its freedom and safety.

He is a man of great character and intellect, and a winning personality, and his service to his country will always be remembered by those who realize the necessity for a strong defense and who realize that the American people must always be ready to serve their country.

He has served that country in a magnificent manner as the great patriot he has always been.

Mr. DANIEL. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

I will not take too long because I know other members of the Virginia delegation have important things to say. What I want to say about BILL and about all the Virginia delegation that I have always greatly admired the genteel quality with which you conduct your affairs in politics and present yourselves on the House floor and help to run this Nation as Virginia leaders have done since we were a Nation.

I am most impressed by one quality that BILL WHITEHURST has, in spades, and that is his kindness.

I can recall as a junior member of the House Armed Services Committee coming into a world that was very confusing, with all of the various legislation that was being proposed and all of the organizational problems that a young Member of Congress has.

BILL WHITEHURST, along with the gentleman who is in the well right now [Mr. DANIEL] did a great deal to allay that confusion and intimidation that the system imposed on me as a new Member.

One thing, a second thing that I am really impressed with BILL is his consistency. I have watched the House since 1980, when I came in, and I think other Members of the House recall that we had a strong support for national defense. The President came in riding on the crest of the proposition that this country had not addressed its defense requirements appropriately and needed to rebuild America's defenses, and we saw it go down from that high point in 1981 to lower ebbs and troughs in 1982 and 1983 and recently when the defense budget has been cut and slashed in many important areas, but BILL WHITEHURST never wavered. While public opinion rocked back and forth for defense, against defense, he was always consistently for the defense of America and had consistently a long-range view.

So I will simply finish by saying that when the Founding Fathers of this country put together our three branches of Government, I think they had a vision of the House of Representatives that was filled with BILL WHITEHURST's, with people of impeccable character and tremendous dedication to the defense of America.

I thank my colleague for yielding.

Mr. DANIEL. I thank the gentleman.

Mr. Speaker, this gentleman also served in the Virginia General Assembly at the same time I did. He, Mr. SLAUGHTER, and I were all Democrats at that time.

Mr. Speaker, I yield to the gentleman from Virginia.

Mr. BATEMAN. I thank the distinguished gentleman, the very genial gentleman from Danville for yielding to me. I thank him for taking out this special order.

All of us in the Virginia delegation have a special feeling for one another, and that feeling certainly is as warm in my heart as to the gentleman in the well as it is to any gentleman in the Virginia delegation without regard to which aisle of the House they normally occupy.

Mr. Speaker, I rise this evening to take part in one of those bittersweet ceremonies which mark the end of each Congress—a tribute to a departing colleague.

This occasion, however, is both more bitter and more sweet than most. For in bidding farewell to BILL WHITEHURST, I feel a special sense of loss—loss of the day-to-day guidance and companionship of a man who has been a mentor and a dear friend since my earliest days in this House. Yet at the same time, I am honored to be among those saluting BILL for all that he has been and all that he has done since he arrived here in January 1969.

All of us are aware of Congressman WHITEHURST's brilliant record in the Committee on Armed Services. He brought to that committee the profound insights of an authentic expert in our Nation's history, holder of a doctor's degree in that discipline and long a professor at Old Dominion University in Norfolk. Before his election to Congress, he served as a news analyst for a major television station in Norfolk, bringing an historian's insights to the developments of the day. He has often served that function here in Congress, reminding us of our heritage, urging that we take the long view in our actions and deliberations.

Over the years he has added to his store of knowledge of defense matters and how they interact with foreign policy. Today, I know of no Member who surpasses his expertise in these fields. I would only say to BILL tonight, please keep in touch with your old colleagues and let us know if we are going astray. Your counsel will always be needed and welcome.

BILL WHITEHURST is the ranking minority member of the Subcommittee on Readiness, a founder of the Military Reform Caucus, a former distinguished member of the Permanent Select Committee on Intelligence, and for the last 2 years has performed not-always-welcome duties on the Ethics Committee.

It is a pleasure to report that BILL is not retiring. Instead, he is returning to the academic environs whence he came, once again taking up teaching duties at Old Dominion University. Just think of the good fortune of the students in those classes—to be instructed by a man who combines the broad perspective of history with an in-depth knowledge of present-day government and politics.

I'll conclude by saying simply that I know I speak for my colleagues when I express the hope that BILL and his lovely wife, Janie, will return often to Washington and grace us with their presence as they have for so many years.

□ 1930

Mr. DANIEL. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I have not had the privilege of a long friendship will BILL WHITEHURST, nor have I served on committees with him, but I do want to express my personal sense of loss at seeing him retire as a Member of the Congress. I first met BILL on a trip to Taiwan, where he led our small delegation. I was impressed with the poise and diplomacy he employed in helping us spread American goodwill to this important area of the world. During this trip, and afterwards, I have come to know BILL as a thoughtful, kind, and refreshingly intellectual Member of Congress. He is always a true gentleman. Most of all, I know I speak for his many friends here in the House when I say we will miss his wonderful humor. Humor comes naturally for BILL, but his manner is so soft spoken that his dry wit can be lost to those not fortunate enough to be attentive.

BILL WHITEHURST's sense of history and perspective are so badly needed in this House. I can only say that we will miss him and his wife Janie enormously, and that I, for one, envy each of his future students at Old Dominion University because, were I younger, I would give anything to sit in one of his classes. I feel fortunate to have served with him these last 4 years as a Member of the Congress.

Mr. DANIEL. Mr. Speaker, I thank the gentleman from California. The gentleman characterized him properly.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding to me. I also thank the gentleman for holding this special order for our colleagues.

Mr. Speaker, I want to just comment briefly about three aspects of BILL WHITEHURST's service.

First, as a fellow historian, I have enjoyed very much serving with a real mentor, somebody who had come to this Congress and had brought the best kind of tradition of public service and had brought to bear his academic knowledge.

Second, I would commend to all of my colleagues and to political science and history professors everywhere the two volumes that BILL has published so far of his memoirs. I think that those memoirs give you as good an insight into how the U.S Congress currently works and are, frankly, as candid as anything I have written by a Member of the Congress. I think they are a refreshingly honest, and yet a warm and a positive view of this Congress. I think they would be good for most students to read, and I would encourage most political scientists to look at them as potential sources of knowledge about the U.S. Congress. I might mention in passing they are available in paperback. I would strongly recommend that our colleagues look at them.

Finally, one of the highlights of my service has been to work with BILL WHITEHURST in founding the Military Reform Caucus. BILL played a very unusual role in that he is a senior member. He is the second ranking Republican in the Armed Services Committee. He had a very responsible position on the Intelligence Committee. Yet he felt that it was necessary to take a new look and to take a fresh approach to rethinking how we manage defense in the United States. In 1981, it was in his office that the Military Reform Caucus was founded. I think it is a very unusual thing for a man of his background, with his position in the established Halls of Congress to have lent his credibility and his prestige, and he served as cochairman for the first several years of the Military Reform Caucus. And with the recent passage of what Senator BARRY GOLDWATER called the most important legislation on defense in the 34 years that Senator GOLDWATER served in Congress, I think that BILL WHITEHURST can leave feeling that in many different ways, as an academic, as a historian, as an intellectual and as a good citizen, he contributed to developing the kind of Congress and the kind of defense he wanted to when he came to this Congress.

I really thank the gentleman from Virginia for hosting this. I hope that wherever he goes, whatever he does, BILL WHITEHURST will realize that in many of our hearts there was a very warm spot of gratitude for the sincerity and the commitment and the integrity that BILL WHITEHURST brought to the U.S. House of Representatives.

Mr. DANIEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I know that Mr. WHITEHURST and Jennie deeply appreciate all the kind remarks that have been made here on the floor this evening about them.

Let me say in conclusion that this body can ill afford to lose men with the foresight and the integrity of BILL WHITEHURST.

Mr. SCHULZE. Mr. Speaker, the gentleman from Virginia, BILL WHITEHURST, is retiring at the close of this session to rejoin the faculty of Old Dominion University. He deserves our very best wishes as he embarks upon yet another career because he has devoted 18 years of conscientious service to this body and to the people who have elected him for nine terms running.

BILL is one of the most devoted and honest men I have had the pleasure of knowing in my service in the House of Representatives. He is dedicated to a strong defense and his record on armed services certainly reflects that thinking. On the other hand, he does not march in lockstep with defense proponents who would spend heavily on defense weapons, machinery, and systems to the detriment of our troops being combat ready. Yes, he is for a strong defense. But BILL is also for sound fiscal policy and believes that a strong defense begins with our servicemen and women, whose proper training is uppermost in his thinking.

I served with BILL on the Armed Services Committee when I first came to Congress in 1975. He was for military reform long before it became a catch phrase around these Halls in the name of deficit reduction. He spoke of the need for reform when spending wasn't nearly the issue it is today. His ideas on reform were to strike a balance between necessary spending for current and ongoing projects and for research and development of new weapons systems. He reasons that you take care of the tried and true lines of defense while moderately spending on new and better ways to protect the citizens of this country. And he's got a lot of support for his thinking from colleagues who know of his expertise in this arena and who know that he carefully researches the issues.

BILL is a most thoughtful and learned colleague and his absence will be keenly felt in this House. I know the decision to leave must have been a difficult one for BILL because he greatly believes in this institution. But he also has a great affection for teaching and for Old Dominion University and he looks forward to that challenge with as much relish as he faced the challenges of politics and legislating. So I bid you a very fond farewell, BILL, and wish you success and happiness as a member of Old Dominion's faculty.

Mr. RUDD. Mr. Speaker, my good friend and colleague, Congressman BILL WHITEHURST, will be leaving the 99th Congress after 18 years of distinguished service on behalf of his State and Nation.

During the time I have known BILL, several features have clearly defined why this man, who has so ably represented the Second District of Virginia, has become one of the most respected Members in this body.

BILL WHITEHURST will leave a legacy in the House of Representatives for being both a gentleman and a scholar. Prior to his election to Congress, BILL WHITEHURST was both a professor of history and dean of students at Old Dominion University. He will return to this

institution after serving out his term and begin again the life of an academician. Mr. Speaker, with all sincerity, I can say that the loss of BILL WHITEHURST will leave a void in this institution—but will add tremendously to the future of Old Dominion University and the many students he will educate and guide with his principles and wisdom.

BILL and I have traveled together on several assignments overseas as delegates to the North Atlantic Assembly and I have greatly enjoyed my association with him. My wife, Anne, and I have valued our friendship with BILL and Janie WHITEHURST. We wish them all the best in their future endeavors.

Mr. WOLF. Mr. Speaker, I am very pleased to join my colleagues today to pay tribute to my colleague from Virginia, BILL WHITEHURST, as he nears the end of a distinguished 18-year career in the House of Representatives.

It has been an honor to serve in this House for the past 6 years with BILL WHITEHURST. He has been a valuable asset to the Virginia delegation through his work on the Armed Services Committee and he will leave a void in our delegation that will be difficult to fill.

BILL WHITEHURST is a man of intellect and many talents who has devoted his life to the service of others. He holds bachelor's, master's, and doctor's degrees and began serving his country in the Navy during World War II. As an educator, he served our future generations at Old Dominion University in Norfolk, VA, and became a well-known public figure in the Norfolk area as a television journalist, prior to his election to Virginia's Second District seat in Congress in 1968.

As a member of the Armed Services Committee, he has recognized the importance of maintaining a strong defense posture while working to foster a strong maintenance program for the Armed Forces and to improve the pay and benefits for our Armed Forces personnel.

He's also a man of compassion who, working with his wife Janie, has devoted endless hours to saving the lives of animals and working for the enactment of the Animals Protection Act.

I salute BILL WHITEHURST as an outstanding public servant and appreciate so much his wise counsel. He will be missed. He's been quoted as saying, "It's very important to believe there is a life after Congress. And there is," He has given 18 distinguished years of service to the Nation and it's been a pleasure to have served in Congress with BILL WHITEHURST. I wish him well as he moves on to his "new life," returning to teaching at Old Dominion University.

Mr. SISISKY. Mr. Speaker, this is a very special pleasure for me to say a few words about my distinguished colleague and friend, BILL WHITEHURST. During my 4 years in Congress, I've worked closely with BILL WHITEHURST on many issues that have affected our Tidewater, VA districts.

From the very first day that I entered Congress, I have been able to count on BILL WHITEHURST for sound advice, for generous cooperation, and for his valued friendship. Whenever I needed his time or his counsel, BILL was always there, always willing to lend a hand.

It is to BILL WHITEHURST's great credit that he never let partisan considerations get in the way of his serving the people. BILL WHITEHURST set the example; he made cooperation the hallmark of congressional relations in Tidewater. Whenever an issue came up before the House that affected the Tidewater region, BILL WHITEHURST would always treat it as an areawide issue, and not one that just concerned his district. For BILL, his concern was for the welfare of all Virginians in the Tidewater area.

I have also had the privilege of serving with BILL WHITEHURST on the Armed Services Committee. We've worked together on many issues of great concern for America's national security. I know that every member on Armed Services has nothing but the highest respect for BILL WHITEHURST's keen intellect, his wealth of knowledge in all aspects of defense matters, and above all, his dedication to America and our national security.

BILL, we will sorely miss your wisdom and your counsel on the Armed Services Committee. We are proud of your efforts on behalf of military reform and your insistence that defense funds be spent more effectively. You have made major contributions to America's defense and you have served your Nation proudly.

We've come to know BILL WHITEHURST not only through his activities in committee and on the floor of the House, but also through his writings. In BILL WHITEHURST's diaries, we have seen the thoughtful, erudite, and introspective side of our colleague. We have seen a man who has a keen understanding of the legislative process, and works tirelessly for his constituents, who has great concern for the important issues facing us today, and who has a deep love of his country.

The students at Old Dominion University are going to benefit tremendously from BILL's experience and his perspective. I hope that BILL will do more writing, will lecture widely, and will share his vast knowledge of Government, national defense, and international affairs. I hope, BILL, that you will be back in Washington and will visit with us often.

Virginia's Second Congressional District has been ably served during these past 18 years, not only by BILL WHITEHURST, but by his dedicated and talented wife Janie. This has to be one of the best bargains in our lifetime—the second district has been served by not just one, but two WHITEHURSTs for the price of one.

BILL and Janie, all of us in this Chamber will miss you. We will miss your warmth, sincerity, and your dedication to public service. We will miss your friendship. We wish you both the best of health, the chance to catch up with your grandchildren, and the opportunity to take on new projects and new challenges. Godspeed to both of you.

Mr. HUTTO. Mr. Speaker, I appreciate very much the opportunity to participate in this special order in honor of our good friend and colleague, Congressman BILL WHITEHURST from Virginia. Congressman WHITEHURST will be leaving at the end of the 99th Congress, and we all wish him well as he returns to his teaching at Old Dominion University in Norfolk, the school with which he was associated prior to coming on the Washington scene.

In my 7 years on the Armed Services Committee, I have very much enjoyed working with BILL WHITEHURST. He is a dedicated American, who takes the defense of our country very seriously. Because of his good work, in the last few years, he has shared in the rebuilding of our defensive strength so that we can continue to have a deterrence, knowing, of course, that it would be great if we could reduce the level of arms in the world but this would be impossible without a strong defense. Perhaps BILL WHITEHURST understands the need for negotiating from a position of strength better than most people.

I have had the pleasure of working not only in the full Armed Services Committee with BILL but also on subcommittees and in conference. Always, he has been a person who is easy to work with, who understands the process, and who is effective in carrying out the functions of the committee.

It was a great opportunity for my wife Nancy and me to lead an Armed Services Committee trip to the northern flank of NATO and to have BILL WHITEHURST as the ranking Member, along with his wife Janie. It was a working trip in every sense of the word, and I shall never forget the dedication of BILL WHITEHURST in putting on paper all of the things that we saw and heard. Onboard the aircraft, he was constantly writing, yet taking time to enter into delightful conversation with others around him. As you probably know, BILL is a prolific writer, and I hope one of these days to be able to read all of his publications. Without a doubt, they will command long periods of my time because the gentleman from Norfolk has a flare for writing in an interesting manner. I suspect that in his retirement from Congress, he will be using his pen even more to chronicle many of the exciting events which occurred during his tenure in Congress.

When BILL WHITEHURST leaves the 99th Congress, he will do so with the satisfaction of knowing that he has done his job well. He has distinguished himself here in this body and will continue to do so at Old Dominion University and in whatever personal pursuits he chooses to follow. We wish him well. May God bless you, BILL, your wife Janie, and all of your family.

Mr. MILLER of Ohio. Mr. Speaker, today we recognize one of the long-standing and outstanding members. G. WILLIAM WHITEHURST retires at the end of this session with an 18-year record of dedicated public service. He has served the constituents of his second Virginia district and this Nation in a most conscientious and loyal fashion. I would like to praise BILL for his untiring efforts and to say how much I've appreciated having the opportunity to serve with him in this Chamber.

As the second ranking Republican member of the House Armed Services Committee, BILL has supported a strong military and has done much to ensure that our Armed Forces have kept pace with the changing technology of the times. He as also taken another issue to heart that of animals rights, being in the forefront of enactment of the Animal Protection Act which would set humane standards for both research labs and zoos. It is this regard for all living creatures that perhaps best exemplifies BILL's deep felt concern for the safety and

preservation of life in general and for the environment in which we reside.

Having earlier distinguished himself as a professor at Old Dominion University in Norfolk, BILL will return to the faculty there where I am sure he will continue to impact his knowledge and expertise to all he comes in contact with. We wish him well as he leaves this Chamber; we will miss his many contributions to this body.

Mr. CLINGER. Mr. Speaker, BILL WHITEHURST has been a respected member of the House for the past 18 years and I am proud to have known and worked with him for the past 8 years since I first came to Congress.

I have thoroughly enjoyed reading his first two books, Diary of a Congressman and Abscam and Beyond regarding his experiences as a Congressman. I have found them to be extremely candid and a witty discussion of his life in Congress. I anxiously look forward to the publication of his third book which will bring him up to his retirement.

The House's loss however will be academia's gain as BILL will be returning to Old Dominion University where he distinguished himself before coming to Congress in 1969. I want BILL to know we all appreciate what he has given to this institution and wish him and his family the very best in Norfolk.

Mr. BADHAM. Mr. Speaker, when BILL WHITEHURST returns to the faculty at Old Dominion University following this, his final term in the House of Representatives, our loss here will be to the tremendous benefit of the students who will gain from his experience, knowledge, and understanding.

When I came to this House in 1976 and became a freshman member of the Armed Services Committee, BILL already was a veteran of 7 years standing and had been fighting the battle for higher military spending to rebuild our national defense. I learned a great deal about what is and is not important for members to concern themselves with in committee deliberations by talking with and listening to BILL WHITEHURST.

With his background as a history professor and television news analyst, BILL brought to the House and his committee assignments a more thoughtful, scholarly and logic-based approach to problem solving. This ability to place major issues into perspective has helped all of us in our evaluation of such compelling matters as funding for chemical weapons, Pentagon reforms, Central America and many others.

Of course, in addition to his dedication to armed services matters, BILL has focused on his other legislative passion—the protection of animals. He and his wife, Jennette, have worked hard on legislation that would expand humane standards for both zoos and research labs.

Mr. Speaker, there is no question that BILL WHITEHURST represented his constituents well and with honor. He ran unopposed for the past 10 years and certainly could have held his seat for as long as he wanted to be in the House. However, he has chosen to take his considerable talents back to academe and in that endeavor, I offer my very best wishes.

Mr. LAGOMARSINO. Mr. Speaker, as we reach the end of the 99th Congress, I would like to take this opportunity to pay tribute to our friend and colleague, BILL WHITEHURST of the Commonwealth of Virginia. After 18 years of dedicated productive service to our Nation here in Congress, BILL will be retiring and returning to Old Dominion University in Norfolk where he distinguished himself before coming to Washington.

I know we will miss the guidance and leadership BILL provided on the Armed Services Committee. Being a supporter of strong national defense and knowing the importance of maintaining a credible defense posture, BILL has fought many long and hard battles on our behalf to prevent a dangerous decline in our national security. His successors on the Subcommittees on Military Installations and Readiness will have to work very hard to equal the outstanding job done by BILL WHITEHURST.

I am envious of the students at Old Dominion who will have the opportunity to discuss with BILL his experiences in Congress and debate current political issues in an academic setting. If his record and service in Congress are an indicator, the Old Dominion community will be receiving a great asset with the return of Congressman WHITEHURST.

I know the people of Norfolk and Virginia Beach have much to be proud of knowing they have been represented by one of the most outstanding Members of Congress for the past 18 years. Like them, I am sorry that this most capable, honest representative will not be returning to the 100th Congress. BILL WHITEHURST has done a most praiseworthy job in Congress serving the people of Virginia and this Nation most admirably. I wish him the best of success at Old Dominion and would, again, like to thank him for all the help he has provided to me since I came to Congress in 1974.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the Honorable G. WILLIAM WHITEHURST, who will be retiring from the Congress after 18 years of dedicated service to his constituents in the Second Congressional District of Virginia, and to the people of this Nation.

BILL and I have worked together on several occasions as members of the NATO delegation, and I have come to know him for his fairness, his intellect, and for his legislative and leadership abilities.

Before coming to Congress, Congressman WHITEHURST served our country with distinction in the U.S. Navy as an aviation radioman during World War II, and received his doctorate in American diplomatic history from West Virginia University. Also, he taught history at Old Dominion University, and at the end of the 99th Congress, he will be returning to the faculty at Old Dominion in Norfolk,

Elected to the 91st Congress in 1968, Congressman WHITEHURST has ably served as the ranking minority of the Subcommittee on Readiness of the House Armed Services Committee, and as a member of the Subcommittee on Military Installations and Facilities. He also has earned the respect of his colleagues in the House of Representatives for his service as a member of the House Committee on Standards of Official Conduct.

BILL is a fine legislator, and a Congressman of compassion and courage, who has provided exemplary service to his constituents and to our Nation. He will be missed by those of us in the House of Representatives who have had the pleasure of working with him.

Mr. Speaker, I extend to BILL WHITEHURST my best wishes for continued success in devotion to the highest principles.

Mr. MONTGOMERY. Mr. Speaker, I want to join with my colleagues in this special order to bid farewell to our colleague from Virginia, BILL WHITEHURST.

I have had the privilege to serve with BILL on the Armed Services Committee. We worked together on the Installations and Facilities Subcommittee. He has been a true friend of the service personnel around the world, and has been strong in his support of a strong national defense. We will miss his leadership on our subcommittee.

BILL has given the people of Virginia and this great country 18 years of distinguished service. He can be proud of the record he is leaving behind here in the House. I know he is looking forward to return to the faculty at Old Dominion University. He has been "on loan" from ODU these past 18 years and now they will have the benefit of his experiences in Washington.

BILL is a great American. We will miss him.

GENERAL LEAVE

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. WALDON). Is there objection to the request of the gentleman from Virginia?

There was no objection.

ORDER OF BUSINESS

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that I be permitted to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FAMINE AID: WERE WE DUPED?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, there is a tragedy going on in Africa, and that tragedy is not, as most people would guess, in South Africa. South Africa has many problems, but as I was flying home to my district last week, it was brought to my attention by a fellow traveler that in the Reader's Digest of October there is an article written by a doctor who has worked in Ethiopia for some time telling in some detail of the atrocities, the horrible human drama that has unfolded in that country that is taking an untold number of human beings to their graves.

There are problems in Tanzania, there are problems caused by the Communists in Mozambique and Angola, and problems in South Africa with apartheid and with the Communist ANC there.

But I think that the problem that is of the greatest magnitude is the problem that is faced by the people of this world that is unfolding in Ethiopia.

I do not like to read to my colleagues who are sitting back in their offices and to the people who might be watching across this country, but tonight I ask the indulgence of those who might be watching because I think this is extremely important.

This article was written by a doctor named Rony Brauman. It goes like this:

On a hot afternoon in early 1985, I stood on the tarmac of the airport at Addis Ababa, the capital of Ethiopia, and lived a privileged moment. As cargo plane after cargo plane landed, others circled overhead, awaiting their clearance to come in. The Western world's air bridge to Ethiopia was in full swing. In whatever direction I looked, those hulking giants, symbols of the best that is in humanity, were unloading food and grain, tents, blankets, jeeps, even fully equipped hospitals.

Shocked by the terrible images of starvation brought into their homes by television, millions of ordinary citizens throughout Western Europe and North America spontanesouly dug into their pockets and gave unreservedly to the charities that asked for their help. The surge of generosity that I witnessed that day only grew greater as the months passed. A host of rock stars in America recorded the spectacular best-seller "We Are the World" (more than 16 million copies sold) and dedicated 90 percent of the proceeds to African famine relief. Irish musician Bob Geldof founded Band Aid and its American counterpart Live Aid, and organized the hugely successful 16-hour, all-star rock marathon held simultaneously in Philadelphia and London, and beamed to the whole world via satellite. More than $100 million was gathered in response to the call for help.

In the months that followed, the euphoria that swept over me that day at the airport gradually gave way to bitter disappointment while we watched the cynical betrayal of the international-aid campaign. Here is the harsh truth: your donations have been massively misappropriated by Lt. Col. Mengistu Haile Mariam's Soviet-dominated regime. Money, food and equipment intended for the starving have been hijacked by the authorities and used as a means of pressure on the anti-government peoples of Ethiopia's northern provinces.

Like bait in a trap, Western-donated food is being used to lure the starving from their villages into deportation centers. From there, the people are herded away at gunpoint to barely disguised labor camps.

In the words of my colleague and predecessor at Doctors Without Borders, Dr. Claude Malhuret, now France's Secretary of State for Human Rights: "Western governments and humanitarian groups unwittingly fueled—and are continuing to fuel—an operation that will be described in hindsight in a few years' time as one of the greatest slaughters of our time."

Hidden Famine. We at Doctors Without Borders should have known better. We had first applied to enter Ethiopia in 1982 when the country was in one of its cyclical periods of drought. Since our request was ignored, we served clandestinely in the northern provinces of Tigray and Eritrea, treating the sick and starving. In this region of unrest, we had seen the scorched-earth tactics of Mengistu's army in its attempt to suppress the rebel fronts.

The army's drives into enemy territory were a deliberate attempt to ruin that secessionist part of the country and one of the main reasons why the famine reached such dramatic proportions. Villages suspected of supporting the rebels were systematically pillaged, their stocks of grain confiscated or burned, their livestock slaughtered. Dispossessed of reserves, the peasants were helpless when the cycle of drought struck again. This made them prime candidates for "resettlement" in the southwest, where they could no longer help the rebels.

For two years the Mengistu government hid the famine from the world. But after a lavish celebration of the tenth anniversary of the Ethiopian revolution—at a cost of $100 million—the government threw open the doors of the country to the Western press. With the rush of TV crews and newspapermen, alarming stories about the suffering were encouraged. The government now did its best to magnify the famine, flying journalists to carefully chosen locations. It took us months to understand that the aim was to make the West pay for the resettlement scheme and help the war effort in the north.

As Western food and medical aid flooded in, the Soviets sent arms. Grain rotted on docks and in warehouses, because the only trucks available belonged to the army, which did not consider food transport for the starving a priority. Wheat ships were made to wait several days at anchor while Soviet freighters unloaded tanks, ammunition and cement. In November 1984, Ethiopian authorities even brazenly demanded that the United States pay for the rental of government-owned vehicles to distribute the $100 million of emergency aid that it had sent to Addis.

If Americans were naïve in their response to the Marxist government's call for help, so, too, were Doctors Without Borders. We had eagerly accepted the Ethiopians' sudden invitation to join the struggle against famine. By late fall of 1984, we had two teams working in the worst areas. In those days before the international rescue effort was in full swing, there was a shortage of food, medication and supplies. In the vast camp of Korem, 385 miles north of Addis in Welo Province, the 100,000 inmates were dying by the hundreds before we could give them the least care.

Terror Raids. When, food, tents and blankets first arrived, Dr. Brigitte Vasset, chief of our medical crew at Korem, joyfully ordered all 150 tents to be set up and the blankets distributed: the cold season was already on the land, complicating and worsening the problems of mainutrition. Hardly had her order been given when the camp's Communist Party chief stormed into Dr. Vasset's consulting room to countermand it. "We don't want the camps to be comfortable," he said.

It was a question of life or death, not comfort, but the message was clear. We had assumed that the camps were relief stations where the peasants could regain their strength before returning to their farms after the drought. We were wrong. The government saw them as nothing more than way stations on the road to resettlement, the first step to emptying the north of a large part of its population—over one million people who did not want to leave.

In December Dr. Vasset returned from Addis Ababa to find the camp empty except for babies, the aged and the sick. It was her first experience with a resettlement raid. The army had arrived with its trucks, herded away as many people as the vehicles could carry and driven them off for transport south. Terrorized, the remaining Korem inhabitants who were strong enough fled into the nearby mountains. But, stalked by hunger, they soon straggled back, resigned to whatever fate had been decided for them.

Next a quota system was established: so many individuals required from each district; never mind the niceties. Husbands and wives were split up, probably never to see each other again. Hundreds of children were left behind to fend for themselves. The kids who did not die were sent to orphanges to be raised as Menguistu's "new human beings."

Dr. Vasset and her colleagues witnessed three deportation raids at Korem. A total of 17,232 were taken away, almost all of them against their will. By the time of the third raid, the militia moved right into our hospital and convalescence shelters and dragged off those who were too weak to flee. As the militiamen beat them to the trucks with sticks, Dr. Vasset protested that most would not survive the trip. The Party chief shrugged. He had a quota to fill.

We and our brother organizations in the field watched helplessly as the sick, hungry and dying were manipulated and coerced into joining the flood south. Time and again, even when stocks were overflowing, we saw food withheld from the camps while being made abundantly available in nearby resettlement transit centers. The bargain was starkly simple: if you want to eat, come in for deportation.

The same kinds of tactics operated in the countryside far from the camps. Promises of grain distribution brought farmers trudging from miles around to central trapping points where the soldiers were waiting in hiding. A call for free vaccination of cattle served doubly well, because it netted both the farmers and their herds. The farmers joined the lists of resettlers, and the cattle went to the militia. It was after campaigns of this sort that relief workers discovered what otherwise would have been inexplicable: ghost villages with huts, tools and household utensils intact, and crops untended in the fields.

Slave Labor. In June 1985 we installed a treatment center at Sek'ot'a, an important northern city. We found desolation. The Ethiopian army had destroyed all the crops, herds and farms in the vicinity. With no food available, the people would become dependent on the government camps, and the rebels would lose their support. To the world's press who were ushered into Sek'ot'a, these masses of barely living humanity were presented as victims of natural calamity—in fact they were victims of the government.

Even the famous drought proved to be something of a false issue. Our organization dispatched a hydrogeologist to Sek'ot'a and he discovered an enormous deposit of readily accessible underground water. At relatively low cost—only a small fraction of what was being raised for famine aid—there could have been water for everyone. Our representations to the government fell on

deaf ears. What was desired was not water but a Sek'ot'a emptied of people.

The longer we stayed, the more the horror stories repeated themselves. By the middle of 1985, grain was rotting on the docks at the port of Aseb because trucks that had been donated for its transport were being used in the relentless pursuit of resettlement. Today, I am certain that at least half the deaths in Ethiopia must be attributed directly or indirectly to its own government.

The majority of the deportees serve the government as slave labor on the coffee plantations, which account for two-thirds of the country's hard currency. The death toll in these resettlement villages is appalling. An estimated 15 to 20 percent of the resettlers died in the first three months after being taken from their homes. For these population shifts alone, not taking into account the deliberate starvation instituted in the north, the Ethiopian government has on its hands the blood of at least 100,000 victims.

The failure of the resettlement program has been total, as demonstrated by Cultural Survival, Inc., a nonprofit group of Harvard anthropologists. Their comprehensive study, based on hundreds of interviews with victims of government-imposed resettlement, presents a shattering image of the Ethiopian tragedy. Not only are the work camps unable to feed the Ethiopian people, but these very collectives are prime candidates for future famines.

Even the collective farms, established several years earlier, are still so notoriously inefficient that they consume 90 percent of the government's agricultural investment, while producing barely five percent of the country's farm output. Yet Mengistu and his fellow theorists plow obdurately forward on their corpse-littered path.

Guided Tours. As the mass deportations continued, the situation in the field camps and nutrition centers continued to be desperate, in spite of the massive arrival in Ethiopia of foodstuffs from the West. The notables who visited the camps, the charity representatives and even the ambassadors of the donating countries were continually duped by their Ethiopian guides. Every time, the scenario was the same: suddenly, as if by magic, the trucks got through and the sacks of grain were plentiful. The notables returned home to write glowing reports about the efficient distribution system, but as soon as they left, the miracles ceased. The desire to believe in the success of the good cause was so powerful that these people fell into a bizarre kind of voluntary blindness.

I was particularly shocked by the U.N.'s resident representative, an assistant secretary-general installed in Addis, who invariably dismissed our protests with a few condescending phrases. Even when I told him point-blank that the resettlement program which the West's aid had made possible was killing more Ethiopians than the famine was, he answered, "I have no reason to believe that these people left the camps against their own free will." One day I should like to understand how the U.N.'s highest representative in Ethiopia could be unable to see the murderous nature of these deportations, thereby lending a blessing to one of the world's bloodiest and most tyrannical governments.

Numerous and prominent were the victims of the same hoodwinking-show-business stars, Western government ministers, ambassadors—all good and concerned human beings. They usually arrived in the Korem camp by government helicopter or car, spent an hour or so on the standard VIP tour, then were whisked away as swiftly as they had arrived. As far as they could see, all was well.

In June 1985 the government allowed us to set up a regional food-distribution center in Kelala, a sprawling farm district in southwest Welo Province. By then the zeal with which resettlement was pursued was utterly unbelievable.

To survive, the thousands of malnourished little children at Kelala required small amounts of high-energy food six to eight times a day. We had the food, but authorities refused to allow us to carry out the treatment. The system of nourishment we had proposed was unacceptable, a functionary explained, because it would maintain the population at Kelala. By October nearly all the children—3000 of them—were dead. They were as good as murdered.

Finance Famine? Last December we were ordered out of Ethiopia. Armed militiamen burst into our compounds, seized our equipment and menaced our volunteers. Some of our employees were beaten, and our trucks, medicines and food stores confiscated. We left Ethiopia branded as enemies of the revolution. The regime spoke the truth. The atrocities committed in the name of Mengistu's master plan *did* make us enemies of the revolution.

Today, Ethiopia remains the only country in the region still demanding huge quantities of food aid, even though the drought has long since ended. It is because the government has destroyed its own agricultural structures. It has prepared future famines. Meanwhile, the mass deportations and the work camps continue, and we in the West are expected to pay for them.

I am convinced that it is morally wrong for us to assist Mengistu and his callous functionaries in carrying out this murderous policy. During the famine, millions in the West responded with unequaled generosity, and no doubt saved many people from starvation. Now, however, the main cause of death in the northern provinces is no longer famine but forced resettlement.

It is tragic, but what I am saying is this: we have been duped. The best way to save lives now is for the West to demand an end to the forced resettlements. Unless they cease, further food aid will only grease the gears of Mengistu's killing machine.

□ 1950

Now, about Mengistu. The Ethiopian regime's cynical manipulation of Western generosity should have come as no suprise to aid donors. From the first days of his rise to power, Lt. Col. Mengistu Haile Mariam has shown himself utterly ruthless in destroying opponents and not averse to resorting to personal violence.

Mengistu emerged the country's undisputed strongman in 1977 when scores of rivals were either killed or executed. In the years that followed, an estimated 5,000 Ethiopians were killed as Mengistu forced his brand of Soviet-supported Marxism on his country. Bodies of tortured political prisoners were displayed on state-owned television. Amnesty International charged in its latest report that thousands of political prisoners still languish in Ethiopian prisons.

Mengistu has been particularly implacable in his attempts to suppress the rebellion in Eritrea, a northern province that has been fighting for independence for a quarter century. A second rebellion erupted in neighboring Tigray Province, where much of the forced resettlement has occurred.

Through it all, the Soviet Union has lavished billions of dollars in military aid on Ethiopia, helping to make its 300,000-man army the largest in black Africa. Soviet advisers in Ethiopia number in the thousands.

This is the main tragedy in Africa. Millions of people are being killed systematically by their own government, and nobody in America is talking about it. This is the first article I have seen in any major publication in the last 6 months about this. It really bothers me.

All of the attention of America has been focused on the problems of apartheid in South Africa, and they are major problems, but the tragedy, the holocaust that is taking place in Ethiopia is being ignored, and I wonder why?

Why do we focus on an area where hundreds have died, when hundreds of thousands and millions are dying right now through government-imposed starvation? It makes no sense to us, to me, in particular.

But I want to shift your attention just a little bit, if I may, now to South Africa, because the sanctions that we imposed are going to cause, I believe, famine and hardship and possibly a Communist takeover of the entire southern tier of Africa, including South Africa itself.

I use as an example a speech or a statement made by Dr. Christian Barnard, the man who originated heart transplants. Dr. Barnard was reported in the Indianapolis Star yesterday, and this is the article that he had published on the editorial page.

Dr. Christian Barnard, now retired from the Cape Town hospital where he pioneered the world's first successful heart transplant, has added his voice to those warning that sanctions against South Africa will hurt most the people that sanctions are allegedly intended to help.

Writing in the Sunday Times of Capetown, Barnard says that sanctions mean starvation and that most of the victims will be children.

"Southern Africa is home to more than 60 million people. A quarter of the population are below the age of 14," writes Barnard. As the ripple effect of sanctions spread through the region, he warns, 15 million children will be threatened with starvation.

Barnard says he feels a "white-hot fury" at the conditions which allow children to starve. "There is a stink to starvation that doesn't show on the television screen. It assaults the nostrils and revolts the stomach—a smell you can never forget: the stench of obscenity.

"Once you have seen a starving child you know the real meaning of obscenity—a con-

dition which is an affront to all humanity," Barnard writes.

Barnard says he is angered by churchmen who support sanctions. "I try to believe that, like the Roman soldiers who crucified Christ, they know not what they do. But belief comes hard when you consider that those who ask for the bread to be taken out of the mouths of other people's children know that their own will never suffer." He writes:

"No churchman's salary will stop when trade comes to a halt. Priests and prelates, like the lilies of the field, toil not for their cash. It comes to them on a silver plate. And it keeps coming whether the stock market rises or falls.

"When sanctions bite, no one will knock on the door to repossess the furniture. The cars in the garage will be safe and the church will not call in the mortgage on the rectory, the manse or the deanery.

"Bishops will be safe, too. Princes of the church live in palaces where sanctions don't apply.

"Church walls are thick. Especially high church where they build monuments of dead stone to a living God.

"It's hard to hear the cries of the unfed when you're inside."

Barnard asks churchmen who support sanctions: "Would the Almighty really risk the life of a single child—just to replace a white Caesar with a black one?"

If Barnard is right, and famine does spread through South Africa, will the clergy, the politicans and others who were so zealous in imposing sanctions be equally zealous in providing food for the starving?

□ 2000

That is a very valid question. When we debated sanctions on this floor, I told my colleagues, 600,000 blacks will be put out of work immediately. That means that 3½ million people will be without food who have food today. Those people will be ripe for the revolutionary rhetoric of the African National Congress, which is controlled by the Communists. Nineteen of the thirty members of the executive committee are members of the South African Communist Party being supplied by the Soviet Union to the tune of $80 million in military hardware last year. They are the ones who are providing the necklacing mechanism to keep people in line, where they put a tire around their necks, fill it with gasoline and set it on fire. Those are the people that these people who are not going to be fed in the near future will turn to. They will listen to that revoluntary rhetoric and we will end up seeing another holocaust in South Africa and it may very well in time rival what is going on in Ethiopia.

I must say, I am very ashamed to say that we will have had a very significant role in bringing this about.

We in the free world, while trying to bring about positive change in countries like South Africa where aparthied which is repugnant prevails, should think about the long-term ramifications of our actions.

We said we want to help the black South Africans. We want to help them find the quality. We want to help them participate in the governmental process. We want a postapartheid constitution which would provide at least power sharing. But what did we give them?

We gave them a piece of legislation which provided for economic sanctions, boycotts of their products here in the United States, and as a result 600,000 people initially will be put out of work and 3½ million people will be without sustenance in a very short period of time, and all this is playing right into the hands of the Soviet Union.

I talked to a man from southern Africa today in my office. This man told me that the military buildup in Angola is unprecedented. The Soviet Union has sent 2 billion dollars' worth of military equipment into that country in the last year just north of South Africa. There are MIG-21 fighters, MIG-23 Flogger bombers, thousands of tanks are coming into South Africa.

In Mozambique just north of South Africa over on the other side, $1 billion in Soviet aid has been sent into that country, military aid.

There are Soviet advisers in both these countries. There are 35,000 to 45,000 Cubans in Angola and we believe there are a couple thousands Cubans in Mozambique.

Just north of there is Zimbabwe. Zimbabwe is supported by the Chinese Communists. So we see just north of South Africa a tremendous military buildup that threatens that country as far as the Communists are concerned.

And inside, instead of solving the problems of apartheid by helping the economic plight and putting internal pressure on the Government, helping the economic plight of the blacks and putting internal pressure on that government to bring about positive change, we have imposed sanctions which will play right into the hands of the Communists within South Africa, so they are being attacked, they will be attacked from outside where the buildup is taking place and they are going to be attacked internally. If that takes place, I submit to you there will be blood running in the streets, probably 2 or 3 million blacks will die and there will be famine that will rival what is going on in Ethiopia today.

If the Communists take over, we will have a tyrannical government to boot.

What does that mean for the United States of America? We will have to provide aid for those people who are starving to death because we are a humanitarian nation. We will be trying to save starving children who are starving as the result of actions that we have taken. I think that is a tragic mistake.

But in addition to that, the vital minerals that we need for our own economy and for the defense of this Nation will no longer be available from southern Africa. Manganese, which is a component part of steel, the preponderance of the manganese we buy comes from South Africa; platinum, cobalt, chromium, magnesium, those are all metals that come from South Africa. Those metals, which will only be able to be bought in bulk from one other source, which is the Soviet Union, will put us in an economic and military trick bag.

In addition to that, 40 percent of the free world's oil supplies come around the southern tip of Africa.

So I guess what I am doing tonight is trying to vent my anguish at what is taking place not only in Ethiopia, but southern Africa as well, in Angola, in Mozambique, and especially in South Africa. I think the United States has made a tragic mistake and I hope before all hell breaks loose over there the United States and our allies will find an answer that will help solve this solution before it turns out the way I think it will.

We should I believe be anxious to help the poor, the underprivileged, the needy around this world. We should think long and hard about what needs to be done to help these people in places like Ethiopia and South Africa, but before we make a decision that is going to create a tragedy, a terrible human tragedy, we should think of all the ramifications of our actions before we pass legislation in this body. I do not think we did that with the South African sanctions bill and I think it is going to come back to haunt us down the road.

DEATH AND TAXES

The SPEAKER pro tempore. (Mr. WALDON). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, our topic tonight is "death and taxes." There is an old saying that you can escape everything in life except death and taxes. I thought I would start by talking about those who are and who still vote and how they affect the taxes of those of us who are alive, whose votes are canceled when those who are dead still vote.

I want to begin by pointing out that there seems to be a great deal of misunderstanding in some of the national press about the scale of vote fraud and the degree to which people who have moved or die continue to vote.

I notice, for example, that on October 5, 1986, the Washington Post in an editorial entitled, "Valid Integrity?" said:

The Republicans have come forward with no evidence that vote fraud and ballot stuffing are anything more than isolated rare incidents in American politics today. Effective anti-fraud operations by Republicans and others have pretty well stamped out fraud

in the jurisdictions where it was once the ordinary way of doing business.

Well, I want to report to the Washington Post and to my colleagues that that is just clearly not accurate, that in fact there is a significant amount of vote fraud in America today, that fraud often involves buying votes, stealing votes, voting people who are not alive or voting people who have moved and who have left their names behind on the rolls.

I think in order to understand the scale of that it is useful to take three cases where we know there has been vote fraud recently and in one case where we know there has been a great deal of trouble with the question of whether or not the voting rolls are accurate. The four cases are in four different States: Michigan, Indiana, Illinois, and Louisiana.

In Michigan, I will report on the Michigan Committee for Honest Elections, which undertook a bipartisan study of registration procedures and election irregularities and found that in some areas of Michigan as many as 33 percent of the registered letters were returned. These are letters that were sent to presumed registered voters; that in the city of Pontiac they sent out 20,000 letters to registered voters and they got back 6,555 of those letters, or approximately one-third of the letters were not deliverable to the voter who was registered at that address. I will come back to that and report on that case.

In Illinois it was estimated by the U.S. attorney that the number of votes that were illegally cast in 1982 came to approximately 100,000 votes in the city of Chicago. Now, if you will remember, in 1982 the Governor's race was decided between Jim Thompson and Adlai Stevenson by 5,000 votes, which means that had those votes and the 100,000 fraudulent votes cast in the city of Chicago were all cast for the Democrats, that in fact Thompson's margin was not 5,000 votes, but 105,000 votes.

Furthermore, in the Eighth Congressional District of Indiana, which this House fought over a great deal last year, there have now been election officials indicted by Federal grand juries for having been involved in buying votes.

Finally, in Louisiana there was clear evidence of voter fraud in past elections. We have in fact had several Members of the U.S. Congress resign from the U.S. Congress from Louisiana. One Democratic Member of Congress from Louisiana had to resign his office after 19 poll commissioners were pleading guilty to stealing votes to assure his election. One former Democratic Member of Congress has served jail time for having been involved in stealing a race in Louisiana.

Let me start, if I might, with the example of Michigan, because in Michigan we have a study that was being done on a bipartisan basis. This is from the Michigan Committee for Honest Elections, October 1986. It says:

In 1984, the Michigan State Senate undertook a bipartisan study of voter registration procedures and election irregularities in Michigan. To initiate this study, the Senate sent a first class mailing, address correction requested, to registered voters in 15 different communities throughout the State. These communities were selected after consultation with the chairmen of both the Republican and Democratic State Parties.

The report from the study was released on August 7, 1985. This report showed that of the 15 communities selected, the city of Pontiac had the highest percentage of returned mail. Of the selected precincts in Pontiac where letters were sent to registered voters, 45 percent were returned as undeliverable or forwarded to a different address.

The Michigan Committee for Honest Elections was formed this year to determine if the types of problems identified by the Senate in 1984 and 1985 continue to exist today. The committee is a bipartisan, nonprofit corporation whose membership includes individuals from areas throughout the State. The goal of this committee is to insure the integrity of the voting process for all Michigan voters.

Based on the results of the 1985 Senate mailing, the city of Pontiac was selected as the first city to be studied by the committee. In July of this year the committee sent a first class, address correction requested letter to approximately 20,000 registered voters in Pontiac. The committee received back 6,555 mailings, or 33 percent of the total. While this percentage of return mail was slightly lower than the percentage returned in 1984, the committee felt that this was an extremely large percentage of return mail.

As a result of the mailing the committee notified the Pontiac city clerk that it believed that over 6,500 registered voters in Pontiac were improperly registered. Michigan law requires that the city clerk send a notice of these persons whose qualifications have been questioned, and that these notices be sent "forthwith". Each person receiving a notice has 30 days to appear before the clerk or file an affidavit with the clerk to establish that he or she is properly registered. If the person whose qualifications are challenged does not appear or file the required affidavit, the clerk is required to remove their name from the registered voter rolls. Since August, the committee has provided the city clerk with these 6,500 names, and to the best of the committee's knowledge, the clerk has only notified 581 registered voters that there are questions concerning their registration. The committee finds this disturbing since the November general election is less than 30 days away.

Let me make this point for a second. In Michigan where the Bipartisan Commission for honest elections reached out and found 6,500 registered voters who were not at the address they had signed up at, the city clerk in Pontiac, a Democrat, had only notified 500 of the 6,500 that they had a problem. In other words, there was deliberate foot dragging, apparently, based on this report, by the clerk who did not want to stop dead people and people who had moved away from having their names voted.

□ 2015

Let me go on:

The committee is not demanding that the clerk remove these names from the registered voter rolls. All the committee is asking is that the clerk follow the Michigan statute and investigate whether these people are, in fact, properly registered. Those that are properly registered are encouarged to vote and participate in the electoral process. Those not properly registered, however, must be removed from the voter rolls, as directed by Michigan law. It is clear that each person whose registration has been questioned has more than ample opportunity to establish that they are properly registered and entitled to vote.

Additionally, the committee has investigated whether these people whose registration is questionable have voted in the last several elections. The committee has determined that a substantial number of questionable votes have been cast in recent elections. Inaccurate voter registration records create the potential for fraud in our election process. Voting by people who are not properly registered is actual fraud.

Again, let me make this point. If there is somebody who has moved away but their name is still on the rolls, the local Democratic machine is able to vote them by simply getting someone to walk in, claim they are that person, sign their name, and then go vote. I will prove to the House in a minute that in fact there are people who voted who clearly could not have voted, because they are now dead.

Let me go on:

Once it was determined that a substantial number of questionable votes had been cast in recent elections, the committee hired investigators to determine whether the voters in question actually lived at the addresses shown on the voter registration information. The results of these investigations are shocking.

Of the 271 field investigations conducted, the committee found 175 cases where the registered voters clearly do not currently live at their registered address. These cases can be broken down into the following categories:

Vacant lots	25
Abandoned stores	2
Moved, address unknown	102
Abandoned homes	12
Moved, address known	12
Address totally unknown	15
Dead	4
No such address	7
Total	175

Again, let me make the point: Out of 271 cases in Pontiac, MI, which a bipartisan honest elections commission went out and sent someone to check on the street address that was listed on the registration roll, out of 271 cases, there were 175 that did not exist, clearly did not exist.

Now, that should concern anyone who has an interest in good government. That is about 65 percent of the people who were registered whose letters have been returned.

But let me continue. The committee went on to say:

Some of the mail received as undeliverable was marked by the post office to indicate that the addressee was deceased. Of the July mailing, 8 such letters were returned. The committee obtained the death certificates of these 8 voters, and found it interesting to note that the Pontiac city clerk signed 7 out of 8 of these death certificates, which indicated her awareness of these deaths. A review of the registered voter rolls indicates, however, that the names of these voters were purged from the registered voter rolls only after the results of the committee mailing were filed with the city clerk, even though she signed these death certificates as long ago as 1985. The committee is concerned that the names of most, if not all, people who have died in Pontiac in recent years still remain on the registered voter rolls.

The committee was shocked and dismayed by the results of its investigation. Every voter in Michigan has the right to believe in the integrity of the electoral process. The principle of "one person—one vote" is meaningless if the registered voter records are not kept current and people are allowed to vote who no longer, or in many cases, never did live at the address shown on the registered voting rolls.

The committee will be turning the results of its investigation over to the U.S. attorney later this week. The committee intends to request the U.S. attorney to make U.S. marshals available to supervise the election on November 4, 1986 in Pontiac to ensure the integrity of this election.

Now, that is a report by the Michigan Committee for Honest Elections, October 8, 1986. The point that I want to make here is that that is a bipartisan committee of citizens in Michigan who simply want to have an honest election.

This is an old problem. Honest elections have been a difficulty in American life for a very, very long time. This is not something new. As Republican National Committee Chairman Frank Fahrenkopf has pointed out, there has been a public program of the Republican National Committee since the 1976 Presidential election. That program has specifically involved asking secretaries of state to notice that the Republican National Committee has posted a reward.

Let me read the letter which Chairman Fahrenkopf sent on October 9, 1984—that is, during the Presidential election last time—to every secretary of state:

DEAR SECRETARY OF STATE: As we approach this important general election, we wish to recognize the excellent work of the hundreds of thousands of American Citizens who will serve their fellow citizens as election officials. We recognize they must serve long hours, often for nominal pay, and often in cramped work places. In the vast majority of cases, American election workers do a fine job of quickly and accurately obtaining the vote and reporting the totals to their fellow citizens.

However, it has saddened us in the last few years to learn that vote fraud still exists in certain areas of this country. Fraud serves to undermine the most precious right of Americans—the right to vote. Since the right to vote is the keystone of all other rights we cherish as Americans, any dilution of the vote by fraud or error must be stopped. We know that your office will make every effort to see that every lawful vote is counted accurately, and that violations of the law are quickly stopped and offenses are prosecuted.

In order to help in such efforts, the Republican National Committee has decided to post a reward of $5,000 to any citizen who gives information which leads to the arrest, conviction, and punishment of any election official who violates state or federal laws against vote fraud. We have established telephone numbers that will be manned by attorneys who will assist in putting them in touch with the proper state and federal officials who will proceed with such complaint.

We ask you to cooperate with us by informing us of a contact person in your office whom we might call in the event such an occurrence takes place in your state. Please contact Mark Braden, Chief Counsel . . . at 202/863-8638.

Thank you for your cooperation.

Very truly yours,

FRANK J. FAHRENKOPF, Jr.

Now, I want to make several points. First of all, there has been a long-standing Republican effort to have honest elections. We recognize that in modern America, just by the nature of who controls local machinery, most vote theft is done by Democrats. We think as the minority party that it is incumbent upon us to fight for honest elections in places like Chicago. We have worked hard to have those honest elections.

Second, we offer the $5,000 reward on a nonpartisan basis. If a Democrat wants to call in and say, "I'm in a Republican-controlled precinct; the Republican is cheating" and that Republican is convicted, the Democrat would get the reward.

The point is, we have as deep an interest in honest elections in America as we do in the Philippines, where everybody condemned Marcos. It is unusual, I would say bizarre, that liberal Democrats who are infuriated that Marcos was stealing votes somehow turn their head and ignore when in cities like Chicago and States like Louisiana it is Democrats who are stealing votes.

I would say that a Democrat who steals a vote in America is at least as dangerous to democracy as when Marcos was stealing votes in the Philippines. I think that we need to confront the fact that stealing votes is wrong. If you and I vote honestly but our vote is canceled by somebody who is dead, who has been illegally voted by a machine, we are clearly, I think, losing our capacity to have honest elections and to be represented.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, is the gentleman contending that there is evidence that some of these people who have been found to be deceased have in fact voted in elections in recent years?

Mr. GINGRICH. Well, I am going to cite two clear-cut examples: One in Indiana, where we actually have a person who voted a year after they died. I am going to enter that into the RECORD in a minute, and the other is——

Mr. WALKER. They have been dead for a year, and they showed up voting in an election?

Mr. GINGRICH. Well, if I can find the exact citation for a minute, I will be glad to share with my friend.

Mr. WALKER. That was a feat of some accomplishment.

Mr. GINGRICH. Well, certainly for people who are concerned about religion in politics, this is a minor miracle.

The gentleman apparently died on May 13, 1985, and voted in May of 1986.

Mr. WALKER. Would the gentleman repeat that again? He died in 1985 and he showed up and voted?

Mr. GINGRICH. According to the Evansville Courier, from Indiana, the gentleman died—a man, David Hobart Adams, died on May 13, 1985, and then voted a year later.

The RECORD is not designed so that we can put in the RECORD the exact signatures, but in fact the newspaper, in a very fine piece of investigative work, the Evansville Courier printed both the original gentleman's signature, which was signed "David Hobart Adams," and he always apparently put his middle name in when he would sign to vote, and he died at the age of 88, and at the age of 89 a year later he voted, having been dead approximately 12 months.

Mr. WALKER. Well, I must say to the gentleman that I sometimes tell a story about a mythical uncle of mine who lived in a heavily Democratic ward in Philadelphia and who was a Republican there and voted Republican right up until the day he died, and has been voting Democratic ever since.

□ 2025

I always thought that I was telling kind of a humorous story. But the gentleman cites examples of this actually taking place in the country today, and it is extremely disturbing to think that we are seeing examples of dead people voting.

I think the example the gentleman cited a while ago was some of the addresses that the investigating teams found did not even exist. I think I heard the gentleman say that at least seven of the places that they went to were addresses that did not even exist, and they had people on the voting rolls.

One has to guess that that was for a purpose and that, in fact, there were people being voted there in extremely fraudulent ways. So I think the gentleman does a great service by bringing this up.

Mr. GINGRICH. Let me cite, Mr. Chairman, Frank Fahrenkoph, Jr. in a recent paper that he wrote. He said:

In the same Indiana district in which a Republican congressional candidate "lost" by four votes, one conscientious citizen has voted in every election since 1978, the year of his death. Evidence indicates that this one dead man was joined by at least three other corpses, forming the needed margin of "victory" for the Democratic winner, Francis McClosky.

Mr. WALKER. Wait a minute, the guy died in 1978 and he has voted in every election since 1978?

Mr. GINGRICH. I am citing from Mr. Fahrenkoph's record, and he says unequivocably that there is a gentleman who died in 1978 and has voted in every election since then, which would mean that he was canceling out somebody who was alive in a Federal election in 1980, 1982, 1984, and 1986, this year. So I mean personally, I think it is amazing.

Let me read a little further from Mr. Fahrenkoph.

In this same congressional district, the Evansville Press reported similar cases, listing nine voters by name who could not be located by reporters. The Press, however, was able to locate the vacant lots to which they were registered. On Oct. 9, The Evansville Courier ran banner headlines on the front page saying: "Records Show Dead Man Voted."

Mr. WALKER. Now, this is the same district where last year we had such an all-out congressional investigation as to whether or not an honest election had taken place there, and the Democratic Party decided, almost to a man on a party line vote, to elect someone here in the Congress who had not been elected in this district by four votes. And what the gentleman is citing is in going back and examining the situation what we did not seem to find in the investigation that took place here in the Congress was the fact that dead people were voting.

Mr. GINGRICH. I think that is exactly correct, and perfectly legitimate to say that apparently if you look carefully, in one town alone the Democrats had voted at least four people who were dead, which was the margin by which they claim the election was decided.

Mr. WALKER. I think that is an important point to make. In other words, the margin of victory was established by the House of Representatives, and the margin of victory we were told in the House of Representatives was four votes that gave their man the election. What the gentleman has now cited is in one town there were four dead people who voted in that election which, in fact, is the margin of victory declared by the House.

Mr. GINGRICH. That is correct. And again, this is not a minor thing. As Mr. Fahrenkoph points out, the Senate Judiciary Committee investigation documented 100,000 fraudulent votes cast in Democratic Chicago in 1982 when Illinois Gov. Jim Thompson won by just 5,000 votes. I mean this is not a minor item.

In addition, one might note that in the very same Indiana congressional district, the Eighth Congressional District, there have been eight Democrats indicted for election fraud coming out of the very same congressional election, so now you have eight people indicted, four dead people voting in a district which even the Democrats were only able to recount into a margin of four votes.

So let me point out, as my colleague knows full well, not very long ago on this House floor the largest spending bill in history passed by one vote. Now it is fairly clear that that one vote margin almost certainly came from a district in which dead people and indicted officials swung the election. So the largest spending bill in the history of the United States, in the history of the world, passed by a margin provided by dead people.

Mr. WALKER. I think the gentleman makes a very clear point. In other words, that one vote was provided by the person that was elected in the district where we now know that four dead people voted, and that was the margin of victory certified by this Congress, and where eight people are under indictment for additional vote fraud. So we passed this largest single spending bill in the history of mankind out on this floor with that one vote margin, and I would say to the gentleman that that is fairly significant. That included such things as the congressional pay raise in it and so on that made it a very interesting bill, to say the least.

Mr. GINGRICH. I think that Bill Greener, the Republican National Committee's chief of staff for field operations called it correctly when he said, "In my view, voter fraud is the Democrats' dirty little secret. What they don't like is they've been caught."

The point is, consistently around America when you find a precinct which has a lot of illegal voting, it is almost certainly run by the Democrats. That goes back to Tammany Hall in New York City, to the Chicago machine, to southern Indiana, to the Louisiana precincts we have been talking about.

Let me explain why the Republican Party began mailing nonforwardable mail, that is taking the voter roll and sending the letter out to the name exactly as listed, and asking that the Post Office return the letter. Again this comes from Chairman Fahrenkoph. He said:

Non-forwardable mailings to eliminate incorrect or bogus registrations are technically used by statute in many states. Why are we concerned about a pool of improper registration? Consider the testimony of the United States Attorney for the Northern District of Illinois, the most successful recent prosecutor of vote fraud cases, before the Senate Committee investigating Illinois vote fraud. It is as follows:

I am quoting now the U.S. attorney:

. . . . two very simple propositions concerning vote fraud: Number one, for massive or substantial vote fraud—and that's all we were interested in. I don't care about someone voting twice. I don't care about illegal voter assistance. I wanted to find the real massive and substantial vote fraud, and it is our belief it cannot occur unless you actually have forgeries of ballot applications for voters who did not show up at the polling place.

The second proposition that we based our investigation on is that in order for those ballot applications to be forged, there had to be a pool of registered voters on the books in that precinct from which the precinct captain and the election officials could draw from. They needed a pool of registered voters because you can't vote for someone who is not registered.

Fahrenkoph goes on to say:

For massive fraud, a large pool of bogus residents is needed. We are using the very techniques which have been most effective in combating vote fraud. Maybe the Post believes this is only a Chicago problem. It is not. David Epstein, the former Democratic staff counsel for the Illinois House Elections Committee (who has represented both Adlai Stevenson and the Cook County Democratic Party) observed in these same hearings that ballot fraud wasn't unique to Chicago and that it had been investigated in Chicago and had not been investigated in other areas.

Let me carry it a stage further. Let us take the case of Evansville and the Evansville Courier.

An Evansville man who died in 1985 is shown as voting in the May 1986 Democratic primary, voter registration records show.

David Hobart Adams, described as a well-known man in his neighborhood, died on May 13, 1985, at age 88. Almost a year later, according to records, someone forged his name on a poll sign-in sheet and cast a ballot.

The Adams vote is one instance of what Republicans say are hundreds of examples of fraudulent voting or questionable voter registrations in the 8th Congressional District.

The FBI has acknowledged it is conducting an investigation into vote fraud in southern Indiana. Republican Party officials say there are more than 5,000 problem registrations in Vanderburgh County alone.

□ 2035

Let me just point out, 5,000 problem registrations in one county, in a congressional district where the election was decided by 4 votes.

I go on to quote from the newspaper story:

Adams was registered to vote on Sept. 10, 1983, by his son, Ron Adams, an employee

of the city-county Human Relations Commission.

"All I can tell you is that I registered him to vote in 1983." Ron Adams said. "He passed away in May 1985. All I can say is I know he wasn't here to vote.

"No one has ever approached me or anything with any effort or any kind of request that I forge anything."

Close quote.

The newspaper article goes on to say and I quote:

Sign-in sheets maintained by poll workers for the May primary show the signature "David Adams" next to Adams' name. There is no other David Adams registered to vote in the 4th Ward.

Records show a David R. Adams registered to vote in the 5th Ward, but he was born in 1960 and lives on the North Side.

Officials in the Voter Registration Office said Adams' name was not removed from voter lists after his death because information supplied by the state Board of Health and the local Health Department contained birth dates differing from the date of birth on Adams' registration card.

The registration card lists his date of birth as July 7, 1899. Death records from the state Board of Health show Adams' birthday as Nov. 19, 1896, while the local Health Department list states that Adams died at age 83 last year, making his birth year 1897.

Ron Adams said that his father's actual birth date is unclear because of poor record-keeping at the time of his birth.

He said he took his father to vote once at his 4th Ward precinct poll in Lincoln School, but does not know anything about someone voting in his father's name in May.

Rosetta Ervin, the Democratic poll clerk at Lincoln School in the primary, said she does not remember a voter named David Adams.

"I can't remember nobody. All I know is they tell me their name and mark it" she said.

She said she did not know Adams before his death.

Others, though, said Adams was well-known. A longtime Democratic Party worker said he was known throughout the neighborhood as "Mr. Hobart." Leona Christian at the Lincoln Senior Center and the Rev. W.R. Brown of New Hope Baptist Church also said he was well-known.

Ms. Ervin said she has complained before that dead people are left on voter lists, though she said she was aware of no instances where someone voted for a dead person.

"We didn't know they were dead until later on," she said.

Vanderburgh County Prosecutor Robert Pigman said he would look into the situation if the FBI is not already investigating Adams' vote.

"That's forgery as far as I'm concerned," Pigman said. "If it's not one they're turned over to the bureau then I'll definitely look at it."

Meanwhile, a suit filed by Democrats in a federal count in New Jersey could halt the Republican voter integrity program in Indians and other states as well.

Close quote.

Let me make the point here—

Mr. WALKER. Mr. Speaker, if the gentleman will yield.

Mr. GINGRICH. I am glad to yield.

Mr. WALKER. There is a suit that has been filed to stop the integrity program from finding these dead people who are voting?

Mr. GINGRICH. The Democratic Party has filed suit to keep the election rolls dishonest.

Mr. WALKER. The Democratic Party has filed suit to allow dead people to continue to vote?

Mr. GINGRICH. I think that is fair. I think the Democratic Party nationally has filed lawsuits in a number of places, asking the U.S. judges to stop purging the lists.

In other words, to ensure that the maximum number of dead people are still on the rolls.

Mr. WALKER. For this November?

Mr. GINGRICH. For this November.

Mr. WALKER. And the gentleman has cited that in 1982, 100,000 fraudulent votes were cast in one city in this country? That could have influenced the outcome of a number of congressional races, it seems to me; 100,000 votes is an awful lot of votes.

Mr. GINGRICH. Well, it seems to me when you talk about 100,000 votes in Chicago alone, and then you add up Louisiana and Indiana, and you look at potentially a third of the votes in some cities in Michigan, and you start going to New York and to Philadelphia; it is possible that by the time you are done adding up votes you are talking about 500,000 votes.

Mr. WALKER. And the Democratic Party has filed suit to make certain that those fraudulent voters stay on the rolls?

Mr. GINGRICH. My understanding is that the Democratic Party nationally is committed to keeping the rolls as full of dead people as possible.

Mr. WALKER. Incredible.

Mr. GINGRICH. Well, Mr. Speaker, let me continue for just a moment by shifting, still in Indiana, to the Evansville Press, which had an article entitled "Confusion Arises Over Vote, Man's Death," and this continues the same story that was stated in the other article.

Let me pick up where they talk about other people.

Quote:

Republicans have said their inability to find voters who list addresses in Vanderburgh County raises the possibility of fraud.

In a new list of 25 Evansville voters supplied yesterday to The Evansville Press, reporters were able to locate the whereabouts of 15 voters.

The questioned registrations released by the National Republican Committee in Washington listed addresses that now are vacant lots or locations they say are nonexistent.

Most of those who were located had moved from addresses listed in Voter Registration records. Some had not changed their registrations. One said he changed his registration address recently—since GOP investigators put together their lists.

There were nine voters Press reporters could not locate yesterday. They are:

Beatrice Dees, registered at 577 S. Governor St., a vacant lot.

Catherine Jones, 412 E. Walnut, a vacant lot.

Sidney Collins, 820 Line St., an address reported to be a vacant lot.

David Adams, 484 E. Walnut St., a vacant lot.

Chan C. Miles, 516 John St., reported now to be part of the Lloyd Expressway.

Earsley Northern, 309 S. Garvin St.

Bobby Clark, 622 Judson St.

Michael D. Rankins, 19 S. Denby.

Larry Copeland, 308 Line St.

The investigators say the number of returns from a mailing to check addresses has been unusually high in Vanderburgh County.

Mark Braden, National Republican Committee general counsel, said 4,096 of 20,000 letters were returned and the amount represents "a pool of potential vote fraud. We want to get rid of it."

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman.

Mr. WALKER. Mr. Speaker, do I understand correctly, then, that that suit that was filed would also protect those vacant lots and that expressway as well?

Mr. GINGRICH. I want to say proudly to my colleagues in the House who are Democrats, that their party is standing firmly for the right of Lloyd Expressway to vote.

Mr. WALKER. Of the Lloyd Expresseway to vote.

Mr. GINGRICH. The Lloyd Expressway in Evansville, IN is, by George, going to be defended by the Democratic Party in its right to cast a vote.

Mr. WALKER. In addition to the vacant lots?

Mr. GINGRICH. Apparently there will be 8 vacant lots and the Lloyd Expressway voting if the Democratic Party has its way.

Let me complete this article, Mr. Speaker, which goes on to say, and I quote from the Evansville Press:

Evansville Mayor Michael Vandeveer said he too is concerned about voters whose addresses are vacant lots and cannot be found. However, he said the GOP's inference the Democratic Party has participated in a conspiracy of fraud is unfounded.

Republicans said the names provided The Press were not necessarily the "best" of their list, but were representatives of problems they say they've found.

Close quote.

Now, notice what the Evansville Press story says. Out of 25 letters that were returned, over a third were in fact people who either were dead or had moved. Their house did not exist; it was either an expressway or a vacant lot.

Multiply that randomly times the 4,096 returned letters, that means that in Vanderburgh County alone, there are over 1,000 people, about 1,400 people on the voting rolls who could be voted by the local Democratic machine.

I think for the mayor of Vanderburgh to suggest the Democratic

Party is not attempting to stop this effort to clean up the rolls is just wrong.

Let me quote. The New York Times, October 8, headline from page A28 Quote:

"Democrats Sue Republicans On Plan to Challenge Voters"

The article begins:

The Democratic Party filed a $10 million lawsuit against the Republican National Committee today, charging that the Republicans' program to purge ineligible voters from the rolls was really an attempt to "harass intimidate and improperly challenge" Blacks.

Close quote.

In other words, when you attempt to make sure that dead people and expressways and vacant lots do not vote, you are promptly sued by the Democratic National Committee.

A similar story, October 8, in the Washington Post. Headline, "Democrates Sue Over GOP's Voter Project."

It seems to me quite clear that the Democratic Party is filing suit and feels very confident filing suit on behalf of the dead, of expressways and of vacant lots to vote.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman.

Mr. WALKER. Mr. Speaker, it seems to me that in the last couple of weeks, we even had some Democratic Members of this House come to the floor and defend that suit, and to say that what they were doing was perfectly right in defending vacant lots, expressways, and dead people being on the voter rolls.

Mr. GINGRICH. Well, I think it is fair to say that there are colleagues of ours, Democrats who come from cities and States that have a long tradition of organized, Democratic machine politics; and that they have risen nobly to the defense of the machine's right to vote people who do not exist.

I think that there has been a—the only modern change has been that for most of American history, machine politicians were embarrassed if you pointed out voter fraud; today they jump up and yell "civil rights."

Mr. WALKER. They file suit in Federal courts.

Mr. GINGRICH. And then they go and file suit.

Mr. WALKER. We must remember—the gentleman is a historian by profession; but I do not remember Tammany Hall filing suit in Federal court to protect its activities.

□ 2045

As I recall, what we did at that time in our history was, it was Tammany Hall that ended up in court being prosecuted as a result of their activities. This is an interesting reversal in history that we have taking place here.

Mr. GINGRICH. As you will remember, there is a famous definition of the word "chutzpah" as a person who kills both parents and then throws himself on the mercy of the court on the grounds of being an orphan.

I would say to you the machine politician cheerfully walking in to defend the right of machines to vote people who have died is a new example of chutzpah. In fact, when you have, as they did in Louisiana, a local Democratic elected judge, elected by the machine which was using the votes of people who were dead, blocking an effort to get those people off the rolls, I think it is a new example of chutzpah.

What you have got here is a Democratic Party which in many parts of America stays in power only by voting people who do not exist. Either they have moved away or they have died and they are voted by the local machine.

Mr. WALKER. Or they are a vacant lot or they are an expressway.

Mr. GINGRICH. Well, one, I would hope they are not originally forged registrations, although, frankly, we have no proof of that. And I will get to that in just a minute. But let me quote what Republican National Chairman Frank Fahrenkopf said on October 7 in response to a Democratic attack, and I think he was exactly right.

He said:

I am extremely disappointed that the Democratic Party leadership has decided to take the low road on the issue of the integrity of our election system.

I think it would hardly be possible to state the opposite of the truth with more precision than the Democrats have done today. Their press conference accusing us of attempting to intimidate minority voters is nothing more than Democratic politics as usual.

They took the same approach in 1984. A very similar press conference was called and almost identical charges were made. Yet almost two years after the 1984 election, not one shred of evidence has been presented to indicate that our efforts intimidated a single voter.

Their charges are as false today as they were two years ago. The program we have put in place with the National Republican Congressional Committee and the National Republican Senatorial Committee is completely open and above board. We have invited and continue to invite any interested member of the media to come and see what we have done and what we are doing.

Additionally, we will gladly join the Democrats any place any time to eliminate any voter intimidation or abuse. We ask them, as we have in the past, to join us to eliminate voter fraud.

Any attempt to threaten or intimidate any voter is a reprehensible attack on the sanctity of the vote. However, votes cast by deceased or nonexistent individuals are also reprehensible. Every time a vacant lot, abandoned building, or a grave votes, the civil rights of all Americans are in danger.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New York.

CONFERENCE REPORT ON IMMIGRATION REFORM AND CONTROL ACT OF 1986

Mr. SCHUMER submitted the following conference report and statement on the Senate bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-1000)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment to the text of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text insert the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Reform and Control Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

TABLE OF CONTENTS

Sec. 1. Short title; references in Act.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

Sec. 101. Control of unlawful employment of aliens.
Sec. 102. Unfair immigration-related employment practices.
Sec. 103. Fraud and misuse of certain immigration-related documents.

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

Sec. 111. Authorization of appropriations for enforcement and service activities of the Immigration and Naturalization Service.
Sec. 112. Unlawful transportation of aliens to the United States.
Sec. 113. Immigration emergency fund.
Sec. 114. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.
Sec. 115. Enforcement of the immigration laws of the United States.
Sec. 116. Restricting warrantless entry in the case of outdoor agricultural operations.
Sec. 117. Restrictions on adjustment of status.

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

Sec. 121. Verification of immigration status of aliens applying for benefits under certain programs.

TITLE II—LEGALIZATION
Sec. 201. Legalization of status.
Sec. 202. Cuban-Haitian adjustment.
Sec. 203. Updating registry date to January 1, 1972.
Sec. 204. State legalization impact-assistance grants.
TITLE III—REFORM OF LEGAL IMMIGRATION
PART A—TEMPORARY AGRICULTURAL WORKERS
Sec. 301. H-2A agricultural workers.
Sec. 302. Permanent residence for certain special agricultural workers.
Sec. 303. Determinations of agricultural labor shortages and admission of additional special agricultural workers.
Sec. 304. Commission on Agricultural Workers.
Sec. 305. Eligibility of H-2 agricultural workers for certain legal assistance.
PART B—OTHER CHANGES IN THE IMMIGRATION LAW
Sec. 311. Change in colonial quota.
Sec. 312. G-IV special immigrants.
Sec. 313. Visa waiver pilot program for certain visitors.
Sec. 314. Making visas available for nonpreference immigrants.
Sec. 315. Miscellaneous provisions.
TITLE IV—REPORTS TO CONGRESS
Sec. 401. Triennial comprehensive report on immigration.
Sec. 402. Reports on unauthorized alien employment.
Sec. 403. Reports on H-2A program.
Sec. 404. Reports on legalization program.
Sec. 405. Report on visa waiver pilot program.
Sec. 406. Report on Immigration and Naturalization Service.
Sec. 407. Sense of the Congress.
TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS
Sec. 501. Reimbursement of States for costs of incarcerating illegal aliens and certain Cuban nationals.
TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT
Sec. 601. Commission for the Study of International Migration and Cooperative Economic Development.
TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES
Sec. 701. Expeditious deportation of convicted aliens.
Sec. 702. Identification of facilities to incarcerate deportable or excludable aliens.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—

(1) NEW PROVISION.—Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

"(5) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

"(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

"(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

"(i) a document described in subparagraph (B), or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of such sentence, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.

"(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

"(i) United States passport;

"(ii) certificate of United States citizenship;

"(iii) certificate of naturalization;

"(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or

"(v) resident alien card or other alien registration card, if the card—

"(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection, and

"(II) is evidence of authorization of employment in the United States.

"(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

"(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

"(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

"(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.

"(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

"(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

"(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

"(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(B) in the case of the hiring of an individual—

"(i) three years after the date of such hiring, or

"(ii) one year after the date the individual's employment is terminated,

whichever is later.

"(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(5) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

"(d) EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.—

"(1) PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.—

"(A) MONITORING.—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

"(B) IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States. Such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

"(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

"(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

"(i) a person with the identity claimed by an employee or prospective employee is eligible to work, and

"(ii) the employee or prospective employee is claiming the identity of another individual.

"(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

"(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

"(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

"(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

"(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

"(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

"(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

"(i) 60 days,

"(ii) one year, in the case of a major change described in subparagraph (D)(iii), or

"(iii) two years, in the case of a major change described in clause (i) or (ii) of subparagraph (D),

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. If the President proposes to make any change regarding social security account number cards, the President shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

"(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system.

"(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

"(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

"(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

"(D) MAJOR CHANGES REQUIRING TWO YEARS NOTICE AND CONGRESSIONAL REVIEW.—As used in this paragraph, the term 'major change' means a change which would—

"(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral,

"(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code, or

"(iii) require any change in any card used for accounting purposes under the Social Security Act, including any change requiring that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

"(E) GENERAL REVENUE FUNDING OF SOCIAL SECURITY CARD CHANGES.—Any costs incurred in developing and implementing any change described in subparagraph (D)(iii) for purposes of this subsection shall not be paid for out of any trust fund established under the Social Security Act.

"(4) DEMONSTRATION PROJECTS.—

"(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than three years.

"(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

"(e) COMPLIANCE.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

"(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a),

"(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

"(C) for the investigation of such other violations of subsection (a) as the Attorney General determines to be appropriate, and

"(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) under this subsection.

"(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(3) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (4) or (5) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30

days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (4) or (5).

"(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—With respect to a violation of subsection (a)(1)(A) or (a)(2), the order under this subsection—

"(A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

"(i) not less than $250 and not more than $2,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred,

"(ii) not less than $2,000 and not more than $5,000 for each such alien in the case of a person or entity previously subject to one order under this subparagraph, or

"(iii) not less than $3,000 and not more than $10,000 for each such alien in the case of a person or entity previously subject to more than one order under this subparagraph; and

"(B) may require the person or entity—

"(i) to comply with the requirements of subsection (b) (or subsection (d) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years, and

"(ii) to take such other remedial action as is appropriate.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(5) ORDER FOR CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

"(6) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection. The Attorney General may not delegate the Attorney General's authority under this paragraph to any entity which has review authority over immigration-related matters.

"(7) JUDICIAL REVIEW.—A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(8) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

"(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $3,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.

"(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(g) PROHIBITION OF INDEMNITY BONDS.—

"(1) PROHIBITION.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

"(2) CIVIL PENALTY.—Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

"(3) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(i) EFFECTIVE DATES.—

"(1) 6-MONTH PUBLIC INFORMATION PERIOD.—During the six-month period beginning on the first day of the first month after the date of the enactment of this section—

"(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of this section, and

"(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

"(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

"(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

"(B) PROHIBITION OF RECRUITMENT OUTSIDE THE U.S.—

"(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services).

"(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to a order under this section in the same manner as if it had violated paragraph (1)(A), without regard to paragraph (2) of this subsection.

"(C) DEFINITIONS.—In this paragraph:

"(i) APPLICATION PERIOD.—The term 'application period' means the period described in section 210(a)(1).

"(ii) SEASONAL AGRICULTURAL SERVICES.—The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(j) GENERAL ACCOUNTING OFFICE REPORTS.—

"(1) IN GENERAL.—Beginning one year after the date of enactment of this Act, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General of the United States shall prepare and transmit to the Congress and to the task force established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

"(A) such provisions have been carried out satisfactorily;

"(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

"(C) an unnecessary regulatory burden has been created for employers hiring such workers.

"(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of that section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

"(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

"(A) shall include a description of the scope of that discrimination, and

"(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

"(k) REVIEW BY TASK FORCE.—

"(1) ESTABLISHMENT OF JOINT TASK FORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a task force to review each report of the Comptroller General transmitted under subsection (j)(1).

"(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the task force shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

"(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the task force under paragraph (2) within 60 days after the date of receipt of the report.

"(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

"(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

"(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

"(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

"(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

"(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint resolutions under subsection (l), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(n) EXPEDITED PROCEDURES IN THE SENATE.—

"(1) CONTINUITY OF SESSION.—For purposes of subsection (l), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

"(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

"(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (l), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

"(3) COMMITTEE CONSIDERATION.—

"(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (l) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

"(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(4) MOTION TO PROCEED TO CONSIDERATION.—

"(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) DEBATE ON MOTION.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) MOTIONS TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.".

(2) INTERIM REGULATIONS.—The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement this section.

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

(3) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a)";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(d) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(e) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may be appropriate.

(f) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 102. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Chapter 8 of title II is further amended by inserting after section 274A, as inserted by section 101(a), the following new section:

"UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

"SEC. 274B. (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

"(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

"(A) because of such individual's national origin, or

"(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual's citizenship status.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a person or other entity that employs three or fewer employees,

"(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

"(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government.

"(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term 'citizen or intending citizen' means an individual who—

"(A) is a citizen or national of the United States, or

"(B) is an alien who—

"(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

"(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

"(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

"(b) CHARGES OF VIOLATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

"(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

"(c) SPECIAL COUNSEL.—

"(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the 'Special Counsel') within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (i)(1).

"(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Sched-

ule, under section 5332 of title 5, United States Code.

"(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

"(d) INVESTIGATION OF CHARGES.—

"(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

"(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

"(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

"(e) HEARINGS.—

"(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

"(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

"(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

"(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

"(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(g) DETERMINATIONS.—

"(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

"(2) ORDERS FINDING VIOLATIONS.—

"(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

"(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

"(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

"(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(6), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

"(iii) to hire individuals directly and adversely affected, with or without back pay; and

"(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than $1,000 for each individual discriminated against, and

"(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $2,000 for each individual discriminated against.

"(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such paragraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

"(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged or is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

"(h) AWARDING OF ATTORNEYS' FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee, if the losing party's argument is without reasonable foundation in law and fact.

"(i) REVIEW OF FINAL ORDERS.—

"(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

"(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

"(2) COURT ENFORCEMENT ORDER—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

"(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

"(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs but only if the losing party's ar-

gument is without reasonable foundation in law and fact.

"(k) TERMINATION DATES.—

"(1) This section shall not apply to discrimination in hiring, recruiting, or referring of individuals occurring after the date of any termination of the provisions of section 274A, under subsection (l) of that section.

"(2) The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under section 274A(j) if—

"(A) the Comptroller General determines, and so reports in such report that—

"(i) no significant discrimination has resulted, against citizens or nationals of the United States or against any eligible workers seeking employment, from the implementation of section 274A, or

"(ii) such section has created an unreasonable burden on employers hiring such workers; and

"(B) there has been enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.".

(b) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274A (as added by section 101(c)) the following new item:

"Sec. 274B. Unfair immigration-related employment practices.".

SEC. 103. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) APPLICATION TO ADDITIONAL DOCUMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(4) by striking out "$2,000" and inserting in lieu thereof "in accordance with this title";

(5) by inserting "(a)" before "Whoever" the first place it appears; and

(6) by adding at the end the following new subsections:

"(b) Whoever uses—

"(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

"(2) an identification document knowing (or having reason to know) that the document is false, or

"(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined in accordance with this title, or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) CLERICAL AMENDMENT.—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) TWO ESSENTIAL ELEMENTS.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, $422,000,000, and for fiscal year 1988, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, $12,000,000, and for fiscal year 1988, $15,000,000.

Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach may include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) CRIMINAL PENALTIES.—Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(a) CRIMINAL PENALTIES.—(1) Any person who—

"(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

"(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

"(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

"(D) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be fined in accordance with title 18, United States Code, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this subsection occurs.

"(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

"(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

"(B) in the case of—

"(i) a second or subsequent offense,

"(ii) an offense done for the purpose of commercial advantage or private financial gain, or

"(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.".

(b) MISCELLANEOUS AMENDMENTS TO SEIZURE AND FORFEITURE PROCEDURES.—Subsection (b) of such section is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "is used" and inserting in lieu thereof "has been or is being used",

(2) by striking out "subject to seizure and" in paragraph (1) and inserting in lieu thereof "seized and subject to",

(3) by inserting "or is being" after "has been" in paragraph (2),

(4) by striking out "conveyances" in paragraph (3) and inserting in lieu thereof "property",

(5) by inserting ", or the Federal Maritime Commission if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949," in paragraph (4)(C) after "General Services Administration",

(6) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or", and

(C) by inserting after such subparagraph the following new subparagraph:

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.";

(7) by striking out ": Provided, That" in paragraph (5) and inserting in lieu thereof ", except that",

(8) by striking out "was not lawfully entitled to enter, or reside within, the United States" in paragraph (5) and inserting in lieu thereof "had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law" each place it appears, and

(9) by inserting "or of the Department of State" in paragraph (5)(B) after "Service".

SEC. 113. IMMIGRATION EMERGENCY FUND.

Section 404 (8 U.S.C. 1101 note) is amended by inserting "(a)" after "SEC. 404." and by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

"(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

"(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

"(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).".

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

SEC. 117. RESTRICTIONS ON ADJUSTMENT OF STATUS.

Section 245(c)(2) (8 U.S.C. 1255(c)(2) is amended by inserting after "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" the following: "or who is not in legal immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own for technical reasons) to maintain continuously a legal status since entry into the United States".

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

"SEC. 245A. (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

"(1) TIMELY APPLICATION.—

"(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

"(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-month period or on the date of the issuance of such order, whichever day is later.

"(C) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a).

"(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

"(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

"(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

"(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

"(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

"(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

"(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.— An alien shall not be considered to have failed to maintained continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

"(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

"(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant

described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

"(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

"(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

"(B) CONTINUOUS RESIDENCE.—

"(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

"(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

"(D) BASIC CITIZENSHIP SKILLS.—

"(i) IN GENERAL.—The alien must demonstrate that he either—

"(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

"(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

"(ii) EXCEPTION FOR ELDERLY INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

"(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

"(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

"(C) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

"(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

"(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(A) with the Attorney General, or

"(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term "qualified designated entity" means an organization or person designated under paragraph (2).

"(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of qualified designated entities relating to an alien's seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) APPLICATION FEES.—

"(A) FEE SCHEDULE.—The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1).

"(B) USE OF FEES.— The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

"(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraphs (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a).

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(iii) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance.

"(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

"(3) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(g) IMPLEMENTATION OF SECTION.—

"(1) REGULATIONS.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

"(A) regulations establishing a definition of the term 'resided continuously', as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

"(B) such other regulations as may be necessary to carry out this section.

"(2) CONSIDERATIONS.—In prescribing regulations described in paragraph (1)(A)—

"(A) PERIODS OF CONTINUOUS RESIDENCE.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

"(B) ABSENCES CAUSED BY DEPORTATION OR ADVANCED PAROLE.—The Attorney General shall provide that—

"(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

"(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

"(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(D) USE OF CERTAIN DOCUMENTATION.—The Attorney General shall require that—

"(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

"(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

"(3) INTERIM FINAL REGULATIONS.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

"(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

"(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977; and

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

"(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

"(3) RESTRICTED MEDICAID BENEFITS.—

"(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

"(i) paragraph (1) shall not apply,

"(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

"(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

"(B) RESTRICTION OF BENEFITS.—

"(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

"(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

"(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

"(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

"(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term 'medical assistance' refers to medical assistance under a

State plan approved under title XIX of the Social Security Act.

"(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

"(A) The National School Lunch Act.

"(B) The Child Nutrition Act of 1966.

"(C) the Vocational Education Act of 1963.

"(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.

"(E) The Headstart-Follow Through Act.

"(F) The Job Training Partnership Act.

"(G) Title IV of the Higher Education Act of 1965.

"(H) The Public Health Service Act.

"(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

"(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.".

(2) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence.".

(b) CONFORMING AMENDMENTS.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

"(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).".

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.".

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

"The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.".

(c) MISCELLANEOUS PROVISIONS.—

(1) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section. This authority shall end two years after the effective date of the legalization program.

(2) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1972.

(a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1972", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1972".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948", and inserting in lieu thereof "January 1, 1972".

(c) CLARIFICATION.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

SEC. 204. STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS.

(a) APPROPRIATION OF FUNDS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section (and including Federal, State, and local administrative costs) $1,000,000,000 (less the amount described in paragraph (2)) for

fiscal year 1988 and for each of the three succeeding fiscal years.

(2) OFFSET.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the amount described in this paragraph for a fiscal year is equal to the amount estimated to be expended by the Federal Government in the fiscal year for the programs of financial assistance, medical assistance, and assistance under the Food Stamp Act of 1977 for aliens who would not be eligible for such assistance under paragraph (1)(A) of section 245A(h) of the Immigration and Nationality Act but for the provisions of paragraph (2) or paragraph (3) of such section.

(B) NO OFFSET FOR CERTAIN SSI ELIGIBLE INDIVIDUALS.—The amount described in this paragraph shall not include any amounts attributable to supplemental security benefits paid under title XVI of the Social Security Act or medical assistance furnished under a State plan approved under title XIX of the Social Security Act, in the case of an alien who is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with section 245A(a)(1)(A) of the Immigration and Nationality Act, to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate.

(C) ESTIMATED INITIAL OFFSET.—For purposes of subparagraph (A), with respect to fiscal year 1988, the amount estimated to be expended is equal to $70,000,000. For subsequent fiscal years, the amount estimated to be expended shall be such estimate as is contained in the annual fiscal budget submitted for that year to the Congress by the President.

(D) ADJUSTMENT FOR ESTIMATES.—If the actual amount of expenditures by the Federal Government described in subparagraph (A) for a fiscal year exceeds, or is less than, the amount estimated to be expended for that year under subparagraph (C) for that year (taking into account any adjustment under this subparagraph), then for the subsequent fiscal year the amount described in this paragraph shall be decreased, or increased, respectively, by the amount of such excess or deficit for that previous fiscal year.

(b) ENTITLEMENT OF STATES.—(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall allot to each State with an application approved under subsection (d)(1) an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(A) the number of eligible legalized aliens (as defined in subsection (j)(4)) residing in the State in that fiscal year;

(B) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year;

(C) the amount of expenditures the State is likely to incur in that fiscal year in providing assistance for eligible legalized aliens for which reimbursement or payment may be made under this section;

(D) the ratio of the amount of such expenditures in the State to the total of all such expenditures in all the States;

(E) adjustments for the difference in previous years between the State's actual expenditures (described in subparagraph (C)) incurred and the allocation provided the State under this section for those years; and

(F) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such amounts.

(2) To the extent that all the funds appropriated under this section for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under this section for the fiscal year or because some States have indicated in their description of activities that they do not intend to use, in that fiscal year or the succeeding fiscal year, the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(3) In determining the number of eligible legalized aliens for purposes of paragraph (1)(A), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(4) For each fiscal year the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under this subsection. Any amount paid to a State for any of the following fiscal years and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made in subsequent fiscal years, but shall not remain available after September 30, 1994.

(c) PROVIDING ASSISTANCE.—(1) Of the amounts allotted to a State under this section, the State may only use such funds, in accordance with this section—

(A) for reimbursement of the costs of programs of public assistance provided with respect to eligible legalized aliens, for which such aliens were not disqualified under section 245A(h) of the Immigration and Nationality Act at the time of such assistance,

(B) for reimbursement of the costs of programs of public health assistance provided to any alien who is, or is applying on a timely basis under section 245A(a) of such Act to become, an eligible legalized alien, and

(C) to make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens.

Subject to paragraph (2), the State may select the distribution of the use of such funds among such purposes.

(2)(A) Subject to subparagraphs (B) and (C), of the amounts allotted to a State under this section in any fiscal year, 10 percent shall be used by the State for reimbursement under paragraph (1)(A), 10 percent shall be used by the State for reimbursement under paragraph (1)(B), and 10 percent shall be used by the State for payments under paragraph (1)(C).

(B) If a State does not require the use of the full 10 percent provided under subparagraph (A) for a particular function described in a subparagraph of paragraph (1) for a fiscal year, the unused portion shall be equally distributed among the two other subparagraphs.

(C) In no case shall the funds provided under this section be used to provide reimbursement for more than 100 percent of the costs described in paragraph (1)(A) or (1)(B).

(3) To the extent that a State provides for the use of funds for the purpose described in paragraph (1)(C), the definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of Public Law 98-511; 20 U.S.C. 4101 et seq.) shall apply to payments under such paragraph in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to "immigrant children" shall be deemed to be a reference to "eligible legalized aliens" (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under section 245A(a) of the Immigration and Nationality Act;

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase "described under paragraph (2)" shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A));

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) STATEMENTS AND ASSURANCES.—(1) No State is eligible for payment under subsection (b) unless the State—

(A) has filed with, and had approved by, the Secretary an application containing such information, including the information described in paragraph (2) and criteria for and administrative methods of disbursing funds received under this section, as the Secretary determines to be necessary to carry out this section, and

(B) transmits to the Secretary a statement of assurances that certifies that (i) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c)(1), (ii) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies in accordance with paragraph (2) and subsection (c)(2), and (iii) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of paragraph (3) and subsections (e) and (f).

(2) The application of each State under this subsection for each fiscal year must include detailed information on—

(A) the number of eligible legalized aliens residing in the State, and

(B) the costs (excluding any such costs otherwise paid from Federal funds) which the State and each locality is likely to incur for the purposes described in subsection (c)(1).

(e) REPORTS AND AUDITS.—(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order to properly evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this sec-

tion, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary—

(i) to secure an accurate description of those activities,

(ii) to secure a complete record of the purposes for which funds were spent, and of the recipients of such funds, and

(iii) to determine the extent to which funds were expended consistent with this section.

Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under this section and shall provide for transmittal of a copy of such report to each State.

(2)(A) For requirements relating to audits of funds received by a State under this section, see chapter 75 of title 31, United States Code (relating to requirements for single audit).

(B) Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this section, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this section.

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the assistance provided under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such assistance, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) LIMITATION ON PAYMENTS.—(1) Payment under this section shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(2) Payment may only be made to a State with respect to costs for assistance of a program of public assistance or a program of public health assistance generally to the extent such assistance is otherwise generally available under such programs to citizens residing in the State.

(g) CRIMINAL PENALTIES FOR FALSE STATEMENTS.—Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or misrepresentation of a material fact in connection with the furnishing of assistance or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined in accordance with title 18, United States Code, imprisoned for not more than five years, or both.

(h) ANTI-DISCRIMINATION PROVISION.—(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.

(2) Whenever the Secretary finds that a State or locality which has been provided payment from an allotment under this section has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(i) CONSULTATION WITH STATE AND LOCAL OFFICIALS.—In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

(2) The term "programs of public assistance" means programs in a State or local jurisdiction which—

(A) provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(3) The term "programs of public health assistance" means programs in a State or local jurisdiction which—

(A) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(4) The term "eligible legalized alien" means an alien who has been granted lawful temporary resident status under section 245A of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status.

TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) PROVIDING NEW "H-2A" NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL LABOR.—Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor," in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) to perform other temporary service or labor".

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN H-2A PROGRAM.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following: "For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture. The provisions of section 216 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).".

(c) ADMISSION OF H-2A WORKERS.—Chapter 2 of title II is amended by adding after section 215 the following new section:

"ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 216. (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

"(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not

met or if any of the following conditions are met:

"(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2)(A) The employer during the previous two-year period employed H–2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

"(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

"(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

"(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H–2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

"(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

"(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

"(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops.

"(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

"(ii) The requirement of clause (i) shall not apply to any employer who—

"(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),

"(II) is not a member of an association which has petitioned for certification under this section for its members, and

"(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

"(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Reform and Control Act of 1986 as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

"(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: Provided, That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

"(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

"(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

"(vii) (I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

"(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

"(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accomodations or other substantially similar class of habitation: Provided, That in the absence of applicable local standards, State standards for rental and/or public accomodations or other substantially similar class of habitation shall be met: Provided further, That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: Provided further, That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: Provided further, That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: And provided further, That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certifica-

tion with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

"(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

"(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

"(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

"(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

"(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(14).

"(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

"(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(g)) with respect to that employment.

"(2) The term 'H-2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).".

(d) EFFECTIVE DATE.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 216 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(e) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 216 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(f) SENSE OF CONGRESS RESPECTING CONSULTATION WITH MEXICO.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 216 of the Immigration and Nationality Act.

(g) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Admission of temporary H-2A workers.".

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—(1) Chapter 1 of title II is amended by adding at the end the following new section:

"SPECIAL AGRICULTURAL WORKERS

"SEC. 210. (a) LAWFUL RESIDENCE.—

"(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

"(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

"(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

"(i) resided in the United States, and

"(ii) performed seasonal agricultural services in the United States for at least 90 man-days,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

"(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

"(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 man-days during each of the 12-months periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

"(3) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropri-

ate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—

"(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(i) with the Attorney General, or

"(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

"(3) PROOF OF ELIGIBILITY.—

"(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

"(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

"(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

"(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

"(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

"(A) CRIMINAL PENALTY.—Whoever—

"(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

"(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(19).

"(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraph (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges).

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established

at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

"(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (b)(3) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

"(h) SEASONAL AGRICULTURAL SERVICES DEFINED.—In this section, the term 'seasonal agricultural services' means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.".

(2) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Special agricultural workers.".

(b) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act) is amended—

(A) by inserting "and subsection (f) of section 210 of such Act" before the period at the end of paragraph (1);

(B) by inserting "or (f)" after "such subsection (h)" in paragraph (2); and

(C) by inserting "or 210" after "such section 245A" in paragraph (2).

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act) is amended by inserting "or 210(f)" after "245A(h)".

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—Chapter 1 of title II is amended by adding after section 210 (added by section 302 of this title) the following new section:

"DETERMINATION OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS

"SEC. 210A. (a) DETERMINATION OF NEED TO ADMIT ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—Before the beginning of each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Secretaries of Labor and Agriculture (in this section referred to as the 'Secretaries') shall jointly determine the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under this section during the fiscal year to meet a shortage of workers to perform seasonal agricultural services in the United States during the year. Such number is, in this section, referred to as the 'shortage number'.

"(2) OVERALL DETERMINATION.—The shortage number is—

"(A) the anticipated need for special agricultural workers (as determined under paragraph (4)) for the fiscal year, minus

"(B) the supply of such workers (as determined under paragraph (5)) for that year,

divided by the factor (determined under paragraph (6)) for man-days per worker.

"(3) NO REPLENISHMENT IF NO SHORTAGE.—In determining the shortage number, the Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in paragraphs (4) and (5), the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the fiscal year involved.

"(4) DETERMINATION OF NEED.—For purposes of paragraph (2)(A), the anticipated need for special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall jointly estimate, using statistically valid methods, the number of man-days of labor performed in seasonal agricultural services in the United States in the previous fiscal year.

"(B) ADJUSTMENT FOR CROP LOSSES AND CHANGES IN INDUSTRY.—The Secretaries shall jointly—

"(i) increase such number by the number of man-days of labor in seasonal agricultural services in the United States that would have been needed in the previous fiscal year to avoid any crop damage or other loss that resulted from the unavailability of labor, and

"(ii) adjust such number to take into account the projected growth or contraction in the requirements for seasonal agricultural services as a result of—

"(I) growth or contraction in the seasonal agriculture industry, and

"(II) the use of technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

"(5) DETERMINATION OF SUPPLY.—For purposes of paragraph (2)(B), the anticipated supply of special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall use the number estimated under paragraph (4)(A).

"(B) ADJUSTMENT FOR RETIREMENTS AND INCREASED RECRUITMENT.—The Secretaries shall jointly—

"(i) decrease such number by the number of man-days of labor in seasonal agricultural services in the United States that will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

"(ii) increase such number by the number of additional man-days of labor in seasonal agricultural services in the United States that can reasonably be expected to result from the availability of able, willing, qualified, and unemployed special agricultural workers, rural low skill, or manual, laborers, and domestic agricultural workers.

"(C) BASES FOR INCREASED NUMBER.—In making the adjustment under subparagraph (B)(ii), the Secretaries shall consider—

"(i) the effect, if any, that improvements in wages and working conditions offered by employers will have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, of such improvements in wages and working conditions on the economic competitiveness of the perishable agricultural industry,

"(ii) the effect, if any, of enhanced recruitment efforts by the employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

"(iii) the number of able, willing and qualified individuals who apply for employment opportunities in seasonal agricultural services listed with offices of government employment services.

"(D) CONSTRUCTION.—Nothing in this subsection shall be deemed to require any individual employer to pay any specified level of wages, to provide any specified working conditions, or to provide for any specified recruitment of workers.

"(6) DETERMINATION OF MAN-DAY PER WORKER FACTOR.—

"(A) FISCAL YEAR 1990.—For fiscal year 1990—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of paragraph (2) the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1989 by special agricultural workers whose status is adjusted under section 210 and who performed seasonal agricultural services in the United States at any time during the fiscal year.

"(ii) LACK OF ADEQUATE INFORMATION.—If the Director determines that—

"(I) the information reported under subsection (b)(2)(A) is not adequate to make a reasonable estimate of the average number described in clause (i), but

"(II) the inadequacy of the information is not due to the refusal or failure of employers to report the information required under subsection (b)(2)(A),

the factor under this paragraph is 90.

"(B) FISCAL YEAR 1991.—For purposes of paragraph (2) for fiscal year 1991, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1990 by special agricultural workers who obtained lawful temporary resident status under this section.

"(C) FISCAL YEARS 1992 AND 1993.—For purposes of paragraph (2) for fiscal years 1992 and 1993, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in each of the two previous fiscal years by special agricultural workers who obtained lawful temporary resident

status under this section during either of such fiscal years.

"(7) EMERGENCY PROCEDURE FOR INCREASE IN SHORTAGE NUMBER.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group or association representing employers (and potential employers) of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant increase in the shortage number due to (i) a significant increase in the need for special agricultural workers in the year, (ii) a significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant decrease (below the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF EMERGENCY PROCEDURE.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) PROMPT DETERMINATION ON REQUEST.—The Secretaries, not later than 21 days after the date of the receipt of such a request and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the shortage number for the fiscal year shall be increased, to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described in subparagraph (A) and that such an increase takes into account reasonable recruitment efforts having been undertaken.

"(8) PROCEDURE FOR DECREASING MAN-DAYS OF SEASONAL AGRICULTURAL SERVICES REQUIRED IN THE CASE OF OVER-SUPPLY OF WORKERS.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group of special agricultural workers may request the Secretaries to decrease the number of man-days required under subparagraphs (A) and (B) of subsection (d)(2) with respect to the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number due to (i) a significant decrease in the need for special agricultural workers in the year, (ii) a significant increase in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant increase (above the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF REQUEST.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

"(C) DETERMINATION ON REQUEST.—The Secretaries, before the end of the fiscal year involved and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the number of man-days specified in subparagraphs (A) and (B) of subsection (d)(2) for the fiscal year shall be reduced by the same proportion as the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in subparagraph (A).

"(b) ANNUAL NUMERICAL LIMITATION ON ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) ANNUAL NUMERICAL LIMITATION.—

"(A) FISCAL YEAR 1990.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1990 is—

"(i) 95 percent of the number of individuals whose status was adjusted under section 210(a), minus

"(ii) the number estimated under paragraph (3)(A)(i) for fiscal year 1989 (as adjusted in accordance with subparagraph (C)).

"(B) FISCAL YEARS 1991, 1992, AND 1993.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1991, 1992, or 1993 is—

"(i) 90 percent of the number described in this clause for the previous fiscal year (or, for fiscal year 1991, the number described in subparagraph (A)(i)), minus

"(ii) the number estimated under paragraph (3)(A)(i) for the previous fiscal year (as adjusted in accordance with subparagraph (C)).

"(C) ADJUSTMENT TO TAKE INTO ACCOUNT CHANGE IN NUMBER OF H–2 AGRICULTURAL WORKERS.—The number used under subparagraph (A)(ii) or (B)(ii) (as the case may be) shall be increased or decreased to reflect any numerical increase or decrease, respectively, in the number of aliens admitted to perform temporary seasonal agricultural services (as defined in subsection (g)(2)) under section 101(a)(15)(H)(ii)(a) in the fiscal year compared to such number in the previous fiscal year.

"(2) REPORTING OF INFORMATION ON EMPLOYMENT.—In the case of a person or entity who employs, during a fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992) in seasonal agricultural services, a special agricultural worker—

"(A) whose status was adjusted under section 210, the person or entity shall furnish an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year, or

"(B) who was admitted or whose status was adjusted under this section, the person or entity shall furnish the alien and an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year.

"(3) ANNUAL ESTIMATE OF EMPLOYMENT OF SPECIAL AGRICULTURAL WORKERS.—

"(A) IN GENERAL.—The Director of the Bureau of the Census shall, before the end of each fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992), estimate—

"(i) the number of special agricultural workers who have performed seasonal agricultural services in the United States at any time during the fiscal year, and

"(ii) for purposes of subsection (a)(5), the average number of man-days of such services certain of such workers have performed in the United States during the fiscal year.

"(B) FURNISHING OF INFORMATION TO DIRECTOR.—The official designated by the Secretaries under paragraph (2) shall furnish to the Director, in such form and manner as the Director specifies, information contained in the certifications furnished to the official under paragraph (2).

"(C) BASIS FOR ESTIMATES.—The Director shall base the estimates under subparagraph (A) on the information furnished under subparagraph (B), but shall take into account (to the extent feasible) the underreporting or duplicate reporting of special agricultural workers who have performed seasonal agricultural services at any time during the fiscal year. The Director shall periodically conduct appropriate surveys, of agricultural employers and others, to ascertain the extent of such underreporting or duplicate reporting.

"(D) REPORT.—The Director shall annually prepare and report to the Congress information on the estimates made under this paragraph.

"(c) ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—For each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any, determined under subsection (a)) for the fiscal year, or, if less, the numerical limitation established under subsection (b)(1) for the fiscal year. No such alien shall be admitted who is not admissible to the United States as an immigrant, except as otherwise provided under subsection (e).

"(2) ALLOCATION OF VISAS.—The Attorney General shall, in consultation with the Secretary of State, provide such process as may be appropriate for aliens to petition for immigrant visas or to adjust status to become aliens lawfully admitted for temporary residence under this subsection. No alien may be issued a visa as an alien to be admitted under this subsection or may have the alien's status adjusted under this subsection unless the alien has had a petition approved under this paragraph.

"(d) RIGHTS OF ALIENS ADMITTED OR ADJUSTED UNDER THIS SECTION.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (c) to that of an alien lawfully admitted for permanent residence at the end of the 3-year period that begins on the date the alien was granted such temporary resident status.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under subsection (c), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this section, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(4) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (c), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(5) EMPLOYMENT IN SEASONAL AGRICULTURAL SERVICES REQUIRED.—

"(A) FOR 3 YEARS TO AVOID DEPORTATION.—In order to meet the requirement of this paragraph (for purposes of this subsection and section 241(a)(20)), an alien, who has obtained the status of an alien lawfully admitted for temporary residence under this section, must establish to the Attorney General that the alien has performed 90 man-days of seasonal agricultural services—

"(i) during the one-year period beginning on the date the alien obtained such status,

"(ii) during the one-year period beginning one year after the date the alien obtained such status, and

"(iii) during the one-year period beginning two years after the date the alien obtained such status.

"(B) FOR 5 YEARS FOR NATURALIZATION.—Notwithstanding any provision in title III, an alien admitted under this section may not be naturalized as a citizen of the United States under that title unless the alien has performed 90 man-days of seasonal agricultural services in each of 5 fiscal years (not including any fiscal year before the fiscal year in which the alien was admitted under this section).

"(C) PROOF.—In meeting the requirements of subparagraphs (A) and (B), an alien may submit such documentation as may be submitted under section 210(b)(3).

"(D) ADJUSTMENT OF NUMBER OF MAN-DAYS REQUIRED.—The number of man-days specified in subparagraphs (A) and (B) are subject to adjustment under subsection (a)(8).

"(6) DISQUALIFICATION FROM CERTAIN PUBLIC ASSISTANCE.—The provisions of section 245A(h) (other than paragraph (1)(A)(iii)) shall apply to an alien who has obtained the status of an alien lawfully admitted for temporary residence under this section, during the five-year period beginning on the date the alien obtained such status, in the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance described in section 245A(h)(1)(A)(i).

"(e) DETERMINATION OF ADMISSIBILITY OF ADDITIONAL WORKERS.—In the determination of an alien's admissibility under subsection (c)(1)—

"(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under subparagraph (A):

"(i) Paragraphs (9) and (10) (relating to criminals).

"(ii) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(iii) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(iv) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(3) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(f) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

"(1) EQUAL TRANSPORTATION FOR DOMESTIC WORKERS.—If a person employs an alien, who was admitted or whose status is adjusted under subsection (c), in the performance of seasonal agricultural services and provides transportation arrangements or assistance for such workers, the employer must provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed in the performance of seasonal agricultural services.

"(2) PROHIBITION OF FALSE INFORMATION BY CERTAIN EMPLOYERS.—A farm labor contractor, agricultural employer, or agricultural association who is an exempt person (as defined in paragraph (5)) shall not knowingly provide false or misleading information to an alien who was admitted or whose status was adjusted under subsection (c) concerning the terms, conditions, or existence of agricultural employment (described in subsection (a), (b), or (c) of section 301 of MASAWPA).

"(3) PROHIBITION OF DISCRIMINATION BY CERTAIN EMPLOYERS.—In the case of an exempt person and with respect to aliens who have been admitted or whose status has been adjusted under subsection (c), the provisions of section 505 of MASAWPA shall apply to any proceeding under or related to (and rights and protections afforded by) this section in the same manner as they apply to proceedings under or related to (and rights and protections afforded by) MASAWPA.

"(4) ENFORCEMENT.—If a person or entity—

"(A) fails to furnish a certificate required under subsection (b)(2) or furnishes false statement of a material fact in such a certificate,

"(B) violates paragraph (1) or (2), or

"(C) violates the provisions of section 505(a) of MASAWPA (as they apply under paragraph (3)),

the person or entity is subject to a civil money penalty under section 503 of MASAWPA in the same manner as if the person or entity had committed a violation of MASAWPA.

"(5) SPECIAL DEFINITIONS.—In this subsection:

"(A) MASAWPA.—The term 'MASAWPA' means the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470).

"(B) The term 'exempt person' means a person or entity who would be subject to the provisions of MASAWPA but for paragraph (1) or (2), or both, of section 4(a) of MASAWPA.

"(g) GENERAL DEFINITIONS.—In this section:

"(1) The term 'special agricultural worker' means an individual, regardless of present status, whose status was at any time adjusted under section 210 or who at any time was admitted or had the individual's status adjusted under subsection (c).

"(2) The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(3) The term 'Director' refers to the Director of the Bureau of the Census.

"(4) The term 'man-day' means, with respect to seasonal agricultural services, the performance during a calendar day of at least 4 hours of seasonal agricultural services.".

(b) DEPORTATION OF CERTAIN WORKERS WHO FAIL TO PERFORM SEASONAL AGRICULTURAL SERVICES.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (18),

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(20) obtains the status of an alien who becomes lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period.".

(c) APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS.—For purposes of section 204 of this Act (relating to State legalization assistance), the term "eligible legalized alien" includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 210 (as inserted by section 302) the following new item:

"Sec. 210A. Determination of agricultural labor shortages and admission of additional special agricultural workers.".

(e) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act and amended by section 302(b)(1) of this Act) is further amended—

(A) by striking out "and subsection (f) of section 210 of such Act" in paragraph (1) and inserting in lieu thereof ", subsection (f) of section 210 of such Act, and subsection (d)(7) of section 210A of such Act";

(B) by striking out "such subsection (h) or (f)" in paragraph (2) and inserting in lieu

thereof "such subsection (h), (f), or (d)(7)"; and

(C) by striking out "such section 245A or 210" in paragraph (2) and inserting in lieu thereof "such section 245A, 210, or 210A".

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act and amended by section 302(b)(2) of this Act) is further amended by striking out "245A(h) or 210(f)" and inserting in lieu thereof "245A(h), 210(f), or 210A(d)(7)".

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission on Agricultural Workers (hereinafter in this section referred to as the "Commission"), to be composed of 12 members—

(A) six to be appointed by the President,

(B) three be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

(A) with the Attorney General in appointing two members,

(B) with the Secretary of Labor in appointing two members, and

(C) with the Secretary of Agriculture in appointing two members.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Members shall be appointed to serve for the life of the Commission.

(b) FUNCTIONS OF COMMISSION.—(1) The Commission shall review the following:

(A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

(B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

(C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

(D) The extent to which the agricultural industry relies on the employment of a temporary workforce.

(E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

(F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

(G) The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

(H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

(I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

(2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

(c) REPORT TO CONGRESS.—The Commission shall report to the Congress not later than five years after the the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS OF COMMISSION.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(f) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(g) AUTHORITY OF COMMISSION.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) TERMINATION DATE.—The Commission shall cease to exist at the end of the 63-month period beginning with the month after the month in which this Act is enacted.

(j) DEFINITIONS.—In this section:

(1) The term "employer sanctions" means the provisions of section 274A of the Immigration and Nationality Act.

(2) The term "legalization program" refers to the provisions of section 245A of the Immigration and Nationality Act.

(3) The term "seasonal agricultural services" has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

(4) The term "special agricultural worker provisions" refers to sections 210 and 210A of the Immigration and Nationality Act.

SEC. 305. ELIGIBILITY OF H-2 AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), but only with respect to legal assistance on matters relating to wages, housing, transportation, and other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted.

PART B—OTHER CHANGES IN THE IMMIGRATION LAW

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) INCREASE TO 5,000.—(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "5,000".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 312. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years

before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I).".

SEC. 313. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—Chapter 2 of title II, as amended by section 301(c), is further amended by adding after section 216 the following new section:

"VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

"SEC. 217. (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this section referred to as the 'pilot program') under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

"(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

"(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

"(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(B) is designated as a pilot program country under subsection (c).

"(3) EXECUTES ENTRY CONTROL AND WAIVER FORMS.—The alien before the time of such admission—

"(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

"(B) executes a waiver of review and appeal described in subsection (b)(4).

"(4) ROUND-TRIP TICKET.—The alien has a round-trip, nontransferable transportation ticket which—

"(A) is valid for a period of not less than one year,

"(B) is nonrefundable except in the country in which issued or in the country of the alien's nationality or residence,

"(C) is issued by a carrier which has entered into an agreement described in subsection (d), and

"(D) guarantees transport of the alien out of the United States at the end of the alien's visit.

"(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

"(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

"(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE PUT INTO OPERATION.—

"(1) PRIOR NOTICE TO CONGRESS.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

"(2) AUTOMATED DATA ARRIVAL AND DEPARTURE SYSTEM.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

"(3) VISA WAIVER INFORMATION FORM.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

"(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program,

"(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

"(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

"(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

"(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

"(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The aver-

age number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term 'initial period' means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

"(d) CARRIER AGREEMENTS.—

"(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(C) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

"(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term 'pilot program period' means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.".

(b) LIMITATION ON STAY IN UNITED STATES.—Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by section 312(b), is further amended by striking out "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217".

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.".

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by adding after the item relating to section 216 the following new item:

"Sec. 217. Visa waiver pilot program for certain visitors.".

SEC. 314. MAKING VISAS AVAILABLE TO NONPREFERENCE IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants described in section 203(a)(7) of such Act 5,000 visa numbers in each of fiscal years 1987 and 1988.

(b) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers are otherwise made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that—

(1) the Secretary shall first make such visa numbers available to qualified immigrants who are natives of foreign states the immigration of whose natives to the United States was adversely affected by the enactment of Public Law 89-236, and

(2) within groups of qualified immigrants, such visa numbers shall be made available strictly in the chronological order in which they qualify after the date of the enactment of this Act.

(c) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(d) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

SEC. 315. MISCELLANEOUS PROVISIONS.

(a) EQUAL TREATMENT OF FATHERS.—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or to its natural father if the father has or had a bona fide parent-child relationship with the person" after "natural mother".

(b) SUSPENSION OF DEPORTATION FOR CERTAIN ALIENS.—Section 244(b) (8 U.S.C. 1254(b)), as amended by section 312(c), is further amended by adding at the end the following new paragraph:

"(3) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.".

(c) SENSE OF CONGRESS RESPECTING TREATMENT OF CUBAN POLITICAL PRISONERS.—It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).

(d) DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKES.—(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act, an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike.

TITLE IV—REPORTS TO CONGRESS

SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) TRIENNIAL REPORT.—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) DETAILS IN EACH REPORT.—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) HISTORY AND PROJECTIONS.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) RECOMMENDATIONS.—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to Congress annual reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) during the first three years after its implementation. Each report shall include—

(1) an analysis of the adequacy of the employment verification system provided under subsection (b) of that section;

(2) a description of the status of the development and implementation of changes in that system under subsection (c) of that section, including the results of any demonstration projects conducted under paragraph (4) of such subsection; and

(3) an analysis of the impact of the enforcement of that section on—

(A) the employment, wages, and working conditions of United States workers and on the economy of the United States,

(B) the number of aliens entering the United States illegally or who fail to maintain legal status after entry, and

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

SEC. 403. REPORTS ON H-2A PROGRAM.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

(1) the number of foreign workers permitted to be employed under the program in each year;

(2) the compliance of employers and foreign workers with the terms and conditions of the program;

(3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and

(4) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested,

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and

(D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the Congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) DEADLINES.—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON IMMIGRATION AND NATURALIZATION SERVICE.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this Act regarding the implementation of this Act and its possible effect on the United States or Mexico. After the consultation, it is the sense of the Congress that the President should report to the Congress any legislative or administrative changes that may be necessary as a result of the consultation and the enactment of this legislation.

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) REIMBURSEMENT TO STATES.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) ILLEGAL ALIENS CONVICTED OF A FELONY.—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) MARIELITO CUBANS CONVICTED OF A FELONY.—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) STATE DEFINED.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SEC. 601. COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the "Commission"), to be composed of twelve members—

(A) three members to be appointed by Speaker of the House of Representatives;

(B) three members to be appointed by the minority leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and

transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 701. EXPEDITIOUS DEPORTATION OF CONVICTED ALIENS.

Section 242 (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(i) In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.".

SEC. 702. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS.

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of the enactment of this Act, to provide to the Attorney General a list of facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment to the title of the House and agree to the same.

From the Committee on the Judiciary:
For consideration of the entire Senate bill and House amendments:

PETER W. RODINO, Jr.,
ROBERT W. KASTENMEIER,
JOHN F. SEIBERLING,
ROMANO L. MAZZOLI,
MIKE SYNAR,
BARNEY FRANK,
CHARLES E. SCHUMER,
LAWRENCE J. SMITH,
HOWARD L. BERMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,
DANIEL E. LUNGREN,
BILL MCCOLLUM,
E. CLAY SHAW, Jr.,
MIKE DEWINE,

From the Committee on Agriculture:
Solely for consideration of sections 121-125, 202(h), 203, and 304 of the Senate bill and sections 116, 121, 204, 301-305, and 701 of the House amendments:

LEON E. PANETTA,
JERRY HUCKABY,
SID MORRISON,

From the Committee on Education and Labor:
Solely for consideration of sections 101(d), 121-125, 202(h), 203, 304, 402, and 604 of the Senate bill and sections 101, 121, 201(h), 204, 301-305, 316(d), 402, 403, and 701 of the House amendments:

WILLIAM D. FORD,
JAMES M. JEFFORDS,

From the Committee on Energy and Commerce:
Solely for consideration of sections 125(b), 202(h), 203, 304, and 404 of the Senate bill and sections 121, 201(d), 201(h), 204, 404, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act:

JOHN D. DINGELL,
HENRY A. WAXMAN,
WILLIAM E. DANNEMEYER,

From the Committee on Ways and Means:
Solely for consideration of sections 121(a), 121(g), 121(h), 124(c), 125(b), 202(h), 203, 304, 404, and 602 of the Senate bill and sections 121, 201(h), 204, 302(b), 402, 404, 601, 701, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act:

HAROLD FORD,
DONALD J. PEASE,

From the Committee on Rules:
Solely for consideration of section 604(b) of the Senate bill and section 811 of the House amendments and modifications committed to Conference:

ANTHONY C. BEILENSON,
GENE TAYLOR,
Managers on the Part of the House.

STROM THURMOND,
AL SIMPSON,
JEREMIAH DENTON,
CHARLES MCC. MATHIAS, Jr.,
EDWARD M. KENNEDY,
PAUL SIMON,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two House on the amendments of the House to the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the text with an amendment which is a substitute for the text of the Senate bill and the House amendment. The differences between the text of the Senate bill, the House amendment, and the subsitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

In addition, the House amendment to the title of the bill substituted a different title. The Senate recedes from its disagreement to the title of the House amendment to the title.

SCOPE OF SANCTIONS COVERAGE

The Senate bill penalized employers who knowingly hired, recruited, or referred for a fee, or other consideration, undocumented aliens.

The House amendment did not include the term "or other consideration."

The Conference substitute adopts the House approach. It is the intent of the Conferees that the employer be able to rely on such referrals for purposes of complying with the verification requirements under the bill so that employers will not be in violation of any contrary contractual provisions with union hiring halls.

PENALTY STRUCTURE

A. CITATION STATE

The Senate bill provided for a 6 month notice and warning (citation) period for a first violation of knowingly hiring, recruiting or referring undocumented aliens, following the initial six month education period during which no penalties apply.

The House amendment provided for a 1 year notice and warning (citation) period for a first offense following the initial 6 month education period during which no penalties apply.

The Conference substitute adopts the House provision. The Conferees wish to make it clear that following receipt of a citation, an employer is subject to civil penalties even though the citation period has not expired.

B. CIVIL AND CRIMINAL PENALTIES

The Senate bill established a 3-tiered civil penalty structure:

(1) $100-$2,000 for a first offense.

(2) $2,000-$5,000 for a second offense.

(3) $3,000-$10,000 for "pattern or practice" violations.

As noted, "pattern or practice" violation was a precondition to the third tier of civil fines. The Senate bill also imposed criminal penalties of $3,000 and/or 6 months imprisonment for "pattern or practice" violations, following imposition of a civil fine.

The House amendment established a 2-tier civil penalty structure:

(1) $1,000-$2,000 for a first offense, and

(2) $2,000-$5,000 for a subsequent offense.

It also imposed criminal penalties of $1,000 and/or 6 months imprisonment for "pattern or practice" violations.

The Conference substitute adopts the Senate provision with two modifications. First, the minimum fine for a first violation (also applying at any time after a citation during the citation period) is $250 rather than the $100 contained in the Senate bill. Second, the requirement of a "pattern or practice" for the third tier of civil fines is eliminated and the requirement of a civil fine as a prerequisite to a criminal penalty is eliminated.

It is the intention of the Conferees that criminal sanctions are to be used for serious or repeat offenders who have clearly demonstrated an intention to evade the law by engaging in a pattern or practice of employment, recruitment, or referral of persons who do not meet the requirements under sections (1)(A) or (2) of subsection (a) of section 274A. The Conferees expect the Immigration and Naturalization Service to target its enforcement resources on repeat offenders and that the size of the employer shall be a factor in the allocation of such resources.

TERMINATION OF SANCTIONS

The Senate bill required the General Accounting Office (GAO) to submit to Con-

gress, and a specially created task force, three annual reports regarding, among other things, whether a pattern of employment discrimination based on national origins has resulted from employer sanctions. It then requires the task force to submit a report, with legislative recommendations, to Congress if the GAO report in fact discovered such discrimination. The House and Senate must hold hearings within 60 days of receipt of the task force report. The bill further specified that employer sanctions shall cease 30 days after receipt of the final report required to be transmitted if: (1) GAO has reported that a widespread pattern of discrimination has resulted solely from employer sanctions; and (2) there is enacted within such 30-day period a joint resolution stating that Congress approves the findings in the report.

It requires expeditious consideration in the House and Senate of any such resolution and specifies procedures governing Senate consideration of such resolution.

The House amendment terminated employer sanctions and the anti-discrimination program automatically six and one-half years after the date of enactment.

The Conference substitute adopts the Senate provision.

ANTIDISCRIMINATION PROVISION

As noted above, the Senate bill required the General Accounting Office (GAO) to submit to Congress, and a specially created task force, three annual reports regarding, among other things, whether a pattern of employment discrimination based on national origins has resulted from employer sanctions.

The House amendment prohibited employment discrimination based on citizenship status or national origins. It applies to employers who employ more than three or fewer than fifteen employees and covers U.S. citizens, permanent resident aliens, refugees, asylees, and newly legalized aliens, who have filed a notice of intent to become U.S. citizens. It allowed employers to choose a U.S. citizen over an alien when applicants are equally qualified. It established a Special Counsel in the Department of Justice to investigate and prosecute claims claims of employment discrimination and provides for certain sanctions against offending employers, including fines, granting of back pay, and requirement that the employer keep paperwork on future job applicants.

The Conference substitute adopts the House language with certain amendments.

The antidiscrimination provisions of this bill are a complement to the sanctions provisions, and must be considered in this context. The bill broadens the Title VII protections against national origin discrimination, while not broadening the other Title VII protections, because of the concern of some Members that people of "foreign" appearance might be made more vulnerable by the imposition of sanctions. While the bill is not discriminatory, there is some concern that some employers may decide not to hire "foreign" appearing individuals to avoid sanctions.

The antidiscrimination provisions of the bill will only provide this broadened protection while the sanctions are in effect; if the sanctions are repealed by joint resolution, the antidiscrimination provisions will also expire, the justification for them having been removed.

The antidiscrimination provisions would also be repealed in the event of a joint resolution approving a GAO finding that the sanctions had resulted in no significant discrimination, or that the administration of the antidiscrimination provisions had resulted in an unreasonable burden on employers. In this regard, the Conference also expect that GAO would specifically look into the issue of whether the anti-discrimination mechanism and remedies are being utilized in a manner that is inconsistent with their original purpose (i.e. to guard against employment discrimination based on national origins or citizenship status). Conferees wish to emphasize that the anti-discrimination provision has been included in order to respond to the fears and concerns expressed by many that sanctions will result in employment discrimination based on national origins or citizenship status. Thus, the anti-discrimination provision does not in itself in any way set a precedent for the expansion of other Title VII protections. Furthermore, nothing in this bill shall prevent the use of language as a Bona Fide Occupational Qualification.

VERIFICATION/RECORD KEEPING REQUIREMENTS

The Senate bill provide that employers with four or more employees, but not recruiters or referrers, must comply with various verification requirements. It required that a person employing four or more persons must verify that he/she has examined documents which establish both (1) employment authorization and (2) identity (showing that the individual is not presenting documents relating to another individual). A U.S. passport, certificate of U.S. citizenship, certificate of naturalization, or certain resident alien cards would establish both. Otherwise, one document of each type would be presented. Employment authorization documents would include the Social Security card or birth certificate. Identity documents would include: drivers's license, other State-issue card, or, under certain circumstances, other documentation approved by the Attorney General. The Senate bill also provided that the attestation forms signed by the employer and employees must be retained for specified periods.

The Senate bill did not impose civil fines for failure to satisfy the above requirements. Instead, it provided that if an employer did not meet them, the employer was presumed to have knowingly hired the alien. The presumption could have been rebutted by "clear and convincing evidence" to the contrary.

The House amendment required employers to verify all new hires by examining either (1) a U.S. passport, or (2) a U.S. birth certificate or Social Security card and a driver's license, state issued I.D. card, or an alien identification document and required each employer to attest, in writing, under penalty of perjury, that he/she has seen the documentation mentioned above. It also required the employee to attest in writing that he/she is authorized to work in the U.S. It also required the employer to retain the attestation forms for such periods as may be specified by the Attorney General. Failure to follow these verification/record keeping requirement would have subjected the offending party to a civil fine of between $250–$1000.

The House amendment also provided that nothing in this section of the legislation was to be construed as authorizing, directly or indirectly, the creation of a national identification card.

The Conference substitute adopts the House provisions on coverage for, and the mandatory nature of, the verification/record keeping requirements. It adopts the Senate provisions on the documents to be used during the verification process and the time periods for retaining the attestation forms. It provides a minimum civil fine of $100 for violations of these requirements in lieu of the $250 minimum fine in the House amendment. The Conference substitute also provides that violations of the hiring prohibition in the bill shall be considered in assessing the level of the civil fineto be imposed. It also includes the House provision that "nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card."

VERIFICATION PROCESS AND STATE EMPLOYMENT SERVICE DOCUMENTATION

The House amendment provided that an employer will be deemed to have complied with the verification requirements, if an individual has been referred for employment by a state employment agency, if such employer retains appropriate documentation of the referral by that agency which specifically certifies that such agency has satisfied such requirements.

The Senate had no comparable provision.

The Conference substitute adopts the House provision. The Conferees, however, wish to emphasize that this provision is not intended to impose any affirmative duty or obligation upon State employment service offices or personnel.

TIME FOR COMPLIANCE WITH VERIFICATION PROCESS

The House amendment provided employers with a 24 hour grace period for compliance with the verification requirements.

The Senate bill had no comparable provision.

The Conference substitute does not contain the House provision. However, the Conferees direct the Attorney General to develop and promulgate regulations regarding the time for compliance which addresses the practical problems confronting farm workers and agricultural employers in satisfying the discrimination and verification requirements of this legislation. The employer shall be presumed to be in compliance with the paperwork and verification requirements for the first twenty-four hours after the worker has been hired to allow the worker time to produce the required documents under this subsection. The Justice Department may rebut this presumption with evidence that the employer has attempted to evade liability for employer sanctions and responsibilities for verification through the employment of day hires.

FUTURE VERIFICATION SYSTEM

A. GENERAL PROVISIONS

The Senate bill directed the President to monitor the verification system. If he finds that the system is not secure, he must seek to implement such changes as may be necessary to establish a secure system to determine employment authorization. Such changes would only be permitted after notice to Congress: 2 years for a major change, such as a telephone verification system or a new identification document, and 60 days for a non-Major change, such as an improved Social Security card. It also authorized the President to establish demonstration projects for up to three years, and required studies of the Executive Branch and GAO to evaluate the use of a telephone verification system and possible improvements in the current Social Security card.

The House amendment directed the Attorney General, in consultation with the Secretaries of Labor and Health and Human Services, to conduct a study on the use of a telephone verification system for determining the employment eligibility of aliens in the U.S. The House amendment also directed the Secretary of Health and Human Services to conduct a feasibility study of a social security number validation system.

The conference substitute adopts the Senate provision regarding a future verification system, with an amendment with regard to the use of Social Security cards (discussed below) and with the addition of House language prohibiting the development of a national i.d. card. The conference substitute also includes a study of both the telephone verification system and a study on the feasibility of a social security number validation system.

The scope of the studies required in sections 101(d) and 101(e) of the House amendment are separate and distinct and do not overlap. The study required by section 101(d) is to examine the possible use of the Federal data bases excluding data collected through the Social Security Administration by use of the social security number. The study conducted under section 101(e) is to be the only examination of the feasibility of a telephone verification system involving the social security number, account card, and data collected using the social security number and card.

B. USE OF SOCIAL SECURITY CARDS

The Senate bill allowed the use of current and previous government-issued social security cards as proof of employment authorization in the U.S., allowed the President to require (without notice to Congress) universal use of the current social security card for employment authorization, allowed the President to make changes in the current version of the social security card after 60 days notices to Congress, and allowed the President to require a new card, document, or other system to be presented for worker verification after two years' notice to Congress and specific Congressional appropriations for the change.

The House amendment allowed the use of current and previous government-issued social security cards as proof of employment authorization in the United States.

The conference substitute requires the President to provide one year's notice to Congress before instituting any change in the social security card (including a requirement that current social security cards be universally used for employment authorization), and requires Congress to specifically appropriate funds for any such change.

INS FUNDING FOR ENFORCEMENT AND SERVICES

The Senate bill provided a two-year authorization of appropriations for the Immigration and Naturalization Service as follows: $840 million for fiscal year 1987 and $830 million for fiscal year 1988.

The House amendment provided a two-year supplemental authorization of appropriations for the Immigration and Naturalization Service as follows: $422 million for fiscal year 1986 and $419 million for fiscal year 1987. The amendment also authorizes, for fiscal years 1987 through 1989, such sums as may be necessary to provide for an increase in border patrol personnel so that the average level of such personnel is 50% higher than such level in fiscal year 1986.

The Conference substitute provides supplemental authorizations at the House levels for fiscal years 1987 and 1988. Within these levels the conferees were aware that at least $184 million was to be expended on enhanced enforcement efforts. The Conferees agree as to the need for sufficient funding to ensure a 50 percent increase in border patrol personnel in accordance with the House provision.

IMMIGRATION EMERGENCIES

The Senate bill established a revolving fund to provide assistance in the case of an immigration emergency.

The House amendment required the Attorney General to develop a contingency plan for operation in an immigration emergency and established a fund to be used for assistance.

The Conference substitute adopts the Senate provision but deletes the revolving nature of the emergency fund. The Conference substitute deletes the requirement that the Attorney General develop a contingency plan because it is the Conferees' understanding that a plan has already been developed.

SAVE PROGRAM

A. GENERAL REQUIREMENTS

The Senate bill required States to verify, through INS computer records, the legal status of all aliens applying for benefits under certain programs of public assistance.

The House amendment required States to verify, through INS computer records, the legal status of all aliens applying for benefits under certain programs of public assistance, and allowed a waiver to be granted, upon recommendation of the appropriate Secretary, for covered programs where a particular verification program would not be cost-effective or would be redundant.

The Conference substitute adopts the House provision.

B. PROGRAM INFRASTRUCTURE

The Senate bill reimbursed state governments for 90% of the non-labor costs of the SAVE program, and applied the verification requirements to the AFDC, Medicaid, Unemployment Compensation, Food Stamp, and SSI programs.

The House amendment reimbursed state governments for 100% of the total costs of the SAVE program, applied the verification requirements to the AFC, Medicaid, Unemployment Compensation, Food Stamp, Housing Assistance, and Higher Education programs, and provided for a hearing process in the case of an applicant with an unresolved immigration status.

The conference substitute adopts the House provision.

LEGALIZATION

The Senate bill created a Commission to study enforcement measures designed to curtail employment of undocumented aliens and issue a finding on whether effective enforcement measures have been instituted. It granted temporary status to aliens who entered the United States illegally or fell into illegal status prior to Janaury 1, 1980 and who have resided continuously in the United States since then only when the Commission issues its finding, or after three years, whichever is earlier. It adjusted the status of these people to permanent residence after two and one-half years of temporary status upon a showing of general admissibility and basic citizenship skills.

The House amendment provided temporary status to aliens who entered the United States illegally or fell into illegal status prior to January 1, 1982 and who have resided continuously in the United States since then. It adjusted the status of these people to permanent residence after one year of temporary status upon a showing of general admissibility and basic citizenship skills.

The Conference substitute adopts the House provision (including the 1982 date) with an amendment making the period of time spent in temporary status eighteen months.

LEGALIZATION APPLICATION FEES

The Senate bill provided a minimum fee of $100 per alien to file an application for legalization.

The House amendment established a maximum fee of $75 for individuals and $175 for families.

The Conference substitute requires the Attorney General to prescribe a fee schedule for the filing of applications under the legalization program. It is the understanding of the Conferees that the fee level should be sufficient to cover the costs of processing applications and should be comparable to those charged for aliens seeking entry into the United States as immigrants.

LEGALIZATION DOCUMENTS EVIDENCING EMPLOYMENT

The Senate bill required legalization applicants to submit documents to support continuous residence, together with independent corroboration of the information contained in the documents, which documents should be employment-related if available and obtainable by the applicant.

The House amendment contained no comparable provision.

The Conference substitute adopts the Senate provision. The Conferees prefer the use of employment-related documents whenever possible, because this type of documentation is viewed as the "best evidence" of continuous residence. The employment-related documents need not be provided only by the employer, and independent corroboration of the information contained may be in the form of affidavits.

DISSEMINATION OF INFORMATION ON LEGALIZATION

The Senate bill provided that the Attorney General, in cooperation with qualified organizations and governments and the Secretary of Labor, shall broadly disseminate information respecting the benefits aliens may receive under the legalization program and the requirements to obtain such benefits.

The House amendment provided that the Attorney General, in cooperation with designated agencies, organizations and persons, shall broadly disseminate in English and other appropriate languages information respecting the benefits aliens may receive under the legalization program and the requirements to obtain such benefits.

The Conference substitute adopts the House language, but deletes "in English and other appropriate languages." It is in the intent of the Conferees that such information include: (1) information respecting the requirements that aliens with lawful temporary residence status would have to meet to have their status adjusted to permanent resident status and the facilities available to provide education and employment training and opportunities in order to meet such requirements; (2) information on the conditions under which temporary lawful residence status can be rescinded; (3) information on conditions for employment and foreign travel of aliens with lawful temporary residence status; and (4) information re-

specting compulsory school enrollment requirements for minors in the various States and localities and the identification of the appropriate schools in which children should be enrolled.

LEGALIZATION FUNDING

The Senate bill provided for a capped entitlement (subject to appropriations) of $3 billion over six years. Legalization funds were authorized to be used for state costs incurred due to the participation of legalized aliens in programs of public assistance. Except for a small number of PRUCOL aliens currently receiving SSI, the Senate bill disqualified all newly legalized aliens from federal programs of public assistance for six years.

The House amendment provided for 100% federal reimbursement (subject to appropriations) of state costs incurred due to the legalization program. The funds were authorized to be used for state programs of public assistance, programs of public health assistance, and local educational agency services. All legalized aliens were disqualified for five years from all federal programs of public assistance, except for SSI and Medicaid in certain circumstances.

The conference substitute provides for an immediate appropriation of $1 billion for each of the four fiscal years beginning in 1988 and ending in 1991. Unused funds may be expended by states through FY 1994. Federal costs related to the exceptions in Medicaid and SSI are subtracted from the annual appropriation. The Secretary of HHS is to provide the states with payments to reimburse their legalization costs based on a formula that includes the number of legalized aliens in a state and the amount of money a state expends on such aliens. The States may use the funds to reimburse costs under programs of public assistance, programs of public health assistance, and services provided by local educational agencies. Also, 30% of a state's allotment must be equally divided between the three programs mentioned above, except that no program may be reimbursed for more than actual costs. The remaining 70% of a state's allotment may be used at a state's discretion among the programs previously mentioned.

TEMPORARY AGRICULTURAL WORKERS AND AGRICULTURAL COMMISSION

The Senator bill created a new nonimmigrant category for the admission of foreign temporary agricultural workers. Under the Senate bill, such workers would no longer be admitted under the "H" nonimmigrant category, but instead under the newly created program, a variety of provisions outlining the responsibilities and rights of such workers, and agricultural employers wishing to employ, or employing them were contained in the Senate bill. The Senate bill also created a Commission to study agricultural worker issues.

The House amendment created a new nonimmigrant subcategory, H-2A, for the admission of foreign temporary agricultural workers. The House amendment outlined the various rights and responsibilities of the various parties under the program and also created a Commission to study agricultural worker issues.

The Conference substitute adopts the House provisions.

LEGAL SERVICES FOR H-2 WORKERS

The House amendment specified that nonimmigrant workers admitted or permitted to remain in the United States for agricultural labor or services shall be treated like lawful permanent resident aliens for purposes of eligibility for legal services under the Legal Services Corporation Act.

The Senate bill contained no comparable provision.

The Conference substitute provides that such foreign agricultural workers will be eligible for legal services.

Legal services are to be made available to H-2 aliens with regard to housing, wages, transportation and other conditions of employment under their H-2 contract. Legal services are not meant to be an organizing tool in behalf of farm workers and is not meant to be used in order to harass growers. It is the intent of the Conferees that contracts entered into shall not violate any provision of the Immigration and Nationality Act authorizing the H-2 program or any regulations issued pursuant to that Act. Further, the Conferees intend that the Conference substitute will secure the rights of H-2 agricultural workers under the specific contract under which they were admitted to this country.

AGRICULTURAL LABOR TRANSITION PROGRAM

The Senate bill established a three-year agricultural labor transition program during which an agricultural employer would be permitted, on a declining percentage basis, to meet his non-domestic seasonal agricultural worker needs with transition workers. Undocumented aliens who met certain enumerated requirements would be eligible to apply for transition worker status.

The House amendment contained no comparable provision.

The Conference substitute adopts the House position, thereby deleting the provision.

ALIEN CREW MEMBERS

The House amendment prohibited the admission of nonimmigrant alien crew members to perform services at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

The Senate bill contained no comparable provision.

The Conference substitute adopts the House provision but only places a one-year moratorium on the admission of such crew members. The Conferees agree that this is an important issue and intend that Congress study and investigate the issue during the one-year moratorium period.

SEASONAL AGRICULTURAL WORKERS

The Senate bill created a three-year program for the annual admission of up to 350,000 nonimmigrant workers to perform seasonal agricultural services in perishable commodities. The House bill required employers wishing to utilize the service of such workers to make a good faith effort to recruit domestic workers. Taking into account these efforts, the historical employment need of employers for seasonal agricultural labor in perishable commodities, and the availability of domestic workers, the Attorney General would admit, subject to the cap, the number of workers needed. Such workers would not be permitted to accept employment not involving seasonal agricultural services and would not be eligible for programs of public assistance.

The House amendment created a seven-year program for the adjustment and admission of foreign agricultural workers to meet U.S. grower labor needs regarding perishable commodities. Under this program, two groups of agricultural workers would be adjusted or admitted: seasonal agricultural workers and replenishment agricultural workers.

Regarding seasonal agricultural workers, the House amendment provided that an alien who had worked 90 man-days in perishable agriculture during the 12-month period ending May 1, 1986 could apply for lawful temporary resident status in the United States. Such aliens would remain in temporary status for two years at which point they could apply for adjustment to lawful permanent resident status.

Aliens who had met not only the 90-day requirement (described above) but had also performed 90 man-days of perishable agricultural labor (1) during the twelve-month period ending May 1, 1985, and (2) during the twelve-month period ending May 1, 1984, would remain in temporary status for one year before being allowed to apply for adjustment to lawful permanent resident status. The number of aliens who would be granted such one-year temporary status would be capped at 350,000. Further, such individuals would not be eligible to receive Aid to Families with Dependent Children for five years and would have limited access to Medicaid benefits.

Regarding replenishment agricultural workers, the House amendment provided that in the event of a shortage of workers to perform seasonal agricultural labor in the United States in a particular year (such question as to the existence or extent of the shortage to be determined jointly by the Secretaries of Labor and Agriculture) additional alien workers to perform such labor could be admitted. The replenishment program would last from fiscal year 1990 through 1993. The maximum number of replenishment workers admissible in any such year would be based on a formula that takes into account the number of seasonal agricultural workers originally adjusted.

Replenishment workers would receive three years of temporary resident status and would be required to perform at least 90-man-days of labor in seasonal agricultural labor in each of those years. Upon completion of these requirements, such workers would be eligible to apply for adjustment to lawful permanent resident status. In order to become naturalized U.S. citizens, such workers would be required to meet the above described labor requirements for an additional two years. Replenishment workers would be disqualified for five years—and with the exception of eligibility under the Food Stamp Act—to the same extent as newly legalized aliens, from receiving public assistance.

The Conference substitute adopts the House provision.

It is the intent of the Conferees that the residence requirement for special agricultural workers does not require that a prospective special agricultural worker had to have been continuously resident in the U.S. in order to qualify for such status, nor that such a worker have only been present for the manday per year requirement, but instead that the conferees intend "resided" to mean 6 months per year, in the aggregate, in the U.S. for the "Group 1" workers, and 6 months, in the aggregate, in the U.S. between May 1985 and the date of enactment for "Group 2" workers.

Special agricultural workers (SAWs) who might otherwise be excluded as public charges under section 212(a)(15) of the Immigration and Nationality Act may nonetheless be admitted if they satisfy the special rule for determination of public charge under section 210(c)(2)(C). For the purpose of the special rule for SAWs, the requirement of a history of employment in the

United States can be satisfied by evaluating whether the individual in question meets the eligibility standards to become a Group 1 or Group 2 SAW.

For replenishment agricultural workers (RAWs), they may also demonstrate a history of employment in the United States under the special rule. RAW admissions are triggered by a determination that a shortage of SAWs exist. This determination may served, as evidence that employment is available to qualifying aliens entering as RAWs and, as such, they would not likely become public charges.

It is the intent of the Conferees that, for the purposes of calculating the annual numerical limitation on replenishment agricultural workers admissions (section 210(A)(c)(1), the term "at any time" means the number of workers who have worked at least 15 man-days in seasonal agriculture. This more accurately reflects the fact that those counted as working in agriculture for purposes of the Annual Census survey have worked in agriculture for some measurable period. To count those working a lesser period of time would inaccurately suggest that fewer replenishment workers are required than is actually the case.

Under subsection (d) of new section 210 of the House amendment the managers provide for a temporary stay of deportation or exclusion for certain applicants who can establish a nonfrivolous case of eligibility for adjustment of status under subsection (a). The Conferees intend that the Immigration and Naturalization Service allow aliens to make a declaration, under penalty of perjury and under such terms and conditions that the Attorney General may by regulation provide, (i) attesting that they have in fact worked the requisite number of man-days required; (ii) identifying the type or nature of documentation they intend to adduce to make the necessary showing, (although this shall not limit their rights to produce other evidence at a later date), (iii) acknowledging that false statements concerning their eligibility constitute a violation of title 18 U.S.C., and may make them ineligible for this program and, further, subject to deportation or exclusion, and (iv) identifying their current or immediate past employer(s). The Conferees intend that INS not go beyond these criteria in seeking to determine whether an alien has made a nonfrivolous case for eligibility. To do otherwise may undermine the purposes of this section, viz., to encourage undocumented workers to come forward and seek to obtain legal status.

For purposes of interpretation of the requirements of subparagraph (3)(B) of subsection (b) of new section 210, the managers intent is that the standards embodied in Fair Labor Standards Act caselaw govern. The Conferees note that in a line of cases 1 leading from *Anderson* v. *Mt. Clemens Pottery Co.*, 66 S.Ct. 1187 (1946), (including cases which specifically address the unique documentation of work history problems in the agriculture, such as *Beliz* v. *W.H. McLeod Co.*, 765 F.2d 1317 (1985)), courts have dealt with fact patterns involving employee loss of records, destruction or falsification of records by employers, and other difficult circumstances where precise evidence of hours worked is lacking.

This problem is compounded in agriculture, where pay records may only show piece rate units completed. While this Act will require evidence of hours worked, the lack of hourly records for agricultural employees (which could result from small employer exemptions from wage and hour laws as well as from employment by farm labor contractors or others whose recordkeeping practices are deficient), has led the Conferees to conclude that fairness dictates they create a presumption in favor of worker evidence, unless disproved by specific evidence adduced by the Attorney General. This approach rejects any possibility that a mechanistic formula for translating piece rate units picked into hours worked could satisfy this subsection's requirements. Rather the Conferees intend the experience gained under the Fair Labor Standards Act to govern. If an alien is able to produce evidence showing only piece rate units picked, then any day on which piece rate work was performed shall be deemed to satisfy the man-day requirements to this Act.

The Conferees intend that individuals admitted under sections 302 and 303 of the House amendment as temporary or permanent resident aliens be considered United States workers for purposes of Section 301 of the House amendment.

Additional Immigrant Visas for Certain Countries

The House amendment provided that when the annual admission level of a country is lower than ¾ of the average annual visas used during 1955–1965, then the difference shall be available for use in the next fiscal year. That total, however, could not exceed 7,500.

The Senate bill contained no comparable provision.

The Conference substitute allows an additional 5,000 visas per year for two years over the ceiling in the non-preference category with preference being granted to those countries which enjoyed favorable quotas and/or whose nationals received significant numbers of visas prior to the 1965 amendments to the immigration law. The Conferees direct the Secretary of State to establish an orderly mechanism for distribution of visas under this provision. The Conferees note that the Committees on the Judiciary of both Houses have commenced studies on possible changes to the legal immigration system and, because statutory revisions are anticipated, additional immigrant visas under this section are limited to a two year period. The Conferees strongly recommend that these Committees continue to expeditiously review the entire subject of legal immigration including the issues addressed by this particular provision.

United States-Mexico Border Revitalization

Section 407 of the House amendment authorized the President to negotiate with the Government of Mexico on the establishment of a free trade and co-production zone as a first step to achieving a U.S.-Mexico free trade area, and to report to the Congress on the progress and any changes in legislation recommended.

The Senate bill contained no comparable provision.

The Conference substitute adopts the Senate position, thereby deleting the provision from the bill.

The House Conferees, in agreeing to recede on the House amendment, urge the Committee on Ways and Means to hold hearings on this matter next year.

Suspension of Deportation for Nationals of Certain Countries

The House amendment contained a provision suspending deportation of nationals of El Salvador and Nicaragua pending a final report by the Comptroller General on general conditions in those countries and the conditions of displaced persons from those countries.

The Senate bill has no comparable provision.

The Conference substitute deletes the provision. The Conferees believe that deportations should be suspended on a case-by-case basis in cases such as El Salvador where natural disasters have added to other societal problems in a manner which adds significantly to the difficulties inherent in the resettlement of deportees.

Nothing in this statement is intended to set a precedent for ignoring the basic standards set forth in the Refugee Act of 1980.

The Conferees strongly recommended that Congress consider and take up this issue expeditiously next Congress.

Sense of Congress Regarding English Language

The Senate bill contained a Sense of Congress provision that English is the official language of the United States.

The House amendment contained no comparable provision.

The Conference substitute deletes the Senate provision. By deleting the provision the Conferees do not do so lightly. The Conferees recognizes the importance of this issue and strongly recommend that Congress should address this issue in the next Congress.

From the Committee on the Judiciary:
For consideration of the entire Senate bill and House amendments:

Peter W. Rodino, Jr.,
Robert W. Kastenmeier,
John F. Seiberling,
Romano L. Mazzoli,
Mike Synar,
Barney Frank,
Charles E. Schumer,
Lawrence J. Smith,
Howard L. Berman,
Rick Boucher,
John Bryant,
Hamilton Fish, Jr.,
Carlos J. Moorhead,
Daniel E. Lungren,
Bill McCollum,
E. Clay Shaw, Jr.,
Mike DeWine,

From the Committee on Agriculture:
Solely for consideration of sections 121–125, 202(h), 203, and 304 of the Senate bill and sections 116, 121, 204, 301–305, and 701 of the House amendments:

Leon E. Panetta,
Jerry Huckaby,
Sid Morrison,

From the Committee on Education and Labor:
Solely for consideration of sections 101(d), 121–125, 202(h), 203, 304, 402, and 604 of the Senate bill and sections 101, 121, 201(h), 204, 301–305, 316(d), 402, 403, and 701 of the House amendments:

William D. Ford,
James M. Jeffords,

From the Committee on Energy and Commerce:
Solely for consideration of sections 125(b), 202(h), 203, 304, and 404 of the Senate bill and sections 121, 201(d), 201(h), 204, 404, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act:

John D. Dingell,
Henry A. Waxman,
William E. Dannemeyer,

From the Committee on Ways and Means:

Solely for consideration of sections 121(a), 121(g), 121(h), 124(c), 125(b), 202(h), 203, 304, 404, and 602 of the Senate bill and sections 121, 201(h), 204, 302(b), 402, 404, 407, 601, 701, and that portion of section 302(a) inserting subsection 210(f) in the Immigration and Nationality Act:

HAROLD FORD,
DONALD J. PEASE,

From the Committee on Rules:
Solely for consideration of section 604(b) of the Senate bill and section 811 of the House amendments and modifications committed to Conference:

ANTHONY C. BEILENSON,
GENE TAYLOR,
Managers on the Part of the House.

STROM THURMOND,
AL SIMPSON,
JEREMIAH DENTON,
CHARLES MCC. MATHIAS, JR.,
EDWARD M. KENNEDY,
PAUL SIMON,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

Mr. SCHUMER. I thank the gentleman.

Mr. GINGRICH. I might say in passing, by the way, that this is a very important act the gentleman has submitted the conference report on, a very major achievement of this Congress and one of the things for which this Congress will be remembered, and I commend the gentlemen who are here today for sticking to it when it must have been very, very frustrating.

Mr. SCHUMER. On behalf of the gentleman from New Jersey [Mr. RODINO] the chairman of the Committee on the Judiciary, and I know all the members of the committee, we thank the gentleman for his kind words.

Mr. GINGRICH. The question is, in this setting and I think Chairman Fahrenkopf put it very correctly: It is wrong in the denial of our civil liberties for those of us who are legally registered, honest citizens when we go to vote to have our votes cancelled out by vote theft, by vote fraud. It is wrong for an expressway to outvote an American citizen. It is wrong for a vacant building to outvote an American citizen. This entire issue—I yield to the gentleman.

Mr. WALKER. I just wanted to point out the interesting thing about the suit would be that it is awfully hard to intimidate a dead person. Death has a number of negative things that can be said about it, but the fact is that you do become relieved of any threat of intimidation at that point. And the suit would become silly on its face when one realizes that the contention is that somehow dead people are being intimidated because that is the essence of what the Republicans are attempting to do with their antifraud campaign; that really does, I think, call the whole suit and the whole action by the Democrats into an awful lot of question.

Mr. GINGRICH. Well, let me move in that sense to the Louisiana case, where sending out letters found 31,000 questionable voters.

I want to cite from the Ballot Integrity Group, Inc., first in New Orleans, a series of examples of what we are talking about. These are specific field investigative reports in which investigators went out to the address as cited and looked to see what was there.

Marlene J. Vincent, 1711 Behrman, this was the investigator's report: The address of 1711 Behrman corresponds to a vacant lot. House addresses on the 1700 block of Behrman begin with the address of 1729. The 1600 block of Behrman ends with the address 1625. Marlene J. Vincent voted March 1, 1986.

James Nettles, 1317 Music Street. Investigators report at this location no structure for dwelling. Junk autos on this vacant lot. Last voted March 1, 1986.

Possible photo attached. They attached a photo to their report of what the vacant lot looks like.

Next Winold Harris, 1732 Touro Street. The interview was conducted September 12, 1986 at 4:25. Marian Mitchell interviewed at the location related that she lived at the location for the past 4 years and has never heard of the voter. Last voted March 1, 1986.

Kevin Harris, 1624 Hendee. Investigators report: No such address of 1624 Hendee could be found. The sides of buildings located at 1804 Bringier and 1801 Lawrence occupied the closest proximity for such an address. Kevin Harris voted March 1, 1986.

Corliss Camel, 1928 Frenchman Street. Comments: Glenda Robinson resides at address for past 4 years. Never heard of Corliss Camel. Last voted March 1, 1986.

Freddie Morton, Jr., 2033 Upper Line Street. I might say that when I went to Tulane I lived at Lower Line. So some of these streets bring back fond memories.

Investigators report: Spoke to Mrs. Weber at 2030 who stated Mr. Morton has been gone for 4 years or better. A Mr. Brown now resides there. No answer at 2033. Voted March 1, 1986.

Myra Wright, 2427 Pauger Street. Interview September 12, 1986. Stoney Yansen who resides at 2423 Pauger interviewed, related she knew voter, however voter moved approximately 3 years ago. Voter last voted March 1, 1986.

Theodore Robinson, 2859 Dryades.

Spoke to a Mrs. Washington at 2856 who stated no one has lived there for 2 years. She did not know subject. Front door padlocked. Voted March 1, 1986.

Rite Mae Batiste, 2118 Josephine. Investigators report says that Rhette Parker of 2118 Josephine stated that she has lived at her present address for 9 years and Rite Mae Batiste has not resided there. Rite Mae Batiste voted March 1, 1986.

Dawn McGuffey, 1008 Valence Street, interviewed September 13, 1986 stated: Mrs. Coleman, the interviewee, current residence of location related the following: That voter moved from location 4 years ago.

Date last voted March 1, 1986.

Urachel Lewis, 1007½ Valence. The interview was on September 13, 1986. Mrs. Coleman of 1008 Valence interviewed and related the following, that voter moved from location 3 years ago.

Date last voted, March 1, 1986.

Richard Harrison, 5210 East Lemans. Mrs. Barth, current resident related that voter moved from location 9 years ago. Last voted 1986.

Cora Sheffield, 1714 Touro Street. Investigators report: Mildred Kemp resides at 1712 Toruo Street, related that voter moved from address at least 4 to 5 years ago. Date last voted, March 1, 1986.

Let us shift parishes, that is, after all, New Orleans, a big city. Let us go to Rapides Parish.

Rapides, investigator goes out and investigates: Mary Smith, 812 Compton Street. Report: Present occupant Williester Sanders stated above subject moved over 8 years ago. Subject last voted 1986.

Lawrence Coaty, 1512 Levin Street. Investigators report: There is no such address. Location is a fenced-in empty lot in between two other residences. There never was a house or residence on 1512. Subject last voted 1986.

Doreatha Watson, 315 Marye Court. Present occupant, Tina Johnson, advised subject moved over 1 year ago. Subject last voted 1986.

Annie Fells, 4028 North. Investigators report: North Street ends with 3617. No such address. Picture No. 10 shows 3617 North. Subject last voted 1986.

Notice in that instance, by the way, there is not even physically an address, and they are voting.

James Stovall, 725 Maple Street. Investigators report: Occupant of above address, Rosie Jackson, stated that above subject used to own the grocery up front—T's Grocery—but never lived there. Furthermore, the store has been closed for at least 2 years. Subject last voted 1986.

Frankie Brown, 1709 Houston Street. Investigators report: Houston Street begins in the 1900 block. No such address at 1709. Subject last voted 1986.

Rufus Williams, 3635 Jones Street.

Investigators report: No such address. Street numbers end at 3633 Jones. Subject last voted 1986.

Joann Brown, 503 St. Ann Street.

Investigators report: Observed vacant lots where 500 block of St. Ann once was. Land purchased by Rapides

General Hospital years ago. Photos taken. Subject last voted 1986.

Charlotte W. Heagword, 1628 Harris Street.

Investigators report: Harris Street begins in the 1800 block. No such address. Subject last voted 1986.

Cleveland Obey, 812 Lafitte Street. Report: Vacant house at above address. Matthew Brown said Mr. Obey has not lived there in 7 or 8 years.

Subject last voted in 1986.

Alma Nelson, 1817 Mason. Houses number from 1813 to 1821. No house or lot by 1817. Subject last voted in 1986.

Now let us shift to the city of Alexandria.

Ernest T. Davis, 4401 Rosa Street. Report: Rose Mae Ward has lived at 4402 for 20 years. She has never heard of Ernest Davis. 4401 is an empty lot. Subject last voted 1986.

Nancy McNeal, 203 Tulane.

Report: No such address. Tulane begins at intersection with Clinton Street in the 2100 block.

Subject last voted 1986.

Russell Moses, 1829 Wise Street. No lot or house at that address. The last house on that street is 1827 Wise. Subject last voted 1986.

Chester Pugh, 1402 Rapides Avenue.

Report: Observed well-grown-over vacant lot where 1400 block of Rapides was before land was cleared for interstate years ago. Subject last voted in 1986.

Barbara Smith, 3419 Elliott Street. Report: According to resident homeowner, Mr. Clarence Slack, he has lived at the above location since 1952 and never heard of any Smith.

Subject last voted in 1986.

Let me point out to my colleagues: Mr. Slack has been at this location for 34 years. And the person has been voting, claiming to live there, and he does not know who they are.

Josie Cowan, 4519 New York Avenue. Report: I-49 demolition, no houses at all for years. Subject last voted in 1986. In other words, in Louisiana we now match our earlier discovery in Indiana of an expressway being allowed to vote.

Now I serve, I might say, on the Surface Transportation Subcommittee. I believe in highways. I have helped finance highways. But it never occurred to me that a highway has a right to vote. But then I may be narrow-minded.

I will be glad to yield to my friend.

Mr. WALKER. I thank the gentleman for yielding because I think the gentleman does point out something which is very interesting. This has not been an isolated matter. The gentleman has pointed out that in Indiana we had an expressway that voted there. Now he has pointed out that in Louisiana an expressway voted. He pointed out in Indiana vacant lots were voting. He has pointed out in Louisiana that vacant lots are voting. We have added in Louisiana now that nonexistent addresses are voting. I think we also established that in Indiana they had nonexistent addresses, too, or was that Michigan? I guess it was Michigan.

Mr. GINGRICH. Michigan.

Mr. WALKER. Michigan then that had some nonexistent addresses that were on the voter rolls. I mean, we really are dealing with a pattern here, and one has to guess that if someone has lived in a place for 32 years and does not know the voters who are being identified are either nonexistent or perhaps a dead one there.

Mr. GINGRICH. Let me just close with two more examples and then summarize, I think, the major point.

Mr. WALKER. If the gentleman would yield, none of these vacant lots were cemeteries, were they? I mean, it has been a long tradition in machine politics to vote cemeteries. Have we voted a cemetery? They could be voting all kinds of people out of cemeteries.

□ 2100

Mr. GINGRICH. Historically, though, I might say to my friend, as I remember the history of the city machine in Chicago, they vote dead people but not cemeteries. That is they almost never cite the geographic address of the cemetery as the place that is voting. They cite the last residence of the dead person they are voting. But as a general rule, when you talk about voting graves, they are actually voting the individuals usually at their last place of residence.

Mr. WALKER. They do not want one of these investigators to go out and actually find the cemetery and look for the tombstone.

Mr. GINGRICH, They do not vote them quite that way.

Mr. WALKER. They think that that might be a real indication of fraud and they might not even be able to take that case into Federal court; is that what the gentleman is contending?

Mr. GINGRICH. I do not know, and it would be interesting under the Guiness Book of Records to see what is the record for the person who has voted most often after death or the person who voted the longest after dying. I am not sure Chicago holds that record, but Louisiana certainly seems to be in competition. Indiana has not entered into it.

But the point I think is that this is all real. This is not some made up partisan gimmick. What I am reading here is the Ballot Integrity Group's report on physically visiting locations.

Let me read two more and then I will summarize.

"Jane Powell, 1881 Harris Street. Investigator's report: George Smith, Jr. has lived here for 4 months. A neighbor three doors down gave this information: 'Sarah Green says that Jane Powell moved over ten (10) years ago.' Last voted 1986."

Finally, "Ossie M. Monk, 2219 Houston Street. Investigator's report: 'Florida Mini, Mildred Johnson, Reginald Johnson have lived here for 40 years. They do not know Ossie Monk.' Subject last voted 1986."

Now I think we have cited from Michigan, from the U.S. attorney in Illinois, from Indiana and from Louisiana enough cases that every American who cares about honest elections should have some concern, and that every one of our liberal Democrats who express such pious outrage about vote theft in the Philippines should recognize that vote theft in Louisiana, vote theft in Michigan, vote theft in Indiana, vote theft in Illinois are at least as great a danger to American freedom.

Furthermore, let me make three quick points. First, votes matter. The largest spending bill in the history of the world passed this House several weeks ago by one vote. And there is at least one seat in this House that, in my judgment, clearly would not be occupied with the Democrat who voted for that bill if dead people had not been voting.

Second, every American has the civil right to have their vote count honestly. If a living American who is legally registered walks down to vote and the local Democratic machines cancels their vote with a stolen vote, with a fraudulent vote or with the vote of a dead person, the civil right of that American to have an honest election and have their voice count is crushed. It is gone.

Third, there should be a bipartisan effort to clean up the voting rolls and to insist that in Federal elections we have honest rolls going into the election. There should not be people who moved away 10 years ago or 40 years ago. There should not be people for vacant lots. There should not be votes for expressways. There should not be votes for people who died.

Let me make one other comment, because I guess it was the most outrageous part of the Democrats' effort to cover up their vote theft and their machine politics.

No group in America is greater penalized by the machine using illegal votes than rising young blacks who want to live in an honest city, in an honest precinct, in an honest neighborhood. Those votes are not just voted against Republicans in the general election, as some of our Democratic friends seem to think. Those votes are voted by the machine in the primary against the local reformer. Those votes are voted in favor of the old hack who runs the country government or who runs the local judgeship or who runs the sheriff's office against

that young person who is out there trying to reform. It is blacks who are peculiarly affected because they tend to live in the inner cities where the machines are dominant, they tend to live in the rural parishes where the machines are dominant.

I think it is a very sad commentary when so-called liberal Democrats in this House prove that they are in fact machine Democrats because, instead of rising up as good liberals and saying. "Let's clean up the elections so that reform citizens who happen to be black can have a chance to vote," they rise up and say, "How dare you try to clean up those polls. How dare you try to clean off the expressway that voted last year, the vacant lot that voted, the dead person that voted."

I think it is an assault on those black voters who want honest elections when a Democrat claims that they are defending the right to steal in the name of civil rights. I think every American citizen has the civil right to have their vote counted honestly and to have it counted in an election where there is no illegal voting. I hope this Congress will adopt a law which requires a report on how much fraudulent voting there is in America, and I hope we will move to ensure that elections in America are at least as honest as elections in the Philippines, and that no precinct in America has dead people voting, expressways voting and vacant lots voting.

THE WILLIAM F. NICHOLS ROTC CENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, on Saturday, October 4, I had the opportunity to travel to Auburn, AL, to attend dedication ceremonies of the WILLIAM F. NICHOLS ROTC Center on the campus of Auburn University. Our colleagues EARL HUTTO of Florida, SONNY CALLAHAN of Alabama, and RICHARD RAY of Georgia were also there to join in this fine tribute to BILL NICHOLS.

The $1.9 million center will support the military ROTC programs of the Army, Navy, and Air Force at Auburn University. These programs have a fine tradition at Auburn. Each program ranks in the top 10 of its respective service nationwide.

An additional honor was the dedication of a portrait of BILL NICHOLS, which will hang in the lobby of the center.

BILL NICHOLS is a great American and this is a very fitting tribute for someone who has done so much here in the Congress to help strengthen our national defense. He is also very proud of his alma mater. I know what a thrill it was for BILL to have this great facility named in his honor and to see his portrait hanging in the center.

I want to share with my colleagues the remarks he made at the dedication ceremonies:

REMARKS OF BILL NICHOLS AT DEDICATION OF WILLIAM F. NICHOLS ROTC CENTER

Some weeks ago when vice chairman of the Auburn Board of Trustees, Henry Steagall, made the surprise announcement at the July Auburn board meeting that this new ROTC building would be named the William F. Nichols ROTC Center, I was ill prepared to respond. My response was simply that never in my wildest imagination when I came to Alabama Polytechnic Institute on a football scholarship and elected to continue ROTC beyond the required 2 years that if anyone had suggested that a half a century later this edifice would be named for me I would have said such person would be a fit candidate for Bryce hospital and to use an old country expression "He ough't to be bored for the hollow horn".

First, let me express my thanks to a number of people who made this important day in my life possible beginning with my colleagues on the Auburn Board of Trustees, who by resolution elected to name this newest Auburn facility in my honor.

Then I would certainly wish to thank those who, through their financial means, have made possible the portrait which will hang in the foyer of this building for some grandchild or great-grandchild perhaps one day to see.

Then to my colleagues in the Congress, Congressman SONNY MONTGOMERY from Mississippi who is a retired major general in the Mississippi National Guard; Congressman RICHARD RAY who ably represents the Columbus, Georgia area, my Alabama colleague SONNY CALLAHAN from Mobile and from the Pensacola-Panama City area of Florida Congressman EARL HUTTO.

And to those special friends who have come to be with me and my family on the significant occasion in our lives and who have had an important part in shaping my life over the years, my Sunday school teacher in the 8th grade, my banker who has suggested that I make it short so he can get to Legion Field by game time and to another friend whose name will go unmentioned who has reminded me he needs to get to a dove hunt in Mobile county by "the time they start flying".

And to friends who came out on a busy Saturday morning—my former teammates on the Auburn athletic field, a few classmates with whom I drilled in the ROTC unit on the old Bullard field—my roommate in college, Retired Colonel Marion Walker, who made the Army a career, all who make this a memorable occasion.

Then I would like to express my appreciation to another group—to those officers and non-commissioned officers who instilled in my generation those traits of duty, honor, country indelibly imprinted on the lives of those of us who were destined to command troops in World War II, in Korea and In Vietnam.

The lessons I learned from my military instructors have served me well during my service in the military and later in civilian life-lessons taught through the Auburn ROTC program, from men like Colonel Almquist whose son, Elmer, retired a year or so back as a major general and from Captains McKinnon, Jacoby and Kleppinger, who came back to make Auburn his home following his retirement and whose services I attended at Arlington just a few months ago and from Sergeants Fitzpatrick and Moxham in whose home on South Gay I roomed for 3 years while at Auburn.

It was my privilege to serve with Auburn men in combat during World War II—men like Major Ralph Jordan who served with distinction in a combat engineer unit in the South Pacific. Men like Captain Buddy McMahon who was killed in action from a direct hit on his tank in desert fighting in Africa. They were leaders that possessed the qualifications of leadership taught on Bullard Field where the quadrangle now stands and in summer camp near Upataw creek at Fort Benning where Auburn cadets trained on the old French 75 millimeter artillery pieces pulled by the lead, swing and wheel pair of horses—rather archaic by today's guided missile standards but I am persuaded that the lessons we learned carried over to what ever civilian professional we chose for a livelihood.

Auburn University has a long and proud association with the military going back to the formation of the Auburn guards, who passed in review before Confederate States' President Jefferson Davis at the Auburn railroad station on a cold day in February 1861. Eleven years later in 1872, Auburn students were required under the Land Grant Act to undergo military instruction and the cadets were required to buy their own uniforms at a cost of $43.00, a lot of money in those days. Church parade on Sunday was compulsory and cadets were marched to the church of their denomination.

In 1916 the Reserve Officer Training Corps was established and Auburn was one of the 37 land grant colleges in the United States where ROTC began. Two thousand Auburn alumni served in World War I and our honorary military society, Saber and Blade, was established during the World War II period.

The Auburn ROTC program has consistently produced the highest qualified officer graduates who have served not only as reserve officers but predominantly as regulars in our career officers corps. In the last four years Auburn's Army ROTC program has won more top national awards than any Army ROTC detachment in history.

And so, I accept this building on behalf of more than 6,500 officers who have received commissions through the Auburn military program.

I accept it with the acknowledgement of the 81 Auburn men who have pursued a military career to become general officers. Men like the Army's Lieutenant General Robert Bullard and Brigadier General Proter Grant and Major General Al Harrision. Men like the Marine Corps Lieutenant General Holland M. Smith and four-star General Franklin Hart. Navy Admiral, Henry S. Persons and the Air Force's Brigadier Generals Tom McGee, Joe Stewart, and Reed Doster.

And with grateful appreciation and on a note of sadness I accept this building in behalf of those Auburn men who paid the supreme sacrifice so that we Americans and countless other people throughout the world might escape the bonds of tyranny. It is these men and their counterparts to whom we shall always remain eternally grateful.

THE ISSUE OF THE TAX PLEDGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, over the last couple of weeks, a number of us have attempted to bring to the

American people the issue of the tax pledge. The issue of the tax pledge is important in this campaign year because it puts candidates and Congressmen on record as to where they stand on the issue of taxes in the 100th Congress.

Why is that important? Well, because numerous liberal leaders of this Congress have already stood up and said that what this country needs is a good tax increase. What we need to do is raise taxes on the American people to pay for overspending in Washington, that the only way that we can work our way out of our deficit problem in this country is to raise taxes, and that we intend to raise taxes, that everybody with any sense knows that what you have to do is raise taxes.

Out of that kind of statement has grown the feeling that we need to get candidates on record as to where they really stand on that issue. Are they in fact people who come to Washington as taxers, or are they people who will come to Washington with a pledge that they will not raise taxes in the next Congress.

The pledge is basically a fairly simple one. The pledge simply says that this particular candidate, if elected to Congress, or this particular Congress if reelected to Congress, will not vote to raise the individual tax rates that are presently embodied in the tax reform bill that passed this House just a few short weeks ago.

Those rates were 15 and 28 percent on individuals and 34 percent on corporations. The pledge essentially says that we are not going to raise those rates above those levels. It is basically a hold-the-line kind of pledge.

Along with that, we have thought that those people who want to come forward and tell the American people very honestly that they are willing to raise taxes ought to have a chance to take a pledge, too. So in that vein, we have offered not only the no tax pledge, but also the Walter Mondale truth in taxing pledge. That grows out of Walter Mondale's statement at the 1984 San Francisco convention that he was going to raise taxes, he told the American people he was going to raise taxes, and that was that.

Well, there are some people around here who are saying the same thing in essence, and we thought that they ought to be given the chance to take their particular pledge and define for the American people why taxes are good for the country.

I have been disappointed that some of those people who have talked in terms of higher taxes have not seen fit to come forward and actually sign the Mondale truth in taxing pledge. But I would say to my colleagues that opportunity is very much open to them, and we would certainly like to have them tell the American people where they stand on this issue if they would like to do so.

On the other hand, we have had considerable support garnered for the no tax pledge. At the present time, there are numerous Members of Congress who have signed on to this particular pledge. Other Members of Congress are specifically filling out a witness form and sending it in to the Americans for Tax Reform who are running an effort to get the pledge taken in as many congressional districts as possible.

In addition, the legislation that I have placed into the Congress asking that the tax pledge be taken by this Congress as it relates to the next Congress has garnered about 130 signatures at the present time.

□ 2110

So we are very close to having a veto-proof situation in the next Congress. In other words, we would have almost enough names right now on that resolution to assure that if all those people are returned to this Congress, the President who has taken the pledge could veto a tax increase bill in the next Congress and be assured that that veto would be sustained in the House of Representatives.

We are hoping that we will get sufficient signatures on that bill over the next several days that will give us that kind of vote strength situation in the upcoming Congress.

The pledge becomes an extremely important thing for voters who want to focus on how do you want your deficit resolved in this country? Do you want the deficits to be resolved by Washington cutting out wasteful spending or do you want your deficit to be resolved by people who would come down here and tax in order to reduce deficit levels? That particular item is something that has to be decided on a district-by-district basis. You cannot take the overall national viewpoint on these issues and hope that somehow it will get resolved in Washington.

Taxers, if they come to Washington, are going to vote for more taxes. People pledged to no new taxes are going to come to Washington and refuse to vote new taxes into place. The American people clearly have a chance to make that choice themselves as they walk into the voting booth. Their vote this year can be cast for people who are either going to raise taxes or people who are going to pledge not to raise taxes.

Mr. Speaker, I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for again holding this special order on the no-tax-increase pledge. I might comment in the Atlanta paper over the weekend I noticed that one of the distinguished gentlemen who is talked of as a potential Presidential condidate, Chuck Robb of Virginia, wrote an article or made a speech which was turned into an article in our paper in Atlanta in which he said that clearly we would have to raise taxes as part of his answer to balancing the budget.

I found it interesting that we now have three potential Democratic Presidential candidates, Senator HART, Representative GEPHARDT and former Governor Robb, all three of whom have now come out for tax increases as part of their solution to how they would solve the deficit. I think it reinforces the fact that this is not an idle discussion; that in fact on the Democratic side there is a very deep commitment to more tax increases and of taking more money out of the paycheck of working Americans as their solution to paying for the welfare state. I just think that it is a very serious thing for voters to consider as we look at our decisions in the near future; that they have to choose between a tax increase party and a party which is concerned about take-home pay.

Mr. WALKER. Since the gentleman has been on the floor during some of these discussions he will remember that we have had some of our Democratic colleagues come to the floor and make precisely those points; that they do think that the responsible kind of policy would be for a tax increase. They have not been willing to sign the Mondale truth-in-taxing pledge, but they have certainly come out and defended that point of view.

I noticed the other day, the gentleman was holding a special order that I was not able to come over for, but one of our colleagues came to the floor and suggested that he did in fact think that there might be a need for more taxes. In fact, when the gentleman used terms like the liberal welfare state and so on, that was regarded, I think he used the term that that was a perjorative phrase for the gentleman to use because he was making the very clear point that if in fact you take the stand that so many of our friends on the left do, that the liberal welfare state is basically good for the country, then you also have to come down to the idea that they have got to figure out a way now with the American people worried about deficits to pay for it, and that the solution that they have arrived at is to pay for it with more taxes rather than to pay for the problems by cutting out a lot of the wasteful spending and thereby reducing the problems. They do not see Government and Government waste as the problem; they see it as a part of the solution. Therefore, they go for taxes.

I think most of us feel that in creating a conservative opportunity society that what we want to do is reduce the size of Government. We want to focus

on the problems that are within government and resolve those problems rather than raising taxes on the American people.

Mr. GINGRICH. If the gentleman will yield, the thing that I find fascinating, and you will remember that in 1984 we had Senator HART running as a "new ideas" candidate, then we had Walter Mondale asking "Where's the beef"; from that point on it turned it was a new ideas slogan but with not necessarily a whole lot of new ideas.

Governor Robb repeated what I think is the most common fallacy of the modern left in that he said, "Obviously we have to both cut spending and raise taxes." I want to suggest that in fact the answer is not just cutting spending. It is not let us have 6 percent less food stamps or let us have 4 percent less health care.

The answer is, as we have been trying to do with the conservative opportunity society group and in working with the Reagan administration, to develop a new generation of ideas. I commented earlier in a very important special order that was to discuss Congressman BILL WHITEHURST and his contribution to this Congress in his career here, that BILL WHITEHURST helped found the Military Reform Caucus. The Military Reform Caucus has been trying to pass reforms. We have passed at least two so far that get us better government, not just more government or less government.

I think what most Americans want is they want better Government. I think that it is a mistake for as many very significant and very smart Democrats as I see it, and these are smart people; these are not dumb people, but they are trapped into a liberal welfare state mentality where they can only think of more and less. So they say let us have more taxes and let us have less spending, which of course is double pain.

What they are going to say is we are going to raise taxes on your children, if you are a senior citizen, so they are not going to have as much take-home pay, and, by the way, we are also less health care so you are not going to be able to stay in the hospital so you are going to have to stay with your children who now have less to spend because we just raised taxes on them. So you increase the level of pain.

Mr. WALKER. Because they are not willing to confront the constituencies out across the country with the need to reform the program so that you can in fact have better health care and have better defense and have better programs aimed at a wide variety of interests in the country through reform.

Mr. GINGRICH. I think that is right and there are two reasons. One is that psychologically and mentally and maybe politically, an awful lot of the leading Democrats of our generation are trapped inside the liberal welfare state and its political alliances. So it is very difficult for them to step outside. I think this is what happens when you have been in the majority for 60 years and you have created the modern liberal welfare state government. I think it is very hard at that point to get outside it and rethink it.

Second, it is almost as though they have a mantra, a chant, and their chant is "Cut spending; raise taxes. Cut spending; raise taxes." They now think that somehow the deficit dragon will disappear if all of the Democrats form in a circle and chant "Cut spending; raise taxes."

That is not the way the world works. It seems to me that what you have got to do is instead invent new programs that work better. I will give the gentleman an example. Last year I had the opportunity, with his help, to offer the Workfare Program that President Reagan had sent to Congress. Now workfare is not more food stamps or less food stamps. It is not more welfare or less welfare. Workfare is a fundamentally different approach that says if you are an able-bodied adult under the age of retirement and you are going to get money from the Government, you ought to work for it. It is the most widely desired reform in this country. If you ask the average person, "What would you like to see change in Washington, DC?" And it failed. It failed because liberal Democrats who are now courageously talking about cutting spending could not bring themselves to try the experiment of approaching the welfare culture in a new way and passing workfare.

Mr. WALKER. I think we ought to point out, if I remember the gentleman's amendment correctly, he was not proposing a massive change of the system all of a sudden; he was proposing essentially an experiment to see whether or not workfare would prove to be the kind of concept that we ought to put into a broader based context. Is that not correct?

Mr. GINGRICH. I think that is exactly right. What we were saying, unequivocably, is that we were in a situation where, as Charles Murray and others have proven, and Charles Murry in his seminal work "Losing Ground," the study of the Welfare system," that the welfare culture as we have developed it is not working; it is not getting the job done. We now have a country where many working mothers get up in the morning and go to work to pay the taxes so other mothers who are on welfare do not go to work. There is something wrong with that whole system.

Furthermore, where those mothers who are not working are themselves and their children are learning, wait around and the Federal Government will send you a check. Now, that is destructive of the whole fabric of life.

The point I was making was that workfare provides labor for the community in return for money for that person. So we have a double victory. The person who has been on welfare learns to work and the community gets the services of that human being as they learn to work.

□ 2120

Mr. WALKER. What you are saying is that the conservative opportunity believes there is an intrinsic value in work that goes far beyond the system itself, that what you have in work is something that cannot be measured in its ability to benefit the individual.

What we have lost in the welfare system is we have lost whole generations of people who, because of their reliance on welfare, have lost all sense of hope and self dignity.

Mr. GINGRICH. That is right. The point I would make, as it relates to our no tax increase budget, is just this: Any liberal Democrat who believes that you have to raise taxes should be required first to stand up and explain why raising taxes on the take-home pay of working Americans is better than the experiment of workfare. Why would they vote to kill workfare and then raise taxes on working Americans?

Mr. WALKER. Let me give the gentleman another example. We have several attempts that have been made on the floor to do something about the Davis/Bacon Act. Davis/Bacon is one of those things that has been buried into the liberal welfare state philosophy that benefits a handful of people across the country, but it benefits them in a very, very meaningful fashion. What it means is that as we build construction projects for the Federal Government, we charge a premium price by paying the highest possible labor costs for those construction projects.

Many people, looking at how you can reform the Government and lower expenses, will point out that we can build exactly the same number of projects; we can build exactly the same number of buildings that we would otherwise put in place, not lose one job; not lose one building and so on, and save $2.5 billion by simply eliminating the Davis/Bacon provisions that pay the highest possible wage costs.

It seems to me that that is something that is logical, rather than raising taxes on the American people to end the special privilege of Davis/Bacon that costs the Federal Government $2.5 billion a year.

Most people would say, OK, if you can get the same amount of work done for less cost, we ought to go that direction, rather than raising my taxes.

Yet, when that issue is brought to the floor, invariably liberal Democrats vote to reject Davis/Bacon reform.

Mr. GINGRICH. Let me make two points here. One, because big numbers often confuse all of us, and 2½ billion is a big number, what the gentleman is saying is that every American is paying $10 this year for the waste built into Davis/Bacon.

Mr. WALKER. The gentleman is correct.

Mr. GINGRICH. A family of four is paying $40 this year for the waste built into Davis/Bacon.

Mr. WALKER. The gentleman is correct.

Mr. GINGRICH. Our liberal friends who yell about waste in the Pentagon, which is the single biggest construction center in the United States, are unwilling to recognize that I think about $1 billion of waste in the Pentagon is Davis/Bacon.

Mr. WALKER. The gentleman is correct.

Mr. GINGRICH. So my challenge to our friends who believe in the liberal welfare state is very simple: If you are currently taking $40 from a family of four to waste it on Davis/Bacon every year, are we not better to vote for the experiment of not having Davis/Bacon, rather than to raise taxes $40 so we can keep wasting it?

That is the major difference, I think, between what is beginning to be the take-home pay family budget Republican party and the tax-increase, liberal welfare state Federal budget Democratic party.

We are saying, let us change the Federal budget and let us change Washington. Let us save the $40 in Washington so you can spend it back home on your family, and the liberal Democrats are saying, oh, no, you cannot do that. What you have to do is let us take the $40 away from the American people so we liberal Democrats can spend it through the Federal Government.

Mr. WALKER. Mr. Speaker, the gentleman is correct and the gentleman has mentioned the military.

It struck me the other day on the floor that we had a lot of our liberal Democratic friends who often talk to us about the need to cut defense spending. That seems to be the one area that they are willing to do something about. We are out here voting for a training plane that the Pentagon did not want. I mean, one of the things that we have got to do is we have got to exercise the kind of self-discipline and we have got to stop the pork-barrel policies that, in fact, allow us to decide that there are certain amounts of spending in areas like the Pentagon that we are willing to force upon them whether they want it or not.

That one struck me as being particularly interesting at a time when we hear so much talk about cutting defense spending. Here was an airplane that the Pentagon said they did not want, and we in the House of Representatives said, you are going to take it anyway. We are going to jam it down your throats and you have got to do this airplane.

There were all kinds of arguments made out here as to the reason why that might be a good thing to do. That is fine, except then you have an obligation not to turn around and suggest that the Pentagon is the irresponsible element, because it seems to me that the Congress at that point has defined itself as the spender in that particular area.

We cannot continue to go on telling the Pentagon that they have to keep bases open because there is political pork-barrel involved; they have to build projects because there is political pork-barrel involved; that they have to site ships in certain ways because there is political pork-barrel involved; they have to build certain projects because there is political pork-barrel involved; they have to buy from certain contractors because there is political pork-barrel involved; they have to move families when they are moving to Hawaii and Alaska and other places on particular high-priced moving companies because there is political pork-barrel involved.

You cannot go on defending all of those things and then say, oh, yes, we have got to cut waste in the Pentagon.

That is the problem here, and it is one of the things that I think we have to address right up front in this House of Representatives.

But those are the reforms that the liberal welfare State Democrats have been unwilling to talk about and, therefore, have been unwilling to make the kinds of meaningful cuts in spending that allow us to reduce the deficit.

Mr. GINGRICH. Let me carry it just one stage further and just say that as long as we have those kinds of congressionally imposed wastes, it seems to me that the American people should demand of Congressmen that they clean up Washington before we require families to change their plans to pay higher taxes.

There is a very profound reason I say this. We have an economy which, for the last 47 months, has been remarkably good overall. We have problems in farming; we have problems in the oil industry, but outside of those 2 industries, we have really had a remarkable period of relative job creation: 11.5 million jobs, the most successful job creation anywhere in the world in the last 4 years.

If we were to do, as our liberal Democratic friends ask, and raise taxes; if we were to follow the lead of three of their Presidential candidates and raise taxes, I think it would have a severely negative effect on the economy.

I think it would tip us in 1987 and 1988 into a recession. One of our concerns has to be the choice between jobs and growth on the one hand, versus recession and unemployment on the other hand.

We, as you will remember, because you and I served in that Congress, we served under the last liberal Democratic President. That President gave us higher taxes; 22-percent interest rates; 13-percent inflation; an economy that was collapsing; unemployment that was skyrocketing, and when Ronald Reagan took over in 1981, this country was a disaster.

December of 1980, just before the Reagan administration took over, we peaked at 22 percent interest rates. The dollar was actually so bad at one point in 1980, declining so rapidly because of inflation, that Italian hotels would not accept greenbacks.

We have spent 6 long years working to bring this country back to health. We still have problems in the Midwest and we still have problems in agriculture. We still have problems in south Georgia, partly drought and partly the whole general problem of agriculture.

We also have problems in the oil patch, but the fact is that overall, and even in those areas, we are so much better than we were in 1980 that the question is, How do we move forward?

My fear is that if Members of Congress get reelected without signing the no-tax-increase pledge, that in 1987, the liberal Democrats will be very tempted to rush back to an effort to reestablish the liberal welfare state, to raise taxes, to have the American people have less money, and in the process, as they raise those taxes, as three of the Democratic Presidential candidates have already suggested, I think they will guarantee a recession, and as a result, we have a great deal more pain in the United States and a great number of more people out of work.

Let me, if I might, just make one last comment. This ends up being ultimately a question of choice. If we fight for the no-tax-increase pledge; if we establish the principle that the new tax rates of 15 and 28 percent for individuals and 34 percent for corporations are permanent, then we leave more money back home.

That means individuals have greater choices; that means cities and counties have greater choices; that means States have greater choices because they can decide, do we want to raise our own taxes locally to build libraries and to build hospitals and to do the things we want to do or do we want to leave money in our local government?

□ 2130

If we in Washington pre-empt that decision by raising taxes so that nobody has any choice below us, nobody out there in the country has any choice, the money goes to Washington, it never gets home for take-home pay, then we are in effect taking power away from individuals. We are taking power away from families and neighborhoods. We are taking power away from all the voluntary institutions people give money to and we are taking power away from State and local governments and we are bringing that power to Washington because we will have the money and it will be up to the bureaucracy in Washington to decide.

For all those reasons, I hope every Member will sign the no tax increase pledge and I hope every voter will ask between now and election day whether or not the candidates in their districts have signed the no-tax increase pledge.

Mr. WALKER. Mr. Speaker, let me take this opportunity to encourage our colleagues as they come to the floor tomorrow to do just that, to see me on the floor and we will see to it that you get your name on the no-tax increase pledge, that this is your opportunity to do it before Congress closes up. We certainly hope that our colleagues will join us.

Those who want to join Walter Mondale in the "Truth in Taxing Pledge," we will also tell you how you can do that. We would be very happy to have a few people who would come forward and say that is their plan for the American people to sign that particular document.

Particularly I would encourage colleagues tomorrow as they come to the floor to sign the no-tax increase pledge.

Let me, though, just for our colleagues' edification indicate who has signed the no-tax pledge on the card here on the floor. As I indicated earlier, there are some other people who have signed the no-tax increase pledge in the form that has gone to Americans for tax reform and also 130 people who have cosponsored the legislation that I have introduced.

The people who have signed the no-tax increase pledge here on the floor are:

DUNCAN HUNTER of California; CONNIE MACK of Florida; myself from Pennsylvania; TOM DELAY of Texas; NEWT GINGRICH of Georgia; LARRY CRAIG of Idaho; BOB MCEWEN of Ohio; MIKE STRANG of Colorado; GERALD SOLOMON of New York; JOE BARTON of Texas; PHIL CRANE of Illinois; BILL DANNEMEYER of California; DON SUNDQUIST of Tennessee; JIM SENSENBRENNER of Wisconsin; BILL SCHUETTE of Michigan; BOB DORNAN of California; JOHN PORTER of Illinois; DEAN GALLO of New Jersey; DAVE MONSON of Utah; DAN COATS of Indiana; VIN WEBER of Minnesota; BOB LAGOMARSINO of California; LARRY HOPKINS of Kentucky; DAN DANIEL of Virginia; JIM KOLBE of Arizona; HANK BROWN of Colorado; BOB STUMP of Arizona; TRENT LOTT of Mississippi; PAT SWINDALL of Georgia; STAN PARRIS of Virginia; LARRY COMBEST of Texas; DICK ARMEY of Texas; BOB SMITH of New Hampshire; DAVE DREIER of California; TOMMY ROBINSON of Arkansas; RON PACKARD of California; JOHN DUNCAN of Tennessee; DAN BURTON of Indiana; LYNN MARTIN of Illinois; HOWARD NIELSON of Utah; and HOWARD COBLE of North Carolina—a group of people that is both bipartisan and has spread geographically all across the country, that come from various differing kinds of districts, all of whom feel strongly that the family budget should be the first priority of Congress and that the Federal budget ought to be solved by reforming in Washington, not by taxing the American working family out of existence.

So I would ask again for my colleagues to come to the floor tomorrow, sign the no-tax increase pledge, be a part of the growing movement across this country that says no new taxes.

CONFERENCE REPORT ON S. 2638

Mr. ASPIN submitted the following conference report and statement on the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.

CONFERENCE REPORT (H. REPT. 99-100)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1987".

SEC. 2. ORGANIZATION

This Act is divided into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

(4) Division D—Child Nutrition Programs.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Department of Defense Authorization Act, 1987".

(b) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 100. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Reserve components.
Sec. 106. Extension of authority provided the Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program.
Sec. 107. Multiyear contracts for fiscal year 1987.
Sec. 108. Air Force fighter competition.

PART B—ARMY PROGRAM LIMITATIONS

Sec. 121. Testing of Bradley Fighting Vehicle.
Sec. 122. Other limitations on Army procurement.

PART C—NAVY PROGRAM LIMITATIONS

Sec. 131. DDG-51 destroyer program.
Sec. 132. Basic Point Defense Missile System on amphibious vessels.
Sec. 133. Rolling Airframe Missile Program.

PART D—AIR FORCE PROGRAM LIMITATIONS

Sec. 141. Advanced Technology Bomber.
Sec. 142. Prohibition on using funds authorized for the Advanced Technology Bomber and the Advanced Cruise Missile programs for any other purpose and limitation on the B-1B bomber fleet to 100 aircraft.
Sec. 143. C-17 Aircraft Program.
Sec. 144. Advanced Medium-Ranged Air-to-Air Missile Program.
Sec. 145. T-46 Aircraft Program.

PART E—CHEMICAL WEAPONS

Sec. 151. Authorization of appropriations for chemical demilitarization program.
Sec. 152. Limitation on the expenditure of funds for the BIGEYE binary chemical bomb.
Sec. 153. Chemical weapons, agents, or components at Lexington-Bluegrass Depot.
Sec. 154. Report on chemical weapons demilitarization program.

Sec. 155. Technical amendment to Public Law 99-145 relating to binary chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Limitation on Copperhead Guided Projectile.
Sec. 203. Limitations on funds for the Navy.
Sec. 204. Limitations on funds for the Air Force.
Sec. 205. Limitation on funds for Defense Agencies.
Sec. 206. Other limitations.
Sec. 207. Advanced Anti-Armor Weapon System.
Sec. 208. Electronic Warfare Master Plan.
Sec. 209. Limitation on testing electromagnetic pulse.

PART B—STRATEGIC DEFENSE INITIATIVE

Sec. 211. Fiscal year 1987 funding level for Strategic Defense Initiative.
Sec. 212. Tactical ballistic missile defense.
Sec. 213. Limitation on establishment of a federally funded research and development center for the Strategic Defense Initative Program.
Sec. 214. Report on projected costs of SDI program.
Sec. 215. Report on Strategic Defense Initiative deployment schedule.
Sec. 216. Effect of Strategic Defense Initiative on compliance with the Anti-Ballistic Missile Treaty.
Sec. 217. Report on the Anti-Ballistic Missile Treaty.

PART C—BALANCED TECHNOLOGY INITIATIVE

Sec. 221. Conventional Defense Initiative.
Sec. 222. Balanced Technology Initiative.

PART D—MISCELLANEOUS

Sec. 231. Limitation on testing of anti-satellite weapons.
Sec. 232. ICBM modernization.
Sec. 233. Restriction on use of research and development funds for grants to educational institutions.
Sec. 234. Coordination of research activities of Department of Defense.
Sec. 235. Cooperative medical research with the Veterans' Administration.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Authorization of appropriations for assistance to Pan American Games.
Sec. 304. Transportation of livestock feed.
Sec. 305. Authority for payments to NASA for space shuttle services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

Sec. 311. Contract personnel to be included in budget justification.
Sec. 312. Procurement of certain bakery and dairy products outside the United States.
Sec. 313. Functions of military commissaries; purchase of alcoholic beverages by nonappropriated fund instrumentalities.
Sec. 314. Authority for Secretary of Defense to accept gifts for the defense dependents' education system.
Sec. 315. Renovation of facilities.
Sec. 316. Prohibition of purchase of petroleum products from companies producing oil in Angola.
Sec. 317. Prohibition of contracts for the performance of certain Army ammunition activities.
Sec. 318. National Board for the Promotion of Rifle Practice.
Sec. 319. Prohibition on joint use of Gray Army Airfield with civil aviation.
Sec. 320. Report on proposed regulations relating to movement of household goods and cargo.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

Sec. 331. Extension of authorization for humanitarian assistance.
Sec. 332. Extension of authority of Secretary of Defense to transport humanitarian relief supplies to certain countries.
Sec. 333. Humanitarian and civic assistance provided in conjunction with military operations.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Extension of quality control on enlistments into the Army.
Sec. 403. Strength of active duty officer corps.

PART B—RESERVE FORCES

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserve components.
Sec. 413. Accounting for certain authorized reserve component members.

PART C—MILITARY TRAINING

Sec. 421. Military training student loads.

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

Sec. 501. Assignment of active-duty members outside the United States.
Sec. 502. Service of members on State and local juries.
Sec. 503. Extension of expiring authority for spot promotions of Navy lieutenants.
Sec. 504. Repeal of requirement regarding enlistment of women in the Air Force during fiscal year 1987.
Sec. 505. Authority to exempt physicians at Uniformed Services University of the Health Sciences from reductions in retired pay.
Sec. 506. Treatment of excess leave upon reenlistment
Sec. 507. Termination of gender-based distrinctions in promotions of officers of the Naval Reserve and Marine Corps Reserve.
Sec. 508. Senate confirmation of certain general and flag officer positions.
Sec. 509. Position of Staff Judge Advocate to the Commandant of the Marine Corps.
Sec. 510. Technical correction relating to personnel administration at Air Force Institute of Technology.
Sec. 511. Temporary increase in the number of general and flag officers authorized to be on active duty in three- and four-star grades.
Sec. 512. Study on staffing of critical wartime medical specialities.
Sec. 513. Study of representation of religious faiths in the Armed Forces.

PART B—RESERVE FORCES

Sec. 521. Increased Presidential authority to augment active forces with the Selected Reserve.
Sec. 522. Active duty of National Guard.
Sec. 523. Treatment of single parents enlisting in Reserve components of the Armed Forces.
Sec. 524. Active-duty status of reserve component members in a captive status.

PART C—CIVILIAN PERSONNEL

Sec. 531. Waiver of civilian personnel ceilings for fiscal year 1987.
Sec. 532. Prohibition on managing civilian personnel by end-strengths during fiscal year 1987.
Sec. 533. Prohibition on controlling personnel not funded by Government.
Sec. 534. Reduction in number of years person must be off active duty before appointment as Service Secretary.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

Sec. 601. Military pay raise for fiscal year 1987.
Sec. 602. Authority to pay ROTC members in advance for field training.
Sec. 603. Reimbursement for accomodations in place of quarters.
Sec. 604. Pay, allowances, and benefits for members of the reserve components.

PART B—TRAVEL AND TRANSPORTATION

Sec. 611. Transportation of motor vehicles for members making permanent changes of station.
Sec. 612. Coordination of permanent change of station moves with school year.
Sec. 613. Authorization limit on funds for PCS travel.
Sec. 614. Reimbursement for actual lodging expenses plus per diem for members entitled to travel allowances.
Sec. 615. Transportation and travel allowances for escorts for certain dependents.
Sec. 616. Travel expenses for overseas dependents requiring medical care in certain circumstances.
Sec. 617. Per diem for dependents receiving transportation allowance.
Sec. 618. Modification of family separation allowance.
Sec. 619. Improved dislocation allowance.
Sec. 620. Transportation and storage of household goods.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

Sec. 631. Enhanced aviation officer continuation pay.
Sec. 632. Inclusion of aviation cadets under aviation career incentive pay.
Sec. 633. Special authority relating to the payment of Selected Reserve enlistment bonus.

Sec. 634. Special pay for members proficient in foreign languages.

PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

Sec. 641. Court-ordered survivor annuities for former spouses.
Sec. 642. Annuity for a dependent child.
Sec. 643. Age at which remarriage terminates spouse survivor benefit.
Sec. 644. Revision of definition of disposable retired pay for purposes of court orders.
Sec. 645. Revision of open period to elect former spouse and child coverage.
Sec. 646. Extension of medical benefits for certain former spouses.

PART E—MISCELLANEOUS BENEFITS

Sec. 651. Tuition assistance for Army reserve component officers.
Sec. 652. Benefits for dependents of certain sentenced, discharged, or dismissed members.
Sec. 653. Improved employment opportunities for military spouses.
Sec. 654. Retirement credit for certain former National Guard technicians.
Sec. 655. Meal reimbursement for nonprofit youth groups residing at military installations.
Sec. 656. Limited use of commissary stores by members of the Selected Reserve.

PART F—ADMINISTRATION OF PERSONNEL BENEFITS

Sec. 661. Enhanced method for determining true costs of military retirement.
Sec. 662. Authority to pay bank charges in the event of Government error in mandatory direct deposit of members' pay.
Sec. 663. Cost reductions for fiscal year 1987.

TITLE VII—HEALTH-CARE MANAGEMENT REFORM

Sec. 701. Improvement of military healthcare delivery system.
Sec. 702. CHAMPUS reform initiative.
Sec. 703. CHAMPUS catchment areas.
Sec. 704. Medical information systems acquisition.
Sec. 705. Confidentiality of medical quality assurance records.
Sec. 706. Use of Public Health Service hospitals as facilities of the uniformed services.
Sec. 707. Limitation on dental insurance program.

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

Sec. 801. Short title; references to Uniform Code of Military Justice.
Sec. 802. Defense of lack of mental responsibility.
Sec. 803. Application for enlisted members to serve on court-martial.
Sec. 804. Court-martial jurisdiction over Reserve members.
Sec. 805. Statute of limitations.
Sec. 806. Time for defense post-trial submissions.
Sec. 807. Detail of judge advocates.
Sec. 808. Effective date.

TITLE IX—PROCUREMENT POLICY REFORM

Sec. 900. Short title.

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

Sec. 901. Duties and precedence of Under Secretary of Defense for Acquisition.
Sec. 902. Establishment of position of Deputy Under Secretary of Defense for Acquisition.
Sec. 903. Other senior civilian acquisition officials.
Sec. 904. Enhanced program stability for major defense acquisition programs.
Sec. 905. Defense enterprise programs.
Sec. 906. Milestone authorization of defense enterprise programs.
Sec. 907. Preference for nondevelopmental items.
Sec. 908. Requirements relating to undefinitized contractual actions.
Sec. 909. Competitive prototype strategy requirement for major defense acquisition programs.
Sec. 910. Testing of certain weapon systems and munitions.
Sec. 911. Goals for increased use of multiyear contracting authority in fiscal year 1988.
Sec. 912. Federally funded research and development centers.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

Sec. 921. Small business set-asides.
Sec. 922. Thresholds for certain requirements relating to small purchases.
Sec. 923. Requirements relating to procedures other than competitive procedures.
Sec. 924. Evaluation factors in award of contracts.
Sec. 925. Computation of contract bid prices.
Sec. 926. Prices for spare or repair parts sold commercially.
Sec. 927. Allocation of overhead to parts to which contractor has added little value.
Sec. 928. Clarification of requirements to mark supplies to identify suppliers and sources.

PART C—PROCUREMENT PERSONNEL POLICY

Sec. 931. Conflict-of-interest in defense procurement.
Sec. 932. Plan for enhancement of professionalism of acquisition personnel.
Sec. 933. Educational requirements for acquisition personnel.
Sec. 934. Plan for coordination of defense acquisition educational programs.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

Sec. 941. Codification and extension of prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.
Sec. 942. Protection of contractor employees from reprisal for disclosure of certain information.
Sec. 943. Revision of work measurement provisions.

PART E—MISCELLANEOUS

Sec. 951. Contracting with firms owned or controlled by governments that support terrorism.
Sec. 952. Truth-in-Negotiations Act Amendments.
Sec. 953. Rights in technical data.
Sec. 954. Recovery of costs to provide technical data.
Sec. 955. Comparable budgeting for similar systems.
Sec. 956. Funding of procurement technical assistance programs serving distressed areas.
Sec. 957. Subcontractor information to be provided to procurement outreach centers.

PART F—MISCELLANEOUS REPORTS

Sec. 961. Selected Acquisition Reports.
Sec. 962. Report on efforts to increase defense contract awards to Indian-owned businesses.
Sec. 963. Report on increased geographic distribution on defense contractors.

TITLE X—MATTERS RELATING TO ARMS CONTROL

Sec. 1001. Sense of the Congress relating to SALT II compliance.
Sec. 1002. Sense of the Congress on nuclear testing.
Sec. 1003. Report by the Chairman of the Joint Chiefs of Staff on United States non-compliance with existing strategic offensive arms agreements.
Sec. 1004. Sense of Congress expressing support for a central role for nuclear risk reduction centers.

TITLE XI—MATTERS RELATING TO NATO

Sec. 1101. Modernization of defense capabilities of countries of NATO's southern flank.
Sec. 1102. NATO cooperative logistic support agreements.
Sec. 1103. Cooperative projects.
Sec. 1104. Acquisition and cross-servicing agreements.
Sec. 1105. Cooperative research and development with non-NATO allies and other friendly countries.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

Sec. 1201. Contracts for overhaul, repair, and maintenance of naval vessels.
Sec. 1202. Handling of hazardous waste generated during repair or maintenance of naval vessels.
Sec. 1203. Limitation on transfer of certain technical data packages.
Sec. 1204. Requirements concerning transportation of members of the Armed Forces by chartered aircraft.
Sec. 1205. Fuel sources for heating systems on military installations.
Sec. 1206. Review of the security administration in defense industry of Department of Defense special access programs.
Sec. 1207. Contract set-aside requirements.
Sec. 1208. Manpower estimates for major defense acquisition programs.

PART B—ECONOMY AND EFFICIENCY

Sec. 1221. Increase in threshold applicable to statutory contracting-out procedures.

Sec. 1222. Prohibition on contracts for performance of firefighting and security functions.
Sec. 1223. Contracting out the performance of Department of Defense supply and service functions.
Sec. 1224. Reports on savings or costs from increased use of civilian personnel.

TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

Sec. 1301. Transfer authority.
Sec. 1302. Authorization of appropriations for civilian pay and contingencies.
Sec. 1303. Authorization of appropriations for foreign currency purchases.
Sec. 1304. Special Defense Acquisition Fund.
Sec. 1305. Limitation on obligation of fiscal year 1985 and fiscal year 1986 funds.
Sec. 1306. Applicability of limitations on fiscal year 1987 obligations.
Sec. 1307. Reports on unobligated balances.
Sec. 1308. Report on defense budgeting and contract procedures for inflation.
Sec. 1309. Debt collection.
Sec. 1310. Contingent reduction of authorization of appropriations.

PART B—SPECIAL OPERATIONS MATTERS

Sec. 1311. Special operations forces.
Sec. 1312. Special operations airlift.

PART C—AUTHORIZATION OF PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

Sec. 1321. Authority to pay expenses of developing countries for participation in combined military exercises.
Sec. 1322. Authority to pay certain expenses of defense personnel of foreign countries.

PART D—MISCELLANEOUS REPORTS

Sec. 1331. Army National Guard reporting.
Sec. 1332. Submarine overhaul study.
Sec. 1333. Report on landing area for AV-8B Harrier aircraft on Iowa-class battleship.
Sec. 1334. Report on cleanup of National Presto Industries.

PART E—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 1341. Technical correction to Department of Defense Authorization Act, 1985.
Sec. 1342. Technical corrections to provisions enacted by Department of Defense Authorization Act, 1986.
Sec. 1343. Clerical amendments.

PART F—MISCELLANEOUS

Sec. 1351. Limitation on source of funds for Nicaraguan democratic resistance.
Sec. 1352. Budget accounting for new space shuttle.
Sec. 1353. Prompt reporting of intelligence on terrorist threats.
Sec. 1354. Use of marine mammals for national defense purposes.
Sec. 1355. Reimbursement for incidental expenses incurred while providing voluntary services.
Sec. 1356. Defense of legal malpractice suits.
Sec. 1357. Off-post rental housing lease indemnity pilot program.
Sec. 1358. Wage rate for certain Corps of Engineers employees.
Sec. 1359. Reimbursement for transferred defense industrial reserve equipment.
Sec. 1360. Extension of exemption for DOD polygraph test.
Sec. 1361. Identification of facilities for the detention of certain aliens.
Sec. 1362. Correctional facilities at Fort Riley, Kansas.
Sec. 1363. Minuteman Education Program.
Sec. 1364. Foreign espionage activities in the United States.
Sec. 1365. Civil Air Patrol.
Sec. 1366. Amendment of Military Selective Service Act to provide eligibility for benefits to certain persons who fail to register.
Sec. 1367. Correction of effects of contamination at Rocky Mountain Arsenal.
Sec. 1368. Sense of Congress regarding the death of Lieutenant Colonel Arthur D. Nicholson, Junior.
Sec. 1369. Deadline for appointment of members of Commission on Merchant Marine and Defense.
Sec. 1370. Availability of nuclear non-proliferation information to Department of Defense.
Sec. 1371. Nuclear winter study and report.
Sec. 1372. Sale of two naval vessels.
Sec. 1373. Drug interdiction.
Sec. 1374. Grants to the Henry M. Jackson Foundation.

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.
Sec. 1404. Establishment of the Barry Goldwater Scholarship and Excellence in Education Foundation.
Sec. 1405. Barry Goldwater Scholarship and Excellence in Education Awards.
Sec. 1406. Stipends.
Sec. 1407. Scholarship conditions.
Sec. 1408. Barry Goldwater Scholarship and Excellence in Education Fund.
Sec. 1409. Expenditures from the Fund.
Sec. 1410. Executive secretary.
Sec. 1411. Administrative provisions.
Sec. 1412. Authorization of appropriations.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Army as follows:
(1) For aircraft, $2,725,500,000.
(2) For missiles, $2,150,900,000.
(3) For weapons and tracked combat vehicles, $3,888,100,000.
(4) For ammunition, $2,126,100,000.
(5) For other procurement, $5,112,753,000, of which—
(A) $787,200,000 is for tactical and support vehicles;
(B) $3,083,953,000 is for communications and electronics equipment; and
(C) $1,355,500,000 is for other support equipment.
(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Army for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a).

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy for fiscal year 1987 in the amount of $9,828,069,000.
(2) The maximum amount that may be obligated for procurement of aircraft for the Navy for fiscal year 1987 is the amount authorized to be appropriated under paragraph (1).
(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 in the total amount of $5,449,968,000 for procurement of weapons (including missiles and torpedoes) for the Navy.
(2) Funds appropriated or otherwise made available for procurement of weapons (including missiles and torpedoes) for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:
(A) For missile programs, $4,587,563,000.
(B) For torpedo programs:
For the MK-48 torpedo program, $254,770,000.
For the MK-46 torpedo program, $97,861,000.
For the MK-60 CAPTOR mine program, $30,000,000.
For the MK-50 torpedo program, $94,937,000.
For the antisubmarine rocket (ASROC) program, $13,597,000.
For the vertical Launched ASROC program, $74,289,000.
For the modification of torpedoes and related equipment, $97,705,000.
For the torpedo support equipment program, $32,496,000.
For the antisubmarine warfare range support program, $20,114,000.
(C) For other weapons:
For the MK-15 close-in weapon system program, $105,606,000.
For the MK-75 76-millimeter gun mount program, $14,875,000.
For other weapons programs, $72,721,000.
(D) For spares and repair parts, $150,734,000.
(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for shipbuilding and conversion for the Navy in the total amount of $10,607,100,000.
(2) Funds appropriated or otherwise made available for shipbuilding and conversion for fiscal year 1987 may not be obligated in excess of the following amounts:
For the Trident submarine program, $1,446,400,000.
For the SSN-688 nuclear attack submarine program, $2,250,800,000.
For the SSN-21 nuclear attack submarine program, $454,300,000.
For the aircraft carrier service life extension program (SLEP), $83,500,000.
For the CG-47 Aegis cruiser program, $2,725,600,000.
For the DDG-51 guided missile destroyer program, $2,470,100,000.
For the LHD-1 amphibious assault ship program, $35,000,000.
For the TAO-187 fleet oiler program, $259,000,000.
For the TAGOS ocean surveillance ship program, $148,100,000.
For the AOE fast combat support ship program, $499,000,000.
For the AO (Jumbo) conversion program, $32,000,000.
For the oceanographic research ship program, $33,000,000.
For the strategic sealift and sealift enhancement ready reserve program, $48,500,000.

For the TACS auxiliary crane ship program, $61,100,000.

For service craft and landing craft, $58,900,000.

For ship contract design, $69,400,000.

For outfitting and post delivery, $393,900,000.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for other procurement for the Navy in the amount of $5,826,942,000.

(2) Funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:

(A) For the ship support equipment program, $1,002,366,000.

(B) For the communications and electronics equipment program, $1,944,630,000.

(C) For aviation support equipment, $820,692,000.

(D) For the ordnance support equipment program, $1,169,120,000.

(E) For civil engineering support equipment, supply support equipment, and command support equipment, $708,442,000.

(F) For spares and repair parts, $302,392,000.

(e) MARINE CORPS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Marine Corps in the amount of $1,477,408,000.

(2) Funds appropriated or otherwise made available for procurement for the Marine Corps for fiscal year 1987 may not be obligated in excess of the amount authorized to be appropriated in paragraph (1).

(f) P-3 AIRCRAFT.—(1) Of the amount appropriated to the Navy for fiscal year 1987 for procurement of P-3C aircraft, not more than $120,000,000 is available for modification of existing P-3 aircraft.

(2) From funds appropriated or otherwise made available to the Navy for procurement of aircraft for fiscal year 1987, the Secretary of the Navy may not obligate more than a total of $359,400,000 for—

(A) procurement of P-3C aircraft; and

(B) modifications to existing P-3 aircraft.

(3) Of the P-3 aircraft procured by the Navy with funds appropriated to the Navy for procurement of aircraft for fiscal year 1986 or 1987, the Secretary of the Navy may use two such aircraft to carry out obligations of the United States under the classified Maritime Surveillance Agreement of 1986.

SEC. 103. AIR FORCE

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

(1) For aircraft, $17,018,632,000.

(2) For missiles, $7,570,472,000.

(3) For other procurement, $9,180,923,000, of which—

(A) $1,101,029,000 is for munitions and associated support equipment;

(B) $300,196,000 is for vehicular equipment;

(C) $2,461,159,000 is for electronics and telecommunications equipment; and

(D) $5,588,539,000 is for other base maintenance and support equipment.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Air Force for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a) plus, in the case of the appropriation account "Other Procurement, Air Force", the amount of $77,900,000.

SEC. 104. DEFENSE AGENCIES

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the Defense Agencies in the amount of $1,418,660,000.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the Defense Agencies may not be obligated in excess of the amount authorized to be appropriated in subsection (a).

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $147,500,000.

For the Air National Guard, $50,000,000.

For the Army Reserve, $90,000,000.

For the Naval Reserve, $61,000,000.

For the Air Force Reserve, $150,000,000.

For the Marine Corps Reserve, $65,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

(c) FY87 LIMITATION ON OBLIGATIONS FOR UNBUDGETED ITEMS.—Of the amount appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for procurement, not more than $563,500,000 may be obligated or expended for procurement of equipment for the reserve components of the Armed Forces (including the National Guard) for items not included in the President's budget for fiscal year 1987, as set forth in the budget justification documents submitted to Congress in support of the budget request for the Department of Defense.

(d) FUTURE BUDGET REQUESTS FOR GUARD AND RESERVE EQUIPMENT.—Section 114 of title 10, United States Code (as redesignated by section 101(a) and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new subsection:

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.".

SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

SEC. 107. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1987

(a) ARMY.—Subject to subsections (d) and (e), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) UH-60A Blackhawk airframe.

(2) EH-60A Quick Fix airframe.

(3) Patriot missile system.

(4) Stinger air defense missile system.

(b) NAVY.—(1) Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(A) HARM missile system.

(B) MK-45 gun mounts.

(C) MK-6 ammunition hoists.

(2) The Secretary of the Navy may not enter into a multiyear contract for the procurement of the F/A-18 aircraft.

(c) AIR FORCE.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Support Program.

(d) LIMITATIONS ON AUTHORIZED MULTIYEAR PROCUREMENTS.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts. In the case of the Defense Support Program, the preceding sentence shall be applied by substituting "80 percent" for "88 percent".

(e) STINGER MISSILE.—(1) The Secretary of the Army may not enter into a contract for the multiyear procurement of the Stinger air defense missile until—

(A) the Secretary—

(i) obtains and evaluates bids for a competitive second source for such missile; and

(ii) certifies to the Committees on Armed Services of the Senate and the House of Representatives that acquisition of such missile from more than one source would be more costly than a multiyear procurement program from a single source; and

(B) the Comptroller General of the United States evaluates the competitive proposals on the basis of which the Secretary made the decision referred to in subparagraph (A)(ii) and submits his evaluation of the estimates to such committees.

(2) The Comptroller General shall submit his evaluation under paragraph (1)(B) not later than 60 days after the date on which the certification of the Secretary under paragraph (1)(A) is received by such committees.

SEC. 108. AIR FORCE FIGHTER COMPETITION

(a) MULTIYEAR CONTRACTS.—Subject to provisions of appropriations Acts, the Secretary of the Air Force may award a multiyear contract, that employs economic order quantity procurement, for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive source selection demonstrate that—

(1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and

(2) those savings have a positive present value.

(b) CANCELLATION CEILING.—Subject to provisions of appropriations Acts, the cancellation ceiling associated with the first year of a multiyear contract under subsection (a) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code.

PART B—ARMY PROGRAM LIMITATIONS

SEC. 121. TESTING OF BRADLEY FIGHTING VEHICLE

(a) REQUIRED TESTING.—The Secretary of Defense shall require that testing of the Bradley Fighting Vehicle (including live-fire testing and testing of the operational combat performance) and evaluation of that testing are carried out in accordance with this section.

(b) TEST PLAN FOR SURVIVABILITY ENHANCEMENTS AND OPERATIONAL COMBAT PERFORMANCE.—(1) The Secretary of Defense shall develop a plan for the testing and evaluation of the Bradley Fighting Vehicle required by subsection (a). The plan shall include testing of—

(A) a version of the vehicle configured to include the survivability enhancements for the vehicle proposed by the Army (hereinafter in this section referred to as the "Army vehicle"); and

(B) a version of the vehicle configured to include the concept of the so-called "minimum casualty vehicle" (hereinafter in this section referred to as the "minimum casualty vehicle").

(2) The plan developed under paragraph (1) shall include the following:

(A) A plan for—

(i) live-fire testing of the survivability of the Army vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(B) A plan for—

(i) live-fire testing of the survivability of the minimum casualty vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(C) A plan for comparing the testing and evaluation under subparagraph (A) with the testing and evaluation under subparagraph (B).

(3) The plan under paragraph (1) shall be developed to ensure that the testing of the Bradley Fighting Vehicle is the most realistic and suitable testing, at a reasonable cost, for evaluation of both vehicles.

(4) The aspects of the plan developed under paragraph (1) relating to operational combat performance shall be developed in consultation with the Director of Operational Test and Evaluation of the Department of Defense. The aspects of the plan relating to survivability enhancements shall be developed in consultation the Director of Defense Research and Engineering and the National Academy of Sciences.

(c) CERTIFICATION OF PLAN.—(1) After developing the plan required by subsection (b), the Secretary shall certify to Congress that the plan for the testing of both versions of the Bradley Fighting Vehicle (including the conditions for the testing) is the most realistic and suitable plan, at a reasonable cost, for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle.

(2) The Comptroller General shall—

(A) review all materials of the Department of Defense used to develop the plan with respect to which the certification under paragraph (1) is made; and

(B) submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report giving the assessment of the Comptroller General as to the realism and suitability of the plan (including the conditions for the testing set forth in the plan) for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle.

(d) CONDUCT OF TESTING.—The Secretary of the Army shall test both versions of the Bradley Fighting Vehicle in accordance with the plan (including the conditions for the testing set forth in the plan) with respect to which the certification was made.

(e) REVIEW AND OVERSIGHT.—(1) The Director of Operational Test and Evaluation of the Department of Defense shall review the results of the operational testing of the vehicle. The Director of Defense Research and Engineering shall review the results of the survivability testing of the vehicle.

(2) The Director of Operational Test and Evaluation, the Director of Defense Research and Engineering, and the Comptroller General (or members of their respective staffs) shall each observe the conduct of the testing.

(f) REPORTS.—(1) The Secretary of Defense shall submit to Congress a report on the results of the testing of the Bradley Fighting Vehicle under this section. The report shall include such findings and recommendations as the Secretary considers appropriate.

(2) The Comptroller General shall submit to Congress a report on the testing of the Bradley Fighting Vehicle. The report shall include—

(A) the opinion of the Comptroller General on the adequacy of the testing and on the test results; and

(B) the opinion of the Comptroller General (to the extent appropriate) on the conclusions and recommendations of the Secretary set forth in the report under paragraph (1).

SEC. 122. OTHER LIMITATIONS ON ARMY PROCUREMENT

(a) 120-MILLIMETER MORTAR PROGRAM.—(1) Except as provided in paragraph (3), funds appropriated or otherwise available for procurement for the Army may not be obligated for procurement of 120-millimeter mortars manufactured or assembled outside the United States or for procurement of ammunition manufactured outside the United States for 120-millimeter mortars.

(2) Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of 120-millimeter mortars until the Secretary of the Army conducts a cost-effectiveness analysis of potential domestic sources for the manufacture of such mortars.

(3) Paragraph (1) does not apply to procurement of mortars required—

(A) for testing, evaluation, or type classification; or

(B) for equipping the Ninth Infantry Division.

(b) MOTORCYCLES.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of motorcycles until the Secretary of the Army certifies to Congress that the acquisition strategy of the Army for procurement of motorcycles includes consideration of—

(1) life-cycle costs;

(2) safety;

(3) maintenance; and

(4) durability.

(c) AIR-TO-AIR STINGER MISSILE.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of aircraft for the Army may not be obligated for the modification program for the air-to-air Stinger missile until the Secretary of the Army—

(1) establishes a comprehensive acquisition plan for procurement of air-to-air Stinger missiles for Army aircraft; and

(2) submits a report on such plan to the Committees on Armed Services of the Senate and House of Representatives.

(d) AQUILA REMOTELY PILOTED VEHICLE.—None of the funds appropriated to the Army pursuant to this title may be obligated or expended for the procurement of the Aquila Remotely Piloted Vehicle until—

(1) the Director of Operational Test and Evaluation of the Department of Defense completes a comprehensive assessment of the Aquila system; and

(2) the Secretary of the Army certifies to the Committees on Armed Services of the Senate and House of Representatives that—

(A) the Aquila system has satisfactorily demonstrated that it meets or exceeds all performance criteria established for the system by the Army; and

(B) the Secretary has negotiated a contract that—

(i) provides for procurement of the entire system, and

(ii) limits the overall liability of the United States under the contract.

(e) MOBILE SUBSCRIBER EQUIPMENT PROGRAM.—The total program acquisition cost for the communications and electronics equipment program of the Army known as the Mobile Subscriber Equipment Program (as such program exists on the date of the enactment of this Act) may not exceed $4,300,000,000. If the total program acquisition cost for such program (as it exists on the date of the enactment of this Act) is determined at any time to exceed such amount, the Secretary of the Army shall cancel the program.

PART C—NAVY PROGRAM LIMITATIONS

SEC. 131. REPEAL OF LIMITATION ON DDG-51 DESTROYER PROGRAM

Section 102(h) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2501), is repealed.

SEC. 132. BASIC POINT DEFENSE MISSILE SYSTEM ON AMPHIBIOUS VESSELS

The Secretary of the Navy shall maintain in an operational status the Basic Point Defense Missile System on any amphibious vessel equipped on the date of the enactment of this Act with such system until a follow-on system, of comparable capability, is available for immediate replacement of the system on such vessel. This section does not apply to a vessel that is retired.

SEC. 133. ROLLING AIRFRAME MISSILE PROGRAM

(a) REQUIRED CERTIFICATION.—(1) None of the funds appropriated or otherwise made available to the Navy for fiscal year 1987 for procurement may be obligated or expended in connection with procurement of the Rolling Airframe Missile program until the Secretary of Defense certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that—

(A) the total amount expended by the Navy for research, development, test, and evaluation for such program will not exceed $219,700,000;

(B) the Secretary will terminate the program if at any time he determines that the total Navy research and development cost for the program will exceed the amount specified in subparagraph (A);

(C) the development contractor for the program has offered the Department of Defense a firm fixed-price contract option with no expiration date for an initial quantity of 500 missiles (integrated with the required Government-furnished components and tested to the complete missile level) which will result in a recurring missile unit flyaway cost that does not exceed $145,000 (based on fiscal year 1986 dollars);

(D) the recurring missile unit flyaway cost for a minimum of 4,900 missiles will not exceed $100,000 (based on fiscal year 1986 dollars);

(E) the design of the Rolling Airframe Missile and its unique support equipment are complete and the system performance has not been degraded from the original development specifications (as contained in Navy

Decision Coordinating Paper No. SO-167-AA);

(F) the Director of Operational Test and Evaluation of the Department of Defense has approved a test and evaluation master plan for the Rolling Airframe Missile program; and

(G) the contractor for the production contract for the program has agreed to provide to the United States, at no additional cost to the United States or to the Federal Republic of Germany, a complete data package containing no manufacturing or proprietary data rights of the contractor in conjunction with a license to the United States under which rights are granted to enable a second source contractor designated by the United States to manufacture and sell to the United States or the Federal Republic of Germany on a royalty-free basis, and to enable the United States and the Federal Republic of Germany to use, on a royalty-free basis, the Ex-44 Guided Missile Round Pack consisting of guidance and control section, tail assembly, and cannister.

(2) If the Secretary of Defense fails to make the certification described in paragraph (1) before April 1, 1987, the Secretary shall terminate the program effective on that date.

(b) REPEAL.—Subsection (d) of section 205 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 608), is repealed.

PART D—AIR FORCE PROGRAM LIMITATIONS

SEC. 141. ADVANCED TECHNOLOGY BOMBER

(a) ACQUISITION STRATEGY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for the Advanced Technology Bomber program.

(2) Except as provided in subsection (b), the acquisition strategy described in the report shall include an analysis of alternatives for limiting program costs during production, including the following:

(A) Alternative sources for major systems of the Advanced Technology Bomber.

(B) Alternative sources for major subsystems of the bomber.

(C) Competition during the integration and assembly of the bomber.

(D) A limitation on the total program cost for 132 Advanced Technology Bomber aircraft.

(3) The report under paragraph (1) shall include the recommendations of the Secretary with respect to the choice and timing of such alternatives.

(4) The report under paragraph (1) shall be submitted not later than the date on which the President submits the budget to Congress for fiscal year 1988.

(b) EXCEPTION FOR COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT.—(1) The Secretary of Defense need not recommend the implementation of any of the alternatives if the Secretary determines that the application of those alternatives to control program costs would—

(A) increase the total cost of the program;

(B) result in unacceptable delays in fulfilling the needs of the Department of Defense; or

(C) be adverse to the national security interests of the United States.

(2) If the Secretary makes a determination under paragraph (1), the report of the Secretary under subsection (a) shall include—

(A) a notice of such determination; and

(B) documentation in support of such determination, including comparative cost and schedule estimates and other background material.

(c) LIMITATION ON AMOUNT AVAILABLE FOR FY87.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1987 for the Advanced Technology Bomber in an amount greater than the amount appropriated for such program for fiscal year 1986 until the Secretary submits the report described in subsection (a).

(d) REVISIONS TO ACQUISITION STRATEGY.—After the report required by subsection (a) is submitted, the Secretary of Defense may not implement a revision to the acquisition strategy described in the report until—

(1) the Secretary submits to the committees named in that subsection a report describing the proposed revision; and

(2) a period of 60 days passes after the date on which the report on the revision is received by the committees.

(e) FINANCIAL ANALYSIS.—(1) In determining for purposes of subsection (a) the appropriate amount for a limitation on the total program cost for the development and production of 132 Advanced Technology Bomber aircraft, the Secretary of Defense shall conduct a detailed financial analysis on the projected cost of such development and production.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report setting forth the results of the analysis required under paragraph (1), including the current estimate of the projected total cost for the development and production of 132 Advanced Technology Bomber aircraft.

(3) The Secretary shall submit a copy of the report under paragraph (2) to the Comptroller General of the United States for review. The Secretary shall make available to the Comptroller General such additional data and information as the Comptroller General requires for the purposes of such review. A report by the Comptroller General concerning data and information provided under this paragraph may, consistent with the classification of such report, be provided to Congress. Any such report shall be prepared with due regard to the sensitivity of the information received from the Secretary in such manner as will avoid disclosure of data or information which could adversely affect ongoing contract negotiations or the national security.

SEC. 142. PROHIBITION ON USING FUNDS AUTHORIZED FOR THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE PROGRAMS FOR ANY OTHER PURPOSE AND LIMITATION ON THE B-1B BOMBER FLEET TO 100 AIRCRAFT

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber and the Advanced Cruise Missile Program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) ATB AND ACM PROGRAMS.—Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Technology Bomber Program may not be used for any other purpose. Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Cruise Missile Program may not be used for any other purpose.

(c) B-1B AIRCRAFT.—Funds appropriated to the Department of Defense may not be used for procurement (including procurement of long-lead items, materials, systems, or subsystems) of the B-1-B bomber aircraft beyond the 100 such bombers authorized by law before the date of the enactment of this Act.

SEC. 143. C-17 AIRCRAFT PROGRAM

Of the funds appropriated to the Air Force for procurement of the C-17 aircraft for fiscal year 1987, not more than $64,000,000 may be obligated before April 15, 1987.

SEC. 144. ADVANCED MEDIUM-RANGED AIR-TO-AIR MISSILE PROGRAM

(a) CONDITIONS FOR LOW-RATE PRODUCTION.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of missiles for the Air Force may not (except as provided under subsection (c)) be obligated for low-rate production procurement of the Advanced Medium-Range Air-to-Air Missile (AMRAAM) until—

(1) the Secretary of the Air Force evaluates the results of the flight tests of the performance of the missile in comparison with the Milestone IIIA Low Rate Initial Production Go-Ahead decision criteria contained in the November 27, 1985, Appendix 1 to Annex B of the AMRAAM Decision Coordinating Paper; and

(2) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report describing such test results and the Secretary's evaluation of such test results under paragraph (1).

(b) TESTING OF PRODUCIBILITY ENHANCEMENTS.—The Secretary of the Air Force shall test producibility enhancements for such missile before such enhancements are incorporated into production missiles.

(c) LIMITATION ON LONG-LEAD PROCUREMENT.—Of the amount described in subsection (a), not more than $170,000,000 may be obligated for long-lead procurement of such missiles without regard to the limitation in such subsection.

(d) TOTAL PROCUREMENT COST.—The cost of procurement of such missile may not exceed $7,000,000,000 (in fiscal year 1984 dollars), based upon procurement of 24,000 missiles. The amount of the limitation in the preceding sentence may be adjusted to reflect the effects of congressional funding actions on the established program. Notice of any such adjustment shall be provided to Congress in the next report submitted with respect to such missile program under section 2432 of title 10, United States Code, relating to Selected Acquisition Reports.

SEC. 145. T-46 AIRCRAFT PROGRAM

(a) COMPETITION FOR TRAINER AIRCRAFT.—(1) No funds may be obligated or expended for the procurement of the T-46 trainer aircraft until the Secretary of the Air Force conducts a competition evaluating the cost and performance of the following:

(A) The proposed T-46A trainer aircraft.

(B) The existing T-37 trainer aircraft.

(C) An upgraded T-37 trainer aircraft.

(D) Any other aircraft capable of meeting Air Force training requirements.

(2) The competition described in paragraph (1) shall include a fly-off between the T-37, T-46, and any other candidate aircraft for such competition.

(3) Any funds appropriated to the Air Force for fiscal year 1986 for the T-46 aircraft program and which remain available for obligation may be used for the purpose of conducting the competition referred to in paragraph (1).

(b) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Funds appropriated to the Air Force for fiscal year 1987 may not be used for procurement of the T-46 aircraft.

PART E—CHEMICAL WEAPONS

SEC. 151. AUTHORIZATION OF APPROPRIATIONS FOR CHEMICAL DEMILITARIZATION PROGRAM

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1987 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $120,100,000.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the program described in subsection (a) may not be obligated in excess of the amount authorized to be appropriated in that subsection.

SEC. 152. LIMITATION ON THE EXPENDITURE OF FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB

(a) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that—

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range stand-off chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 153. CHEMICAL WEAPONS, AGENTS, OR COMPONENTS AT LEXINGTON-BLUEGRASS DEPOT

(a) PROHIBITION ON SHIPMENTS TO DEPOT.—No chemical weapons, agents, or components used in chemical weapons may be shipped into the Lexington-Bluegrass Depot in Richmond, Kentucky, for any purpose, including disposal.

(b) PROHIBITION ON FUTURE USE OF DEPOT.—After disposal of the chemical weapons stockpile stored at the Lexington-Bluegrass Depot, as required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), the depot may not be used for assembly, construction, testing, storage, or disposal of any chemical or biological weapon.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the provisions of subsection (a) or (b) if the Secretary determines that such a waiver is in the national security interest of the United States.

SEC. 154. REPORT ON CHEMICAL WEAPONS DEMILITARIZATION PROGRAM

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the chemical weapons demilitarization program required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747). The report shall describe—

(1) methods for carrying out such program that would optimize safety considerations; and

(2) methods for carrying out such program that would optimize cost-effectiveness considerations.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1987.

SEC. 155. TECHNICAL AMENDMENT TO PUBLIC LAW 99-145 RELATING TO BINARY CHEMICAL MUNITIONS

Section 1411(b)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 745), is amended by striking out "North Atlantic Council" and inserting in lieu thereof "Defense Planning Committee of the North Atlantic Treaty Organization meeting in permanent session".

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATION OF APPROPRIATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

(1) For the Army, $4,712,729,000.

(2) For the Navy (including the Marine Corps), $9,294,106,000.

(3) For the Air Force, $15,019,084,000.

(4) For the Defense Agencies, $7,189,633,000, of which—

(A) $133,800,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(B) $11,300,000 is authorized for the Director of Operational Test and Evaluation.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from an account for which funds are authorized to be appropriated in subsection (a) is the amount authorized to be appropriated for such account under that subsection plus any amount authorized for such account under subsection (b) plus the following:

(1) For the Army, $5,830,000.

(2) For the Navy, $72,000.

(3) For the Air Force, $2,400,000.

SEC. 202. LIMITATION ON COPPERHEAD GUIDED PROJECTILE

(a) REQUIREMENT FOR SECOND SOURCE.—The Secretary of the Army may not enter into a contract for any product improvement or modification to the Copperhead Guided Projectile until the Secretary of Defense submits to Congress a written certification that—

(1) a competition for a second source for production of such projectile has been conducted; and

(2) a second source for production of such projectile has been selected.

(b) PRODUCT IMPROVEMENT OR MODIFICATION.—For purposes of subsection (a), a product improvement or modification is any change to the production configuration of the Copperhead Guided Projectile in effect on the date of the enactment of this Act.

(c) EXPIRATION OF LIMITATION.—The limitation in subsection (a) expires upon the enactment of a law making appropriations for the Department of Defense for fiscal year 1988.

SEC. 203. LIMITATIONS ON FUNDS FOR THE NAVY

(a) V-22 OSPREY AIRCRAFT.—Of the funds authorized in section 201 for the Navy, not more than $386,871,000 is available for the V-22 Osprey aircraft. Not more than one-half of such amount may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services of the Senate and the House of Representatives in writing that—

(1) such aircraft is capable of performing the antisubmarine warfare mission currently performed by the S-3A aircraft; and

(2) such aircraft is the most cost effective aircraft to perform that mission.

(b) MARINE CORPS PEGASUS ENGINE.—Of the funds appropriated pursuant to authorizations in this title, not less than $8,000,000 shall be used for safety and reliability improvements for the Marine Corps AV-8B aircraft Pegasus engine program.

(c) AVIONICS RACK FOR S-3 AIRCRAFT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than 30 days after the date of the enactment of this Act a report on the manner in which the Navy proposes to correct whatever deficiencies exist in the avionics rack for the S-3 aircraft.

(d) RANKINE CYCLE ENERGY RECOVERY (RACER) SYSTEM.—Of the funds appropriated to the Navy for research, development, test, and evaluation for fiscal year 1987, the sum of $20,000,000 shall be available to the Secretary of Defense for evaluation of the Rankine Cycle Energy Recovery (RACER) system and such testing as the Secretary determines necessary.

(e) LOW-COST SEEKER MISSILE.—Of the funds authorized in section 201 for the Navy, $39,704,000 is available only for the Low-Cost Seeker Missile program.

(f) TRIDENT II PROGRAM.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for the Trident II missile development program or for the procurement of Trident II missiles and related support equipment may be used for any other purpose. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1987, the Secretary of the Navy may not reduce the amount of funds available for the program and equipment described in the preceding sentence.

(g) FUNDS FOR LIBYAN LESSONS-LEARNED EQUIPMENT MODIFICATION.—Of the amount appropriated for research, development, test, and evaluation for the Navy for fiscal year 1987, $50,000,000 may be obligated or expended for programs directly related to the Libyan lessons-learned study, subject to the condition that none of the funds may be obligated or expended for such programs until 30 days after the date on which the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives a report explaining the purposes for which the funds are proposed to be used.

SEC. 204. LIMITATIONS ON FUNDS FOR THE AIR FORCE

(a) SHORT-RANGE ATTACK MISSILE.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the purpose of full-scale development of a new or modified short-range attack missile (SRAM) until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report concerning the short-range attack missile that includes the following:

(1) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the minimum modification of the existing motors for such missile; with

(B) the total program cost, and the effectiveness, of the development of a new short-range attack missile;

(2) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the modification of an existing warhead for the short-range attack missile; with

(B) the total program cost, and the effectiveness, of the development of an all new warhead for the short-range attack missile.

(3) The recommendation of the Secretary with respect to the most cost-effective missile and warhead configuration for the short-range attack missile.

(b) LOW-COST SEEKER MISSILE.—Of the funds authorized in section 201 for the Air Force, $17,375,000 is available only for the Low-Cost Seeker Missile program.

(c) SPACE DEFENSE SYSTEM.—Of the amount authorized in section 201 for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

(d) PAVE TIGER/SEEK SPINNER SYSTEM.—Of the funds authorized in section 201 for the Air Force, $80,000,000 is available only for facilitization for production of the Pave Tiger/Seek Spinner System.

SEC. 205. LIMITATION ON FUNDS FOR DEFENSE AGENCIES

(a) MEDICAL APPLICATION OF FREE ELECTRON LASER.—Of the amount authorized in section 201 for the Defense Agencies (including the Strategic Defense Initiative Organization), $15,000,000 may be used only for the application of Free-Electron Lasers for medical research and material.

(b) LASER PANTOGRAPHY.—Of the amount authorized to be appropriated in section 201 for the Defense Agencies for Microwave/Millimeter Wave Monolithic Integrated Circuit Technology efforts, $4,000,000 is available only for the Laser Pantography project.

(c) STRATEGIC TECHNOLOGY.—Of the funds authorized in section 201 for the Defense Agencies, $240,620,000 is available only for the Strategic Technology program. Of such amount, $10,000,000 is available only for independent research in the field of ocean science and related fields to provide an assessment of the possibilities of nonacoustic detection of submarines.

SEC. 206. OTHER LIMITATIONS

(a) ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM/MARINE INTEGRATED FIRE AND AIR SUPPORT SYSTEMS, ARMY/NAVY.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the development of the Army Advanced Artillery Tactical Data System or the Marine Integrated Fire and Support System (MIFASS) until—

(A) a single program is selected for both the Army and the Marine Corps; or

(B) the Secretary of Defense certifies to Congress, before December 16, 1986, that continuation of both programs is operationally sound and less costly to the United States than the development of a common system for use by both the Army and Marine Corps.

(2) Of the funds referred to in paragraph (1), not more than $3,000,000 may be obligated without regard to the limitation in such paragraph for operational testing of the Marine Integrated Fire and Support System.

(b) ADVANCED TACTICAL AIRCRAFT AND ADVANCED TECHNOLOGY FIGHTER.—(1) The Secretary of the Navy may not obligate funds for the full-scale development of the Navy Advanced Tactical Aircraft program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Air Force-peculiar requirements for such aircraft.

(2) The Secretary of the Air Force may not obligate funds for the full-scale development of the Air Force Advanced Technology Fighter program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Navy-peculiar requirements for such aircraft.

(3) After September 30, 1987, funds appropriated to the Department of Defense may not be obligated for the Advanced Tactical Aircraft program of the Navy or the Advanced Technology Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that—

(A) the requirements for both such programs have been finalized; and

(B) such requirements, as finalized, have been agreed to by the Secretary of the Navy, the Secretary of the Air Force, and the Office of the Secretary of Defense.

SEC. 207. ADVANCED ANTI-ARMOR WEAPON SYSTEM

(a) FEASIBILITY DEMONSTRATION OF CANDIDATE SYSTEMS.—Of the funds authorized in section 201 for the Army, $48,735,000 is authorized to be appropriated for the Advanced Anti-Armor Weapon System Medium (AAWS-M) program, but funds may be obligated for such program only if—

(1) the Secretary of the Army begins a prototype feasibility demonstration of not more than three candidate systems for such program, including a true fire-and-forget candidate;

(2) the feasibility demonstration for such a system is capable of being completed within 27 months after the date of the enactment of this Act;

(3) the official responsible for test planning and evaluation for the feasibility demonstration is the Director of Test and Evaluation of the Department of Defense; and

(4) the actual conduct of the feasibility demonstration is carried out jointly by the Army and the Marine Corps.

(b) REQUIREMENT FOR SATISFACTION OF SERVICE ANTI-ARMOR REQUIREMENTS.—The Secretary of Defense may not authorize the initiation of full-scale engineering development of the winning AAWS-M candidate until—

(1) the Secretary of the Army certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that the winning system meets the anti-armor requirement of the Army; and

(2) the Secretary of the Navy, upon recommendation of the Commandant of the Marine Corps, certifies to such Committees that the winning system meets the anti-armor requirement of the Marine Corps.

SEC. 208. ELECTRONIC WARFARE MASTER PLAN

(a) ELECTRONIC WARFARE CONSOLIDATION.—The Under Secretary of Defense for Acquisition shall prepare an Electronic Warfare Master Plan providing policy guidance in electronic warfare to the Secretaries of the military departments. The master plan shall be coordinated with the policy and fiscal guidance of the Secretary of Defense. The Under Secretary shall submit the master plan to the Committees on Armed Services of the Senate and House of Representatives.

(b) OBLIGATION LIMITATION.—Not more than 80 percent of the amount appropriated to each of the military departments for fiscal year 1987 for research, development, test, and evaluation of electronic warfare systems may be obligated until the Under Secretary of Defense for Acquisition transmits to the committees the Electronic Warfare Master Plan prepared under subsection (a).

(c) AMOUNTS AUTHORIZED.—Of the amounts appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1987, not less than $100,000,000 shall be available to the Under Secretary of Defense for Acquisition for research, development, test, and evaluation of electronic warfare systems.

SEC. 209. LIMITATION ON TESTING ELECTROMAGNETIC PULSE

During fiscal year 1987, the Secretary of the Navy may not carry out a demonstration test of an electromagnetic pulse in the Chesapeake Bay, Maryland and Virginia, in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships.

PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

SEC. 213. LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded

research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center that provides the information described in subsection (b); and

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in an Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories;

(D) by private contractors; or

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of a conflict of interest—

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technological, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214. REPORT ON PROJECTED COSTS OF SDI PROGRAM

Section 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613), is amended by adding at the end the following: "The Secretary shall include in such report the following information:

"(1) The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

"(2) The estimated cost for the production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).".

SEC. 215. REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report detailing what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(1) defending United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(2) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority and other valuable military assets;

(3) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits; and

(4) providing early warning and attack assessment information and the necessary survivable command, control, and communication to defend against possible Soviet conventional or strategic attacks.

(b) ADDITIONAL MATERIAL TO BE INCLUDED.—The report shall—

(1) identify any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help accomplish;

(2) list what specific program elements of the Strategic Defense Initiative are pertinent to these applications;

(3) estimate initial operating capability dates for the systems needed to accomplish these missions;

(4) estimate the level of funding necessary for each program to reach these operating capability dates; and

(5) estimate the survivability and cost effectiveness at the margin of these systems against current and projected Soviet threats.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 15, 1987.

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) FINDINGS.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

(2) The Secretary of State has stated that the "ABM Treaty requires consultations, and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk radar is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

(b) CONGRESSIONAL DECLARATIONS.—The Congress therefore declares—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) REPORT ON LESS RESTRICTIVE INTERPRETATION.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such

treaty, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall submitted not later than February 1, 1987.

PART C—BALANCED TECHNOLOGY INITIATIVE

SEC. 221. CONVENTIONAL DEFENSE INITIATIVE

(a) IN GENERAL.—In this Act, Congress commences a program of Conventional Defense Initiatives to provide an emphasis on improving the conventional weapons of the Armed Forces (and the testing of such weapons) and to enhance cooperation with the other member nations of the North Atlantic Treaty Organization. The initiative is intended to improve the fighting power and survivability of the combat forces of the United States and to raise the threshold for nuclear war.

(b) AMOUNT AUTHORIZED.—Of the amount authorized in section 201 for the Army, Navy, and Air Force, $162,323,000 is available only for the Conventional Defense Initiatives program.

SEC. 222. BALANCED TECHNOLOGY INITIATIVE

(a) EARMARKING FOR CERTAIN CONVENTIONAL PROGRAMS.—(1) Of the amount authorized in section 201 for Defense Agencies, not less than $300,000,000 shall be used to expand research on innovative concepts and methods of enhancing conventional defense capabilities. Such research and development efforts shall emphasize the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

(2) The amount specified in paragraph (1) is in addition to the amount specified for the Strategic Defense Initiative in section 211 and for the Conventional Defense Initiative Program under section 221 and is made available subject to the following conditions:

(A) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and the Defense Agencies on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(B) That no portion of any undistributed reduction be applied against the funds appropriated for purposes of paragraph (1) and that no portion of any undistributed reduction be applied against any program, project, or activity for which additional funds are provided under subparagraph (A).

(C) That no portion of the funds provided for in paragraph (1) be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(b) FUNDS FOR CONVENTIONAL DEFENSE TECHNOLOGY BASE.—Of the amount authorized in section 201 for Defense Agencies, not less than $153,000,000 shall be applied to restoration of the conventional defense technology base. Such amount is in addition to the amounts specified in subsection (a) and in sections 211 and 221 and is made available subject to the following conditions:

(1) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and Defense Agencies on a merit basis, either to augment ongoing but underfunded basic and exploratory research or to establish new basic or exploratory research programs.

(2) That no portion of such funds be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(3) That no portion of any undistributed reduction made in any research, development, test, and evaluation account be applied against the technology base activities of any military department or Defense Agency in a greater proportion than the share of that department's or Agency's technology base as a proportion of the total research, development, test, and evaluation funds made available to that department or Agency for fiscal year 1987.

(4) That no portion of any undistributed reduction be applied against any program, project, or activity which has received additional funds under this subsection.

(c) REPORT.—Within 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the implementation of this section. Such report shall include—

(1) the allocation by project of the amounts specified in subsections (a)(1) and (b);

(2) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defenses;

(3) the identification of specific research projects which were funded in fiscal years before fiscal year 1987 by the Strategic Defense Initiative Organization which could significantly enhance the conventional defense capabilities of the United States (or command, control, communications, and intelligence capabilities associated with conventional defense capabilities) and which will no longer be funded by such office;

(4) for each program, project, or activity for which funds have been allocated under subsection (a)(1), or which is identified under clause (2) or (3) of this subsection, a five-year funding description sufficient to maintain significant progress in such program, project, or activity, including the major milestones and projected dates of accomplishment for such program, project, or activity; and

(5) the funding that would be required for each of the next five fiscal years to restore by the end of fiscal year 1992 the defense technology base to the proportion of total research, development, test, and evaluation that such base was, on average, during the period from 1971 through 1980, and the effect of implementing that funding on the research, development, test, and evaluation defense programs of the United States.

(d) RESTRICTION ON OBLIGATION OF FUNDS.—None of the funds provided under subsections (a)(1) and (b) may be obligated until—

(1) the report required by subsection (c) is submitted; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

PART D—MISCELLANEOUS

SEC. 231. LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS

(a) ASAT TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 232. ICBM MODERNIZATION

(a) REPORT BY THE SECRETARY OF DEFENSE ON ICBM MODERNIZATION.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full scale engineering development decision.

(b) LIMITATION ON DEPLOYMENT OF PEACEKEEPER (MX) MISSILE; DEVELOPMENT OF SMALL ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), on the deployment of the MX missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 233. RESTRICTION ON USE OF RESEARCH AND DEVELOPMENT FUNDS FOR GRANTS TO EDUCATIONAL INSTITUTIONS

The Secretary of Defense may not make a grant or contribution to any educational institution from funds appropriated to the De-

partment of Defense for fiscal year 1987 for research, development, test, and evaluation unless the Secretary determines—

(1) that the purpose of the grant or contribution has a potential relationship to a military function or operation; and

(2) that the grant or contribution is based on the technical merit of the proposed research that best satisfies the requirements of the Department of Defense.

SEC. 234. COORDINATION OF RESEARCH ACTIVITIES OF DEPARTMENT OF DEFENSE

(a) PURPOSE.—The purpose of this section is to strengthen coordination among Department of Defense research facilities and other organizations in the Department of Defense.

(b) FINDINGS.—The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary—

(1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems; and

(2) to avoid unnecessary and costly duplication of research staffs and projects.

(a) IMPROVED COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2364. Coordination and communication of Defense research activities

"(a) COORDINATION OF DEPARTMENT OF DEFENSE TECHNOLOGICAL DATA.—The Secretary of Defense shall promote, monitor, and evaluate programs for the communication and exchange of technological data—

"(1) among the Defense research facilities, combatant commands, and other organizations that are involved in developing for the Department of Defense the technological requirements for new items for use by combat forces; and

"(2) among Defense research facilities and other offices, agencies, and bureaus in the Department that are engaged in related technological matters.

"(b) FUNCTIONS OF DEFENSE RESEARCH FACILITIES.—The Secretary of Defense shall ensure, to the maximum extent practicable—

"(1) that Defense research facilities are assigned broad mission requirements rather than specific hardware needs;

"(2) that appropriate personnel of such facilities are assigned to serve as consultants on component and support system standardization;

"(3) that the managers of such facilities have broad latitude to choose research and development projects;

"(4) that technology position papers prepared by Defense research facilities are readily available to all combatant commands and to contractors who submit bids or proposals for Department of Defense contracts; and

"(5) that, in order to promote increased consideration of technological issues early in the development process, any position paper prepared by a Defense research facility on a technological issue relating to a major weapon system, and any technological assessment made by such facility in the case of such component, is made a part of the records considered for the purpose of making milestone O, I, and II decisions.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Defense research facility' means a Department of Defense facility which performs or contracts for the performance of—

"(A) basic research; or

"(B) applied research known as exploratory development.

"(2) The term 'milestone O decision' means a decision made within the Department of Defense that there is a mission need for a new major weapon system and that research and development is to begin to meet such need.

"(3) The term 'milestone I decision' means [a]/[the] selection by an appropriate official of the Department of Defense of a new major weapon system concept and a program for demonstration and validation of such concept.

"(4) The term 'milestone II decision' means approval by an appropriate official of the Department of Defense for the full-scale development of a new major weapon system.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2364. Coordination and communication of Defense research activities.".

SEC. 235. COOPERATIVE MEDICAL RESEARCH WITH VETERANS' ADMINISTRATION

(a) FUNDING.—Of the amount authorized in section 201 for the Defense Agencies, $20,000,000 is available only for cooperative medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

(b) DEADLINE.—Not later than 30 days after the enactment of a law making appropriations for the Department of Defense for fiscal year 1987, the Secretary of Defense shall make available to the Administrator of Veterans' Affairs the amount referred to in subsection (a).

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $20,025,891,000.
For the Navy, $23,164,784,000.
For the Marine Corps, $1,794,200,000.
For the Air Force, $18,894,186,000.
For the Defense Agencies, $7,979,380,000.
For the Army Reserve, $770,300,000.
For the Naval Reserve, $887,400,000.
For the Marine Corps Reserve, $64,200,000.
For the Air Force Reserve, $922,100,000.
For the Army National Guard, $1,734,603,000.
For the Air National Guard, $1,790,400,000.
For the National Board for the Promotion of Rifle Practice, $4,316,000.
For Defense Claims, $144,400,000.
For the Court of Military Appeals, $3,200,000.
For Environmental Restoration, Defense, $385,900,000.

(b) ADDITIONAL AUTHORIZATION FOR ARMY NATIONAL GUARD.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated such sums as may be necessary for the Army National Guard for—

(1) armory operating costs;

(2) modification or repair of work space for fulltime National Guard personnel; and

(3) partial Federal funding for major repair and renovation of National Guard facilities.

(c) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

SEC. 302. WORKING CAPITAL FUNDS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $230,138,000.
For the Navy Stock Fund, $379,570,000.
For the Marine Corps Stock Fund, $31,233,000.
For the Air Force Stock Fund, $200,410,000.
For the Defense Stock Fund, $66,949,000.

(b) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE TO PAN AMERICAN GAMES

Funds are hereby authorized to be appropriated for fiscal year 1987 for assistance to the Tenth International Pan American Games in accordance with section 304 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 583), in the amount of $15,000,000.

SEC. 304. TRANSPORTATION OF LIVESTOCK FEED

The Secretary of Defense may authorize the use during 1986 of National Guard equipment and personnel for transportation (including airlift) of livestock feed to drought-stricken areas of the United States.

SEC. 305. AUTHORITY FOR PAYMENTS TO NASA FOR SPACE SHUTTLE SERVICES

(a) AUTHORITY.—The Secretary of Defense may make payments during fiscal year 1987 to the National Aeronautics and Space Administration for space shuttle services in advance of the receipt of such services. Any such payments—

(1) may be made only from funds appropriated to the Air Force for operation and maintenance for fiscal year 1987 and only to the extent provided in appropriations Acts;

(2) may not be made until 30 days after the date on which the report required in subsection (b) is received by the Congress; and

(3) may not exceed $268,800,000.

(b) REPORT.—Not later than December 31, 1986, the Secretary of Defense shall submit to the appropriate committees of the Congress a report containing a ten-year plan setting forth the schedule for planned payments by the Department of Defense to the National Aeronautics and Space Administration for space shuttle services and the schedule for the provision of such services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

SEC. 311. CONTRACT PERSONNEL TO BE INCLUDED IN BUDGET JUSTIFICATION

Section 2203 of title 10, United States Code, is amended by adding at the end the following new sentences: "The Secretary of Defense shall provide that the budget justification documents for such budget include information on the number of employees of contractors estimated to be working on contracts of the Department of Defense during the fiscal year for which the budget is submitted. Such information shall be set forth in terms of employee-years or such other measure as will be uniform and readily com-

parable with civilian personnel of the Department of Defense.".

SEC. 312. PROCUREMENT OF CERTAIN BAKERY AND DAIRY PRODUCTS OUTSIDE THE UNITED STATES

(a) PROCUREMENT OF BAKERY AND DAIRY PRODUCTS.—Chapter 143 of title 10, United States Code, is amended by adding at the end the following new section:

"§2422. Bakery and dairy products: procurement outside the United States

"(a) The Secretary of Defense may authorize any element of the Department of Defense that procures bakery and dairy products for use by the armed forces outside the United States to procure any products described in subsection (b) through the use of procedures other than competitive procedures.

"(b) The products referred to in subsection (a) are bakery or dairy products produced by the Army and Air Force Exchange Service in a facility outside the United States that began operating before July 1, 1986.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2422. Bakery and dairy products: procurement outside the United States.".

SEC. 313. FUNCTIONS OF MILITARY COMMISSARIES; PURCHASE OF ALCOHOLIC BEVERAGES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new sections:

"§2486. Commissary stores: merchandise that may be sold; uniform surcharges

"(a) Commissary stores are similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

"(b) Merchandise sold in commissary stores may include items in the following categories:

"(1) Health and beauty aids.
"(2) Meat and poultry.
"(3) Fish and seafood.
"(4) Produce.
"(5) Food and non-food grocery items.
"(6) Bakery goods.
"(7) Dairy products.
"(8) Tobacco products.
"(9) Delicatessen items.
"(10) Frozen foods.
"(11) Other categories designated in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense.

"(c) An adjustment of or surcharge on sales prices in commissary stores under section 2484(b) or 2685(a) of this title or for any other purpose shall be applied as a uniform percentage of the sales price of all merchandise sold in commissary stores.

"§2487. Commissary stores: limitations on release of sales information

"(a) In order to protect commercially valuable information, the Secretary of a military department, except as provided in subsection (b), may not release to the public those portions of computer data generated by electronic scanners used in military commissaries, and those portions of reports generated by such scanners, that contain the following information:

"(1) The unit prices of items sold.
"(2) The number of units of items sold.

"(b) Information subject to subsection (a) may be released under a written agreement. Any such agreement shall require payment for such information and shall specify the amount of such payment.

"(c) Amounts received by the United States under an agreement described in subsection (b) with respect to a commissary shall be deposited in the Commissary Trust Revolving Fund of the military department under which the commissary is operated.

"§2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages

"(a) The Secretary of Defense shall provide that—

"(1) covered alcoholic beverage purchases made for resale on a military installation located in the United States shall be made from the most competitive source, price and other factors considered, except that

"(2) in the case of malt beverages and wine purchased for resale on a military installation located in the contiguous States, such purchases shall be made from, and delivery shall be accepted from, a source within the State in which the military installation concerned is located.

"(b) If a military installation located in the contiguous States is located in more than one State, a source of supply in any State in which the installation is located shall be considered for the purposes of subsection (a)(2) to be a source within the State in which the installation is located.

"(c) In this section:

"(1) The term 'covered alcoholic beverage purchases' means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

"(2) The term 'State' includes the District of Columbia.".

(b) EXEMPTION FROM WRITTEN NOTICE REQUIREMENTS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

"(E) Subparagraph (D) does not apply with respect to the award of a contract for the acquisition of perishable subsistence items.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges.
"2487. Commissary stores: limitation on release of sales information.
"2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.".

SEC. 314. AUTHORITY FOR SECRETARY OF DEFENSE TO ACCEPT GIFTS FOR THE DEFENSE DEPENDENTS' EDUCATION SYSTEM

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§2605. Acceptance of gifts for defense dependents' education system

"(a) The Secretary of Defense may accept, hold, administer, and spend any gift (including any gift of an interest in real property) made on the condition that it be used in connection with the operation or administration of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.). The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

"(b) There is established in the Treasury a fund to be known as the 'Department of Defense Dependents' Education Gift Fund'. Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the defense dependent's education system, subject to the terms of the gift.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

"(A) retain money, securities, and the proceeds of the sale of securities, in the Department of Defense Dependents' Education Gift Fund; and

"(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

"(e) In this section, the term 'gift' includes a devise of real property or a bequest of personal property.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2605. Acceptance of gifts for defense dependents' education system.".

SEC. 315. RENOVATION OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§2810. Renovation of facilities

"(a) The Secretary concerned may carry out renovation projects that combine maintenance, repair, and minor construction projects for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance.

"(b) The amount obligated on such a renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

"(c) Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2810. Renovation of facilities.".

SEC. 316. PROHIBITION OF PURCHASE OF ANGOLAN PETROLEUM PRODUCTS FROM COMPANIES PRODUCING OIL IN ANGOLA

(a) GENERAL RULE.—The Secretary of Defense may not enter into a contract with a company for the purchase of petroleum products which originated in Angola if the company (or a subsidiary or partnership of the company) is engaged in the production of petroleum products in Angola.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such action is in the best interest of the United States.

(c) PETROLEUM PRODUCT DEFINED.—For purposes of this section, the term "petroleum product" means—

"(1) natural or synthetic crude;

"(2) blends of natural or synthetic crude; and

"(3) products refined or derived from natural or synthetic crude or from such blends.

(d) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

SEC. 317. PROHIBITION OF CONTRACTS FOR THE PERFORMANCE OF CERTAIN ARMY AMMUNITION ACTIVITIES

(a) PROHIBITION OF CONTRACTING.—The Secretary of Defense and the Secretary of the Army may not enter into a contract for the performance by contractor personnel of functions performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) EXCEPTION.—The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is under contract for performance by contractor personnel.

SEC. 318. NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

(a) PERSONNEL SERVICES.—Section 4308 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary may provide personnel services (in addition to pay and non-travel related allowances for members of the armed forces) in carrying out the authority of the Secretary under this section and sections 4310 through 4312 of this title.".

(b) ALLOWANCES FOR COMPETITORS AT NATIONAL MATCHES.—Section 4313 of such title is amended—

(1) by striking out "draw not more than" in subsection (a) and all that follows through the end of the subsection and inserting in lieu thereof "be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe."; and

(2) by striking out "of five cents a mile" in subsection (b) and inserting in lieu thereof "in such amount as the Secretary of the Army shall prescribe".

SEC. 319. PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD WITH CIVIL AVIATION

The Secretary of the Army may not enter into an agreement to allow joint use of the Robert Gray Army Airfield at Fort Hood, Texas, with civil aviation.

SEC. 320. REPORT ON PROPOSED REGULATIONS RELATING TO MOVEMENT OF HOUSEHOLD GOODS AND CARGO

(a) REPORT REQUIREMENT.—The regulations of the Military Traffic Management Command described in subsection (b) may not become effective until—

(1) the Secretary of the Army submits to Congress a report with respect to such regulations that includes a discussion of—

(A) the cost savings expected as a result of implementation of such regulations; and

(B) the increased quality of services expected as a result of such implementation; and

(2) 90 days of continuous session of Congress elapse after the report is received.

(b) DESCRIPTION OF REGULATIONS.—The regulations referred to in subsection (a) are the regulations contained in the International Through Government Bill of Lading Rate Solicitation, volume 54, that concern—

(1) elimination of the so-called "me-too" rate filing cycle;

(2) elimination of the rate cancellation cycles;

(3) mandatory use of Government-owned containers; and

(4) changes in storage-in-transit charges.

(c) COMPUTATION OF TIME PERIOD.—For purposes of subsection (a)(2)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 90-day period.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES.—Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617), is amended—

(1) by inserting "(1)" before "There" in subsection (a);

(2) by inserting "and for fiscal year 1987 the sum of $10,000,000" after "sum of $10,000,000" in subsection (a);

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1).."; and

(4) by adding at the end the following new subsections:

"(d) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.".

(b) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617) (as amended by subsection (a)).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CERTAIN COUNTRIES

Section 1540(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2637), is amended by striking out "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal year 1987".

SEC. 333. HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH A MILITARY OPERATION

(a) IN GENERAL.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 20—HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS

"Sec.
"401. Armed forces participation in humanitarian and civic assistance activities.
"402. Approval of the Secretary of State.
"403. Payment of expenses.
"404. Annual report to Congress.
"405. Definition of humanitarian and civic assistance.
"406. Expenditure limitation.

"§401. Armed forces participation in humanitarian and civic assistance activities

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

"(1) the security interests of both the United States and the country in which the activities are to be carried out; and

"(2) the specific operational readiness skills of the members of the armed forces who participate in the activities.

"(b) Humanitarian and civic assistance activities carried out under this chapter shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

"(c) Humanitarian and civic assistance may not be provided under this chapter (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

"§402. Approval of the Secretary of State

"Humanitarian and civic assistance may not be provided under this chapter to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

"§403. Payment of expenses

"(a) Expenses incurred as a direct result of providing humanitarian and civic assistance under this chapter to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

"(b) Nothing in this chapter may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to subsection (a).

"§404. Annual report to Congress

"The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this chapter during the preceding fiscal year. The Secretary shall include in each such report—

"(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

"(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

"(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

"§405. Definition of humanitarian and civic assistance

"In this chapter, the term 'humanitarian and civic assistance' means—

"(1) medical, dental, and veterinary care provided in rural areas of a country;

"(2) construction of rudimentary surface transportation systems;

"(3) well drilling and construction of basic sanitation facilities; and

"(4) rudimentary construction and repair of public facilities.

"§406. Expenditure limitation

"Not more than $16,400,000 may be obligated or expended for the purposes of this chapter during fiscal years 1987 through 1991.".

(2) The tables of chapters at the beginning of subtitle A of such title and at the beginning of part I of such subtitle are each amended by adding at the end the following new item:

"20. Humanitarian and Civic Assistance Provided in Conjunction With Military Operations ..... 401".

(b) EXPENDITURE LIMITATION FOR FISCAL YEAR 1987.—Not more than $3,000,000 may be obligated or expended for the purposes of chapter 20 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

TITLE IV—PERSONNEL AUTHORIZATIONS AND RELATED MATTERS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as of September 30, 1987, as follows:

(1) The Army, 780,800.
(2) The Navy, 587,000.
(3) The Marine Corps, 199,600.
(4) The Air Force, 606,850.

SEC. 402. QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

(a) PERMANENT REQUIREMENT FOR MINIMUM PERCENTAGE OF HIGH-SCHOOL GRADUATES.—Chapter 333 of title 10, United States Code, is amended by adding at the end the following new section:

"§3262. Army: percentage of high-school graduates

"Of the males with no prior military service who are enlisted or inducted into the Army during any fiscal year, the number who are not high-school graduates may not exceed, as of the end of the fiscal year, 35 percent of all such persons.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3262. Army: percentage of high-school graduates.".

SEC. 403. STRENGTH OF ACTIVE DUTY OFFICER CORPS

(a) REDUCTION IN SIZE OF OFFICER CORPS.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

Column 1 On and after:	Column 2 Percentage of total commissioned officers serving on active duty as of September 30, 1986:
September 30, 1987	99
September 30, 1988	97
September 30, 1989	94

(b) EXCLUSIONS.—In computing the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:

(1) Reserve officers—

(A) on active duty for training;

(B) on active duty under section 265, 270(b), 672a, 3033, 3496, 5251, 5252, 8033, or 8496 of title 10, United States Code, or under section 708 of title 32, United States Code;

(C) on active duty under section 672(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;

(D) on active duty to pursue special work;

(E) ordered to active duty under section 673b of title 10, United States Code; or

(F) on full-time National Guard duty.

(2) Retired officers on active duty under a call or order to active duty for 180 days or less.

(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

(c) APPORTIONMENT OF REDUCTIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1987, as follows:

(1) The Army National Guard of the United States, 452,681.
(2) The Army Reserve, 318,011.
(3) The Naval Reserve, 149,486.
(4) The Marine Corps Reserve, 43,470.
(5) The Air National Guard of the United States, 113,767.
(6) The Air Force Reserve, 79,562.
(7) The Coast Guard Reserve, 12,850.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

(c) AMENDMENT TO SECTION 115 OF TITLE 10.—Paragraph (1) of section 115(a) of title 10, United States Code (as designated by section 110 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"(1) Congress shall authorize the end strength as of the end of each fiscal year for the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law.".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

(a) IN GENERAL.—Within the end strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1987, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, on full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard of the United States, 24,731.
(2) The Army Reserve, 12,407.
(3) The Naval Reserve, 21,476.
(4) The Marine Corps Reserve, 1,745.
(5) The Air National Guard of the United States, 8,169.
(6) The Air Force Reserve, 665.

(b) COUNTING OF PERSONNEL IN CERTAIN RESERVE CALL-UP SITUATIONS.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 685 the following new section:

"§686. Reserves on active duty: duties; funding

"(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 673 or 673b of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

"(b) Funds available for the pay and allowances of Reserves referred to section 678 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 673

or 673b of this title under the authority of subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"686. Reserves on active duty: duties; funding.".

SEC. 413. ACCOUNTING FOR CERTAIN AUTHORIZED RESERVE COMPONENT MEMBERS

Section 115(b) of title 10, United States Code (as designated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by striking out the text of paragraph (1)(A) and inserting in lieu thereof the following: "Congress shall authorize the end strength as of the end of each fiscal year for each component of the armed forces for (i) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (ii) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel. Upon determination by the Secretary of Defense that such action is in the national interest, the end strength authorized pursuant to clause (i) of the preceding sentence for a fiscal year may be increased by a number equal to not more than 0.5 percent of the end strength authorized for such component for that fiscal year and the end strength authorized pursuant to clause (ii) of that sentence for a fiscal year may be increased by a number equal to not more than 2 percent of such end strength authorized for such component for that fiscal year. No funds may be appropriated to or for the use of active-duty personnel or full-time National Guard duty personnel of any component of the armed forces unless the end strength for such personnel of that component for that fiscal year has been authorized by law.";

(2) in paragraph (1)(B)—

(A) by striking out "for 180 days or less" in clause (v); and

(B) by adding at the end the following new clause:

"(vii) Members on full-time National Guard duty for 180 days or less."; and

(3) in paragraph (3)(D)—

(A) by striking out "and" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) an analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by the following categories:

"(I) Recruit and specialized training.

"(II) Flight training.

"(III) Professional training in military and civilian institutions.

"(IV) Officer acquisition training.".

PART C—MILITARY TRAINING

SEC. 421. MILITARY TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1987, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 76,758.

(2) The Navy, 72,483.

(3) The Marine Corps, 19,433.

(4) The Air Force, 43,911.

(5) The Army National Guard of the United States, 18,262.

(6) The Army Reserve, 15,858.

(7) The Naval Reserve, 3,493.

(8) The Marine Corps Reserve, 3,944.

(9) The Air National Guard of the United States, 3,566.

(10) The Air Force Reserve, 2,127.

(b) ADJUSTMENTS.—The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1987 shall be adjusted consistent with the personnel strengths authorized in parts A and B. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

SEC. 501. ASSIGNMENT OF ACTIVE-DUTY MEMBERS OUTSIDE THE UNITED STATES

The text of section 671 of title 10, United States Code, is amended to read as follows:

"(a) A member of the armed forces may not be assigned to active duty on land outside the United States and its territories and possessions until the member has completed the basic training requirements of the armed force of which he is a member.

"(b) In time of war or a national emergency declared by Congress or the President, the period of required basic training (or its equivalent) may not be less than 12 weeks.".

SEC. 502. SERVICE OF MEMBERS ON STATE AND LOCAL JURIES

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§982. Members: service on State and local juries

"(a) A member of the armed forces on active duty may not be required to serve on a State or local jury if the Secretary concerned determines that such service—

"(1) would unreasonably interfere with the performance of the member's military duties; or

"(2) would adversely affect the readiness of the unit, command, or activity to which the member is assigned.

"(b) A determination by the Secretary concerned under this section is conclusive.

"(c) The Secretary concerned shall prescribe regulations for the administration of this section.

"(d) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"982. Members: service on State and local juries.".

SEC. 503. EXTENSION OF EXPIRING AUTHORITY FOR SPOT PROMOTIONS OF NAVY LIEUTENANTS

Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

SEC. 504. REPEAL OF REQUIREMENT REGARDING ENLISTMENT OF WOMEN IN THE AIR FORCE DURING FISCAL YEAR 1987

Section 551(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2530), is amended by striking out "the period beginning on October 1, 1986" and all that follows through the end of the subsection and inserting in lieu thereof "fiscal year 1988, not less than 22 percent shall be women.".

SEC. 505. AUTHORITY TO EXEMPT PHYSICIANS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FROM REDUCTIONS IN RETIRED PAY

Section 2113(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2) The Board may exempt, at any time, a physician who is a member of the faculty from the restrictions in subsections (a), (b), and (c) of section 5532 of title 5, if the Board determines that such exemption is necessary to recruit or retain well-qualified physicians for the faculty of the University. An exemption granted under this paragraph shall terminate upon any break in employment with the University by a physician of three days or more. An exemption granted under this paragraph to a person shall apply to the retired pay of such person beginning with the first month after the month in which the exemption is granted. Not more than two exemptions may be in effect under this paragraph at any time.".

SEC. 506. TREATMENT OF EXCESS LEAVE UPON REENLISTMENT

(a) AUTHORITY TO CARRY OVER EXCESS LEAVE.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.".

(b) AUTHORIZATION FOR PAY AND ALLOWANCES FOR CARRIED OVER EXCESS LEAVE.—Section 502(b) of title 37, United States Code, is amended by inserting "and section 701(h) of title 10" after "subsection (a) of this section".

SEC. 507. TERMINATION OF GENDER-BASED DISTINCTIONS IN PROMOTIONS OF OFFICERS OF THE NAVAL RESERVE AND MARINE CORPS RESERVE

(a) IN GENERAL.—Chapter 549 of title 10, United States Code, is amended by striking out sections 5896 through 5899 and inserting in lieu thereof the following:

"§5896. Recommendations for promotion by selection boards

"(a) A selection board convened under this chapter shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the Navy or Marine Corps for officers with particular skills, considers best qualified for promotion within each competitive category considered by the board.

"(b) A selection board convened under this chapter may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) Except as otherwise provided by law, an officer of the Naval Reserve or the Marine Corps Reserve may not be promoted to a higher grade under this chapter unless the officer is considered and recommended for promotion to that grade by a selection board convened under this chapter.

"§5897. Reports of selection boards

"Each selection board convened under this chapter shall submit to the Secretary of the Navy a written report, signed by each member of the board, containing a list of the names of the officers recommended for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to the board under section 5895 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the Navy or the Marine Corps from among those officers whose names were furnished to the selection board.

"§5898. Action on reports of selection boards

"(a) If, after reviewing the report of a selection board submitted under section 5897 of this title, the Secretary of the Navy determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary under this subsection, the selection board (or a subsequent selection board convened under this chapter for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 5897 of this title.

"(b) The Secretary of the Navy shall, after final review of the report, submit it, together with the Secretary's recommendations, to the Secretary of Defense for transmittal to the President for approval, modification, or disapproval.

"(c) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.

"(d) Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"(e) Except as authorized or required by this section, proceedings of a selection board convened under this chapter may not be disclosed to any person not a member of the board.

"§5899. Eligibility for consideration for promotion: running mates

"An officer is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under this chapter when that officer's running mate is in or above the promotion zone established for that officer's present grade under chapter 36 of this title.".

(b) CLERICAL AND CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 549 of title 10, United States Code, is amended by striking out the items relating to sections 5896 through 5899 and inserting in lieu thereof the following:

"5896. Recommendations for promotion by selection boards.
"5897. Reports of selection boards.
"5898. Actions on reports of selection boards.
"5899. Eligibility for consideration for promotion: running mates.".

(2) Section 5903 of such title is amended—

(A) by striking out "(a)" at the beginning of such section; and

(B) by striking out subsection (b).

(3) Subsection (a) of section 5905 of such title is amended to read as follows:

"(a) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to selection boards convened on or after the date of the enactment of this Act.

SEC. 508. SENATE CONFIRMATION OF CERTAIN GENERAL AND FLAG OFFICER POSITIONS

(a) DEAN OF ACADEMIC BOARD OF UNITED STATES MILITARY ACADEMY.—Section 4335 of title 10, United States Code, is amended—

(1) by striking out the last sentence of subsection (b); and

(2) by adding at the end the following new subsection:

"(c) The Dean of the Academic Board has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Army, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

(b) DEPUTY JUDGE ADVOCATE GENERAL AND ASSISTANT JUDGE ADVOCATES GENERAL OF THE NAVY.—Section 5149 of such title is amended—

(1) in subsection (a)—

(A) by striking out the first sentence and inserting in lieu thereof the following: "There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General."; and

(B) by striking out in the second sentence "rank and" and "rank or";

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following: "While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate."; and

(3) by striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate.".

(c) DEAN OF THE FACULTY OF THE UNITED STATES AIR FORCE ACADEMY.—Section 9335(b) of such title is amended to read as follows:

"(b) The Dean has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Air Force, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

(d) ATTENDING PHYSICIAN TO THE CONGRESS.—(1)(A) Chapter 34 of such title is amended by adding at the end the following new section:

"§600a. Attending Physician to the Congress

"While serving as Attending Physician to the Congress, a Reserve who holds a reserve grade lower than major general or rear admiral shall hold the reserve grade of major general or rear admiral, as appropriate, if appointed to that grade by the President, by and with the advice and consent of the Senate.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"600a. Attending Physician to the Congress.".

(2) Section 1374 of such title is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection (e):

"(e) Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 1376(a) of this title in the grade held by such officer while serving in such position.".

(e) CONFORMING AMENDMENT.—The second undesignated paragraph relating to the Office of the Attending Physician under the heading "JOINT ITEMS" in chapter V of the Supplemental Appropriations Act, 1973 (Public Law 92-607; 86 Stat. 1509), is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to appointments or details made on or after the date of the enactment of this Act.

SEC. 509. POSITION OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS

(a) IN GENERAL.—(1) Chapter 506 of title 10, United States Code (as enacted by section 513 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new section:

"§5046. Staff Judge Advocate to the Commandant of the Marine Corps

"(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be detailed as Staff Judge Advocate to the Commandant of the Marine Corps. While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that officer served on active duty satisfactorily, as determined by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5046. Staff Judge Advocate to the Commandant of the Marine Corps.".

(b) EFFECTIVE DATE.—Section 5046 of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act.

(d) TRANSITION PROVISION.—Notwithstanding section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act, if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy.

SEC. 510. TECHNICAL CORRECTION RELATING TO PERSONNEL ADMINISTRATION AT AIR FORCE INSTITUTE OF TECHNOLOGY

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out "rates of basic".

SEC. 511. TEMPORARY INCREASE IN THE NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY IN THREE- AND FOUR-STAR GRADES

During fiscal year 1987, the numbers of officers authorized under section 525(b) of title 10, United States Code, to be on active duty in grades above major general and rear admiral are increased as follows:

(1) AIR FORCE GENERALS.—The number of officers of the Air Force authorized to be serving on active duty in the grade of general is increased by one.

(2) NAVY VICE ADMIRALS.—The number of officers of the Navy authorized to be serving on active duty in a grade above rear admiral is increased by three. None of the additional officers in grades above rear admiral by reason of this paragraph may be in the grade of admiral.

(3) MARINE CORPS GENERAL OFFICERS.—The number of officers of the Marine Corps authorized to be serving on active duty in grades above major general is increased by two. Only one additional officer in a grade above major general by reason of this paragraph may be in the grade of general.

SEC. 512. STUDY ON STAFFING OF CRITICAL WARTIME MEDICAL SPECIALITIES

(a) STUDY.—The Secretary of Defense shall conduct a study of possible actions which could be taken by the Department of Defense or by law to improve staffing of critical wartime medical specialities (including physician, nurse, and enlisted specialities) in both the active and reserve components. The study shall address the desirability of at least the following actions:

(1) Extending the mandatory retirement age of medical personnel in the active and reserve components.

(2) Extending the age limitations on enlistments and on officer accessions for medical personnel into the active and reserve components.

(3) Improving Department of Defense marketing techniques for attracting medical personnel in critical wartime medical specialities in the active and reserve components.

(4) Establishing alternative participation requirements for medical personnel in the reserve components.

(b) REPORT.—Not later than March 1, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the findings of the study conducted under subsection (a). The report shall include specific recommendations for legislative and administrative action with respect to the best methods for improving the staffing of critical wartime medical specialities in both the active and reserve components.

SEC. 513. STUDY OF REPRESENTATION OF RELIGIOUS FAITHS IN THE ARMED FORCES

(a) STUDY.—The Secretary of Defense shall carry out a study of the faith composition of the chaplains of the Armed Forces. Such study shall include the following:

(1) A statistical listing of the faith composition of the Armed Forces and of the Corps of Chaplains, to include an analysis of how the number of adherents to faith groups is determined.

(2) An analysis of the benefits and detriments to the Armed Forces of using the demographic distribution of faiths among members of the Armed Forces as a guide to the faith distribution within the Corps of Chaplains.

(3) An analysis of the time devoted by chaplains to such responsibilities as administrative tasks, conduct of religious services, and counseling, with particular emphasis on the time devoted to faith-specific tasks and to non-faith-specific tasks.

(4) An analysis of the personnel policies for managing the Corps of Chaplains (including the separation of chaplains for failure to achieve promotion), and the effect of these policies upon the faith composition of the Corps of Chaplains, to include a statistical analysis of the effect on the current faith distribution within the Armed Forces today if all those chaplains involuntarily released from duty during fiscal years 1980 through 1985 had been retained on active duty until fiscal year 1986.

(5) An analysis of the benefits and detriments of using grade retentions, continuation boards, and standby tours of duty for reserve chaplains for the purpose of altering the faith composition of the Corps of Chaplains.

(6) An explanation of the manner by which chaplains are recruited and the role of organized faith groups in assisting or retarding the recruitment or retention of chaplains.

(b) VIEWS OF FAITH GROUP OFFICES.—To the maximum extent possible, the Secretary shall seek the views of faith group offices that deal with chaplains. Any written comment received from any such office shall be appended to the report under subsection (c).

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study under subsection (a). The report shall include each of the matters described in paragraphs (1) through (6) of such subsection and shall be submitted no later than January 9, 1987.

PART B—RESERVE FORCES

SEC. 521. INCREASED PRESIDENTIAL AUTHORITY TO AUGMENT ACTIVE FORCES WITH THE SELECTED RESERVE

(a) NUMBER OF MEMBERS THAT MAY BE ORDERED TO ACTIVE DUTY INVOLUNTARILY.—Subsection (c) of section 673b of title 10, United States Code, is amended by striking out "100,000" inserting in lieu thereof "200,000".

(b) AUTHORITY TO EXTEND PERIOD OF CALL-UP.—Such section is further amended by adding at the end the following new subsection:

"(i) When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, is ordered to active duty under this section and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than 90 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement of reasons for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g).".

(c) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "Reserve component" in subsection (b) and inserting in lieu thereof "reserve component";

(2) by striking out "Armed Forces" in subsection (e) and inserting in lieu thereof "armed forces";

(3) by striking out "the Speaker" in subsection (f) and all that follows through "Senate" and inserting in lieu thereof "Congress"; and

(4) by striking out "a concurrent resolution of the Congress" in subsection (g)(2) and inserting in lieu thereof "law".

SEC. 522. CONSENT OF GOVERNOR FOR CERTAIN ACTIVE DUTY OF NATIONAL GUARD

Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 523. TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS OF THE ARMED FORCES

(a) IN GENERAL.—In determining under section 510 of title 10, United States Code, whether a person who is applying to enlist in a reserve component of the Armed Forces upon discharge or release from active duty is qualified for enlistment as a Reserve of an Armed Force, the Secretary concerned may not disqualify the person because the person is a single parent if—

(1) the person is otherwise qualified for enlistment;

(2) the person became a single parent while serving on active duty; and

(3) the person's status as a single parent was not a factor in the person's discharge or release from active duty.

(b) REQUIREMENTS NOT TO BE MORE STRINGENT.—The Secretary concerned shall provide that requirements imposed on a person described in subsection (a) with respect to parenthood shall not be more stringent than those imposed on a member who becomes a single parent during the term of the member's enlistment. The Secretary concerned may include a requirement for an acceptable written agreement with respect to child care as a prerequisite to enlistment.

(c) SINGLE PARENT DEFINED.—In this section, the term "single parent" means a

person who is not married and who has custody of a child under the age of 18 pursuant to a court order.

(d) EXPIRATION.—This section shall expire on September 30, 1988.

SEC. 524. ACTIVE-DUTY STATUS OF RESERVE COMPONENT MEMBERS IN A CAPTIVE STATUS

(a) AUTHORITY FOR INVOLUNTARY CALL TO ACTIVE DUTY.—Section 672 of title 10, United States Code (as amended by section 522), is amended by adding at the end the following new subsection:

"(g)(1) A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.

"(2) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.

"(3) In this section, the term 'captive status' means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.".

(b) EFFECTIVE DATE.—Section 672(g) of title 10, United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act.

PART C—CIVILIAN PERSONNEL

SEC. 531. WAIVER OF CIVILIAN PERSONNEL CEILINGS FOR FISCAL YEAR 1987

The provisions of section 115(b)(2) of title 10, United States Code (as designated and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

SEC. 532. PROHIBITION ON MANAGING CIVILIAN PERSONNEL BY END-STRENGTHS DURING FISCAL YEAR 1987

(a) PROHIBITION.—During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(b) FY87 REPORTS.—Not later than February 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the experience of the Department of Defense during fiscal years 1986 and 1987 (to the date of the report) concerning the management of civilian personnel of the Department without a congressionally imposed civilian end strength and with a statutory prohibition on the management during those fiscal years of such civilian personnel by end strength. Each such report shall include the views of the Secretary with respect to the desirability of managing such personnel in such a manner.

(c) REPORTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives quarterly reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal year 1987. Each report shall include—

(A) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal year 1987;

(B) for each appropriation account and for the entire Department—

(i) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each month of the fiscal year quarter described in the report; and

(ii) the projected number of such personnel to be employed, and the amount of funds that will be obligated for such personnel, as of the end of fiscal year 1987.

SEC. 533. PROHIBITION ON CONTROLLING PERSONNEL NOT FUNDED BY GOVERNMENT

Section 129 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by inserting "(a)" at the beginning of the text of such section; and

(2) by adding at the end the following:

"(b) The number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense may not be—

"(1) subject to any constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year;

"(2) managed on the basis of any end-strength; or

"(3) controlled under any policy of the Secretary of a military department for control of civilian manpower resources.

"(c) In this section, the term 'indirectly funded Government employees' means civilian employees of the Department of Defense—

"(1) who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title; and

"(2) whose salaries and benefits are funded from sources other than appropriated funds.".

SEC. 534. REDUCTION IN NUMBER OF YEARS PERSON MUST BE OFF ACTIVE DUTY BEFORE APPOINTMENT AS SERVICE SECRETARY

Sections 3013(a)(2), 5013(a)(2), and 8013(a)(2) of title 10, United States Code (as added by sections 501, 511, and 521, respectively of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), are amended by striking out "10 years" and inserting in lieu thereof "five years".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1987

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

(b) THREE PERCENT INCREASE IN BASIC PAY, BASIC ALLOWANCE FOR QUARTERS, AND BASIC ALLOWANCE FOR SUBSISTENCE.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

(c) THREE PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1987, section 203(c)(1) of title 37, United States Code, is amended by striking out "$461.40" and inserting in lieu thereof "$494.40".

SEC. 602. AUTHORITY TO PAY ROTC MEMBERS IN ADVANCE FOR FIELD TRAINING

(a) AUTHORITY.—Section 1006 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.".

(b) EFFECTIVE DATE.—Subsection (j) of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act.

SEC. 603. REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

(a) LIMITATION ON AMOUNT AVAILABLE FOR REIMBURSEMENTS DURING FISCAL YEARS 1987 THROUGH 1991.—Effective as of October 1, 1986, section 7572(b)(3) of title 10, United States Code, is amended to read as follows:

"(3) The total amount of reimbursement under this subsection may not exceed $1,421,000 for fiscal year 1986 and $1,657,000 for each of the fiscal years 1987 through 1991.".

(b) EXTENSION OF AUTHORITY.—Effective as of October 1, 1986, section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1991".

SEC. 604. PAY, ALLOWANCES, AND BENEFITS FOR MEMBERS OF THE RESERVE COMPONENTS

(a) MEDICAL AND DENTAL CARE.—(1) Section 1074a of title 10, United States Code, is amended to read as follows:

"§1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization.

"(c) A member is not entitled to benefits under this section if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.".

(2) The item relating to section 1074a in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days.".

(b) PAY AND ALLOWANCES FOR DISABLED MEMBERS.—Section 204 of title 37, United States Code, is amended as follows:

(1) Subsections (g) and (h) are amended to read as follows:

"(g) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member—

"(1) is called or ordered to active duty for a period of more than 30 days; and

"(2) is physically disabled in line of duty from injury, illness, or disease.

"(h)(1) A member of a reserve component of a uniformed service is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of income from non-military compensation as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty for a period of 30 days or less;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from that duty or training.

"(2)(A) Subject to subparagraphs (B) and (C), pay and allowances paid under paragraph (1) shall be in an amount which offsets the loss of income from non-military compensation.

"(B) Pay and allowances may not be paid under paragraph (1) to a member who is enrolled in any other income protection insurance plan to the extent that such payment would result in total benefits to the member of more than the demonstrated loss of income from non-military compensation.

"(C) The total amount of pay and allowances paid under paragraph (1) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(3) Pay and allowances may be paid under paragraph (1)—

"(A) for a period of not more than six months; or

"(B) for a longer period, if the Secretary concerned determines that it is in the interests of fairness and equity to do so.

"(4) A member is not entitled to benefits under this subsection if the injury, illness, disease, or aggravation of an injury, illness, or disease described in paragraph (1)(C) is the result of the gross misconduct of the member.

"(5) Regulations with respect to procedures for paying pay and allowances under paragraph (1) shall be prescribed—

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) Subsection (i) is repealed.

(3) Subsection (j) is redesignated as subsection (i).

(c) INACTIVE-DUTY TRAINING PAY FOR DISABLED MEMBERS.—Section 206(a) of title 37, United States Code, is amended by striking out "entitled to basic pay" the second place it appears and all that follows and inserting in lieu thereof the following: "entitled to basic pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or

"(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing—

"(i) active duty for a period of 30 days or less; or

"(ii) inactive-duty training; or

"(B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member).".

(d) RETIREMENT FOR DISABILITY.—(1) Sections 1204 and 1206 of title 10, United States Code, are amended by striking out "resulting from an injury".

(2)(A) The heading of section 1204 of such title is amended to read as follows:

"§1204. Members on active duty for 30 days or less: retirement".

(2) The heading of section 1205 of such title is amended to read as follows:

"§1205. Members on active duty for 30 days or less: temporary disability retired list".

(3) The heading of section 1206 of such title is amended to read as follows:

"§1206. Members on active duty for 30 days or less: separation".

(4) The items relating to sections 1204, 1205, and 1206 in the table of sections at the beginning of chapter 61 of such title are amended to read as follows:

"1204. Members on active duty for 30 days or less: retirement.
"1205. Members on active duty for 30 days or less: temporary disability retired list.
"1206. Members on active duty for 30 days or less: separation.".

(e) DEATH BENEFITS.—(1) Section 1475(a) of title 10, United States Code, is amended by striking out "from an injury incurred by him after December 31, 1956," in paragraph (3).

(2) Section 1476 of such title is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

"(A) active duty; or

"(B) inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

"(2) A death gratuity may be paid under paragraph (1) only if the Administrator of Veterans' Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

"(A) the active duty or inactive-duty training described in paragraph (1); or

"(B) travel directly to or from such duty.";

(B) by striking out subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) Section 1481(a) of such title is amended—

(A) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a member of a reserve component of an armed force who dies while—

"(A) on active duty;

"(B) performing inactive-duty training;

"(C) performing authorized travel directly to or from active duty or inactive-duty training; or

"(D) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training;"; and

(B) by striking out paragraph (3).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 10, United States Code, is amended as follows:

(A) Sections 3687, 3721, 3722, 6148, 8687, 8721, and 8722 are repealed.

(B)(i) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3687.

(ii) The table of sections at the beginning of chapter 355 is amended by striking out the items relating to sections 3721 and 3722.

(iii) The table of sections at the beginning of chapter 561 is amended by striking out the item relating to section 6148.

(iv) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8687.

(v) The table of sections at the beginning of chapter 855 is amended by striking out the items relating to sections 8721 and 8722.

(C) Sections 1076(a)(2)(B) and 1086(c)(2)(B) are amended by striking out "injury or illness" and inserting in lieu thereof "injury, illness, or disease".

(D) Sections 3723 and 8723 are amended by striking out "was injured, or contracted a disease," and inserting in lieu thereof "incurred an injury, illness, or disease,".

(2)(A) Sections 318, 319, 320, and 321 of title 32, United States Code, are repealed.

(B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the items relating to sections 318, 319, 320, and 321.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease or die.

PART B—TRAVEL AND TRANSPORTATION

SEC. 611. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS MAKING PERMANENT CHANGES OF STATION

(a) IN GENERAL.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking out "in the case of" and all that follows through "debarkation" in paragraph (4) and inserting in lieu thereof "by other surface transportation"; and

(2) by striking out ", or his designee," in the second sentence.

(b) REVISION TO DEFINITION OF CHANGE OF PERMANENT STATION.—Subsection (b) of such section is amended to read as follows:

"(b) In this section:

"(1) The term 'change of permanent station' means the transfer or assignment of a member of the armed forces from a permanent station inside the continental United States to a permanent station outside the continental United States or from a permanent station outside the continental United States to another permanent station. It also includes an authorized change in home port of a vessel, or a transfer or assignment between two permanent stations in the continental United States when the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations.

"(2) The term 'continental United States' does not include Alaska.".

SEC. 612. COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.

SEC. 613. LIMITATION ON AMOUNT FOR PCS MOVES DURING FISCAL YEAR 1987

The total amount authorized to be appropriated to the Department of Defense for fiscal year 1987 for permanent change of station moves may not exceed $2,533,760,000.

SEC. 614. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) IN GENERAL.—Section 404(d) of title 37, United States Code, is amended—

(1) by striking out "per diem in place of subsistence in an amount not more than $50 determined by the Secretaries concerned to be sufficient" in paragraph (1)(B) and inserting in lieu thereof "payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient";

(2) by striking out "to be" in paragraph (1)(B) after "travel is"; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to any of the following:

"(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

"(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

"(C) A combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) of this subsection shall be established, to the extent feasible, by locality.

"(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) of this subsection shall be allocated in such manner as the Secretaries concerned prescribe.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall become effective on such date as the President makes a certification that payment of lodging expenses and per diem provided under such amendments would result in overall savings to the United States. If such amendments become effective, they shall apply with respect to travel performed on and after the date of the certification by the President.

(2) The President shall cause to be published in the Federal Register a certification made by him under paragraph (1).

SEC. 615. TRANSPORTATION AND TRAVEL ALLOWANCES FOR ESCORTS FOR CERTAIN DEPENDENTS

(a) IN GENERAL.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§431. Travel and transportation: members escorting certain dependents

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an escort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

"(b) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"431. Travel and transportation: members escorting certain dependents.".

(b) EFFECTIVE DATE.—Section 431 of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.

SEC. 616. TRAVEL EXPENSES FOR OVERSEAS DEPENDENTS REQUIRING MEDICAL CARE IN CERTAIN CIRCUMSTANCES

(a) IN GENERAL.—Section 1040(a) of title 10, United States Code, is amended by striking out the comma after "attendants" and all that follows in the third sentence and inserting in lieu thereof a period and the following: "In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to travel performed on or after the date of the enactment of this Act.

SEC. 617. PER DIEM FOR DEPENDENTS RECEIVING TRANSPORTATION ALLOWANCE

(a) IN GENERAL.—Section 406 of title 37, United States Code, is amended as follows:

(1) The first sentence of subsection (e) is amended by striking out ", as the case may be," and inserting in lieu thereof the following: "(as the case may be), plus a per diem,".

(2) Subsection (f) is amended by inserting after "member" the following: ", plus a per diem for the member's dependents,".

(3) Subsection (g)(1) is amended by inserting after "404(c) of this title" the following: ", and to a per diem for his dependents".

(4) Subsection (j) is amended by inserting after "household effects," the following: "plus a per diem for the member's dependents,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to travel performed after the date of the enactment of this Act.

SEC. 618. MODIFICATION OF FAMILY SEPARATION ALLOWANCE

(a) DENIAL OF ALLOWANCE TO CERTAIN MEMBERS.—(1) Section 427(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by designating the second sentence as paragraph (2) and striking out "clause (2) or (3)" in that sentence and inserting in lieu thereof "subparagraph (B) or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under this subsection. The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a), a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) of such section, as added by subsection (a).

SEC. 619. IMPROVED DISLOCATION ALLOWANCE

(a) IN GENERAL.—Section 407 of title 37, United States Code, is amended to read as follows:

"§ 407. Travel and transportation allowances: dislocation allowance

"(a) Except as provided in subsections (b), (c), and (d) of this section and under regulations prescribed by the Secretary concerned, a member of a uniformed service is entitled to a dislocation allowance equal to the basic allowance for quarters for two months as provided for the member's pay grade and dependency status in section 403 of this title if—

"(1) the member's dependents actually make an authorized move in connection with the member's change of permanent station, including—

"(A) a move to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

"(B) a move to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station;

"(2) the member's dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title;

"(3) the member's dependents actually move from their place of residence under circumstances described in section 406a of this title; or

"(4) the member is without dependents and—

"(A) actually moves to a new permanent station where not assigned to quarters of the United States; or

"(B) actually moves from a place of residence under circumstances described in section 406a of this title.

If a dislocation allowance is paid under clause (3) or (4)(B), the member is not entitled to a dislocation allowance under clause (1).

"(b) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a dislocation allowance under subsection (a)(3) or (a)(4)(B) of this section, the member is also entitled to a second dislocation allowance equal to the basic allowance for quarters for two months as provided for a member's pay grade and dependency status in section 403 of this title if, subsequent to the member or member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title. If a second dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance under subsection (a)(1) of this section in connection with those moves.

"(c) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

"(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

"(2) the member is ordered to a service school as a change of permanent station;

"(3) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

"(4) the member or the member's dependents are covered by subsection (a)(3), (a)(4)(B), or (b) of this section.

This subsection does not apply in time of national emergency declared after April 1, 1975, or in time of war.

"(d) A member is not entitled to payment of a dislocation allowance when ordered from his home to the first duty station or from the last duty station to his home.

"(e) For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only to moves which commence on or after that date.

SEC. 620. TRANSPORTATION AND STORAGE OF HOUSEHOLD GOODS

(a) ADMINISTRATION OF STORAGE OF EXCESS HOUSEHOLD GOODS.—Section 406(d) of title 37, United States Code, is amended by inserting after the second sentence the following new sentence: "In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.".

(b) EARLY RETURN SHIPMENT OF HOUSEHOLD GOODS AND PRIVATELY OWNED MOTOR VEHICLES FROM OVERSEAS.—(1) Section 406 of such title is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection (l):

"(l) Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.".

(2) Section 2634 of title 10, United States Code, as amended by section 611, is further amended by adding at the end the following new subsection:

"(f) When the Secretary concerned makes a determination under section 406(l) of title 37 that the dependents of a member on a permanent change of station are unable to accompany the member to an overseas duty station because of unexpected and uncontrollable circumstances, and the member shipped a motor vehicle pursuant to this section in anticipation of a dependent accompanying the member to the new duty station, the member may reship or transship such motor vehicle in accordance with this section.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply only with respect to members whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 631. ENHANCED AVIATION OFFICER CONTINUATION PAY

(a) SERVICE FOR QUALIFYING.—Section 301b(e) of title 37, United States Code, is amended—

(1) by striking out "less than seven years" in the third sentence of paragraph (3), and inserting in lieu thereof "less than eight years"; and

(2) by striking out paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made for periods beginning after the date of the enactment of this Act under agreements entered into under section 301b of title 37, United States Code.

SEC. 632. INCLUSION OF AVIATION CADETS UNDER AVIATION CAREER INCENTIVE PAY

(a) IN GENERAL.—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof a semicolon and "and"; and

(C) by inserting after clause (B) the following new clause:

"(C) 'officer' includes an individual enlisted, and designated, as an aviation cadet under section 6911 of title 10.".

(2) Section 301a(b)(1) of such title is amended by striking out "an officer in pay grades O-1 through O-10" and inserting in lieu thereof "a member".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to those members of the Armed Forces who are aviation cadets on or after the date of the enactment of this Act. Service as an aviation cadet before that date shall not be counted for any purpose under section 301a of title 37, United States Code.

SEC. 633. SPECIAL AUTHORITY RELATING TO THE PAYMENT OF SELECTED RESERVE ENLISTMENT BONUS

(a) IN GENERAL.—The Secretary concerned may pay an enlistment bonus under section 308c of title 37, United States Code, to any person who enlisted in the Selected Reserve of the Ready Reserve of an Armed Force during the period beginning on October 1, 1985, and ending on November 8, 1985, if such person—

(1) has not been paid an enlistment or reenlistment bonus under section 308c or 308b of title 37, United States Code, since that period; and

(2) enlisted in the good faith belief (as determined by the Secretary concerned) that he would be paid an enlistment bonus under section 308c of title 37, United States Code.

(b) DEFINITION.—As used in subsection (a), the term "Secretary concerned" has the meaning provided in section 101(5) of title 37, United States Code.

SEC. 634. SPECIAL PAY FOR MEMBERS PROFICIENT IN FOREIGN LANGUAGES

(a) AUTHORITY FOR SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§316. Special pay: foreign language proficiency pay

"(a) A member of the armed forces—

"(1) who is entitled to basic pay under section 204 of this title;

"(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary of Defense as being a language in which it is necessary to have personnel proficient because of national defense considerations; and

"(3) who—

"(A) is qualified in a military specialty requiring such proficiency;

"(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

"(C) is assigned to military duties requiring such a proficiency; or

"(D) is proficient in a foreign language for which the Department of Defense may have a critical need (as determined by the Secretary of Defense),

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

"(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed $100.

"(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

"(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

"(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

"(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

"(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

"(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"316. Special pay: foreign language proficiency pay.".

(b) EFFECTIVE DATE.—Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act, and shall apply with respect to pay periods beginning on or after that date.

(c) LIMITATIONS ON OBLIGATIONS.—Not more than $7,300,000 may be obligated or expended for the payment of the special pay authorized by section 316 of title 37, United States Code (as added by this section), during fiscal year 1987, and not more than $9,000,000 may be obligated or expended for such purpose during fiscal year 1988.

PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

SEC. 641. COURT-ORDERED SURVIVOR ANNUITIES FOR FORMER SPOUSES

(a) GENERAL RULE.—Paragraph (4) of section 1450(f) of title 10, United States Code, is amended to read as follows:

"(4) A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1448(b)(5) of such title is amended by inserting "(A) whether the election is being made pursuant to the requirements of a court order, or (B)" after "setting forth".

(2) Paragraph (2) of section 1450(f) of such title is amended—

(A) by striking out "enters into" and all that follows through "pursuant to such agreement" and inserting in lieu thereof "is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement,";

(B) by striking out "in a case in which such agreement" at the beginning of subparagraph (A) and inserting in lieu thereof "in a case in which the election is required by a court order, or in which an agreement to make the election";

(C) by striking out "relating to the agreement to make such election" and inserting in lieu thereof "relating to such election, or the agreement to make such election,"; and

(D) by striking out "in which such agreement" at the beginning of subparagraph (B) and inserting in lieu thereof "of a written agreement that".

(3) Paragraph (3)(A) of such section is amended—

(A) by striking out "voluntary" both places it appears;

(B) by inserting "or if such person is required by a court order to make such an election," after "applicable State law" the first place it appears; and

(C) by inserting "requires such election or" after "on its face, which".

(c) EFFECTIVE DATE.—The amendments made by this section apply to court orders issued on or after the date of the enactment of this Act.

SEC. 642. ANNUITY FOR A DEPENDENT CHILD

(a) REPEAL OF COMMON-ACCIDENT LIMITATION.—(1) Subsection (d)(2) of section 1448 of title 10, United States Code, is amended by striking out "if the member and the member's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the member's surviving spouse subsequently dies".

(2) Subsection (f)(2) of such section is amended by striking out "if the person and the person's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the person's surviving spouse subsequently dies".

(b) AMOUNT OF ANNUITY FOR DISABLED CHILD OVER AGE 62.—(1) Subsection (a) of section 1451 of such title is amended—

(A) by inserting "or is a dependent child" in paragraphs (1)(A) and (2)(A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in paragraphs (1)(B) and (2)(B) after "beneficiary".

(2) Subsection (c)(1) of such section is amended—

(A) by inserting "or is a dependent child" in subparagraph (A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in subparagraph (B) after "receiving the annuity".

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply only to claims arising on or after March 1, 1986. The amendments made by subsection (b) shall apply to payments for periods after February 28, 1986.

SEC. 643. AGE AT WHICH REMARRIAGE TERMINATES SPOUSE SURVIVOR BENEFIT

(a) REDUCTION FROM AGE 60 TO AGE 55.—Section 1450(b) of such title is amended by striking out "age 60" both places it appears and inserting in lieu thereof "age 55".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to remarriages that occur on or after the date of the enactment of this Act, but only with respect to payments for periods after the date of the enactment of this Act.

SEC. 644. REVISION OF DEFINITION OF DISPOSABLE RETIRED PAY FOR PURPOSES OF COURT ORDERS

(a) IN GENERAL.—Section 1408(a)(4) of such title is amended—

(1) by striking out "(other than" and all that follows through "title)" in the matter preceding subparagraph (A); and

(2) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) in the case of a member entitled to retired pay under chapter 61 of this title, are equal to the amount of retired pay of the member under that chapter computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list); or".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to court orders issued after the date of the enactment of this Act.

SEC. 645. REVISION OF OPEN PERIOD TO ELECT FORMER SPOUSE AND CHILD COVERAGE

Section 716(b) of the Survivor Benefit Plan Amendments of 1985 (title VII of Public Law 99-145; 99 Stat. 674) is amended—

(1) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "March 1, 1986,";

(2) by striking out ", within the one-year period beginning on that date of enactment,"; and

(3) by adding at the end the following new sentence: "Such an election must be made—

"(1) not later than March 1, 1987, in the case of a person who made the election to provide an annuity for a former spouse before November 8, 1985; and

"(2) not later than the end of the one-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1987, in the case of a person who made the election to provide an annuity for a former spouse during the period beginning on November 8, 1985, and ending on February 28, 1986.".

SEC. 646. EXTENSION OF MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES

Section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), is amended by striking out "during the two-year period" and inserting in lieu thereof "until the later of (1) April 1, 1988, and (2) the last day of the two-year period".

PART E—MISCELLANEOUS BENEFITS

SEC. 651. TUITION ASSISTANCE FOR ARMY RESERVE COMPONENT OFFICERS

(a) IN GENERAL.—Section 2007 of title 10, United States Code, is amended—

(1) by inserting "on active duty" in subsection (a)(3) after "a commissioned officer"; and

(2) by adding at the end of the following new subsection:

"(c)(1) Subject to paragraph (2) and (3), the Secretary of the Army may pay not more than 75 percent of the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer in a program leading to a baccalaureate degree.

"(2) The Secretary may not pay charges under paragraph (1) for tuition or expenses of an officer unless the officer agrees to remain a member of the Selected Reserve for at least four years after completion of the education or training for which the charges are paid.

"(3) The Secretary may not pay charges under paragraph (1)—

"(A) for a warrant officer; or

"(B) for an officer on active duty or full-time National Guard duty.".

(b) LIMITATION ON AMOUNT FOR FISCAL YEAR 1987.—The total amount obligated by the Secretary of the Army under subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), during fiscal year 1987 may not exceed $3,000,000.

(c) EFFECTIVE DATE.—Subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

SEC. 652. BENEFITS FOR DEPENDENTS OF CERTAIN SENTENCED, DISCHARGED, OR DISMISSED MEMBERS

(a) TRAVEL AND TRANSPORTATION OF DEPENDENTS.—Paragraph (2)(A) of section 406(a) of title 37, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, a member who—

"(i) is separated from the service or released from active duty; and

"(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.".

(b) TRANSPORTATION OF HOUSEHOLD EFFECTS.—Section 406(h) of such title is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

"(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

"(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10."; and

(2) by adding at the end the following new paragraph:

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving at a station outside the United States or in Hawaii or Alaska;

"(B) receives an administrative discharge under other than honorable conditions; or

"(C) is sentenced by a court-martial—

"(i) to be confined for a period of more than 30 days,

"(ii) to receive a dishonorable or bad-conduct discharge, or

"(iii) to be dismissed from a uniformed service,

if the sentence is approved under section 860(c)(2) of title 10.".

(c) MEDICAL CARE AT DOD FACILITIES.—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (3), if—

"(A) a member of a uniformed service receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service; and

"(B) the abused dependent needs medical or dental care for an injury or illness resulting from the abuse,

the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services.

"(2) Subject to paragraph (3), upon request of any dependent of a member of a uniformed service punished for an abuse described in paragraph (1)(A), the administering Secretary for such uniformed service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

"(3) Medical and dental care furnished to a dependent of a member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)—

"(A) shall be limited to the health care prescribed by section 1077 of this title;

"(B) shall be subject to the availability of space and facilities and the capabilities of the medical and dental staff; and

"(C) shall terminate 1 year after the date on which the member is discharged or dismissed from a uniformed service as described in paragraph (1)(A).".

(d) CHAMPUS.—Section 1079 of such title is amended by adding at the end the following new subsection:

"(l)(1) Contracts entered into under subsection (a) shall also provide for medical care for dependents of former members of the uniformed services who are authorized to receive medical and dental care under section 1076(e) of this title in facilities of the uniformed services.

"(2) Except as provided in paragraph (3), medical care in the case of a dependent described in section 1076(e) shall be furnished under the same conditions and subject to the same limitations as medical care furnished under this section to spouses and children of members of the uniformed services described in the first sentence of subsection (a).

"(3) Medical care may be furnished to a dependent pursuant to paragraph (1) only for an injury, illness, or other condition described in section 1076(e) of this title.".

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act.

(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code.

(3) The amendment made by subsection (c) shall apply only with respect to dependents who request medical or dental care on or after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall apply only with respect to care furnished under section 1079 of title 10, United States Code, on or after the date of the enactment of this Act.

SEC. 653. IMPROVED EMPLOYMENT OPPORTUNITIES FOR MILITARY SPOUSES

Section 806(b)(2) of the Military Family Act of 1985 (title VIII of Public Law 99-145; 99 Stat. 680) is amended by striking out "GS-7" and inserting in lieu thereof "GS-4".

SEC. 654. RETIREMENT CREDIT FOR CERTAIN FORMER NATIONAL GUARD TECHNICIANS

(a) CIVIL SERVICE RETIREMENT CREDIT.—A period of service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law), before January 1, 1969, which would not otherwise be creditable under subchapter III of chapter 83 of title 5, United States Code, because of the antepenultimate sentence of section 8332(b) of such title, shall be considered creditable service under such subchapter, notwithstanding such sentence, in the case of an individual described in subsection (b).

(b) COVERED INDIVIDUALS.—Subsection (a) applies in the case of an individual who—

(1) before the end of the 14-month period beginning on the date of the enactment of this Act, files appropriate written application with the Office of Personnel Management in accordance with regulations under subsection (c);

(2) at the time of filing application under paragraph (1), is employed by the United States and is subject to subchapter III of chapter 83 of title 5, United States Code (other than under section 8344 of such title); and

(3) before the date of the separation on which entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, is based, makes an appropriate deposit under section 8334(c) of such title with respect to the period of service involved, based on the percentage of basic pay for such service which would be required under such section if such service had been performed as an employee under such subchapter.

(c) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out subsection (a). Such regulations shall be prescribed not later than 60 days after the date of the enactment of this Act.

SEC. 655. MEAL REIMBURSEMENT FOR NONPROFIT YOUTH GROUPS RESIDING AT MILITARY INSTALLATIONS

Section 1011(b) of title 37, United States Code, is amended by inserting after "military installation" in the second sentence the following: "or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,".

SEC. 656. PERIOD FOR USE OF COMMISSARIES BY MEMBERS OF SELECTED RESERVE

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§1052. Period for use of commissary stores: eligibility attributable to active duty for training

"(a) PERIOD FOR USE OF ELIGIBILITY.—If, under regulations establishing eligibility for use of commissary stores, a member of the armed forces accrues eligibility to use commissary stores of the Department of Defense by reason of the performance of active duty for training, the Secretary concerned shall authorize the member to have one year from the date on which the member performs active duty for training to use a day of eligibility for using commissary stores attributable to the performance of that duty.

"(b) LIMITATION.—A member may not use commissary stores by reason of this section for more than 14 days in any period of 365 days.

"(c) REGULATIONS.—The Secretary concerned shall prescribe regulations, subject to the approval of the Secretary of Defense, to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1052. Period for use of commissary stores: eligibility attributable to active duty for training.".

(b) REPEAL OF TEST PROGRAM.—Section 1013 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 665), is repealed.

(c) EFFECTIVE DATE.—Section 1051 of title 10, United States Code, as added by the amendments made by subsection (a), and the repeal made by subsection (b), shall apply only with respect to active duty for training performed on or after the date of the enactment of this Act.

PART F—ADMINISTRATION OF PERSONNEL BENEFITS

SEC. 661. ENHANCED METHOD FOR DETERMINING TRUE COSTS OF MILITARY RETIREMENT

(a) USE OF DUAL PERCENTAGE DETERMINATIONS.—Section 1465(b)(1) of title 10, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "That amount shall be the sum of the following:

"(A) The product of—

"(i) the current estimate of the value of the single level percentage of basic pay to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

"(ii) the total amount of basic pay expected to be paid during that fiscal year to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(B) The product of—

"(i) the current estimate of the value of the single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

"(ii) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) expected to be paid during that fiscal year to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in subparagraph (A)(ii).".

(2) Section 1465(c)(1) of such title is amended by striking out the second sentence and inserting in lieu thereof the following: "Each actuarial valuation of such programs shall include—

"(A) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay for members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only); and

"(B) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) for members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described by subparagraph (A).

Such single level percentages shall be used for the purposes of subsection (b) and section 1466(a) of this title.".

(b) PAYMENTS INTO MILITARY RETIREMENT FUND BASED ON DUAL DETERMINATIONS.—The first sentence of section 1466(a) of such title is amended by striking out "the amount that is" and all that follows in such sentence and inserting in lieu thereof" the amount that is the sum of the following:

"(1) The product of—

"(A) the level percentage of basic pay determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(A) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

"(B) the total amount of basic pay paid that month to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(2) The product of—

"(A) the level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(B) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

"(B) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) paid that month to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in paragraph (1)(B).".

(c) DEVELOPMENT AND SUBMISSION OF DATA ON RESERVE COMPONENTS.—Not later than September 30, 1987, the Secretary of each military department shall develop the data required pursuant to Department of Defense Instruction Number 7730.54 (dated May 7, 1986) and submit such data to the Secretary of Defense. In accordance with such instruction, such data shall include the following with respect to each member of a reserve component:

(1) Date of initial entry into military service.

(2) Total days of active Federal military service.

(3) Years creditable for Reserve retirement under chapter 67 of title 10, United States Code.

(4) Reserve component accumulated total creditable retirement points earned during the member's most recently completed retirement year.

(5) Reserve component accumulated paid points earned during the member's most recently completed retirement year.

(6) Reserve component total accumulated creditable points toward retirement earned during the member's career.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to payments required to be made under section 1466(a) of title 10, United States Code, as amended by subsection (b), for months beginning on or after the date of the enactment of this Act.

SEC. 662. AUTHORITY TO PAY BANK CHARGES IN THE EVENT OF GOVERNMENT ERROR IN MANDATORY DIRECT DEPOSIT OF MEMBERS' PAY

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code (as amended by section 656), is amended by adding at the end the following new section:

"§1053. Relief for expenses because of error in mandatory direct deposit of pay

"(a) A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an administrative or mechanical error on the part of the Government that causes such member's pay to be deposited late or in an incorrect amount or manner.

"(b) Reimbursements under this section shall be made from appropriations available for the pay and allowances of members of the armed force concerned.

"(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

"(d) In this section, the term 'financial institution' has the meaning given that term in section 3332 of title 31.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1053. Relief for expenses because of error in mandatory direct deposit of pay.".

(c) EFFECTIVE DATE.—Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act.

SEC. 663. COST REDUCTIONS FOR FISCAL YEAR 1987

(a) SELECTIVE REENLISTMENT BONUS.—During fiscal year 1987, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

(b) RESERVE UNIT AND INDIVIDUAL TRAINING.—During fiscal year 1987, the amount spent for reserve unit and individual training may not exceed $5,084,500,000.

TITLE VII—HEALTH-CARE MANAGEMENT REFORM

SEC. 701. IMPROVEMENT OF MILITARY HEALTH-CARE DELIVERY SYSTEM.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new sections:

"§1096. Military-civilian health services partnership program

"(a) RESOURCES SHARING AGREEMENTS.—The Secretary of Defense may enter into an agreement providing for the sharing of resources between facilities of the uniformed services and facilities of a civilian health care provider or providers that the Secretary contracts with under section 1079, 1086, or 1097 of this title if the Secretary determines that such an agreement would result in the delivery of health care to which covered

beneficiaries are entitled under this chapter in a more effective, efficient, or economical manner.

"(b) ELIGIBLE RESOURCES.—An agreement entered into under subsection (a) may provide for the sharing of—

"(1) personnel (including support personnel);

"(2) equipment;

"(3) supplies; and

"(4) any other items or facilities necessary for the provision of health care services.

"(c) COMPUTATION OF CHARGES.—A covered beneficiary, with respect to care provided to such beneficiary in facilities of the uniformed services under a sharing agreement entered into under subsection (a), shall pay—

"(1) in the case of a dependent, the charges prescribed by section 1078 of this title; and

"(2) in the case of a member or former member entitled to retired or retainer pay, the charges prescribed by section 1075 of this title.

"§1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

"(a) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

"(1) Health maintenance organizations.

"(2) Preferred provider organizations.

"(3) Individual providers, individual medical facilities, or insurers.

"(4) Consortiums of such providers, facilities, or insurers.

"(b) SCOPE OF COVERAGE UNDER HEALTH CARE PLANS.—A contract entered into under this section may provide for the delivery of—

"(1) selected health care services;

"(2) total health care services for selected covered beneficiaries; or

"(3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

"(c) CHARGES FOR HEALTH CARE.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section.

"§1098. Incentives for participation in cost-effective health care plans

"(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsections (b) and (c), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part—

"(1) any limitation set out in the second sentence of section 1079(a) of this title; or

"(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

"(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

"(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

"(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

"(2) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under—

"(A) a plan with respect to which the limitations and payment requirements are waived; and

"(B) a plan with respect to which there is no such waiver.

"(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the Secretary submits the report required by paragraph (2) with respect to such waiver.

"§1099. Health care enrollment system

"(a) ESTABLISHMENT OF SYSTEM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

"(b) DESCRIPTION OF SYSTEM.—Such system shall—

"(1) allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or

"(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

"(c) HEALTH CARE PLANS AVAILABLE UNDER SYSTEM.—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

"(1) Use of facilities of the uniformed services.

"(2) The Civilian Health and Medical Program of the Uniformed Services.

"(3) Any other health care plan contracted for by the Secretary of Defense.

"(4) Any combination of the plans described in paragraphs (1), (2), and (3).

"(d) REGULATIONS.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

"§1100. Military Health Care Account

"(a) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the 'Military Health Care Account'. All sums appropriated to carry out the functions of the Secretary of Defense with respect to the Civilian Health and Medical Program of the Uniformed Services shall be appropriated to the account.

"(2) Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c).

"(b) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.—The Secretary of Defense may obligate or expend funds from the account for purposes of entering into a contract under section 1079, 1086, 1092, or 1097 of this title to the extent amounts are available in the account.

"(c) ALLOCATION OF AMOUNTS IN ACCOUNT FOR PROVISION OF MEDICAL CARE BY SERVICE SECRETARIES.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

"(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter.

"(d) EXPENDITURE OF AMOUNTS FROM ACCOUNT BY SERVICE SECRETARIES.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'account' means the Military Health Care Account established in subsection (a).

"(2) The term 'program' means the Civilian Health and Medical Program of the Uniformed Services.

"§1101. Diagnosis-related groups

"(a) ESTABLISHMENT OF DRGs.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

"(b) EXCEPTION FOR MOBILIZATION MISSIONS.— Diagnosis-related groups shall not be used to allocate resources to the facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

"(c) CONTENT OF REGULATIONS.—(1) Such regulations shall establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations shall include the following:

"(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

"(2) A methodology for classifying specific treatments within such groups.

"(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1096. Military-civilian health services partnership program.
"1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care.
"1098. Incentives for participation in cost-effective health care plans.
"1099. Health care enrollment system.
"1100. Military Health Care Account.

"1101. Diagnosis-related groups.".

(b) DEFINITIONS.—Section 1072 of title 10 United State Code, is amended—

(1) by striking out " 'Uniformed services' means" in paragraph (1) and inserting in lieu thereof "The term 'uniformed services' means";

(2) by striking out " 'Dependent', with respect to" in paragraph (2) and inserting in lieu thereof "The term 'dependent', with respect to";

(3) by striking out " 'Administering Secretaries' means" in paragraph (3) and inserting in lieu thereof "The term 'administering Secretaries' means"; and

(4) by adding at the end the following new paragraphs:

"(4) The term 'Civilian Health and Medical Program of the Uniformed Services' means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

"(5) The term 'covered beneficiary' means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.".

(c) REPORTS TO CONGRESS.—(1) Not later than July 1, 1987, the Secretary of Defense shall submit to Congress a report detailing—

(A) any plans to establish or implement a system of health care enrollment (other than as required under section 702(a)(2)(C)) under section 1099(a) of title 10, United States Code (as added by subsection (a)(1)); and

(B) the plan of the Secretary for completing the implementation of such system.

(2) The Secretary shall submit to Congress—

(1) not later than May 1, 1987, a report on plans of the Secretary for establishing diagnosis-related groups for inpatient services under section 1100(a) of title 10, United States Code (as added by subsection (a)(1)); and

(2) not later than May 1, 1988, a report on plans of the Secretary for establishing diagnosis-related groups for outpatient services under such section.

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the Secretary of Defense shall prescribe regulations as required by section 1099(d) of title 10, United States Code (as added by subsection (a)(1)) to implement the system of health care enrollment for covered beneficiaries—

(A) on October 1, 1987, with respect to—

(i) covered beneficiaries included in the demonstration project required under section 702; and

(ii) facilities of the uniformed services located in the geographical area covered by the demonstration project; and

(B) not later than September 30, 1990, for all other covered beneficiaries and facilities of the uniformed services.

(2) The Secretary may not assign covered beneficiaries to facilities of the uniformed services, as authorized by section 1099(b)(2) of such title (as added by subsection (a)(1)), before October 1, 1990.

(3) Section 1100 of such title (as added by subsection (a)(1)) shall take effect on October 1, 1987.

(4) The Secretary of Defense shall prescribe regulations as required by section 1101(a) of such title (as added by subsection (a)(1)) to take effect—

(A) in the case of inpatient treatments, after September 30, 1987; and

(B) in the case of outpatient treatments, after September 30, 1988.

SEC. 702. CHAMPUS REFORM INITIATIVE

(a) DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct a project designed to demonstrate the feasibility of improving the effectiveness of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through the competitive selection of contractors to financially underwrite the delivery of health care services under the program.

(2) The demonstration project required by paragraph (1)—

(A) shall begin not later than September 30, 1988, and continue for not less than one year;

(B) shall include not more than one-third of covered beneficiaries; and

(C) shall include a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code (as added by section 701(a)(1)).

(3)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the development of the demonstration project required by paragraph (1). Such report shall include—

(i) a description of the scope and structure of the project;

(ii) an estimate of the costs of the care to be provided under the project; and

(iii) a description of the health care enrollment system included in the project.

(B) The report required by subparagraph (A) shall be submitted—

(i) not later than 60 days before the initiation of the project, if the project is to be restricted to a contiguous area of the United States; or

(ii) not later than 60 days before a solicitation for bids or proposals with respect to such project is issued, if the project will not be restricted to a contiguous area of the United States.

(b) STUDY OF HEALTH CARE ALTERNATIVES.—(1) The demonstration project required by subsection (a)(1) shall include a study of—

(A) methods to guarantee the maintenance of competition among providers of health care to persons under the jurisdiction of the Secretary;

(B) the merits of the use of a voucher system or a fee schedule for provision of health care to such persons; and

(C) methods to guarantee that community hospitals are given equal consideration with other health care providers for provision of health care services under contracts with the Department of Defense.

(2) The Secretary shall submit to Congress a report discussing the matters evaluated in the study required by paragraph (1) before the end of the 90-day period beginning on the date of the enactment of this Act.

(c) PHASED IMPLEMENTATION OF CHAMPUS REFORM INITIATIVE.—(1) The Secretary of Defense may proceed with implementation of the CHAMPUS reform initiative, to be carried out in two phases during a period of not less than two years, if—

(A) the Secretary determines, based on the results of the demonstration project required by subsection (a)(1), that such initiative should be implemented;

(B) not less than one year elapses after the date on which the demonstration project required by subsection (a)(1) is initiated; and

(C) 90 days elapse after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report that includes—

(i) a description of the results of the demonstration project;

(ii) a description of any changes the Secretary intends to make in the initiative during the proposed implementation; and

(iii) a comparison of the costs of providing health care under CHAMPUS with the costs of providing health care under the demonstration project and the estimated costs of providing health care under the CHAMPUS reform initiative if fully implemented.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS reform initiative" means the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(2) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given such term in section 1072(4) of title 10, United States Code (as added by section 701(b)).

(3) The term "covered beneficiary" has the meaning given such term in section 1072(5) of title 10, United States Code (as added by section 701(b)).

SEC. 703. CHAMPUS CATCHMENT AREAS

Section 1079(a)(7) of title 10, United States Code, is amended by striking out "pays for at least 75 percent of the services" and inserting in lieu thereof "provides primary coverage for the services".

SEC. 704. MEDICAL INFORMATION SYSTEMS ACQUISITION

(a) LIMITATION ON ACQUISITION OF MEDICAL INFORMATION SYSTEM.—(1) The Secretary of Defense may not acquire a medical information system for use in all military medical treatment facilities until—

(A) the testing required by subsection (b) is completed;

(B) the report required by subsection (d)(2) is submitted; and

(C) 30 days elapse after the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report described in paragraph (2).

(2) The report required by paragraph (1)(B) shall be submitted after the completion of the testing required by subsection (b) and shall include—

(A) an evaluation of the competing medical information systems, based on the extended benchmark test, operational test, and incremental price and delivery schedules described in subsection (b);

(B) an evaluation of the hospital management computer system of the Veterans' Administration known as the Veterans' Administration Decentralized Hospital Computer Program based on the demonstration project described in subsection (c); and

(C) the decision of the Secretary with respect to acquiring a medical information system for use in all military medical treatment facilities.

(b) TESTING OF MEDICAL INFORMATION SYSTEMS.—(1) The Secretary shall carry out an extended benchmark test of competing medical information systems using the testing specifications described in Solicitation No. DAHC 26-85-R-0009 (relating to acquisition of the Composite Health Care System).

(2) The Secretary shall carry out an operational test of competing medical information systems. Such test shall—

(A) be conducted in medium-to-large military medical treatment facilities; and

(B) shall be not less than nine months and not more than one year in duration.

(3) Each vendor that submits a medical information system for testing under paragraphs (1) and (2) shall provide to the Secre-

tary incremental price and delivery schedules for each function described in I, II, IID, and III of Solicitation No. DAHC 26-85-R-0009. Such schedules shall be provided before the end of the one-year period beginning on the date on which the operational test described in paragraph (2) is initiated.

(c) VETERANS' ADMINISTRATION DECENTRALIZED HOSPITAL COMPUTER PROGRAM.—(1) The Secretary shall continue to carry out the demonstration project required by section 1203 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 718), with respect to the Veterans' Administration Decentralized Hospital Computer Program. Such project shall be completed not later than October 1, 1987.

(2) Section 1203(c) of the Department of Defense Authorization Act, 1986, is amended—

(A) by striking out "available"; and

(B) by inserting "that are available at least three months before the date on which the demonstration project is expected to be completed" after "software)".

(d) EVALUATION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) monitor the testing required by subsection (b); and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating such testing before the end of the 30-day period beginning on the date that such testing is completed.

(e) DEFINITIONS.—In this section:

(1) The term "medical information system" means a computer-based information system that—

(A) receives data normally recorded concerning patients;

(B) creates and maintains from such data a computerized medical record for each patient; and

(C) provides access to data for patient care, hospital administration, research, and medical care resource planning.

(2) The term "military medical treatment facility" means a hospital, medical center, or clinic under the jurisdiction of the Secretary of a military department or the Secretary of Defense.

(3) The term "medium-to-large military medical treatment facility" means a military medical treatment facility with 150 or more beds.

(4) The term "Secretary" means the Secretary of Defense.

SEC. 705. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS

(a) IN GENERAL.—Chapter 55 of title 10, United States Code (as amended by section 701), is further amended by adding at the end the following new section:

"§1102. Confidentiality of medical quality assurance records: qualified immunity for participants

"(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

"(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

"(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

"(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—(1) Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

"(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

"(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

"(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

"(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

"(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

"(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

"(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

"(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5, United States Code.

"(d) DISCLOSURE FOR CERTAIN PURPOSES.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

"(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if such record pertains to any matter within their respective jurisdictions.

"(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

"(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

"(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

"(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

"(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

"(j) DEFINITIONS.—In this section:

"(1) The term 'medical quality assurance program' means any activity carried out before, on, or after the date of the enactment of this section by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

"(2) The term 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

"(3) The term 'health care provider' means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

"(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.".

(2) The table of sections at the beginning of such chapter (as amended by sections 701 and 702) is amended by adding at the end the following new item:

"1102. Confidentiality of medical quality assurance records: qualified immunity for participants.".

(b) EFFECTIVE DATE.—Section 1102 of title 10, United States Code, as added by subsection (a), shall apply to all records created before, on, or after the date of the enactment of this Act by or for the Department of Defense as part of a medical quality assurance program.

(c) RESTRICTION ON USE OF INFORMATION OBTAINED DURING CERTAIN EPIDEMIOLOGIC-ASSESSMENT INTERVIEWS.—(1) Information obtained by the Department of Defense during or as a result of an epidemiologic-assessment interview with a serum-positive member of the Armed Forces may not be used to support any adverse personnel action against the member.

(2) For purposes of paragraph (1):

(A) The term "epidemiologic-assessment interview" means questioning of a serum-positive member of the Armed Forces for purposes of medical treatment or counseling or for epidemiologic or statistical purposes.

(B) The term "serum-positive member of the Armed Forces" means a member of the Armed Forces who has been identified as having been exposed to a virus associated with the acquired immune deficiency syndrome.

(C) The term "adverse personnel action" includes—

(i) a court-martial;

(ii) non-judicial punishment;

(iii) involuntary separation (other than for medical reasons);

(iv) administrative or punitive reduction in grade;

(v) denial of promotion;

(vi) an unfavorable entry in a personnel record;

(vii) a bar to reenlistment; and

(viii) any other action considered by the Secretary concerned to be an adverse personnel action.

SEC. 706. USE OF PUBLIC HEALTH SERVICE HOSPITALS AS FACILITIES OF THE UNIFORMED SERVICES

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended by striking out "December 31, 1987" in the first sentence and inserting in lieu thereof "December 31, 1988".

SEC. 707. LIMITATION ON DENTAL INSURANCE PROGRAM

(a) AMOUNT OF PREMIUM.—Subsection (b)(2) of section 1076a of title 10, United States Code, is amended to read as follows:

"(2) A member enrolled in a plan under this section shall pay a premium of not more than $10 per month for the member and the family of the member.".

(b) ANNUAL COST OF PROGRAM.—Such section is further amended by adding at the end the following new subsection:

"(h) The Secretary of Defense may not spend more than $105,000,000 (in fiscal year 1986 dollars) for a plan under this section during any fiscal year.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal year 1987 for Operations and Maintenance, Defense Agencies, not more than $18,000,000 may be used for the purpose of providing a dental insurance program under section 1076a of title 10, United States Code (as amended by this section).

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

SEC. 801. SHORT TITLE; REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE

(a) SHORT TITLE.—This title may be cited as the "Military Justice Amendments of 1986".

(b) REFERENCES TO UCMJ.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

SEC. 802. DEFENSE OF LACK OF MENTAL RESPONSIBILITY

(a) IN GENERAL.—(1) Subchapter VII is amended by inserting after section 850 (article 50) the following new section (article):

"§ 850a. Art. 50a. Defense of lack of mental responsibility

"(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge, or the president of a court-martial without a military judge, shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

"(d) Subsection (c) does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

"(e) Notwithstanding the provisions of section 852 of this title (article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if—

"(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

"(2) in the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 850 (article 50) the following new item:

"850a. 50a. Defense of lack of mental responsibility.".

(b) EFFECTIVE DATE.—Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act.

SEC. 803. APPLICATION FOR ENLISTED MEMBERS TO SERVE ON COURT-MARTIAL

(a) IN GENERAL.—Section 825(c)(1) (article 25(c)(1)) is amended by striking out "has requested in writing" and inserting in lieu thereof "has requested orally on the record or in writing".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to a case in which arraignment is completed on or after the effective date of this title.

SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS

(a) JURISDICTION OVER RESERVE MEMBERS UNDER CERTAIN CIRCUMSTANCES.—(1) Paragraph (3) of section 802(a) (article 2(a)) is amended to read as follows:

"(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.".

(2) Section 802 (article 2) is further amended by adding at the end the following new subsection:

"(d)(1) A member of a reserve component who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

"(A) investigation under section 832 of this title (article 32);

"(B) trial by court-martial; or

"(C) nonjudicial punishment under section 815 of this title (article 15).

"(2) A member of a reserve component may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

"(A) on active duty; or

"(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

"(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

"(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces.

"(5) A member ordered to active duty under paragraph (1), unless the order to active duty was approved by the Secretary concerned, may not—

"(A) be sentenced to confinement; or

"(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).".

(b) CONTINUED AMENABILITY TO JURISDICTION.—Section 803 (article 3) is amended by adding at the end the following new subsection:

"(d) A member of a reserve component who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter

for an offense against this chapter committed during such period of active duty or inactive-duty training.".

(c) AUTHORITY TO ADMINISTER OATHS.—Section 936 (article 136) is amended by inserting "or performing inactive-duty training" in subsections (a) and (b) after "active duty".

(d) ARTICLES TO BE EXPLAINED.—The text of section 937 (article 137) is amended to read as follows:

"(a)(1) The sections of this title (articles of the Uniform Code of Military Justice) specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within six days after)—

"(A) the member's initial entrance on active duty; or

"(B) the member's initial entrance into a duty status with a reserve component.

"(2) Such sections (articles) shall be explained again—

"(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training; and

"(B) at the time when the member reenlists.

"(3) This subsection applies with respect to sections 802, 803, 807–815, 825, 827, 831, 837, 838, 855, 877–934, and 937–939 of this title (articles 2, 3, 7–15, 25, 27, 31, 37, 38, 55, 77–134, and 137–139).

"(b) The text of the Uniform Code of Military Justice and of the regulations prescribed by the President under such Code shall be made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title.

SEC. 805. STATUTE OF LIMITATIONS

(a) REVISION OF STATUTES OF LIMITATION.—Subsections (a), (b), and (c) of section 843 (article 43) are amended to read as follows:

"(a) A person charged with absence without leave or missing movement in time of war, or with any offense punishable by death, may be tried and punished at any time without limitation.

"(b)(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

"(2) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

"(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).".

(b) TIME FOR REINSTATEMENT OF CHARGES.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations—

"(A) has expired; or

"(B) will expire within 180 days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

"(2) The conditions referred to in paragraph (1) are that the new charges and specifications must—

"(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

"(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to an offense committed on or after the date of the enactment of this Act.

SEC. 806. TIME FOR DEFENSE POST-TRIAL SUBMISSIONS

(a) SIMPLIFICATION OF TIME FOR SUBMISSION.—Subsection (b) of section 860 (article 60) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (2) as paragraph (3) and inserting a comma in that paragraph after "case"; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Except in a summary court-martial case, such a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under subsection (d). In a summary court-martial case, such a submission shall be made within seven days after the sentence is announced.

"(2) If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (1) for not more than an additional 20 days.".

(b) RECOMMENDATIONS OF STAFF JUDGE ADVOCATE.—Subsection (c)(2) of such section is amended by striking out "and, if applicable, under subsection (d),".

(c) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(1) in the third sentence, by striking out "who shall have five days from the date of receipt in which to submit any matter in response" and inserting in lieu thereof "who may submit any matter in response under subsection (b)"; and

(2) by striking out the fourth sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases in which the sentence is adjudged on or after the effective date of this title.

SEC. 807. DETAIL OF JUDGE ADVOCATES

(a) REPRESENTATION OF UNITED STATES INTERESTS.—Section 806 (article 6) is amended by adding at the end the following new subsection:

"(d)(1) A judge advocate who is assigned or detailed to perform the functions of a civil office in the Government of the United States under section 973(b)(2)(B) of this title may perform such duties as may be requested by the agency concerned, including representation of the United States in civil and criminal cases.

"(2) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations providing that reimbursement may be a condition of assistance by judge advocates assigned or detailed under section 973(b)(2)(B) of this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)—

(1) shall take effect on the date of the enactment of this Act; and

(2) may not be construed to invalidate an action taken by a judge advocate, pursuant to an assignment or detail under section 973(b)(2)(B) of title 10, United States Code, before the date of the enactment of this Act.

SEC. 808. EFFECTIVE DATE

Except as provided in sections 802(b), 805(c), and 807(b), this title and the amendments made by this title shall take effect on the earlier of—

(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or

(2) the date specified in an Executive order for such amendments to take effect.

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and over-

sight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition.".

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United State Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,".

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the

45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section;

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition,

who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) EVALUATION BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the

contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§2366. Major systems and munitions programs: survivability and lethality testing; operational testing

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) WAIVER IN TIME OF WAR OR MOBILIZATION.—In time of war or mobilization, the

President may suspend the operation of any provision of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433));

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§2367. Use of Federally funded research and development centers

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of Federally funded research and development centers.".

(b) GAO STUDY.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO REPORT.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

SEC. 921. SMALL BUSINESS SET-ASIDES

(a) PROPORTION OF CONTRACTS SET ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classifica-

tion codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a).

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code.

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATES.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last

sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

(j) LIMITATION RESPECTING GREAT LAKES NAVAL TRAINING CENTER.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and/or refuse systems and related services at Great Lakes Naval Training Center, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the

180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not include in such solitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1).

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person;

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

"(B) as a member of the armed forces in a pay grade below pay grade O-4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O-7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compenstion covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to

exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.
"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) REPEAL.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

(c) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) REQUIREMENTS FOR PLAN.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) REPORT.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) EFFECTIVE DATE.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS

(a) COORDINATION PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) REQUIREMENTS FOR PLAN.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) EFFECTIVE DATE.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

"(a) PROHIBITION.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) CRIMINAL PENALTY.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

(b) CONFORMING AMENDMENT.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

(c) EFFECTIVE DATE.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

"§2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§2406. Availability of cost and pricing records

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

(A) the contractor's proposal for the contract; and

(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) NATURE OF RECORDS TO BE MAINTAINED.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

"(B) that is subject to the provisions of section 2306a of this title.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

"§2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price

of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be

submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the government or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

"§2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(3) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

PART F—MISCELLANEOUS REPORTS

SEC. 961. SELECTED ACQUISITION REPORTS

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE X—ARMS CONTROL MATTERS

SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) MATTERS TO BE CONSIDERED.—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of re-

search, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) REPORT REQUIREMENTS.—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e) RESTRICTION ON OBLIGATION OF FUNDS.—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS

(a) CONGRESSIONAL STATEMENTS.—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

(2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK

Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) is amended by adding at the end the following new section:

"SEC. 516. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), during the fiscal years 1987 and 1988 the President may transfer to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure such defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such articles may be transferred without cost to the recipient countries.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of defense articles under this section.

"(e) DEFINITION.—As used in subsection (a), the term 'member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.".

SEC. 1102. NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

(a) GENERAL AUTHORITY.—The Secretary of Defense may enter into bilateral or multilateral Weapon System Partnership Agreements (as defined in subsection (g)) with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreements. Such agreements may include provision for the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization and for the acquisition of logistics support, supplies, and services by the United States from such Organization.

(b) AUTHORITY OF SECRETARY OF DEFENSE.—Under the terms of a Weapon System Partnership Agreement entered into under subsection (a), the Secretary of Defense may—

(1) agree that the NATO Maintenance and Supply Organization may make contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

(2) share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and share in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to such agreement.

(d) APPLICATION OF CHAPTER 137.—Except as provided in this section, the provisions of chapter 137 of title 10, United States Code, shall apply to contracts entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—The transfer of defense articles or defense services to member countries of the North Atlantic Treaty Organization and the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under chapter 138 of title 10, United States Code, and any other provision of law.

(g) DEFINITION.—For the purpose of this section, the term "Weapon System Partnership Agreement" means an agreement between the United States and one or more other NATO countries participating in the operation of the NATO Maintenance and Supply Organization that—

(1) is entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

(2) is for the common logistic support of a specific weapon system common to the participating countries.

SEC. 1103. COOPERATIVE PROJECTS

(a) ARMS EXPORT CONTROL ACT.—(1) Section 27 of the Arms Export Control Act (22 U.S.C. 2767) is amended—

(A) in subsection (b)—

(i) by inserting ", in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization," after "project' " in paragraph (1);

(ii) by striking out "and" at the end of paragraph (1);

(iii) by redesignating paragraph (2) as paragraph (3); and

(iv) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'cooperative project', in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve

the conventional defense capabilities of the participants and which provides—

"(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

"(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

"(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and";

(B) in subsection (f)(3), by inserting after "Government" the following: ", including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,";

(C) in subsection (g), by striking out "Section" and inserting in lieu thereof the following: "In the case of a cooperative project with a North Atlantic Treaty Organization country, section,"; and

(D) by adding at the end the following new subsection:

"(j)(1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

"(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.".

(2) The heading for such section is amended to read as follows: "AUTHORITY OF PRESIDENT TO ENTER INTO COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES.—".

(b) TITLE 10, UNITED STATES CODE.—(1) Section 2407 of title 10, United States Code, is amended—

(A) by striking out "North Atlantic Treaty Organization (NATO)" in subsection (a)(1);

(B) by striking out "NATO" in subsection (c)(2); and

(C) by striking out "NATO" each place it appears in paragraphs (1) and (2) of subsection (e).

(2)(A) The heading of such section is amended to read as follows:

"§ 2407. Acquisition of defense equipment under cooperative projects".

(B) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2407. Acquisition of defense equipment under cooperative projects.".

SEC. 1104. ACQUISITION AND CROSS-SERVICING AGREEMENTS

(a) AUTHORITY TO ENTER INTO AGREEMENTS WITH COUNTRIES OUTSIDE EUROPE.—Sections 2341 and 2342 of title 10, United States Code, are amended to read as follows:

"§ 2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

"Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

"(1) acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters; and

"(2) acquire from any government not a member of the North Atlantic Treaty Organization in which elements of the armed forces are deployed (or are to be deployed) logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) in such country or in the military region in which such country is located if that country—

"(A) has a defense alliance with the United States;

"(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

"(C) has agreed to preposition materiel of the United States in such country; or

"(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

"§ 2342. Cross servicing agreements

"(a) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into any of the following agreements:

"(1) An agreement with the government of a North Atlantic Treaty Organization country (or with a North Atlantic Treaty Organization subsidiary body) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to military forces of such country (or subsidiary body) deployed in Europe and adjacent waters, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country (or subsidiary body) to elements of the armed forces deployed in Europe and adjacent waters.

"(2) An agreement with the government of a country designated by the Secretary of Defense which is not a member of the North Atlantic Treaty Organization under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country to elements of the armed forces deployed in such country or in the military region in which such country is located.

"(3) An agreement with the government of a country referred to in paragraph (1) or (2) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of support, supplies, and services for the armed forces from such country while the military forces of such country are stationed in North America or are performing military exercises or training in North America.

"(b) The Secretary of Defense may not designate a country for an agreement under this section—

"(1) unless the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

"(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

"(c) The Secretary of Defense may not use the authority of this chapter to procure from any foreign government as a routine or normal source any goods or services reasonably available from United States commercial sources.

"(d) The Secretary shall prescribe regulations to ensure that contracts entered into under this chapter are free from self-dealing, bribery, and conflict of interests.".

(b) METHODS OF PAYMENT.—Section 2344(b) of such title is amended—

(1) by inserting "or other foreign country" after "country" in the material preceding subparagraph (A) of paragraph (1); and

(2) by inserting "or other foreign country" in paragraph (3) after "country".

(c) LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES.—Section 2345 of such title is amended—

(1) by inserting "(a)" before "Credits" at the beginning of such section; and

(2) by adding at the end the following new subsection:

"(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this chapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.".

(d) LIMITATIONS ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—(1) Subsection (a) of section 2347 of such title is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) with such country may not exceed $10,000,000 in any fiscal year, and of such amount not more than $2,500,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants). The $10,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(2) Subsection (b) of such section is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country referred to in paragraph (1), the total amount of reimbursable credits that the United States may accrue under this chapter from such country (before computation of offsetting balances) may not exceed $10,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(e) INVENTORIES OF SUPPLIES NOT TO BE INCREASED.—Section 2348 of such title is

amended by striking out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body".

(f) DEFINITION.—Section 2350 of such title is amended by adding at the end the following new paragraph:

"(3) 'Military region' means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).".

(g) CLERICAL AMENDMENT.—The item relating to section 2341 in the table of sections at the beginning of chapter 138 of such title is amended to read as follows:

"2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States.".

SEC. 1105. COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES

(a) FINDINGS.—The Congress finds—

(1) that the North Atlantic Treaty Organization Cooperative Research and Development program instituted during fiscal year 1986 has served to increase cooperation in research and development among member countries of the North Atlantic Treaty Organization; and

(2) that additional benefits of cooperation in research and development might ensue from an extension of the program to include major non-NATO allies of the United States.

(b) CONGRESSIONAL REQUEST FOR COOPERATION ON RESEARCH AND DEVELOPMENT.—The Congress urges and requests the President and the Secretary of Defense to pursue diligently opportunities for the United States and major non-NATO allies of the United States to cooperate—

(1) in research and development on defense equipment and munitions; and

(2) in the production of defense equipment.

(c) FUNDS FOR COOPERATIVE PROJECTS.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies.

(d) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project enhances the ongoing multinational effort to improve conventional defense capabilities through the application of emerging technology.

(2) Each such cooperative project shall require sharing of the costs of research between the participants on an equitable basis.

(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(e) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of major non-NATO allies in cooperative research and development projects, funds made available under subsection (c) for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A major non-NATO ally may not use any United States military or economic assistance grants, loans, or other funds for the purpose of making its contribution to a cooperative research and development program entered into with the United States under this section.

(f) NOTICE TO CONGRESS.—Not later than January 1 of each year, the Secretary of Defense and the Secretary of State shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

(1) enumerating those countries eligible for participation with the United States in a cooperative research and development program authorized by this section; and

(2) specifying the criteria used in determining eligibility for the participation of such countries.

(g) DEFINITIONS.—As used in this section:

(1) The term "major non-NATO ally" means a country designated as a major non-NATO ally for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more major non-NATO allies under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

SEC. 1201. CONTRACTS FOR OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

(a) IN GENERAL.—Section 7299a of title 10, United States Code (relating to construction of combatant and escort vessels and assignment of naval vessel projects), is amended by adding at the end the following new subsections:

"(c) In evaluating bids or proposals for a contract for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall, in determining the cost or price of work to be performed in an area outside the area of the homeport of the vessel, consider foreseeable costs of moving the vessel and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract.

"(d)(1) Notwithstanding subsections (b) and (c), the Secretary may award a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel only to a contractor that is able to perform the work at the homeport of the vessel, if the Secretary determines that adequate competition is available among firms able to perform the work at the homeport of the vessel.

"(2) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

(b) REPEAL OF LIMITATION ON FY86 FUNDS.—Section 8104 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 1202. HANDLING OF HAZARDOUS WASTE GENERATED DURING REPAIR OR MAINTENANCE OF NAVAL VESSELS

(a) REQUIRED CONTRACT PROVISIONS.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7311. Repair or maintenance of naval vessels: handling of hazardous waste

"(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that a contract entered into for repair or maintenance of a naval vessel includes the following provisions:

"(1) IDENTIFICATION OF HAZARDOUS WASTES.—Provisions identifying the type and amounts of hazardous wastes that are expected to be generated during the performance of the repair or maintenance.

"(2) COMPENSATION.—Provisions specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

"(3) STATEMENT OF WORK.—Provisions mutually acceptable to the Navy and the contractor specifying the responsibilities of the Navy and of the contractor, respectively, for the removal, handling, storage, transportation, and disposal of hazardous wastes generated during the performance of the repair or maintenance.

"(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

"(1) the contractor, during the performance of repair or maintenance under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

"(2) such hazardous wastes originated on the naval vessel on which the repair or maintenance is being performed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7311. Repair or maintenance of naval vessels: handling of hazardous waste.".

SEC. 1203. LIMITATION ON TRANSFER OF CERTAIN TECHNICAL DATA PACKAGES

(a) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semi-annual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(b) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

SEC. 1204. REQUIREMENTS CONCERNING TRANSPORTATION OF MEMBERS OF THE ARMED FORCES BY CHARTERED AIRCRAFT

(a) IN GENERAL.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2640. Charter air transportation of members of the armed forces

"(a) REQUIREMENTS.—(1) The Secretary of Defense may not enter into a contract with an air carrier for the charter air transportation of members of the armed forces unless the air carrier—

"(A) meets, at a minimum, the safety standards established by the Secretary of Transportation under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.);

"(B) has at least 12 months of experience operating services in air transportation that are substantially equivalent to the service sought by the Department of Defense; and

"(C) undergoes a technical safety evaluation.

"(2) For purposes of paragraph (1)(C), a technical safety evaluation—

"(A) shall include inspection of a representative number of aircraft; and

"(B) shall be conducted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Transportation.

"(b) INSPECTIONS.—The Secretary shall provide for inspections of each air carrier that contracts with the Department of Defense for the charter air transportation of members of the armed forces. The inspections shall be conducted in accordance with standards established by the Secretary, after consultation with the Secretary of Transportation, and shall include, at a minimum, the following:

"(1) An on-site capability survey of the air carrier conducted at least once every two years.

"(2) A performance evaluation of the air carrier conducted at least once every six months.

"(3) A preflight safety inspection of each aircraft conducted at any time during the operation of, but not more than 72 hours before, each internationally scheduled charter mission departing the United States.

"(4) A preflight safety inspection of each aircraft used for domestic charter missions conducted to the greatest extent practical.

"(5) Operational check-rides on aircraft conducted periodically.

"(c) COMMERCIAL AIRLIFT REVIEW BOARD.—The Secretary shall establish a Commercial Airlift Review Board within the Department of Defense. The Board shall consist of personnel from the Department of Defense and other Government personnel as may be appropriate. The duties of the Board shall be—

"(1) to make recommendations to the Secretary on suspension and reinstatement of air carriers under subsection (d);

"(2) to make recommendations to the Secretary on waivers under subsection (g); and

"(3) to carry out such other duties and make recommendations on such other matters as the Secretary considers appropriate.

"(d) SUSPENSION AND REINSTATEMENT.—(1) The Secretary shall establish guidelines for the suspension of air carriers under contract with the Department of Defense for the charter air transportation of members of the armed forces and for the reinstatement of air carriers that have been so suspended. The guidelines—

"(A) shall require the immediate determination of whether to suspend an air carrier if an aircraft of the air carrier is involved in a fatal accident; and

"(B) may require the suspension of an air carrier—

"(i) if the carrier is in violation of any order, rule, regulation, or standard prescribed under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.); or

"(ii) if an aircraft of the air carrier is involved in a serious accident.

"(2) The Commercial Airlift Review Board shall make recommendations to the Secretary on suspension and reinstatement under this subsection.

"(3) The Secretary shall include in each contract subject to this section the provisions on suspension and reinstatement established under this subsection.

"(e) AUTHORITY TO LEAVE UNSAFE AIRCRAFT.—A representative of the Military Airlift Command, the Military Traffic Management Command, or such other agency as may be designated by the Secretary of Defense (or if there is no such representative reasonably available, the senior officer on board a chartered aircraft) may order members of the armed forces to leave a chartered aircraft if the representative (or officer) determines that a condition exists on the aircraft which may endanger the safety of the members.

"(f) FAA INFORMATION.—The Secretary shall request the Secretary of Transportation to provide to the Secretary a report on each inspection performed by Federal Aviation Administration personnel, and the status of corrective actions taken, on each aircraft of an air carrier under contract with the Department of Defense for the charter air transportation of members of the armed forces.

"(g) WAIVER.—After considering recommendations by the Commercial Airlift Review Board, the Secretary may waive any provision of this section in an emergency.

"(h) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section, including requirements and identification of inspecting personnel with respect to preflight safety inspections required by subsection (b)(3).

"(i) DEFINITIONS.—In this section:

"(1) The terms 'air carrier', 'aircraft', 'air transportation', and 'charter air transportation' have the meanings given such terms by sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15)).

"(2) The term 'members of the armed forces' means members of the Army, Navy, Air Force, and Marine Corps.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2640. Charter air transportation of members of the armed forces.".

(b) DEADLINE FOR REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the regulations required by section 2640 of title 10, United States Code, as added by subsection (a).

(c) EFFECTIVE DATE.—Section 2640 of title 10, United States Code, as added by subsection (a), shall apply only to contracts which are entered into on or after the date on which the regulations required by subsection (b) are prescribed.

SEC. 1205. FUEL SOURCES FOR HEATING SYSTEMS ON MILITARY INSTALLATIONS; PROHIBITION ON CONVERTING CERTAIN HEATING FACILITIES

(a) REQUIREMENT AND RESTRICTION.—(1) Section 2690 of title 10, United States Code, is amended to read as follows:

"§ 2690. Fuel sources for heating systems; prohibition on converting certain heating facilities

"(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department

is the most cost effective fuel for that heating system over the life cycle of the system.

"(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

"(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—

"(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility; and

"(2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.".

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2690. Fuel sources for heating systems.".

(b) REPEAL OF CERTAIN REQUIREMENTS AND RESTRICTIONS.—Sections 8022, 8070, and 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1207, 1214, and 1222), are repealed.

SEC. 1206. REVIEW OF THE SECURITY ADMINISTRATION IN DEFENSE INDUSTRY OF DEPARTMENT OF DEFENSE SPECIAL ACCESS PROGRAMS

(a) REVIEW.—The Secretary of Defense shall direct the Director of the Defense Investigative Service to conduct a review of the security administration of Department of Defense special access programs at all Department of Defense contractors involved in such programs. The review shall include a review of the frequency and adequacy of security inspections of such contractors conducted by the Department of Defense.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the results of the review under subsection (a).

(2) The report shall—

(A) identify any shortcoming found to exist in security administration of Department of Defense special access programs at Department of Defense contractors involved in such programs and the actions being taken to correct each such shortcoming;

(B) include recommendations for improvement of Department of Defense oversight of special access programs, if the Secretary considers such improvement necessary; and

(C) include recommendations for such legislation as the Secretary determines is required to correct such deficiencies.

(3) The report shall be submitted in an unclassified form. It shall be submitted not later than May 1, 1987.

(c) DIS SECURITY INVESTIGATIONS.—After consulting with the Secretary of Defense, the Director of the Defense Investigative Service may conduct such security inspections of special access programs as the Director considers appropriate, unless otherwise directed by the Secretary of Defense.

SEC. 1207. CONTRACT GOAL FOR MINORITIES

(a) GOAL.—Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense in each of fiscal years 1987, 1988, and 1989 for the total combined amount obligated for contracts and subcontracts entered into with—

(1) small business concerns, including mass media, owned and controlled by socially and economically disadvantaged individuals (as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under such section), the majority of the earnings of which directly accrue to such individuals;

(2) historically Black colleges and universities; or

(3) minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

(b) AMOUNT.—The requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

(1) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

(2) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

(3) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

(4) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

(c) TECHNICAL ASSISTANCE.—To attain the goal of subsection (a), the Secretary of Defense shall provide technical assistance services to potential contractors described in subsection (a). Such technical assistance shall include information about the program, advice about Department of Defense procurement procedures, instruction in preparation of proposals, and other such assistance as the Secretary considers appropriate. If Department of Defense resources are inadequate to provide such assistance, the Secretary of Defense may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, defense acquisition agencies, and defense prime contractors. Department of Defense contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

(d) APPLICABILITY.—Subsection (a) does not apply—

(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

(2) if the Secretary making such a determination notifies Congress of such determination and the reasons for such determination.

(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a)—

(1) The Secretary of Defense shall exercise his utmost authority, resourcefulness, and diligence.

(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense shall make advance payments under section 2307 of title 10, United States Code, to contractors described in subsection (a).

(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a).

(4) To the extent practicable, the Secretary of Defense shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(f) PENALTIES FOR MISREPRESENTATION.—Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by a fine of not less than $10,000, or by imprisonment for not more than one year, or both.

(g) ANNUAL REPORTS.—(1) Between May 1 and May 30 of each year, the Secretary of Defense shall submit to Congress a report on the progress toward meeting the goal of subsection (a) during the current fiscal year.

(2) Between October 1 and October 10 of each year, the Secretary of Defense shall submit to Congress a final report on the progress of the Secretary with the goal of subsection (a) during the preceding fiscal year.

(3) The reports described in paragraphs (1) and (2) shall each include the following:

(A) A full explanation of any progress toward attaining the goal of subsection (a).

(B) A plan to achieve the goal, if necessary.

(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

(4) The reports required under paragraph (2) shall also include the following:

(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

(B) Detailed information on failure to perform in accordance with contract cost and technical requirements by entities awarded contracts pursuant to subsection (a).

(C) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantage individuals to compete for contracts with the Department of Defense.

(5) The first report required by subsection (a) shall be submitted between May 1 and May 30, 1987.

(h) EFFECTIVE DATE.—This section applies to each of fiscal years 1987, 1988, and 1989.

SEC. 1208. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) REQUIREMENT OF MANPOWER ESTIMATES.—Subsection (a) of section 2434 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended to read as follows:

"(a) REQUIREMENT FOR APPROVAL.—The Secretary of Defense may not approve the full-scale engineering development, or the production and deployment, of a major defense acquisition program unless—

"(1) an independent estimate of the cost of the program is first submitted to (and considered by) the Secretary; and

"(2) the Secretary submits a manpower estimate of the program to the Committees on Armed Services of the Senate and the House of Representatives at least 90 days in advance of such approval.".

(b) DEFINITIONS.—Subsection (b) of such section is amended—

(1) by inserting "DEFINITIONS.—" before "In this section";

(2) by striking out "(1) 'Major" and inserting in lieu thereof "(1) The term 'major";

(3) by striking out "(2) 'Independent" and inserting in lieu thereof "(2) The term 'independent";

(4) by striking out "(3) 'Cost" and inserting in lieu thereof "(3) The term 'cost"; and

(5) by adding at the end the following new paragraph:

"(4) The term 'manpower estimate' means, with respect to a major defense acquisition program, an estimate of—

"(A) the total number of personnel (including military, civilian, and contractor personnel), expressed both in total personnel and man-years, that will be required to operate, maintain, and support the program upon full operational deployment and to train personnel to operate, maintain, and support the program upon full operational deployment;

"(B) the increases in military and civilian personnel end strengths that will be required for full operational deployment of the program above the end strengths authorized in the fiscal year in which such an estimate is submitted and the fiscal year or years in which such increases will be required; and

"(C) the manner in which such a program would be operationally deployed if no increases in military and civilian end strengths were authorized above the strengths authorized for the fiscal year in which such estimate is submitted.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2434. Independent cost estimates; operational manpower requirements"

(2) The item relating to such section in the table of sections at the beginning of chapter 144 of such title (as enacted by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended to read as follows:

"2434. Independent cost estimates; operational manpower requirements"

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to approvals of full-scale engineering development and to approvals of production and deployment of major defense acquisition programs made after December 31, 1986.

PART B—ECONOMY AND EFFICIENCY

SEC. 1221. INCREASE IN THRESHOLD APPLICABLE TO STATUTORY CONTRACTING-OUT PROCEDURES

Section 502(d) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note) is amended by striking out "40 or fewer" and inserting in lieu thereof "45 or fewer".

SEC. 1222. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

(a) FIREFIGHTING PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2693. Prohibition on contracts for performance of firefighting functions

"(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting functions at any military installation or facility.

"(b) The prohibition in subsection (a) does not apply—

"(1) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of the function described in subsection (a) at the expense of unit readiness;

"(2) to a contract to be carried out on a Government-owned but privately operated installation; or

"(3) to a contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2693. Prohibition on contracts for performance of firefighting functions.".

(b) ONE-YEAR SECURITY-GUARD PROHIBITION.—(1) Except as provided in paragraph (2), funds appropriated to the Department of Defense may not be obligated or expended before October 1, 1987, for the purpose of entering into a contract for the performance of security-guard functions at any military installation or facility.

(2) The prohibition in paragraph (1) does not apply—

(A) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which military personnel would have to be used for the performance of the function described in paragraph (1) at the expense of unit readiness;

(B) to a contract to be carried out on a Government-owned but privately operated installation;

(C) to a contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983; or

(D) to a contract for the performance of security-guard functions if (i) the requirement for the functions arises after the date of the enactment of this Act, and (ii) the Secretary of Defense determines the functions can be performed by contractor personnel without adversely affecting installation security, safety, or readiness.

(c) REPEAL.—Section 1233 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 734), is hereby repealed.

SEC. 1223. CONTRACTING OUT THE PERFORMANCE OF DEPARTMENT OF DEFENSE SUPPLY AND SERVICE FUNCTIONS

(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, executive order, or regulation) than the cost at which the Department can provide the same supply or service.

(b) COST COMPARISIONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of any Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, shall ensure that all costs considered, including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs, are realistic and fair.

SEC. 1224. REPORTS ON SAVINGS OR COSTS FROM INCREASED USE OF CIVILIAN PERSONNEL

(a) IN GENERAL.—Whenever during a fiscal year to which this section applies the performance of any commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

(b) SEMI-ANNUAL REPORT ON COSTS AND SAVINGS.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six month period, that is reflected in the data maintained under subsection (a).

(c) APPLICABILITY OF SECTION.—This section shall apply only with respect to a fiscal year during which there is no statutory limit (commonly known as an "end strength") on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

SEC. 1301. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section—

(1) increases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) to which the transfer is made; and

(2) decreases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) from which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS FOR CIVILIAN PAY AND CONTINGENCIES

There are authorized to be appropriated to the Department of Defense for fiscal year 1987, in addition to other amounts authorized to be appropriated in this Act, such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as a result of inflation in the cost of activities authorized in this Act; and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this Act.

SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

SEC. 1304. SPECIAL DEFENSE ACQUISITION FUND

(a) INCREASE IN SIZE OF FUND.—Section 114(c) of title 10, United States Code (as redesignated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by striking out "$1,000,000,000" and inserting in lieu thereof "$1,070,000,000".

(b) BUDGET ACT LIMITATION.—New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) provided by the amendment made by subsection (a) shall be effective for any fiscal year only to the extent or in such amounts as are provided in Appropriation Acts.

SEC. 1305. LIMITATION ON OBLIGATION OF FISCAL YEAR 1985 AND FISCAL YEAR 1986 FUNDS

(a) LIMITATIONS.—Subject to subsection (b), funds appropriated for fiscal years 1985 and 1986 and remaining available for obligation may not be obligated as follows:

Account	Fiscal year 1985 amount	Fiscal year 1986 amount
Aircraft Procurement, Army	$21,000,000	$110,800,000
Missile Procurement, Army	$21,400,000	$91,900,000
Procurement of Weapons and Tracked Combat Vehicles, Army	$43,900,000	$211,400,000
Procurement of Ammunition, Army	$3,900,000	$30,300,000
Other Procurement, Army	$15,600,000	$123,600,000
Aircraft Procurement, Navy	$86,300,000	$446,100,000
Weapons Procurement, Navy	$48,800,000	$215,600,000
Shipbuilding and Conversion, Navy	$168,700,000	$367,500,000
Other Procurement, Navy	$16,100,000	$117,100,000
Procurement, Marine Corps	$18,200,000	$52,000,000
Aircraft Procurement, Air Force	$212,500,000	$714,500,000
Missile Procurement, Air Force	$53,400,000	$326,400,000
Other Procurement, Air Force	$19,100,000	$181,100,000
National Guard and Reserve Equipment	$900,000	$17,900,000
Procurement, Defense Agencies	$4,000,000	$31,000,000
Research, Development, Test and Evaluation, Army	$1,900,000	$71,200,000
Research, Development, Test and Evaluation, Navy	$2,800,000	$71,900,000
Research, Development, Test and Evaluation, Air Force	$6,000,000	$176,400,000
Research, Development, Test and Evaluation, Defense Agencies	$1,400,000	$84,700,000
Director of Test and Evaluation, Defense	$0	$700,000
Military Construction, Army	$6,800,000	$64,400,000
Military Construction, Navy	$6,800,000	$45,200,000
Military Construction, Air Force	$6,300,000	$43,200,000
Military Construction, Defense Agencies	$1,900,000	$5,300,000
Military Construction, Army National Guard	$0	$2,500,000
Military Construction, Air National Guard	$200,000	$3,300,000
Military Construction, Army Reserve	$0	$1,800,000
Military Construction, Naval Reserve	$0	$1,200,000
Military Construction, Air Force Reserve	$200,000	$1,800,000
North Atlantic Treaty Organization Infrastructure	$0	$8,000,000
Family Housing, Army	$0	$8,000,000
Family Housing, Navy and Marine Corps	$400,000	$8,800,000
Family Housing, Air Force	$2,400,000	$12,300,000

(b) COORDINATION WITH RESCISSIONS.—A limitation contained in subsection (a) shall apply only to the extent, and in the amount by which, the amount of the limitation is greater than amounts rescinded (on an account-year basis) in laws appropriating funds for the Department of Defense for fiscal year 1987 that are enacted before December 31, 1986.

SEC. 1306. APPLICABILITY OF LIMITATIONS ON FISCAL YEAR 1987 OBLIGATIONS

The limitations in sections 101(b), 102(a)(2), 102(b)(2), 102(c)(1), 102(c)(2), 102(d)(2), 102(e)(2), 103(b), 104(b), 106(b), and 201(c)—

(1) apply only to funds directly appropriated and funds transferred by provisions in appropriations Acts that specifically identify the funds transferred; and

(2) do not apply to obligations from an account that would be reimbursed from another account or from a source outside the Government.

SEC. 1307. REPORTS ON UNOBLIGATED BALANCES AND ON INFLATION BUDGETING

(a) PERIODIC REPORTS.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new sections:

"§ 2215. Reports on unobligated balances

"(a) REQUIRED REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives reports (at the times specified under subsection (d)) containing an estimate of the amount of funds in each appropriation account of the Department of Defense that at the time of the report—

"(1) is available for obligation; and

"(2) is in excess of the amount needed to carry out the programs for which the funds were appropriated.

"(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include, set forth separately for each account, estimates of amounts attributable to—

"(1) inflation savings;

"(2) foreign currency savings;

"(3) excess working capital fund cash; and

"(4) all other savings.

"(c) UNANTICIPATED COST INCREASES.—Each such report shall also identify unanticipated cost increases resulting from adverse economic trends.

"(d) SUBMISSION OF REPORTS.—A report shall be submitted to Congress under this section not later than February 1, not later than April 25, and not later than August 15 of each year.

"§ 2216. Annual report on budgeting for inflation

"(a) REPORT ON VARIANCES.—(1) As part of the report required under section 2215 of this title to be submitted not later than February 1 of each year, the Secretary of Defense shall, in the case of each budget account, include a comparison of—

"(A) the amounts appropriated to the Department of Defense to offset anticipated inflation, and

"(B) the amounts estimated, as of the date the report is submitted, to be necessary to offset anticipated inflation.

"(2) In making such estimate, the Secretary shall take into account actual inflation as of the date of such report.

"(b) REQUIREMENT FOR EXPLANATION OF VARIANCES.—The Secretary shall include in the report, in the case of each budget account, the following:

"(1) A discussion of the reasons for any variance between the amounts appropriated to offset anticipated inflation and the amounts estimated, as of the date of such report, to be necessary to carry out the programs for which the appropriations were made.

"(2) An identification of the sources of funds used or proposed to be used to offset any deficiency in the amount appropriated to offset anticipated inflation.

"(3) A description of the disposition or proposed disposition of any amount by which the amount appropriated to offset anticipated inflation exceeds the amount needed for such purpose.

"(c) FISCAL YEARS COVERED BY REPORT.—The comparison and discussion required by this section shall apply to funds available to or for the use of the Department of Defense in the fiscal year during which the report is submitted and in each of the two fiscal years preceding that fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2215. Reports on unobligated balances.
"2216. Annual report on budgeting for inflation.".

(b) REPEAL.—Section 1407 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 745), is repealed.

(c) EFFECTIVE DATE.—(1) The first comparison and discussion under section 2216 of title 10, United States Code (as added by subsection (a)), shall be included in the first report under section 2215 of such title submitted in 1988 and shall include information relating only to fiscal year 1987.

(2) The comparison and discussion included in the first report under section 2215 of such title submitted in 1989 shall include information relating only to fiscal years 1987 and 1988.

SEC. 1308. REPORT ON DEFENSE BUDGETING AND CONTRACT PROCEDURES FOR INFLATION

(a) REPORT ON ECONOMIC PRICE ADJUSTMENT CLAUSES.—The Secretary of Defense shall submit to Congress a report on the current practice of the Department of Defense of including in contracts entered into by the Department of Defense to carry out all or a portion of a program for which a Selected Acquisition Report is required an economic price adjustment clause to provide for adjustments in contract prices to compensate for inflation.

(b) INFORMATION TO BE INCLUDED IN REPORT.—The Secretary shall include in the report required by subsection (a) the following information:

(1) The number of contracts that were entered into by the Department of Defense during fiscal year 1986 to carry out all or a portion of a program for which a Selected Acquisition Report was required for any quarter during such fiscal year and that included an economic price adjustment clause referred to in subsection (a).

(2) A description of the different types of such contracts that were entered into during such fiscal year that included an economic price adjustment clause referred to in subsection (a).

(3) A description of the different types of economic price adjustment clauses used by the Department of Defense in such contracts and the reasons for using a particular type of such clause for a particular type of contract.

(c) OTHER MATTERS TO BE REPORTED.—The Secretary shall also include in the report required by subsection (a) the following:

(1) An explanation of the methodology used by the Department of Defense for determining the inflation index to be used in calculating the inflation rate for various budget accounts of the Department of Defense and items within those accounts.

(2) The feasibility of providing to Congress an annual report on actual rates of inflation experienced under contracts of the Department of Defense that are entered into to carry out all or a portion of a program for which a Selected Acquisition Report is required at any time and that include an economic price adjustment clause to provide adjustments in contract prices to compensate for inflation.

(3) A discussion of the relationship between the rate of actual inflation experienced under contracts referred to in clause (2) and the rate of inflation determined under the methodology referred to in clause (1) for determining the inflation index to be used in calculating the inflation rate for major weapon system accounts.

(d) DEADLINE FOR REPORT.—The report required under this section shall be submitted not later than February 1, 1987.

(e) DEFINITION.—For purposes of this section, the term "Selected Acquisition Report" means a report referred to in section 2432 of title 10, United States Code (as redesignated by section 101 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)).

SEC. 1309. DEBT COLLECTION

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2780. Debt collection

"(a)(1) Subject to paragraph (2), the Secretary of Defense shall enter into one or more contracts with a person for collection services to recover indebtedness owed to the United States (arising out of activities related to Department of Defense) that is delinquent by more than three months.

"(2) The authority of the Secretary to enter into a contract under this section for any fiscal year is subject to the availability of appropriations.

"(3) Any such contract shall provide that the person submit to the Secretary a status report on the person's success in collecting such debts at least once each six months. Section 3718 of title 31 shall apply to any such contract, to the extent not inconsistent with this subsection.

"(b) The Secretary shall disclose to consumer reporting agencies, in accordance with paragraph (1) of section 3711(f) of title 31, information concerning any debt described in subsection (a) of more than $100 that is delinquent by more than 31 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2780. Debt collection.".

SEC. 1310. CONTINGENT REDUCTION OF AUTHORIZATION OF APPROPRIATIONS

(a) CONTINGENCY.—Notwithstanding any other provision of this Act, the amounts authorized to be appropriated by this Act are reduced by the amounts specified in subsection (b) unless a law appropriating funds to or for the military functions of the Department of Defense for fiscal year 1987 provides—

(1) that basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are to be paid on the first day of the month following the month for which the pay and allowances are accrued; or

(2) a reduction in progress payments paid to Department of Defense contractors.

(b) AUTHORIZATIONS TO BE REDUCED.—The amounts authorized to be appropriated in the title of this Act specified in the following table in the left-hand column are reduced by the amount specified opposite such title in the right-hand column:

Authorizations in Which Reductions Are To Be Made	Amount of Reduction
Division A	
Title I (Procurement)	$3,008,000,000
Title II (Research, Development, Test, and Evaluation)	$1,174,000,000
Title III (Operations and Maintenance)	$1,602,000,000
Division B	
Title VI	$166,000,000
Division C	
Title I (Department of Energy National Security Programs)	$167,000,000

(c) CONTINGENT REDUCTION IN PAY INCREASE.—Subject to the condition specified in subsection (a), the percentage of the increase in basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services, and the increase in pay for cadets and midshipmen, specified in sections 601(b) and 601(c), respectively, of this Act is hereby reduced from 3 percent to 2 percent.

PART B—SPECIAL OPERATIONS MATTERS

SEC. 1311. SPECIAL OPERATIONS FORCES

(a) ASSISTANT SECRETARY OF DEFENSE.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) UNIFIED COMBATANT COMMAND.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

"(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

"(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.

"(2) Strategic reconnaissance.

"(3) Unconventional warfare.

"(4) Foreign internal defense.

"(5) Civil affairs.

"(6) Psychological operations.

"(7) Counterterrorism.

"(8) Humanitarian assistance.

"(9) Theater search and rescue.

"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) BOARD FOR LOW INTENSITY CONFLICT.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS FOR LOW INTENSITY CONFLICT.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and engage in low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

(h) EFFECTIVE DATE.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(i) FUNDING FOR FISCAL YEAR 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

SEC. 1312. SPECIAL OPERATIONS AIRLIFT

(a) MODIFICATION OF EXISTING AIRCRAFT.—Of the funds appropriated for fiscal year 1987 for modification of Air Force aircraft, $106,500,000 shall be available only for the modification of CH/HH-53 airframes to the "PAVE LOW" enhanced configuration.

(b) DEVELOPMENT OF HELICOPTER VARIANTS.—(1) The Secretary of the Army shall proceed, through full and open competition, with development of an MH-47 variant of the CH-47 helicopter. The Secretary shall be designated as the executive agent for a joint services development program for a special operations/combat rescue variant of the HH/MH-60 helicopter.

(2) In conducting such development under paragraph (1), the Secretary shall ensure—

(A) that there is developed one baseline H-60 aircraft capable of operations from both land and shipboard;

(B) that there is maximum practicable logistics commonality among those aircraft to be procured by either the Army, Navy, or Air Force and that the contract for acquisition of the joint services aircraft assures maximum economic-order quantity benefits to the United States; and

(C) that there is maximum practicable commonality between the avionics architecture selected for the HH/MH-60 variant aircraft and the MH-47 variant aircraft.

(3) Upon successful development and test of the MH-47 aircraft, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such development and testing. Such report shall include the Secretary's recommendation as to whether the replacement for the HH-53 aircraft as the long-range, strategic rotary-wing aircraft for the Armed Forces should be the MH-47 aircraft or a special operations/combat rescue variant of the CV-22A aircraft (or another advanced-technology aircraft). If the recommendation of the Secretary is in favor of the CV-22A aircraft (or another advanced-technology aircraft), the Secretary of the Army may justify in the budget planning process procurement of the MH-47 aircraft as necessary to fill immediately the heavy-lift mission requirements of the Special Operations Aviation Brigade of the Army.

(4) Upon successful development and test of the HH/MH-60 helicopter under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a detailed acquisition strategy for such helicopter. Such acquisition strategy shall—

(A) provide for timely and adequate procurement of the HH/MH-60 aircraft for the Special Operations Aviation Brigade of the Army and for aviation detachments assigned to individual Special Forces groups;

(B) provide for timely and adequate procurement of the HH/MH-60 aircraft for support of naval special warfare units and for fleet combat search and rescue missions; and

(C) provide for timely and adequate replacement for theater special operations/combat search and rescue HH-3 helicopters of the Air Force with the HH/MH-60 helicopter.

(c) REQUIREMENTS OF SPECIAL OPERATIONS COMMANDER.—(1) The commander of the unified combatant command established pursuant to section 167 of title 10, United States Code (as added by section 1311), shall develop a plan to meet the immediate strategic special operations airlift requirements.

(2) The Secretary of Defense, after consultation with the commander of such command, shall submit to Congress a report, no later than June 1, 1987, setting forth the funding requirements necessary to implement during fiscal year 1988 the plan developed under paragraph (1).

PART C—AUTHORIZATION OF PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

SEC. 1321. AUTHORITY TO PAY EXPENSES OF DEVELOPING COUNTRIES FOR PARTICIPATION IN COMBINED MILITARY EXERCISES

(a) AUTHORITY TO PAY EXPENSES.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§2010. Participation of developing countries in combined exercises: payment of incremental expenses

"(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

"(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

"(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

"(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

"(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

"(2) the amounts expended on behalf of each government.

"(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

"(d) In this section, the term 'incremental expenses' means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

"(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2010. Participation of developing countries in combined exercises: payment of incremental expenses.".

(b) EXPENDITURE LIMITATION FOR FISCAL YEAR 1987.—Not more than $1,600,000 may be obligated or expended for the purposes of section 2010 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

SEC. 1322. AUTHORITY TO PAY CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1050 the following new section:

"§1051. Bilateral or regional cooperation programs: payment of personnel expenses

"(a) The Secretary of Defense may pay the travel, subsistence, and similar personal expenses of defense personnel of developing countries in connection with the attendance of such personnel at a bilateral or regional conference, seminar, or similar meeting if the Secretary determines that the attendance of such personnel at such conference, seminar, or similar meeting is in the national security interests of the United States.

"(b)(1) Except as provided in paragraph (2), expenses authorized to be paid under subsection (a) may be paid on behalf of personnel from a developing country only in connection with travel within the area of responsibility of the unified combatant command (as such term is defined in section 161(c) of this title) in which the developing country is located.

"(2) In a case in which the headquarters of a unified combatant command is located within the United States, expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the United States to attend a bilateral or regional conference, seminar, or similar meeting.

"(3) Expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 of title 37 to a member of the armed forces of the United States (of a comparable grade) for authorized travel of a similar nature.

"(c) In addition to the expenses authorized to be paid under subsection (a), the Secretary of Defense may pay such other expenses in connection with any such conference, seminar, or similar meeting as the Secretary considers in the national security interests of the United States.

"(d) The authority to pay expenses under this section is in addition to the authority to pay certain expenses and compensation of officers and students of Latin American countries under section 1050 of this title.

"(e) Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report containing—

"(1) a list of the developing countries for which expenses have been paid under this section during the preceding fiscal year; and

"(2) the amount paid by the United States in the case of each such country.

"(f) During each of fiscal years 1987, 1988, and 1989, not more than $800,000 may be obligated or expended under this section.

"(g) The authority of the Secretary of Defense under this section shall expire on September 30, 1989.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1050 the following new item:

"1051. Bilateral or regional cooperation programs: payment of personnel expenses.".

PART D—MISCELLANEOUS REPORTS

SEC. 1331. ARMY NATIONAL GUARD REPORTING

The Secretary of Defense shall require the Chief of the National Guard Bureau to develop and implement procedures to monitor the backlog of maintenance and repair projects of Army National Guard armories.

SEC. 1332. SUBMARINE OVERHAUL STUDY

(a) STUDY.—The Secretary of the Navy shall conduct a detailed study and investigation on the desirability and feasibility of applying production line techniques for the overhaul of Los Angeles-class submarines.

(b) REPORT.—Not later than May 1, 1987, the Secretary shall submit to Congress a report on the results of such study and investigation, together with such comments and recommendations as the Secretary considers appropriate.

SEC. 1333. REPORT ON LANDING AREA FOR AV-8B HARRIER AIRCRAFT ON IOWA-CLASS BATTLESHIP

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility and possible benefits of removing the rear turret from an Iowa-class battleship to create a landing area for AV-8B Harrier aircraft.

SEC. 1334. REPORT ON CLEANUP OF NATIONAL PRESTO INDUSTRIES

The Secretary of Defense shall investigate and report to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1987, on the sources, dates of origin, and responsibility for hazardous waste contamination at the National Presto Industries Plant near Eau Claire, Wisconsin.

PART E—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1341. TECHNICAL CORRECTION TO DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

(a) CORRECTION OF BAQ SAVE-PAY.—Section 602(a)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2534), is amended—

(1) by striking out "During the period" and all that follows through "paragraph (1)" and inserting in lieu thereof "(A) During the period described in subparagraph (B)";

(2) by striking out "on or after January 1, 1985, and before the date of any such change" and inserting in lieu thereof "during such period"; and

(3) by adding at the end the following:

"(B) The period referred to in subparagraph (A) is the period beginning on January 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increases the rates for such allowance to a level not less than 7 percent greater than the rates in effect on January 1, 1985.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

SEC. 1342. TECHNICAL CORRECTIONS TO PROVISIONS ENACTED BY DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986

(a) AVIATION PAY.—Paragraph (1) of section 301(a) of title 37, United States Code (as amended by section 635(a)(1)(A) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 647)), is amended to read as follows:

"(1) involving frequent and regular participation in aerial flight as a crew member, as determined by the Secretary concerned, except for a member who is entitled to incentive pay under section 301a of this title;".

(b) CLARIFICATION OF VHA SAVE PAY.—Section 602(f)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525) (as amended by section 603(b) of the Department of Defense Authorization Act, 1986 (99 Stat. 637)), is amended—

(1) by striking out "departs that station as a result of" in subparagraph (B)(i) and inserting in lieu thereof "changes residence in conjunction with"; and

(2) in subparagraph (C)—

(A) by striking out "Any member" and inserting in lieu thereof "A member"; and

(B) by striking out "under paragraph" and all that follows and inserting in lieu thereof ", except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.".

(c) DENTAL OFFICERS' SAVE PAY.—Section 639(d) of the Department of Defense Authorization Act, 1986 (99 Stat. 651), is amended—

(1) by striking out "shall be entitled to such pay in an annual amount that is not less than" and inserting in lieu thereof "may (notwithstanding the provisions of such section and in the discretion of the Secretary concerned) be paid such pay, in order to prevent inequities, in an annual amount equal to"; and

(2) by striking out "was entitled on September 30, 1985." and inserting in lieu thereof "would have been entitled on September 30, 1985, in accordance with the status of the officer (as determined by the Secretary concerned) during the period for which the pay is paid. Notwithstanding the preceding sentence, an officer may not be paid special pay by reason of this paragraph in an amount greater than the amount of special pay to which the officer was entitled under such sections on September 30, 1985.".

(d) RESERVE MEDICAL OFFICERS SPECIAL PAY.—Subparagraph (B) of section 302(h)(1) of title 37, United States Code (as amended by section 640 of the Department of Defense Authorization Act, 1986 (99 Stat. 652)), is amended to read as follows:

"(B) who is on active duty under a call or order to active duty for a period of less than one year;".

(e) REPEAL OF DUPLICATIVE AMENDMENTS.—Subsection (a) of section 1102 of the Department of Defense Authorization Act, 1986 (99 Stat. 708), and the amendments made by that subsection are repealed, and the Arms Export Control Act shall apply as if that subsection had not been enacted.

(f) CORRECTION OF SECTION REFERENCE.—Section 719(h)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2169(h)(1)), as amended by section 934(b) of the Department of Defense Authorization Act, 1986, is amended by striking out "Public Law 92-41" in the third sentence and inserting in lieu thereof "section 105(b)(2) of the Renegotiation Act of 1951".

(g) CORRECTION OF SECTION AMENDED.—Section 522(a)(2) of Department of Defense Authorization Act, 1986 (99 Stat. 631), is amended by striking out "Section 3851(c)" and inserting in lieu thereof "Section 3851(d)", and the subsection inserted by the amendment made by that section is redesignated as subsection (d).

(h) EFFECTIVENESS OF AMENDMENTS.—

(1) The amendments made by subsections (a) through (d) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

(2) The amendments made by subsections (f) and (g) shall apply as if included in the enactment of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 1343. CLERICAL AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The text of section 775 (as redesignated by section [502]) is amended to read as follows:

"This chapter applies in—

"(1) the United States;

"(2) the territories, commonwealths, and possessions of the United States; and

"(3) all other places under the jurisdiction of the United States.".

(2) Section 976(a)(1) is amended by striking out the second comma before "(B)".

(3) Section 1035 is amended by striking out "armed force" in subsection (a) and inserting in lieu thereof "armed forces".

(4) Section 1087(b)(2) is amended by striking out "title XVIII" and all that follows and inserting in lieu thereof "title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).".

(5) Section 1094(d) is amended by realigning paragraph (2) so as to be indented two ems (rather than four ems).

(6) Section 1208 (a)(2)(A) is amended by striking out "after February 2, 1901".

(7) Section 1216(d) is amended by striking out "who is in pay grade" and all that follows through "Air Force" and inserting in lieu thereof "who is a general officer or flag officer or is a medical officer".

(8)(A) Section 1447(2)(A) is amended by striking out "or retainer" both places it appears.

(B) Section 1448(a)(5) is amended by striking out "an annuity by virtue of eligibility under paragraph (1)(B)" in the fourth sentence and inserting in lieu thereof "a reserve-component annuity".

(C) Section 1450(c) is amended by inserting "dependency and indemnity" before "compensation" the first place it appears in the first sentence.

(D) Section 1451(a)(1)(A) is amended by striking out "subsection" and inserting in lieu thereof "section".

(E) Section 1452(h) is amended by striking out "and retainer".

(9) Section 1603 is amended—

(A) by striking out "this" after "Nothing in"; and

(B) by striking out "this sections 1601 and 1602 of this title" and inserting in lieu thereof "those sections".

(10) The heading of section 1623 is amended to read as follows:

"§1623. Education, training, and experience requirements: flag and general officers".

(11) Section 2236(b) is amended by striking out ", territory, the Commonwealth of Puerto Rico, or the District of Columbia, as the case may be,".

(12) The item relating to section 2319 in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2319. Encouragement of new competitors.".

(13) Section 2302(2)(A) is amended by striking out "(41 U.S.C." and inserting in lieu thereof "(40 U.S.C.".

(14) Section 2304(b)(2) is amended by striking out "15 U.S.C. 639;" and inserting in lieu thereof "15 U.S.C. 638,".

(15) Section 2407(g)(2) is amended by striking out "the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))" and inserting in lieu thereof "section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))".

(16) Section 2672 is amended—

(A) by inserting "(1)" in subsection (a) after "(a)";

(B) by striking out "he or his designee" in clause (A) of subsection (a) and inserting in lieu thereof "the Secretary";

(C) by designating the second sentence of subsection (a) as paragraph (2);

(D) by transferring the third sentence of subsection (a) to the end of the section and designating that sentence as subsection (c); and

(E) by striking out "interest" in the section heading and inserting in lieu thereof "interests".

(17)(A) Section 2676(c)(2)(B) is amended by striking out "the agreed" and all that follows through "exceeds the" and inserting in lieu thereof "the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land, exceeds the".

(B) The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1519).

(18) Section 2683(b) is amended by striking out "this" before "subsection (a)".

(19) Section 2775 is amended—

(A) in subsection (a)(1), by striking out "it is" and all that follows through "that the" and inserting in lieu thereof "(as determined under regulations prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy) the";

(B) in subsection (b)—

(i) by inserting a comma after "Secretary of Defense";

(ii) by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it"; and

(iii) by inserting a comma after "Navy"; and

(C) in subsection (e), by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it".

(20) Section 2809 is amended—

(A) in subsection (a)(1)—

(i) by striking out "contracts" and inserting in lieu thereof "a contract";

(ii) by striking out "facilities" the first place it appears and inserting in lieu thereof "a facility";

(iii) by striking out "military installations" and inserting in lieu thereof "a military installation";

(iv) by inserting a comma after "waste water treatment";

(v) by striking out "cases" and inserting in lieu thereof "a case"

(vi) by striking out "facilities" the second place it appears and inserting in lieu thereof "facility"; and

(vii) by striking out "long-term contracts" and inserting in lieu thereof "a long-term contract";

(B) in subsection (a)(2), by striking out "subsection (a)" and inserting in lieu thereof "this section";

(C) in subsection (a)(3), by striking out "twenty" and inserting in lieu thereof "20";

(D) in subsection (a)(4), by striking out "the" before "Congress"; and

(E) in subsection (b), by striking out "the authority of subsection (a) of".

(21)(A) Section 2860 is amended—

(i) by striking out "defense agency" and inserting in lieu thereof "to the Secretary of Defense";

(ii) by inserting "for obligation" after "remain available"; and

(iii) by striking out "the" before "appropriation Acts".

(B) The item relating to that section in the table of sections at the beginning of subchapter III of chapter 169 is amended by striking out the last three words.

(22) The items relating to chapter 138 in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part IV of subtitle A, are amended by striking out "2321" and inserting in lieu thereof "2341".

(23) Section 5155(c) is amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

(24) The heading of section 5442 is amended by striking out the second colon and inserting in lieu thereof a semicolon.

(25) Section 1051(d) is amended—

(A) by striking out "that title" in paragraph (1) and inserting in lieu thereof "title 37"; and

(B) by striking out "and 'uniformed services' have the meanings given those terms" in paragraph (2) and inserting in lieu thereof "has the meaning given that term".

(b) AMENDMENTS TO TITLE 37.—

(1) Section 302(i) of title 37, United States Code, is amended by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (c)(2) or (f) of this section".

(2) Section 404(d)(1)(C) of such title is amended by striking out "clause (1) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph".

(3) The heading of section 405a of such title is amended to read as follows:

"§405a. Travel and transportation allowances: departure allowances".

(c) AMENDMENTS TO TITLE 14.—Sections 256(b) and 288(a) of title 14, United States Code, are amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

PART F—MISCELLANEOUS

SEC. 1351. LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

(a) LIMITATION.—Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

(b) REPORT.—Before funds appropriated or otherwise made available to the Department of Defense are released to be used for the purpose described in subsection (a), the Secretary of Defense shall submit to Congress a report describing the specific source of such funds.

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) IN GENERAL.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

is reported promptly to the headquarters or office of the Department of Defense concerned.

(2) The Secretary shall instruct such officials that such intelligence is to be reported through the most appropriate and expeditious communications facilities available to the Department of Defense.

(b) WAIVER.—The Secretary of Defense shall not be required to issue the instructions referred to in subsection (a) if—

(1) the Secretary determines that such instructions would be inappropriate or unwise; and

(2) before March 1, 1987, notifies Congress of that determination and includes with the notification an explanation of the basis for such determination.

SEC. 1354. USE OF MARINE MAMMALS FOR NATIONAL DEFENSE PURPOSES

(a) IN GENERAL.—Chapter 645 of title 10, United States Code, is amended by adding at the end the following new section:

"§7524. Marine mammals: use for national defense purposes

"(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may authorize the taking of not more than 25 marine mammals each year for national defense purposes. Any such authorization may be made only with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission established by section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401).

"(b) HUMANE TREATMENT REQUIRED.—A mammal taken under this section shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

"(c) PROTECTION FOR ENDANGERED SPECIES.—A mammal may not be taken under this section if the mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

"(d) APPLICATION OF OTHER ACT.—This section applies without regard to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new subsection:

"7524. Marine mammals: use for national defense purposes.".

SEC. 1355. REIMBURSEMENT FOR INCIDENTAL EXPENSES INCURRED WHILE PROVIDING VOLUNTARY SERVICES

Section 1588 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) The Secretary concerned may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under subsection (a) as an ombudsman or for a family service center program. The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may only be made from non-appropriated funds.".

SEC. 1356. DEFENSE OF LEGAL MALPRACTICE SUITS

(a)(1) IN GENERAL.—Chapter 53 of title 10, United States Code (as amended by section 662), is amended by adding at the end the following new section:

"§1054. Defense of certain suits arising out of legal malpractice

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32), in connection with providing legal services while acting within the scope of the person's duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person (or an attested true copy thereof) to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

"(1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;

"(2) to the Attorney General; and

"(3) to the head of the agency concerned.

"(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

"(1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and

"(2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to a cause of action arising out of a negligent or wrongful act or omission in the provision of legal assistance.

"(f) The head of the agency concerned may hold harmless or provide liability insurance for any person described in subsection (a) for damages for injury or loss of property caused by such person's negligent or wrongful act or omission in the provision of authorized legal assistance while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with an entity other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

"(g) In this section, the term 'head of the agency concerned' means the Secretary of Defense or the Secretary of a military department.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1054. Defense of certain suits arising out of legal malpractice.".

(b) EFFECTIVE DATE.—Section 1054 of title 10, United States Code, as added by subsection (a), shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent or wrongful act or omission occurred.

SEC. 1357. OFF-POST RENTAL HOUSING LEASE INDEMNITY PILOT PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense shall establish a pilot program to test the feasibility of implementing a program under which the Secretary of a military department may guarantee compensation of any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary for any breach of any lease or any damage to the rental unit by the member.

(2) The program referred to in paragraph (1) shall be established not later than the end of the 90-day period beginning on the date of the enactment of this Act.

(b) CONTENT OF PROGRAM.—(1) In accordance with action taken by the Secretary of Defense under subsection (a), the Secretary of each military department shall designate one military installation in the United States that is under the jurisdiction of such Secretary to participate in the program established under subsection (a).

(2) For purposes of carrying out this section, the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary. Any agreement under this paragraph shall provide that—

(A) the term of the agreement shall not be for more than one year;

(B) the member shall not pay a security deposit;

(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the lessor for any breach of the lease by the member and for any damage to the rental unit caused by the member or by any guest or dependent of the member;

(D) the total liability of the Secretary for any breach of the lease or for any damage described in subparagraph (C) shall not exceed an amount equal to the amount that the Secretary determines would have been required by the lessor as a security deposit absent the agreement authorized in this paragraph;

(E) the Secretary shall not compensate the lessor for any breach of the lease or for any damage described in subparagraph (C) until the lessor exhausts any remedies available to the lessor against the member for the breach or damage; and

(F) the Secretary shall be subrogated to the rights of the lessor in any case in which the Secretary compensates the lessor for any breach of the lease or for any damage described in subparagraph (C).

(3) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

(c) RECOVERY FROM MEMBER.—Any Secretary who compensates any lessor under subsection (b) for any damage to a rental unit or any breach of a lease by a member of the Armed Forces may issue a special order under section 1007 of title 37, United States Code, to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the lessor as compensation for the breach or damage.

(d) REPORT REQUIREMENT.—(1) The Secretary of Defense shall submit to Congress a report concerning the pilot program established under subsection (a), including—

(A) findings and conclusions of the Secretary with respect to the pilot program; and

(B) recommendations as to the feasibility of implementing a program similar to the pilot program on all military installations.

(2) The report under paragraph (1) shall be submitted not later than the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary of a military department to enter into a contract under subsection (b) shall terminate at the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

SEC. 1358. WAGE RATE FOR CERTAIN CORPS OF ENGINEERS EMPLOYEES

(a) WAGE DETERMINATIONS.—Notwithstanding any other provision of law, in the administration of the last undesignated paragraph preceding chapter 6 of title I of Public Law 97-257 (96 Stat. 832), the individuals described in subsection (b) shall be paid wages determined in the same manner as that established in such undesignated paragraph with respect to United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules.

(b) COVERED INDIVIDUALS.—The individuals described in subsection (a) are electric powerplant controllers and powerplant shift operators (as defined under regulations prescribed by the Secretary of Defense) assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers.

(c) EFFECTIVE DATE.—Subsection (a) applies with respect to pay periods commencing on or after the date of the enactment of this Act.

SEC. 1359. REIMBURSEMENT FOR TRANSFERRED DEFENSE INDUSTRIAL RESERVE EQUIPMENT

(a) IN GENERAL.—Section 4 of the Defense Industrial Reserve Act (50 U.S.C. 453) is amended—

(1) by inserting "(a)" before "To execute"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of a military department to which equipment or other property is transferred from the Defense Industrial Reserve shall reimburse appropriations available for the purposes of the Defense Industrial Reserve for the full cost (including direct and indirect costs) of—

"(A) storage of such property;

"(B) repair and maintenance of such property; and

"(C) overhead allocated to such property.

"(2) The Secretary of Defense shall prescribe regulations establishing general policies and fee schedules for reimbursements under paragraph (1).".

(b) EFFECTIVE DATE.—(1) The regulations required to be prescribed by subsection (b) of section 4 of the Defense Industrial Reserve Act, as added by subsection (a), shall be prescribed not later than 60 days after the date of the enactment of this Act.

(2) The requirement for reimbursement under such subsection shall apply with respect to property transferred from the Defense Industrial Reserve to a military department after the date on which such regulations are prescribed.

SEC. 1360. EXTENSION OF EXEMPTION FOR DOD POLYGRAPH TEST PROGRAM

Section 1221(e) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 727), is amended—

(1) by striking out "or" at the end of clause (2);

(2) in clause (3)—

(A) by striking out "cryptologic" and inserting in lieu thereof "cryptographic"; and

(B) by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) to any polygraph examination conducted under the authorization granted by the Secretary of Defense on August 31, 1982, on a person who is participating in a national program—

"(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

"(B) which is under the purview of the Director of Central Intelligence; and

"(C) for which a requirement for a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

The number of examinations conducted pursuant to such authorization during fiscal year 1987 may not exceed the number conducted pursuant to such authorization during fiscal year 1986.".

SEC. 1361. IDENTIFICATION OF FACILITIES FOR THE DETENTION OF CERTAIN ALIENS

Not later than January 15, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a list of facilities under the jurisdiction of the Department of Defense that are suitable for use for the detention of Marielito criminal aliens and that are not otherwise needed by the Department of Defense; and

(2) a statement of the estimated costs of using such facilities for the detention of such aliens.

SEC. 1362. CORRECTIONAL FACILITIES AT FORT RILEY, KANSAS

The correctional facilities at Fort Riley, Kansas, may not be closed, transferred, or relocated unless—

(1) the Secretary of Defense transmits to Congress a written notice of the intent to close, transfer, or relocate such facilities, as the case may be; and

(2) the 180-day period beginning on the date on which Congress receives such notice has expired.

SEC. 1363. MINUTEMAN EDUCATION PROGRAM

(a) RESTRICTION ON CHANGE IN SOURCE.—The Secretary of the Air Force may not change the source providing graduate educational services for the Minuteman Education Program from the source providing such services on May 1, 1986, until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the Secretary's decision to change the source of such services and the reasons for such decision.

(b) SUNSET PROVISION.—The provisions of subsection (b) expire one year after the date of the enactment of this Act.

SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings:

(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

(5) It should be fully consistent with international law and the international obligations of the United States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign officials within the United States, and (B) close to such officials certain areas of the United States.

(b) CONGRESSIONAL POLICY.—The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well as upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation is found to exist.

(c) REPORT ON FOREIGN ESPIONAGE.—(1) The President shall submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

(C) An assessment of the advantages and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

(D) Recommendations for measures to curtail espionage against the United States, including the following:

(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

(ii) Identifying the governments to whose nationals such restrictions are to apply.

(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

(4) Such report shall be submitted not later than March 1, 1987.

SEC. 1365. CIVIL AIR PATROL

(a) PAYMENT OF EXPENSES OF PLACING EQUIPMENT INTO SERVICEABLE CONDITION.—Section 9441(b)(9) of title 10, United States Code, is amended by striking out "a major item of equipment furnished to the Civil Air Patrol under clause (1)" and inserting in lieu thereof "major items of equipment (including aircraft, motor vehicles, and communications equipment) owned by the Civil Air Patrol".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

SEC. 1366. AMENDMENT OF MILITARY SELECTIVE SERVICE ACT TO PROVIDE ELIGIBILITY FOR BENEFITS TO CERTAIN PERSONS WHO FAIL TO REGISTER

Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) (relating to penalties) is amended—

(1) by striking out "Any person" in subsection (f)(1) and inserting in lieu thereof "Except as provided in subsection (g), any person"; and

(2) by adding at the end the following new subsection:

"(g) A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3 if—

"(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

"(2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.".

SEC. 1367. CORRECTION OF EFFECTS OF CONTAMINATION AT ROCKY MOUNTAIN ARSENAL

(a) USE OF AMOUNTS RECEIVED FROM LITIGATION.—(1) Any amount received as the result of the litigation described in paragraph (2) (whether from a judgment rendered in such litigation or from a settlement of such litigation) shall be available, without fiscal year limitation, to the Secretary of the Army only for purposes of correcting the effects of contamination at the Rocky Mountain Arsenal.

(2) The litigation referred to in paragraph (1) is any litigation between the United States and any person concerning the liability of such person for correcting the effects of contamination at the Rocky Mountain Arsenal or for cost recovery relating to correcting the effects of such contamination.

(b) ACCEPTANCE OF SERVICES.—In partial settlement of the litigation described in subsection (a), the United States may accept services that correct the effects of contamination at the Rocky Mountain Arsenal.

SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) FINDINGS.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

SEC. 1369. DEADLINE FOR APPOINTMENT OF MEMBERS OF COMMISSION ON MERCHANT MARINE AND DEFENSE

The President shall appoint members of the Commission on Merchant Marine and Defense as required by section 1536(c)(1)(C) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2633), not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1370. AVAILABILITY OF NUCLEAR NON-PROLIFERATION INFORMATION TO DEPARTMENT OF DEFENSE

Section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282) is amended—

(1) by inserting "the Department of Defense," in subsection (c) after "Department of State,"; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

"(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.".

SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) STUDY.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) REPORT.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) EVALUATION OF REPORT.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives, setting forth the results of the evaluation and any recommendations pertaining to the contents of the report, including the plan for the five-year research program.

SEC. 1372. SALE OF TWO NAVAL VESSELS

(a) AUTHORIZATION OF SALE TO TAIWAN.—The Secretary of the Navy is hereby authorized to sell two patrol gunboats of the Tacoma class to the Coordination Council for North American Affairs, representing the people on Taiwan, in accordance with section 7307(b)(1) of title 10, United States Code, and the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.).

(b) CONDITIONS.—A sale of a vessel under subsection (a)—

(1) shall be subject to such terms and conditions as the President may require; and

(2) shall be for a price not less than the value in United States dollars of the vessel involved.

(c) RECOVERY OF UNITED STATES EXPENSES.—Any expense of the United States in connection with the transfer of a vessel sold under subsection (a) shall be charged to the purchaser.

(d) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Navy under subsection (a) expires at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1373. DRUG INTERDICTION

(a) COMPREHENSIVE PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combating illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) on the United States ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

(c) ASSISTANCE TO AGENCIES.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a request from a head of an agency specified in subsection (a), the Secretary shall provide to that agency such assistance as the Secretary considers appropriate to carry out that agency's drug interdiction and enforcement responsibilities.".

(d) RELATIONSHIP TO CHAPTER 18.—Nothing in this section shall be construed to abrogate the restrictions contained in chapter 18 of title 10, United States Code.

SEC. 1374. GRANTS TO THE HENRY M. JACKSON FOUNDATION

(a) IN GENERAL.—The Secretary of Defense shall make grants to the Henry M. Jackson Foundation (a nonprofit corporation operating under the laws of the State of the District of Columbia) to support the ongoing educational program of the Foundation. Purposes for which funds provided under this section may be used include scholarships, fellowships, professorships, lectures and symposia, exchanges and other educational initiatives at national institutions of higher education.

(b) TERMS AND CONDITIONS OF GRANTS.—The purposes, terms, and conditions of grants made under this section shall be prescribed in an agreement to be entered into between the Secretary and the Foundation.

(c) AUTHORITY TO USE INTEREST INCOME.—If funds made available to the Foundation under this section are invested by the Foundation (or any of its subgrantees) pending the disbursement of those funds, any interest realized from such investment shall not be required to be deposited in the Treasury if it is used for the purposes for which the funds were made available.

(d) SOURCE OF FUNDS.—Grants under this section shall be made from any funds available to the Department of Defense for obligation.

(e) AMOUNT AND DEADLINE FOR MAKING GRANTS.—The Secretary shall make grants

under this section in the amount of $10,000,000 not later than January 1, 1987.

SEC. 1375. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

SEC. 1401. SHORT TITLE

This title may be cited as the "Barry Goldwater Scholarship and Excellence in Education Act".

SEC. 1402. FINDINGS

The Congress makes the following findings:

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

SEC. 1403. DEFINITIONS

In this title:

(1) The term "Foundation" means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(a).

(2) The term "Board" means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(b).

(3) The term "fund" means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 1408.

(4) The term "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term "eligible person" means a citizen or national of the United States or a permanent resident alien of the United States.

SEC. 1404. ESTABLISHMENT OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

(a) ESTABLISHMENT.—There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate, at least one of whom shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education.

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) TERM OF OFFICE.—(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(2) A Member of Congress appointed to the Board under clause (2) or (3) of subsection (b) may not serve as a member of the Board for more than a total of six years.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SEC. 1405. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION AWARDS

(a) AWARD OF SCHOLARSHIPS AND FELLOWSHIPS.—(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this title who meet the minumum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this title.

(b) Recipients of scholarships and fellowships under this title shall be known as "Barry Goldwater Scholars".

(c)(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows:

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

SEC. 1406. STIPENDS

Each person awarded a scholarship or fellowship under this title shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

SEC. 1407. SCHOLARSHIP CONDITIONS

(a) IN GENERAL.—A person awarded a scholarship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) REPORTS.—The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this title. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a).

SEC. 1408. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 1412 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the

fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 1409. EXPENDITURES FROM THE FUND

(a) IN GENERAL.—The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this title.

(b) AUDITS BY GAO.—The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

SEC. 1410. EXECUTIVE SECRETARY

(a) APPOINTMENT BY BOARD.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at the rate specified for employees in grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 1411. ADMINISTRATIVE PROVISIONS

(a) IN GENERAL.—In order to carry out this title, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(7) rent office space in the District of Columbia; and

(8) make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to Congress an annual report of its operations under this title.

SEC. 1412. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this title.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATION

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Military Construction Authorization Act, 1987".

(b) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 2001. Short title; table of contents.

TITLE I—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Fort Drum, New York.
Sec. 2105. Community planning assistance.
Sec. 2106. Authorization of appropriations, Army.
Sec. 2107. Extension of certain prior year authorizations.

TITLE II—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Acquisition of existing housing units on Guam.
Sec. 2205. Increase in title total amount for military construction project at Kings Bay, Georgia.
Sec. 2206. Certain enlisted quarters, Guam.
Sec. 2207. Limitation on use of funds for certain homeporting.
Sec. 2208. Authorization of appropriations, Navy.
Sec. 2209. Extension of certain prior year authorizations.

TITLE III—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Restriction on certain military construction funding.
Sec. 2305. Authorization of appropriations, Air Force.
Sec. 2306. Extension of certain prior year authorizations.

TITLE IV—DEFENSE AGENCIES

Sec. 2401. Authorized construction projects and land acquisition for the defense agencies.
Sec. 2402. Family housing.
Sec. 2403. Brooke Army Medical Center.
Sec. 2404. Hazardous waste storage.
Sec. 2405. Authorization of appropriations, defense agencies.
Sec. 2406. Extension of prior year authorizations.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authority of the Secretary of Defense to make contributions.
Sec. 2502. Authorization of appropriations, NATO.
Sec. 2503. Amendment to NATO infrastructure program.
Sec. 2504. Restriction on certain funding.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorization for Guard and Reserve facilities.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Codification of certain amounts required to be specified by law.

PART B—MILITARY CONSTRUCTION PROGRAM PROVISIONS

Sec. 2711. Test of long-term facilities contracts.
Sec. 2712. Planning and design.
Sec. 2713. Build-to-lease and rental guarantee pilot programs.
Sec. 2714. Foreign leases for personnel holding special positions.

PART C—MISCELLANEOUS PROVISIONS

Sec. 2721. Postal facilities.
Sec. 2722. Community planning assistance.
Sec. 2723. Release of certain use rights held by the United States.
Sec. 2724. Prohibition of funding for certain military construction contracts on Guam.
Sec. 2725. Prohibition on design of Pentagon annex.
Sec. 2726. Study of needs of dependents' educational facilities on military installations.
Sec. 2727. Study of use of property at Los Alamitos Armed Forces Reserve Center, California, for military family housing.
Sec. 2728. Real estate acquisition report.

PART D—REAL PROPERTY TRANSACTIONS

Sec. 2731. Land conveyance, Fort Huachuca, Arizona.
Sec. 2732. Lease and development of certain real property, San Diego, California.
Sec. 2733. Selection of site for military family housing at San Pedro, California.
Sec. 2734. Granting of easements and replacement of family housing units and other facilities at Marine Corps Air Station, El Toro, California.
Sec. 2735. Land conveyance, March Air Force Base, California.
Sec. 2736. Land exchange, Long Beach Naval Station, California.
Sec. 2737. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 2738. Authorization of land conveyance to city of Arcadia, California.
Sec. 2739. Land exchange, Orlando, Florida.
Sec. 2740. Sale of land and replacement of certain warehousing facilities, Kapalama Military Reservation, Hawaii.
Sec. 2741. Land exchange, Aiea, Hawaii.
Sec. 2742. Land exchange, Santa Fe, New Mexico.
Sec. 2743. Lease of property at the Naval Weapons Station, Charleston, South Carolina.
Sec. 2744. Property management.

TITLE I—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Camp Dawson, West Virginia, $8,700,000.
Fort Bragg, North Carolina, $22,250,000.
Fort Campbell, Kentucky, $4,740,000.
Fort Carson, Colorado, $11,300,000.
Fort Devens, Massachusetts, $20,800,000.
Fort Drum, New York, $615,000,000.
Fort Hood, Texas, $13,350,000.
Fort Irwin, California, $820,000.
Fort Lewis, Washington, $21,580,000.
Fort McPherson, Georgia, $2,900,000.
Fort Ord, California, $6,550,000.
Fort Polk, Louisiana, $26,000,000.
Fort Riley, Kansas, $8,250,000.
Fort Sam Houston, Texas, $800,000.
Fort Sheridan, Illinois, $2,050,000.
Fort Stewart, Georgia, $1,550,000.
Fort Wainwright, Alaska, $72,300,000

UNITED STATES ARMY WESTERN COMMAND

Wheeler Army Air Field, Hawaii, $2,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Carlisle Barracks, Pennsylvania, $800,000.
Fort Benning, Georgia, $12,180,000.
Fort Eustis, Virginia, $2,050,000.
Fort Jackson, South Carolina, $10,400,000.
Leavenworth, Kansas, $1,100,000.
Fort Lee, Virginia, $17,600,000.
Fort Leonard Wood, Missouri, $42,200,000.
Fort McClellan, Alabama, $540,000.
Fort Rucker, Alabama, $44,500,000.
Fort Story, Virginia, $2,700,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $40,750,000.
Badger Army Ammunition Plant, Wisconsin, $980,000.
Corpus Christi Army Depot, Texas, $10,650,000.
Detroit Arsenal, Michigan, $1,350,000.
Dugway Proving Ground, Utah, $9,700,000.
Fort Monmouth, New Jersey, $4,900,000.
Harry Diamond Laboratory, Maryland, $680,000.
Savanna Army Depot, Illinois, $320,000.
Yuma Proving Ground, Arizona, $820,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $17,200,000.

UNITED STATES MILITARY ACADEMY

U.S. Military Academy, New York, $24,500,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Sunny Point Military Ocean Terminal, North Carolina, $650,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $7,100,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Kawakami, Japan, $1,200,000.

EIGHTH UNITED STATES ARMY

Camp Carroll, Korea, $1,740,000.
Camp Casey, Korea, $24,940,000.
Camp Castle, Korea, $4,800,000.
Camp Essayons, Korea, $3,000,000.
Camp Greaves, Korea, $3,650,000.
Camp Hovey, Korea, $9,000,000.
Camp Howze, Korea, $5,850,000.
Camp Humphreys, Korea, $16,100,000.
Camp Jackson, Korea, $1,800,000.
Camp Laguardia, Korea, $2,970,000.
Camp Libby, Korea, $1,100,000.
Camp Liberty Bell, Korea, $780,000.
Camp Long, Korea, $5,600,000.
Camp Market, Korea, $540,000.
Camp Nimble, Korea, $1,950,000.
Camp Page, Korea, $1,400,000.
Camp Pelham, Korea, $2,280,000.
Camp Red Cloud, Korea, $4,550,000.
Camp Stanley, Korea, $4,700,000.
H220, Korea, $2,750,000.
K–16 Army Airfield, Korea, $2,520,000.
Pusan, Korea, $12,940,000.
Second Infantry, Korea, $5,150,000.
Taegu, Korea, $4,900,000.
Yongsan, Korea, $8,760,000.

UNITED STATES ARMY STRATEGIC DEFENSE COMMAND

Kwajalein, $20,600,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Classified, $4,000,000.
Palmerola Air Base, Honduras, $4,300,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Ansbach, Germany, $1,790,000.
Aschaffenburg, Germany, $7,000,000.
Bad Kreuznach, Germany, $900,000.
Baumholder, Germany, $18,450,000.
Bitburg, Germany, $19,920,000.
Fulda, Germany, $1,000,000.
Giessen, Germany, $6,570,000.
Goeppingen, Germany, $1,850,000.
Hanau, Germany, $26,150,000.
Heidelberg, Germany, $1,600,000.
Heilbronn, Germany, $2,100,000.
Hohenfels, Germany, $8,800,000.
Kaiserslautern, Germany, $1,400,000.
Karlsruhe, Germany, $10,000,000.
Mannheim, Germany, $2,450,000.
Neu Ulm, Germany, $26,050,000.
Nuernberg, Germany, $5,500,000.
Rheinberg, Germany, $17,150,000.
Schweinfurt, Germany, $23,000,000.
Stuttgart, Germany, $820,000.
Various, Germany, $6,350,000.
Vilseck, Germany, $49,570,000.
Wuerzburg, Germany, $1,000,000.
Katsimidhi Site, Greece, $560,000.
Zelo, Italy, $610,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND, OVERSEAS

Location 177, $1,950,000.
Location 276, $3,700,000.
Location 280, $2,100,000.

SEC. 2102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Irwin, California, thirty-eight manufactured home spaces, $730,000.
Fort Ord, California, three hundred and eighty-five units, $34,000,000.
Crailsheim, Germany, forty units, $4,100,000.
Darmstadt, Germany, forty units, $3,150,000.
Erlangen, Germany, one hundred and six units, $9,400,000.
Herzo Base, Germany, thirty-four units, $3,300,000.
Schweinfurt, Germany, ninety units, $8,400,000.
Vilseck, Germany, two hundred and twenty-four units, $21,000,000.
Wildflecken, Germany, twenty-four units, $2,050,000.
Various Locations, Germany, one hundred and twenty units, funded in the manner authorized in section 2103(a).
Fort Polk, Louisiana, five hundred and eighty-three units, $37,000,000.
Kwajalein, Marshall Island, one hundred and thirty-six units, $23,000,000.
Aberdeen Proving Ground, Maryland, one hundred and forty units and seventy manufactured home spaces, $10,800,000.
Fort Drum, New York, one thousand and two hundred units, $91,000,000.
Seneca Army Depot, New York, thirty units, $2,900,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures, using amounts appropriated pursuant to section 2106(a)(7)(A), to improve existing military family housing units in an amount not to exceed $79,500,000, of which not more than $11,900,000 may be used to convert portions of existing facilities at various locations in Germany to military family housing units, and may make additional expenditures not to exceed $15,671,000 for energy conservation projects using amounts appropriated pursuant to section 2106(b).

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Aschaffenburg, Germany, one hundred and forty-four units, $5,120,000.
Aschaffenburg, Germany, forty-eight units, $2,800,000.
Bremerhaven, Germany, twenty-four units, $1,400,000.
Karlsruhe, Germany, twenty-four units, $1,400,000.
Kitzingen, Germany, one hundred and two units, $5,950,000.
Mainz, Germany, one unit, $69,000.
Worms, Germany, six units, $350,000.
Fort Benjamin Harrison, Indiana, one hundred and sixty-six units, $6,000,000.
Pusan, Korea, forty-eight units, $2,237,000.
Yongsan, Korea, one unit, $70,000.
Fort Indiantown Gap, Pennsylvania, six units, $166,000.
Fort Sam Houston, Texas, twenty-three units, $930,000.
Fort Myer, Virginia, three units, $140,000.

(c) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS AT YONGSAN, KOREA.—(1) Notwithstanding the maximum space limitations under section 2826(a) of title 10, United States Code, the Secretary of the Army may carry out an improvement project to increase the net floor area of the housing unit for one general officer at the United States Army Garrison, Yongsan, Korea, to not more than 3,574 square feet.

(2) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2104. FORT DRUM, NEW YORK

(a) AUTHORIZATION.—The Secretary of the Army may, in advance of the availability of appropriations authorized to be appropriated by section 2106(c), enter into one or more contracts for the military construction projects authorized by section 2101 at Fort Drum, New York, if each such contract

limits the amount of payments that the Federal government is obligated to make under such contract to the amount of appropriations available, at the time the contract is entered into, for obligation under such a contract. Such construction may be accomplished by using one-step turn-key selection procedures or other competitive contracting methods.

(b) FAMILY HOUSING.—(1) Of the family housing units authorized by section 102 of the Military Construction Authorization Act, 1986, to be constructed at Fort Drum, New York—

(A) three of those units shall be constructed for assignment to general officers, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 3,000 square feet; and

(B) seven of those units shall be constructed for assignment to colonels who hold positions as commanders, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 2,100 square feet.

(2) For purposes of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2105. COMMUNITY PLANNING ASSISTANCE

The Secretary of the Army may use not more than $400,000 from funds appropriated to the Department of the Army for fiscal year 1987 for planning and design purposes to provide planning assistance to local communities located near the newly established light infantry divisions at Fort Drum, New York, and Fort Wainwright, Alaska, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

SEC. 2106. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,870,396,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $660,510,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $402,210,000.

(3) For the construction of the Eastern Distribution Center, New Cumberland Army Depot, Pennsylvania, as authorized by section 101 of the Military Construction Authorization Act, 1986, $43,000,000.

(4) For Pershing II security upgrade at various locations, Germany, as authorized by section 101 of the Military Construction Authorization Act, 1986, $7,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $20,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $130,580,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $354,330,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,247,266,000 of which—

(i) not more than $31,246,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $142,639,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,500,000.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects for existing military family housing units of the Department of the Army that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects for military family housing of the Army in an amount not to exceed $15,671,000.

(c) ADVANCE AUTHORIZATION OF APPROPRIATIONS FOR FORT DRUM, NEW YORK.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for the military construction projects and land acquisition authorized at Fort Drum, New York, by sections 2101(a) and 2104 as follows:

(1) $221,000,000 in fiscal year 1988.

(2) $214,000,000 in fiscal year 1989.

(d) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2101 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and under subsection (c).

SEC. 2107. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Child care center in the amount of $1,980,000 at Presidio of San Francisco, California.

(3) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(4) Multipurpose recreation facility in the amount of $1,150,000 at Koropi, Greece.

(5) Multipurpose recreation facility in the amount of $960,000 at Katsimidi, Greece.

(6) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(7) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(8) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(9) Dining facility modernization in the amount of $860,000, adjusted to $1,340,000 by cost variation approval, at Fort Jackson, South Carolina.

TITLE II—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Headquarters Marine Corps, Arlington, Virginia, $3,020,000.

Marine Corps Air Station, Beaufort, South Carolina, $4,990,000.

Camp H. M. Smith, Oahu, Hawaii, $2,070,000.

Marine Corps Base, Camp Lejeune, North Carolina, $31,310,000.

Marine Corps Air Station, Camp Pendleton, California, $10,410,000.

Marine Corps Base, Camp Pendleton, California, $28,990,000.

Marine Corps Air Station, Cherry Point, North Carolina, $13,450,000.

Marine Corps Air Station, El Toro, California, $27,850,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $30,700,000.

Marine Corps Air Station, New River, North Carolina, $21,710,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $7,250,000.

Marine Corps Air Station, Tustin, California, $14,910,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,630,000.

Marine Corps Air Station, Yuma, Arizona, $8,860,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Electronic Systems Engineering Center, Portsmouth, Virginia, $1,870,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $2,660,000.

Navy Tactical Interoperability Support Activity, Long Beach, California, $510,000.

Naval Legal Service Office, Norfolk, Virginia, $1,080,000.

Naval Legal Service Office Detachment, Oceana, Virginia, $540,000.

Commandant Naval District, Washington, District of Columbia, $2,000,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $1,160,000.

Naval Air Station, Cecil Field, Florida, $8,640,000.

Naval Station, Charleston, South Carolina, $1,400,000.

Naval Ocean Processing Facility, Dam Neck, Virginia, $540,000.
Naval Air Station, Jacksonville, Florida, $4,810,000.
Naval Air Station, Key West, Florida, $1,650,000.
Naval Amphibious Base, Little Creek, Virginia, $6,970,000.
Naval Station, Mayport, Florida, $880,000.
Naval Supply Center Detachment, Mayport, Florida, $3,730,000.
Naval Submarine Base, New London, Connecticut, $4,630,000.
Naval Station, New York, New York, $52,950,000.
Fleet Intelligence Center Europe and Atlantic, Norfolk, Virginia, $1,880,000.
Naval Air Station, Norfolk, Virginia, $1,570,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $24,900,000.
Naval Facility, Adak, Alaska, $5,700,000.
Naval Air Station, Alameda, California, $18,625,000.
Naval Submarine Base, Bangor, Washington, $7,180,000.
Trident Refit Facility, Bangor, Washington, $1,570,000.
Naval Facility, Centerville Beach, California, $1,370,000.
Naval Amphibious Base, Coronado, California, $17,450,000.
Naval Station, Everett, Washington, $43,580,000.
Naval Air Station, Fallon, Nevada, $31,200,000.
Naval Air Station, Lemoore, California, $980,000.
Naval Station, Long Beach, California, $7,260,000.
Naval Magazine, Lualualei, Hawaii, $4,350,000.
Naval Air Station, Miramar, California, $40,400,000.
Naval Station, Pearl Harbor, Hawaii, $3,240,000.
Naval Submarine Base, Pearl Harbor, Hawaii, $690,000.
Naval Station, San Diego, California, $19,460,000.
Naval Submarine Base, San Diego, California, $9,400,000.
Naval Station, Seattle, Washington, $2,950,000.
Naval Air Station, Whidbey Island, Washington, $5,180,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $690,000.
Naval Guided Missile School, Dam Neck, Virginia, $3,140,000.
Naval Training Center, Great Lakes, Illinois, $5,300,000.
Naval Construction Training Center, Gulfport, Mississippi, $1,180,000.
Naval Air Station, Kingsville, Texas, $3,780,000.
Combat Systems Technical Schools Command, Mare Island, California, $5,200,000.
Naval Air Station, Memphis, Tennessee, $15,810,000.
Naval Air Station, Meridian, Mississippi, $4,410,000.
Naval Submarine School, New London, Connecticut, $9,540,000.
Naval Education and Training Center, Newport, Rhode Island, $11,700,000.
Surface Warfare Officers School Command, Newport, Rhode Island, $8,840,000.
Fleet Training Center, Norfolk, Virginia, $5,400,000.
Naval Training Center, Orlando, Florida, $9,670,000.
Naval Diving and Salvage Training Center, Panama City, Florida, $2,850,000.
Naval Technical Training Center, Pensacola, Florida, $7,360,000.
Fleet Intelligence Training Center, Pacific, San Diego, California, $4,220,000.
Fleet Training Center, San Diego, California, $3,930,000.
Naval Training Center, San Diego, California, $18,170,000.

NAVAL MEDICAL COMMAND

Naval Hospital, Camp Lejeune, North Carolina, $1,670,000.
Naval Hospital, Pensacola, Florida, $690,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Observatory, Washington, District of Columbia, $980,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $14,600,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Bremerton, Washington, $500,000.
Naval Supply Center, Jacksonville, Florida, $830,000.
Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $1,670,000.
Naval Supply Center, Norfolk, Virginia, $3,140,000.
Naval Supply Center, Oakland, California, $3,490,000.
Naval Supply Center, San Diego, California, $1,370,000.

NAVAL AIR SYSTEMS COMMAND

Pacific Missile Range Facility, Barking Sands, Kauai, Hawaii, $8,260,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $37,200,000.
Naval Air Test Center, Patuxent River, Maryland, $21,140,000.
Naval Air Rework Facility, Pensacola, Florida, $8,050,000.
Pacific Missile Test Center, Point Mugu, California, $590,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $17,650,000.
Navy Public Works Center, Norfolk, Virginia, $8,740,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $7,490,000.
Navy Public Works Center, Pensacola, Florida, $2,120,000.
Naval Construction Battalion Center, Port Hueneme, California, $3,980,000.
Navy Public Works Center, San Francisco, California, $450,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $10,810,000.
Naval Weapons Station, Charleston, South Carolina, $22,630,000.
Naval Weapons Station, Concord, California, $790,000.
Naval Weapons Support Center, Crane, Indiana, $6,880,000.
Naval Weapons Station, Earle, New Jersey, $34,760,000.
Naval Ordnance Station, Indian Head, Maryland, $500,000.
Long Beach Naval Shipyard, Long Beach, California, $3,630,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $5,900,000.
Naval Sea Combat Systems Engineering Station, Norfolk, Virginia, $980,000.
Supervisor of Shipbuilding, Pascagoula, Mississippi, $4,120,000.
Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $23,170,000.
Naval Weapons Station, Yorktown, Virginia, $4,220,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Weapons Center, China Lake, California, $1,370,000.
Naval Surface Weapons Center, Dahlgren, Virginia, $15,960,000.
Naval Coastal Systems Center, Panama City, Florida, $880,000.
Naval Research Laboratory Annex, Quantico, Virginia, $1,500,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $122,390,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,270,000.
Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $8,950,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Guantanamo Bay, Cuba, $2,600,000.
Naval Air Station, Keflavik, Iceland, $13,840,000.
Naval Facility, Keflavik, Iceland, $1,570,000.
Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $4,220,000.
Naval Station, Roosevelt Roads, Puerto Rico, $7,080,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Administrative Support Unit, Bahrain Island, $2,550,000.
Mobile Construction Battalion, Camp Covington, Guam, $15,500,000.
Naval Facility, Guam, $820,000.
Naval Supply Depot, Guam, $400,000.
Naval Station, Subic Bay, Republic of the Philippines, $1,710,000,
Naval Supply Depot, Subic Bay, Republic of the Philippines, $290,000.
Naval Ship Repair Facility, Subic Bay, Republic of the Philippines, $1,770,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdon, $1,180,000.
Naval Support Activity, Naples, Italy, $1,570,000.
Naval Station, Rota, Spain, $4,600,000.
Classified Locations, $15,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station, Western Pacific, Guam, $480,000.
Naval Communications Station, Harold E. Holt, Exmouth, Australia, $2,180,000.
Naval Communications Area Master Station, Mediterranean, Naples, Italy, $8,250,000.
Naval Communication Station, San Miguel, Republic of the Philippines, $470,000.
Naval Communication Station, Thurso, United Kingdom, $350,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $2,250,000.
Naval Security Group Detachment, Guam, $2,150,000.
Naval Security Group Activity, Sabana Seca, Puerto Rico, $790,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $1,570,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Underwater Systems Center, Andros Island, Bahamas, $3,730,000.

SEC. 2202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Long Beach, California, three hundred units, $22,900,000.

Naval Air Station, Moffett Field, California, one hundred and twenty-six units, $11,600,000.

Navy Public Works Center, San Francisco, California, three hundred units, $26,450,000.

Marine Corps Air Station, El Toro, California, $2,300,000, as authorized in section 2734.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, three hundred and ninety-two units and seventy-five mobile home spaces, $35,300,000.

Marine Corps Base, Camp Pendleton, California, one hundred mobile home spaces, $1,800,000.

Marine Corps Base, Camp Lejeune, North Carolina, seventy-five mobile home spaces, $930,000.

Marine Corps Development and Education Command, Quantico, Virginia, fifty mobile home spaces, $790,000.

Naval Station, Keflavik, Iceland, two hundred and fifty units, $48,642,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures, using amounts appropriated pursuant to section 2208(a)(7)(A), to improve existing military family housing units in an amount not to exceed $26,580,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Mare Island, Vallejo, California, one hundred units, $5,200,000.

Marine Corps Logistics Base, Albany, Georgia, one unit, $33,300.

Navy Public Works Center, Great Lakes, Illinois, two hundred and ten units, $9,400,000.

Naval Air Station, Brunswick, Maine, forty-four units, $1,274,600.

Naval Construction Battalion Center, Gulfport, Mississippi, one unit, $28,700.

Naval Air Station, Fallon, Nevada, forty-four units, $1,868,500.

Naval Station, New York, New York, one hundred and twenty units, $9,600,000.

Naval Air Development Center, Warminster, Pennsylvania, six units, $256,800.

Naval Education and Training Center, Newport, Rhode Island, one hundred and eighty-six units, $10,200,000.

Navy Public Works Center, Guam, one unit, $64,700.

Navy Public Works Center, Guam, one hundred and nine units, $10,360,000.

Naval Air Station, Agana, Guam, one hundred units, $9,517,000.

Naval Air Station, Agana, Guam, one unit, $58,600.

SEC. 2204. ACQUISITION OF EXISTING HOUSING UNITS ON GUAM

The Secretary of the Navy may acquire, without reimbursement, 89 existing family housing units constructed and used by the Federal Aviation Administration on land in Finegayan, Guam, held by the Secretary of the Navy under the provisions of section 1158 of title 49, United States Code.

SEC. 2205. INCREASE IN TITLE TOTAL AMOUNT FOR MILITARY CONSTRUCTION PROJECT AT KINGS BAY, GEORGIA

Section 602(c) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), is amended by striking "may not exceed the total amount authorized" and all that follows and inserting the following:

"may not exceed—

"(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

"(2) the amount specified in subsection (b); and

"(3) $85,600,000 (the balance of the amount authorized under section 201(a) for military construction projects at Kings Bay, Georgia).".

SEC. 2206. CERTAIN ENLISTED QUARTERS, GUAM

Section 201(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 970), is amended—

(1) by striking out "Naval Magazine, Guam, $11,270,000." and inserting in lieu thereof "Naval Magazine, Guam, $6,570,000."; and

(2) by striking out "Naval Station, Guam, $10,200,000." and inserting in lieu thereof "Naval Station, Guam, $14,900,000.".

SEC. 2207. LIMITATION ON USE OF FUNDS FOR CERTAIN HOMEPORTING

(a) IN GENERAL—Funds appropriated pursuant to an authorization in section 2208 for Naval Station, Everett, Washington, may not be obligated or expended for such purpose until—

(1) all Federal, state, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued; and

(2) the State of Washington has appropriated, in fiscal year 1987, its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(b) LIMITATION ON AMOUNT OF FUNDS THAT MAY BE EXPENDED THROUGH FISCAL YEAR 1991.—Not more than a total of $272,000,000, including $16,000,000 for defense access roads, may be obligated or expended by the Department of Defense and the Department of the Navy during fiscal years 1986 through 1991 for construction associated with strategic homeporting at Everett, Washington.

SEC. 2208. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,147,438,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,109,795,000,.

(2) For military construction projects outside the United States authorized by section 2201(b), $110,840,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $45,450,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,770,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,400,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $159,292,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $557,891,000, of which—

(i) not more than $5,214,100 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $17,244,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $20,000,000 (the balance of the amount authorized under section 2202(a) for the construction of an ammunition pier and trestle at the Naval Weapons Station, Earle, New Jersey).

SEC. 2209. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 201 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Land acquisition in the amount of $830,000 at the Naval Weapons Station, Concord, California.

(2) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(3) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in sections 201 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,740,000 at the Marine Corps Air Station, Yuma, Arizona.

(2) Antenna support facility in the amount of $320,000 at the Naval Security Group Activity, Adak, Alaska.

(3) Data processing center in the amount of $6,160,000 at the Naval Supply Center, Bremerton, Washington.

(4) Unaccompanied enlisted personnel housing in the amount of $12,130,000 at the Naval Air Station, Whidbey Island, Washington.

(5) Unaccompanied enlisted personnel housing in the amount of $6,600,000 at the Naval Station, Mare Island, Vallejo, California.

(6) Engine test cell in the amount of $9,700,000 for the Naval Air Rework Facility, Cherry Point, North Carolina.

(7) Security building in the amount of $850,000 for the Naval Station, Norfolk, Virginia.

(8) Unaccompanied enlisted personnel housing in the amount of $1,580,000 for the Naval Station, Panama Canal, Panama.

(9) Heating, ventilation and air conditioning in the amount of $4,540,000 for the Naval Air Station, Alameda, California.

(10) Land acquisition in the amount of $4,750,000 for the Marine Corps Air Station, El Toro, California.

(11) Maintenance hangar in the amount of $5,000,000 for the Naval Air Station, Fallon, Nevada.

(12) Construction battalion unit complex in the amount of $1,090,000 for the Naval Station, Mare Island, Vallejo, California.

(13) Airframes shop in the amount of $1,680,000 for the Pacific Missile Test Center, Point Mugu, California.

(14) Unaccompanied enlisted personnel housing in the amount of $6,650,000 for the Pacific Missile Test Center, Point Mugu, California.

(15) Maintenance hangar in the amount of $13,200,000 for the Marine Corps Air Station, Tustin, California.

(16) Oil spill prevention facility in the amount of $710,000 for the Marine Corps Air Station, Tustin, California.

(17) Energy monitoring and control system in the amount of $1,100,000 for the Naval Air Station, Chase Field, Texas.

(18) Host nation infrastructure support in the amount of $2,970,000 for various locations.

TITLE III—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amount shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $20,550,000.
McClellan Air Force Base, California, $28,900,000.
Newark Air Force Station, Ohio, $3,000,000.
Robins Air Force Base, Georgia, $16,055,000.
Tinker Air Force Base, Oklahoma, $32,900,000.
Wright-Patterson Air Force Base, Ohio, $16,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Air Force Station, Tennessee, $3,530,000.
Edwards Air Force Base, California, $10,900,000.
Eglin Air Force Base, Florida, $720,000.
Hanscom Air Force Base, Massachusetts, $4,000,000.
Patrick Air Force Base, Florida, $2,600,000.
Sunnyvale Air Force Station, California, $2,600,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $11,300,000.
Keesler Air Force Base, Mississippi, $1,970,000.
Lackland Air Force Base, Texas, $16,000,000.
Laughlin Air Force Base, Texas, $3,700,000.
Mather Air Force Base, California, $740,000.
Williams Air Force Base, Arizona, $4,900,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $2,900,000.
Maxwell Air Force Base, Alabama, $5,310,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $12,590,000.
Elmendorf Air Force Base, Alaska, $3,170,000.
Galena Airport, Alaska, $11,600,000.
King Salmon Airport, Alaska, $4,050,000.
Shemya Air Force Base, Alaska, $22,300,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $310,000.
Andrews Air Force Base, Maryland, $25,430,000.
Charleston Air Force Base, South Carolina, $7,490,000.
Kirtland Air Force Base, New Mexico, $11,800,000.
Little Rock Air Force Base, Arkansas, $2,750,000.
McChord Air Force Base, Washington, $6,400,000.
McGuire Air Force Base, New Jersey, $7,895,000.
Norton Air Force Base, California, $1,450,000.
Pope Air Force Base, North Carolina, $3,400,000.
Scott Air Force Base, Illinois, $1,100,000.
Travis Air Force Base, California, $8,200,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, $4,700,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $4,300,000.
Cavalier Air Force Station, North Dakota, $2,820,000.
Falcon Air Force Station, Colorado, $6,400,000.
Peterson Air Force Base, Colorado, $3,640,000.

SPECIAL PROJECT

Various Locations, $37,056,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $9,516,000.
Blytheville Air Force Base, Arkansas, $3,870,000.
Carswell Air Force Base, Texas, $490,000.
Castle Air Force Base, California, $2,630,000.
Dyess Air Force Base, Texas, $4,130,000.
Ellsworth Air Force Base, South Dakota, $10,910,000.
Fairchild Air Force Base, Washington, $7,520,000.
F.E. Warren Air Force Base, Wyoming, $3,550,000.
Grand Forks Air Force Base, North Dakota, $20,730,000.
Griffiss Air Force Base, New York, $1,590,000.
Grissom Air Force Base, Indiana, $3,850,000.
Holbrook Radar Bomb Score Site, Arizona, $630,000.
K.I. Sawyer Air Force Base, Michigan, $1,730,000.
La Junta Radar Bomb Scoring Site, Colorado, $5,460,000.
Loring Air Force Base, Maine, $1,300,000.
Malmstrom Air Force Base, Montana, $30,770,000.
March Air Force Base, California, $14,440,000.
McConnell Air Force Base, Kansas, $33,740,000.
Minot Air Force Base, North Dakota, $30,100,000.
Offutt Air Force Base, Nebraska, $24,970,000.
Pease Air Force Base, New Hampshire, $2,200,000.
Plattsburgh Air Force Base, New York, $3,410,000.
Vandenberg Air Force Base, California, $2,700,000.
Whiteman Air Force Base, Missouri, $10,700,000.
Wurtsmith Air Force Base, Michigan, $10,740,000.

TACTICAL AIR COMMAND

Avon Park Auxiliary Air Field, Florida, $4,100,000.
Base 39, Classified Location, $2,300,000.
Bergstrom Air Force Base, Texas, $1,860,000.
Cannon Air Force Base, New Mexico, $7,250,000.
Davis-Monthan Air Force Base, Arizona, $13,230,000.
George Air Force Base, California, $9,550,000.
Holloman Air Force Base, New Mexico, $14,760,000.
Homestead Air Force Base, Florida, $6,550,000.
Indian Springs Auxiliary Air Field, Nevada, $1,700,000.
Langley Air Force Base, Virginia, $9,640,000.
Luke Air Force Base, Arizona, $24,140,000.
MacDill Air Force Base, Florida, $2,380,000.
Moody Air Force Base, Georgia, $900,000.
Mountain Home Air Force Base, Idaho, $14,760,000.
Myrtle Beach Air Force Base, South Carolina, $3,000,000.
Nellis Air Force Base, Nevada, $16,100,000.
Seymour-Johnson Air Force Base, North Carolina, $660,000.
Shaw Air Force Base, South Carolina, $3,700,000.
Tyndall Air Force Base, Florida, $15,310,000.
WESTCONUS, Various Locations, $10,300,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $12,620,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $7,450,000.
Rhein-Main Air Base, Germany, $1,300,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $7,365,000.
Misawa Air Base, Japan, $10,300,000.
Totsuka Air Base, Japan, $700,000.
Yokosuka Air Base, Japan, $600,000.
Camp Red Cloud, Korea, $1,450,000.
Kimhae Air Base, Korea, $3,620,000.
Kunsan Air Base, Korea, $8,170,000.
Kwang-Ju Air Base, Korea, $600,000.
Osan Air Base, Korea, $11,350,000.
Suwon Air Base, Korea, $3,850,000.

Taegu Air Base, Korea, $5,170,000.
Clark Air Base, Republic of the Philippines, $41,100,000.
Saipan, $5,200,000.

SPACE COMMAND

Sondrestrom Air Base, Greenland, $5,860,000.
Thule Air Base, Greenland, $9,790,000.
Woomera Air Station, Australia, $2,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $7,600,000.

TACTICAL AIR COMMAND

Keflavik Naval Air Station, Iceland, $1,600,000.
Masirah, Oman, $3,500,000.
Thumrait, Oman, $3,400,000.

UNITED STATES AIR FORCES IN EUROPE

Florennes Air Base, Belgium, $1,200,000.
Bitburg Air Base, Germany, $5,350,000.
Hahn Air Base, Germany, $10,740,000.
Lindsey Air Station, Germany, $1,200,000.
Ramstein Air Base, Germany, $23,070,000.
Sembach Air Base, Germany, $11,870,000.
Spangdahlem Air Base, Germany, $8,310,000.
Wueschheim Air Station, Germany, $310,000.
Zweibrucken Air Base, Germany, $6,740,000.
Iraklion Air Station, Greece, $320,000.
Camp Darby, Italy, $270,000.
Comiso Air Station, Italy, $3,000,000.
San Vito Air Station, Italy, $3,790,000.
Morocco, $25,400,000.
Camp New Amsterdam, The Netherlands, $1,500,000.
Woensdrecht Air Base, The Netherlands, $30,780,000.
Ankara Air Station, Turkey, $5,230,000.
Incirlik Air Base, Turkey, $12,250,000.
Pirinclik Air Station, Turkey, $3,000,000.
Martlesham Heath, United Kingdom, $1,650,000.
RAF Alconbury, United Kingdom, $13,770,000.
RAF Bentwaters, United Kingdom, $3,850,000.
RAF Chicksands, United Kingdom, $950,000.
RAF Croughton, United Kingdom, $630,000.
RAF Fairford, United Kingdom, $4,450,000.
RAF Lakenheath, United Kingdom, $500,000.
RAF Mildenhall, United Kingdom, $4,700,000.
RAF Molesworth, United Kingdom, $2,430,000.
RAF Upper Heyford, United Kingdom, $5,700,000.
RAF Welford, United Kingdom, $1,590,000.
RAF Wethersfield, United Kingdom, $650,000.
Base 30, Classified Location, $2,950,000.
Overseas Classified Location, $11,500,000.
Various Locations, Europe, $3,953,000.

SEC. 2302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Bitburg Air Base, Germany, three hundred and thirty-two units, $26,415,000.
Hahn Air Base, Germany, one hundred and fifty units, $11,300,000.
La Junta Air Force Station, Colorado, forty units, $4,000,000.
Beale Air Force Base, California, family housing maintenance shop, $180,000.
Davis-Monthan Air Force Base, Arizona, family housing management office, $300,000.
McGuire Air Force Base, New Jersey, family housing management office, $325,000.
Pope Air Force Base, North Carolina, family housing management office, $300,000.
Edwards Air Force Base, California, twenty-four mobile home spaces, $376,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures, using amounts appropriated pursuant to section 2305(a)(6)(A), to improve existing military family housing units, including energy conservation projects, in an amount not to exceed $58,644,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Eielson Air Force Base, Alaska, eighty-eight units, $6,186,000.
Elmendorf Air Force Base, Alaska, twelve units, $760,000.
Air Force Academy, Colorado, one unit, $120,000.
Peterson Air Force Base, Colorado, four units, $149,000.
MacDill Air Force Base, Florida, one hundred and fifty-eight units, $4,430,000; seven units, $553,000; seventy-one units, $2,103,000.
Scott Air Force Base, Illinois, one hundred and twelve units, $4,690,000.
Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.
Bangor Air Force Station, Maine, one unit, $30,000.
Andrews Air Force Base, Maryland, seven units, $518,000.
Pease Air Force Base, New Hampshire, two-hundred units, $7,177,000.
Plattsburgh Air Force Base, New York, twenty-nine units, $2,272,000.
Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; seventy-four units, $2,598,000.
Carswell Air Force Base, Texas, two hundred and three units, $7,478,000.
Lackland Air Force Base, Texas, sixty-four units, $1,920,000.
Randolph Air Force Base, Texas, five units, $402,000.
Reese Air Force Base, Texas, one hundred units, $2,895,000.
Langley Air Force Base, Virginia, five units, $441,000.
Andersen Air Force Base, Guam, two hundred units, $14,517,000.
Kadena Air Base, Japan, one hundred units, $5,054,000; three units, $240,000.

SEC. 2304. RESTRICTION ON CERTAIN MILITARY CONSTRUCTION FUNDING

Funds appropriated for military construction may not be used during fiscal year 1987 in connection with the basing at any military installation or facility other than Little Rock Air Force Base, Jacksonville, Arkansas, the eight KC-135 tanker aircraft that, as of June 1, 1986, were based at such Air Force base and assigned to the 189th Air Refueling Group of the Air National Guard.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,143,729,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $784,642,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $351,878,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $117,260,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $32,700,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $108,840,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $732,409,000, of which—

(i) not more than $5,600,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $67,145,000 may be obligated or expended for the leasing of military family housing units in the foreign countries.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS FOR ENERGY CONSERVATION PROJECTS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects of the Department of the Air Force and which remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects authorized in section 2301(a) in an amount not to exceed $9,470,000.

(c) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and the amount specified in subsection (b).

(d) USE OF CERTAIN FUNDS.—The Secretary of the Air Force may use not more than $350,000 of the amount appropriated pursuant to subsection (a)(3) to acquire approximately 20 acres of real property, and improvements thereon, located adjacent to Lake Wateree near Shaw Air Force Base, South Carolina.

SEC. 2306. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 302 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Mili-

tary Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Fort MacArthur, California, 140 units, $15,100,000.

(2) RAF Greenham Common, United Kingdom, 250 units, $22,441,000.

(3) RAF Bentwaters, United Kingdom, 200 units, $20,163,000.

TITLE IV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Scott Air Force Base, Illinois, $7,600,000.

DEFENSE LANGUAGE INSTITUTE

Defense Language Institute, Monterey, California, $5,400,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Estero Bay, California, $680,000.

Defense Construction Supply Center, Columbus, Ohio, $860,000.

Defense Fuel Support Point, Charleston, South Carolina, $460,000.

Defense Fuel Support Point, Naval Supply Center, Charleston, South Carolina, $5,130,000.

Defense Depot, Memphis, Tennessee, $1,160,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $16,700,000.

DEFENSE MEDICAL FACILITIES OFFICE

Edwards Air Force Base, California, $3,950,000.

Fort Ord, California, $530,000.

Pearl Harbor, Hawaii, $9,700,000.

Mountain Home Air Force Base, Idaho, $30,500,000.

Fort Polk, Louisiana, $2,650,000.

Keesler Air Force Base, Mississippi, $3,100,000.

McGuire Air Force Base, New Jersey, $3,800,000.

Kirtland Air Force Base, New Mexico, $16,000,000.

Camp Lejeune, North Carolina, $3,900,000.

Fort Hood, Texas, $3,450,000.

Brooks Air Force Base, Texas, $1,850,000.

Randolph Air Force Base, Texas, $13,700,000.

Fort Sam Houston, Texas, $135,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $790,000.

Field Command, Kirtland Air Force Base, New Mexico, $900,000.

JOINT TACTICAL COMMAND, CONTROL, AND COMMUNICATIONS AGENCY

Fort Huachucha, Arizona, $9,890,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $9,570,000.

Classified Location, $4,000,000.

Classified Location, $1,000,000.

DEFENSE-LEVEL ACTIVITIES

Classified Location, $3,000,000.

STRATEGIC DEFENSE INITIATIVE

Edwards Air Force Base, $4,140,000.

Pacific Missile Range, Kauai, Hawaii, $2,890,000.

White Sands Missile Range, New Mexico, $1,930,000.

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Bethesda, Maryland, $900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Chimu Wan, Japan, $6,640,000.

Defense Fuel Support Point, Tsurumi, Japan, $3,520,000.

Defense Reutilization and Marketing Office, Bupyong, Korea, $1,290,000.

Defense Fuel Support Point, Toegeywon, Korea, $1,010,000.

DEFENSE MEDICAL FACILITIES OFFICE

Boeblingen, Germany, $3,650,000.

Grafenwoehr, Germany, $3,950,000.

Karlsruhe, Germany, $6,800,000.

Vilseck, Germany, $5,600,000.

Camp Edwards, Korea, $1,800,000.

Camp Long, Korea, $1,850,000.

Camp Pelham, Korea, $720,000.

Camp New Amsterdam, The Netherlands, $6,000,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Florennes, Belgium, $1,260,000.

Naval Air Station, Bermuda, $4,280,000.

Aschaffenburg, Germany, $6,600,000.

Bad Kissingen, Germany, $1,330,000.

Baumholder, Germany, $1,600,000.

Dexheim, Germany, $2,430,000.

Erlangen, Germany, $3,220,000.

Gelnhausen, Germany, $1,130,000.

Grafenwoehr, Germany, $2,500,000.

Hahn, Germany, $3,470,000.

Heidelberg, Germany, $3,190,000.

Hessisch-Oldendorf, Germany, $2,310,000.

Hohenfels, Germany, $1,190,000.

Kaiserslautern, Germany, $7,880,000.

Nuernberg, Germany, $8,580,000.

Schwaebish Gmuend, Germany, $1,640,000.

Stuttgart, Germany, $4,530,000.

Wuerzburg, Germany, $7,760,000.

Seoul, Korea, $510,000.

Woensdrecht, The Netherlands, $7,420,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $1,340,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire three family housing units (including land acquisition) at classified locations in the total amount of $270,000.

SEC. 2403. BROOKE army MEDICAL CENTER

(a) AUTHORIZATION TO CONTRACT IN ADVANCE OF APPROPRIATIONS.—(1) Subject to paragraph (2), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the design and construction of the military construction project authorized by section 2401 to be accomplished at Brooke Army Medical Center, San Antonio, Texas, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(2) The design of the project referred to in paragraph (1) shall provide for a medical facility with space for 450 beds, but the initial construction shall provide for a medical facility with space for only 200 beds.

(b) REPEAL PROVISION.—Section 104 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1498), is repealed.

SEC. 2404. HAZARDOUS WASTE STORAGE

(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 pursuant to the authorization in section 2405(a), carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities which are described in a report submitted by the Comptroller, Defense Logistics Agency, on September 22, 1986, to the Committees on Armed Services of the Senate and the House of Representatives.

(b) NOTIFICATION TO CONGRESS.—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision, the justification for the project, the estimated cost of the project, and the permit process for the project. The project may not be initiated until a period of 21 days has elapsed after the date on which the notification is received by the committees.

(c) INCREASE IN COST OF PROJECT.—The cost of a hazardous waste storage facility project carried out under this section may be increased by not more than 25 percent of the estimated cost of the project as contained in the notification provided to the committees pursuant to subsection (b) if the Secretary of Defense determines—

(A) that such an increase is required for the sole purpose of meeting unusual variations in cost; and

(B) that such variations in cost could not have been reasonably anticipated at the time the project justification was originally submitted to the committees.

(d) DEFINITION.—As used in this section, the term "hazardous waste" includes both excess hazardous materials and hazardous wastes as defined by applicable laws and regulations.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $532,030,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $180,130,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $117,000,000.

(3) For the construction of a research and engineering facility at Fort Meade, Maryland, authorized by section 401(a) of the Military Construction Authorization Act, 1986, $38,000,000.

(4) For the construction of the Madigan Army Medical Center, Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,100,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $4,000,000.

(6) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $88,200,000.

(8) For conforming storage facilities, $10,000,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $270,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $17,330,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $125,000,000 (the balance of the amount authorized for the construction of the Brooke Army Medical Center, Fort Sam Houston, Texas).

SEC. 2406. EXTENSION OF PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), the authorizations for the following projects authorized in sections 401 and 402 of such Act shall remain in effect until October 1, 1987, or the date of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Defense property disposal office in the amount of $1,950,000 at Pearl Harbor Naval Shipyard, Hawaii.

(2) Six family housing units at classified locations in the amount of $693,000.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

(b) LIMITATION.—The Secretary may obligate funds under this section only to the extent funds are appropriated for use under section 2806 of title 10, United States Code.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $247,000,000.

SEC. 2503. AMENDMENT TO NATO INFRASTRUCTURE PROGRAM

(a) IN GENERAL.—Section 2806(a) of title 10, United States Code, is amended by inserting "and for related expenses" after "headquarters)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) and shall apply only with respect to contributions made with funds appropriated for fiscal years after fiscal year 1986.

SEC. 2504. RESTRICTION ON CERTAIN FUNDING

The Secretary of Defense may not obligate or expend any funds after fiscal year 1987 with respect to the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives—

(1) a comprehensive master plan for establishing adequate active defenses for—

(A) air bases in Europe at which operations of United States aircraft are planned; and

(B) sites in Europe used by the United States for logistic support of the North Atlantic Treaty Organization or for prepositioned overseas materiel configured to unit sets; and

(2) a report containing a certification by the Secretary that sufficient funds have been budgeted by the Department of Defense in the fiscal year 1988 five-year defense plan to meet the objectives of such comprehensive master plan.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZATION FOR GUARD AND RESERVE FACILITIES

There are authorized to be appropriated for fiscal years beginning after September 30, 1986, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $133,271,000, and

(B) for the Army Reserve, $86,700,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $44,500,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $145,325,000, and

(B) for the Air Force Reserve, $58,900,000.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. CODIFICATION OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) MAXIMUM AMOUNT FOR UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "the amount specified by law as the maximum amount for a minor military construction project" in clause (2) and inserting in lieu thereof "$1,000,000";

(2) in subsection (b)(1), by striking out "50 percent" and all that follows through "project" and inserting in lieu thereof "$500,000"; and

(3) in subsection (c), by striking out "20 percent" and all that follows through "project" and inserting in lieu thereof "$200,000".

(b) MAXIMUM AMOUNT FOR ARCHITECTURAL AND ENGINEERING SERVICES.—Section 2807(b) of such title is amended by striking out "the maximum amount specified by law for the purposes of this section" and inserting in lieu thereof "$300,000".

(c) MAXIMUM AMOUNT PER UNIT FOR AN IMPROVEMENT PROJECT FOR FAMILY HOUSING UNITS.—Section 2825(b)(1) of such title is amended by striking out "an amount specified by law for such purpose" and inserting in lieu thereof "$30,000".

(d) MAXIMUM ANNUAL RENTAL FOR A FAMILY HOUSING UNIT IN THE UNITED STATES.—Section 2828(b) of such title is amended—

(1) in paragraph (2), by striking out "the amount specified by law as the maximum annual domestic family housing unit lease amount" and inserting in lieu thereof "$10,000"; and

(2) in paragraph (3)(A), by striking out "the maximum annual domestic" and all that follows through the period and inserting in lieu thereof "$10,000 but does not exceed $12,000.".

(e) MAXIMUM ANNUAL RENTAL FOR A FAMILY HOUSING UNIT OUTSIDE THE UNITED STATES.—Section 2828(e)(1) of such title is amended by striking out "the amount specified by law as the maximum annual foreign family housing unit lease amount" and inserting in lieu thereof "$16,800".

(f) MAXIMUM NUMBER OF FAMILY HOUSING UNITS LEASED IN FOREIGN COUNTRIES.—Section 2828(e)(2) of such title is amended by striking out "shall be specified by law" and inserting in lieu thereof "is 32,000".

(g) MAXIMUM ANNUAL RENTAL FOR FAMILY HOUSING FACILITIES, OR FOR REAL PROPERTY RELATED TO FAMILY HOUSING FACILITIES, LEASED IN A FOREIGN COUNTRY.—Section 2828(f) of such title is amended by striking out "the amount specified by law for such purpose" and inserting in lieu thereof "$250,000".

PART B—MILITARY CONSTRUCTION PROGRAM PROVISIONS

SEC. 2711. TEST OF LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(1) of title 10, United States Code, is amended to read as follows:

"(1)(A) The Secretary concerned may enter into contracts for the construction, management, and operation of a facility on or near a military installation for the provision of an activity or service named in subparagraph (B) if the Secretary concerned has identified the proposed project in the budget proposal submitted to Congress and has determined that the facility can be more economically provided under a long-term contract than by conventional means.

"(B) The activities and services referred to in subparagraph (A) are as follows:

"(i) Child care services.

"(ii) Potable and waste water treatment services.

"(iii) Depot supply activities.

"(iv) Troop housing.

"(v) Transient quarters.

"(vi) Other logistic and administrative services, other than depot maintenance.".

SEC. 2712. PLANNING AND DESIGN

(a) IN GENERAL.—Section 2807 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) For study, planning, design, architectural, and engineering services related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to funds appropriated for fiscal years after fiscal year 1985.

SEC. 2713. BUILD-TO-LEASE AND RENTAL GUARANTEE PILOT PROGRAMS

(a) RENTAL GUARANTEE PROGRAM.—(1) Subsection (b) of section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(A) in paragraph (2), by striking out "for operation and maintenance costs which shall (if included) be effective for the term of agreement";

(B) in paragraph (4), by adding "or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes" after "specifications";

(C) in paragraph (5), by striking out "15 years" and inserting in lieu thereof "25 years";

(D) by striking out "and" at the end of paragraph (10);

(E) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(F) by adding at the end the following new paragraph:

"(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

(2) Subsection (g)(2) of such section is amended by striking out "600" and inserting in lieu thereof "1,200";

(3) Subsection (h) of such section is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1990".

(b) BUILD-TO-LEASE PROGRAM.—Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(B), by striking out "600" and inserting in lieu thereof "1,600";

(2) in paragraph (9), by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988"; and

(3) by adding at the end the following new paragraph:

"(10) A contract for the lease of family housing under this subsection may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

SEC. 2714. FOREIGN LEASES FOR PERSONNEL HOLDING SPECIAL POSITIONS

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "200" and inserting in lieu thereof "220".

PART C—MISCELLANEOUS PROVISIONS

SEC. 2721. POSTAL FACILITIES

Sections 4779 and 9779 of title 10, United States Code, are each amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 2722. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use not more than $200,000 from funds appropriated to the Department of Defense for fiscal year 1987 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Ingleside, Texas, and other Gulf Coast sites, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

SEC. 2723. RELEASE OF CERTAIN USE RIGHTS HELD BY THE UNITED STATES

(a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within 180 days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 2724. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2725. PROHIBITION ON DESIGN OF PENTAGON ANNEX

None of the funds appropriated pursuant to an authorization in this or any other Act may be used for the design of an administrative complex to be constructed on the property known as the Pentagon Reservation, Arlington, Virginia, for the purpose of supporting the headquarters of the Department of Defense or the military departments or the support functions of such headquarters.

SEC. 2726. STUDY OF NEEDS OF DEPENDENTS' EDUCATIONAL FACILITIES ON MILITARY INSTALLATIONS

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Education shall conduct a joint study for the purpose of determining the needs for construction, extension, remodeling, and rehabilitation of dependents' educational facilities on military installations in the United States and shall develop a joint policy to meet those needs.

(b) REPORT.— The Secretaries of Defense and Education shall, not later than April 1, 1987, transmit to the Congress a report containing—

(1) a description of the needs determined under subsection (a);

(2) the joint policy developed to meet such needs; and

(3) any recommendations for legislation the Secretaries consider necessary or appropriate to meet such needs.

SEC. 2727. STUDY OF USE OF PROPERTY AT LOS ALAMITOS ARMED FORCES RESERVE CENTER, CALIFORNIA, FOR MILITARY FAMILY HOUSING

(a) IN GENERAL.—The Secretary of the Army and the Secretary of the Navy shall conduct a study concerning the potential use of the property currently being utilized as the Los Alamitos Armed Forces Reserve Center, California, for military family housing for the Navy.

(b) MATTERS TO CONSIDER.—In conducting the study described in subsection (a), each of the Secretaries shall take into consideration—

(1) the extensive number of complaints from residents concerning aircraft noise;

(2) the need for such military family housing;

(3) the public safety concerns involved with respect to military aircraft flying over a highly populated, urban area;

(4) the importance of maintaining facilities for the stationing of National Guard and other Reserve component units;

(5) the importance of maintaining facilities for the training of military aviation personnel;

(6) the importance of maintaining facilities for the maintenance of Army facilities and Army aircraft assigned to the California Army National Guard and the United States Army Reserve;

(7) the importance of the Los Alamitos Armed Forces Reserve Center, California, as a designated relief site in the event of a national disaster or emergency; and

(8) the costs associated with establishing and maintaining military family housing for the Navy at such Center.

(c) RECOMMENDED ACTION.—If the Secretaries find that the Center described in subsection (a) would not be suitable for military family housing or that it should not be so used, they shall recommend, in the report transmitted to the Committees pursuant to subsection (d), an alternate course of action for reducing the noise caused by aircraft traffic between the Center and the training area in the Santa Ana Mountains.

(d) DATE OF TRANSMITTAL.—The Secretaries described in subsection (a) shall transmit a copy of the findings and conclusions of the study carried out under this section to the Committees on Armed Services of the House of Representatives and the Senate. The transmissions shall be made no later than 90 days after the date of enactment of this Act.

SEC. 2728. REAL ESTATE ACQUISITION REPORT

The Secretary of the Army shall, within 45 days of the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and the House of Representatives a real estate acquisition report for the lease of temporary facilities located in Rio Rancho, New Mexico, for the Hawk Missile Battalion of the New Mexico Army National Guard that is to be permanently located near Rio Rancho, New Mexico.

PART D—REAL PROPERTY TRANSACTIONS

SEC. 2731. LAND CONVEYANCE, FORT HUACHUCA, ARIZONA

(a) AUTHORITY TO CONVEY.—The Secretary of the Army may convey to the State of Arizona all right, title, and interest of the United States in and to approximately 26 acres of real property (and improvements thereon) which comprise a portion of Fort Huachuca, Arizona, which border on State Highway 90 at Fort Huachuca, and which are located in the east half of Township 21 South, Range 20 East, Gila and Salt River Meridian.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Arizona shall convey to the United States all right, title, and interest of the State in and to 1,536.47 acres of real property (and improvements thereon) owned by the State within the East Range at Fort Huachuca and to all mineral rights owned by the State in 12,943 acres of real property located within the East Range at Fort Huachuca. Title to such real property and mineral rights shall be conveyed free and clear of encumbrances and third party interests except to the extent waived by the Secretary.

(2) If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property and improvements and mineral interests conveyed to the United States under subsection (b), as determined by the Secretary, the State shall pay the difference to the United States. Any funds received under this section shall be covered into the general fund of the Treasury.

(c) AUTHORITY TO SELL ADDITIONAL ACREAGE.—(1) In addition to the acreage authorized to be conveyed under subsection (a), the Secretary may sell, subject to paragraphs (2) and (3), all right, title, and interest of the United States in and to approximately 203 acres of real property and improvements thereon (designated by the Secretary) comprising a portion of Fort Huachuca, Arizona.

(2) The sale of the real property and improvements referred to in paragraph (1) shall be conducted in accordance with competitive bidding procedures prescribed in section 2304 of title 10, United States Code. In no event may the real property and improvements be sold for less than the fair market value thereof. The fair market value of the property shall be established by an appraisal approved by the Secretary.

(3) If the fair market value of the real property and improvements and mineral rights conveyed to the United States pursuant to subsection (b) exceeds the fair market value of the real property and improvements conveyed by the United States pursuant to subsection (a), the Secretary may use the proceeds of the sale under paragraph (1) to pay the difference in value to the State of Arizona. Any proceeds of the sale not used for such purpose shall be covered into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of any property conveyed or acquired under this section shall be based upon surveys which are satisfactory to the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2732. LEASE AND DEVELOPMENT OF CERTAIN REAL PROPERTY, SAN DIEGO, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) enter into long-term leases of real property located within the Broadway Complex of the Department of the Navy, San Diego, California; and

(2) assist any lessee of such real property in financing the construction of any facility on such real property.

(b) CONSIDERATION.—(1)(A) In consideration for leasing the real property described in subsection (a), the Secretary shall obtain, without compensation or at substantially below market value, facilities or the use of facilities, or both, constructed on such real property by the lessees.

(B) The Secretary shall provide that the value of the facilities or the use of facilities, or both, obtained under subparagraph (A) (minus the amount of any compensation paid by the Secretary for the facilities or use of them) shall be at least equal to the value of the use of the real property leased under subsection (a), as determined by the Secretary.

(2) In consideration for assisting a lessee in financing the construction of any facility on such real property, the Secretary shall obtain an ownership interest in such facility that is at least equal in value to the amount of the financing provided by the Secretary.

(c) CONDITIONS.—(1) The Secretary shall provide that any real property leased under this section shall be developed in accordance with detailed plans and terms of development which have been duly formulated by the Secretary and the San Diego community through the San Diego Association of Governments' Broadway Complex Coordinating Group.

(2) A lease may not be entered into under this section until 21 days after the Secretary submits a plan for the development of the real property described in subsection (a) to the Committees of the Armed Services of the Senate and the House of Representatives, including a justification of how this plan is more advantageous to the United States than developing the real property with Federal funds.

(d) COMPETITIVE PROCEDURES.—Each lease entered into under subsection (a) shall be awarded through the use of competitive procedures.

(e) RIGHT TO ACQUIRE.—The Secretary may provide that the United States shall have the right of first refusal to acquire all right, title, and interest in and to any facility constructed on the real property subject to such lease.

(f) ADDITIONAL TERMS.—(1) A lease entered into by the Secretary under this section under which a facility is constructed by a private developer and leased to the Department of the Navy may provide for the operation and maintenance of such facility by the private developer.

(2) The Secretary may require such additional terms and conditions in connection with the leases authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(g) LIMITATION.—The Secretary may obligate or expend amounts for—

(1) assisting in financing under subsection (a)(2);

(2) obtaining facilities or the use of facilities under (b)(1)(A); or

(3) acquiring interest in a facility under subsection (e),

only to the extent funds have been appropriated for such purpose.

SEC. 2733. SELECTION OF SITE FOR MILITARY FAMILY HOUSING AT SAN PEDRO, CALIFORNIA

(a) IN GENERAL.—(1) The Secretary of the Air Force shall consider appropriate sites in San Pedro, California, for the location and construction of 170 military family housing units for members of the Air Force assigned to duty in the area of San Pedro.

(2) The Secretary shall consider as an appropriate site for such housing only real property in the San Pedro area in which the United States has a reversionary interest for national defense purposes or real property which would be conveyed to the United States without charge.

(3) After the Secretary has selected one or more sites for such housing, he shall file a final environmental impact statement as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on each site determined by the Secretary to be appropriate for the purpose stated in paragraph (1). Within 10 days after the expiration of the 30-day period referred to in section 1506.10(b)(2) of title 40 of the Code of Federal Regulations, the Secretary shall select as a site for the location of the housing units referred to in subsection (a) one of the sites considered appropriate for such purpose.

(b) EXERCISE OF REVERSIONARY RIGHT.—(1) If the real property selected as the site for the housing units is subject to a reversionary right on behalf of the United States, the Secretary shall notify the Attorney General of the United States or other appropriate official that the site selected is needed for national defense purposes.

(2) The Attorney General or other appropriate official shall, within 15 days after receiving the notification referred to in paragraph (1), take such action as may be necessary to exercise the reversionary right held by the United States in the real property selected as the site for the housing.

(3) Within 15 days after the United States resumes ownership over the real property, the Attorney General or other appropriate official shall transfer jurisdiction of such real property to the Secretary.

(c) CONSTRUCTION OF MILITARY FAMILY HOUSING.—The Secretary shall use any real property made available pursuant to this section as the site for the construction of the 170 military family housing units referred to in subsection (a).

SEC. 2734. GRANTING OF EASEMENTS AND REPLACEMENT OF FAMILY HOUSING UNITS AND OTHER FACILITIES AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) AUTHORITY TO GRANT EASEMENTS.—Subject to subsection (b), the Secretary of the Navy may grant to the County of Orange, California, one or more easements through the Marine Corps Air Station, El Toro, California.

(b) MANDATE TO REPLACE FAMILY HOUSING AND OTHER FACILITIES.—(1) Subject to subsection (c), the Secretary shall provide for the replacement of all family housing units and other facilities that are to be demolished as a result of any easement granted under subsection (a).

(2) An easement granted under subsection (a) shall not become effective until the Secretary determines that—

(A) family housing units have been constructed to replace all the family housing units to be demolished as a result of such easement; and

(B) such replacement units meet the applicable requirements specified in the agreements referred to in subsection (a).

(3) Until the determination referred to in paragraph (2) is made, the Secretary shall continue to use, as military family housing, the housing units that are to be demolished as a result of an easement becoming effective.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any easement granted under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) FUNDING.—(1) The Secretary may use not more than $2,300,000 of the amount appropriated pursuant to section 2208(a)(7)(A) for payment in connection with the construction of replacement family housing units required by subsection (b).

(2) The Secretary may make available amounts for the construction of such replacement family housing units at the times specified in the agreements referred to in subsection (a).

(3) The Secretary may not use any of the funds available for the purposes of this section for the replacement of facilities other than family housing facilities.

SEC. 2735. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of a tract of real property (together with improvements thereon), comprising a portion of March Air Force Base, California, known as West March and consisting of 845 acres, more or less.

(b) CONDITIONS OF SALE.—The Secretary shall require as a condition of the sale of the property referred to in subsection (a) that the purchaser—

(1) agree to construct on Government-owned real property at March Air Force Base, at the expense of the purchaser, in accordance with standards and specifications prescribed by the Secretary, a noncommissioned officers professional education center, a band center, and an addition to, or an alteration of, a combat operations center; and

(2) submit to the Secretary a master plan for the development of the real property referred to in subsection (a) that—

(A) is consistent (as determined by the Secretary) with the Air Installations Compatible Use Zone recommendations of the Air Force;

(B) is consistent (as determined by the Secretary) with the future plans of the Air Force for March Air Force Base and the plan for development of Air Force Village West; and

(C) is acceptable to the appropriate local government officials of the city and county of Riverside, California.

(c) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The sale of any of the real property and improvements referred to in subsection (a) shall be carried out under competitive contracting procedures.

(2) In no event may property referred to in subsection (a) be sold for less than fair market value of such property. The value of the property to be conveyed and the consideration to be received shall be determined by appraisals approved by the Secretary. The Secretary may pay for such appraisals from any deposit made by the prospective purchaser, or the Secretary may be reimbursed for the cost of such appraisals from any such deposit. Any portion of the deposit used for such purpose shall be nonrefundable.

(d) REPORT REQUIREMENTS.—(1) The Secretary may not enter into any contract for the sale of any or all of the property referred to in subsection (a) unless—

(A) the Secretary has submitted a report to the appropriate committees of Congress containing the information required in section 2667a(b) of title 10, United States Code; and

(B) a period of 21 days has expired following the date on which the report referred to in such section is received by those committees.

(2) Any report submitted under paragraph (1) shall include—

(A) the price and a description of terms agreed to with the successful bidder; and

(B) a description of the procedures used in selecting a buyer for the real property.

(e) USE OF EXCESS FUNDS.—If the fair market value of the property to be conveyed to a purchaser is greater than the fair market value of the facilities to be constructed by the purchaser for the United States, the difference in cash shall be deposited into the general fund of the Treasury.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys approved by the Secretary. Such surveys shall be provided by the purchaser or paid for by the Secretary from a deposit made by the prospective purchaser at the time of award. Any portion of the deposit used for surveys shall be nonrefundable.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2736. LAND EXCHANGE, LONG BEACH NAVAL STATION, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (d), the Secretary of the Navy may exchange approximately 16 acres of real property (and improvements thereon) adjacent to Admiral Kidd Park at the Long Beach Naval Station, California, to the City of Long Beach, California, for real property (and improvements thereon) located on Hill Street, between Webster Avenue and the Terminal Island Freeway, in Long Beach, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the City under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States, the City shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the City of Long Beach.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2737. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Army may convey to Southern California Edison Company approximately 7.44 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, north of Rush Street and east of Walnut Grove Avenue, in Los Angeles County, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary.

(c) CONDITIONS.—(1) The Secretary may convey the real property described in subsection (a) only if—

(A) the Company grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property; and

(B) the Company agrees to permit the County of Los Angeles to use a portion of such real property for parking in connection with recreation activities at Whittier Narrows Golf Course, as the Secretary considers appropriate.

(d) USE OF FUNDS.—Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the company.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2738. AUTHORIZATION OF LAND CONVEYANCE TO CITY OF ARCADIA, CALIFORNIA

(a) IN GENERAL.—Subject to subsection (b), the County of Los Angeles, California, may convey the land described in the Act entitled "An Act to convey certain land in the county of Los Angeles, State of California", approved March 24, 1933, to the City of Arcadia, California.

(b) REVERTER.—Any land conveyed pursuant to subsection (a) shall be conveyed subject to the condition that the land be used only for public park, playground, or recreation purposes and that if the land is used for any other purpose, all right, title, and interest in and to such land shall revert to the United States and the United States shall have the immediate right of entry thereon.

SEC. 2739. LAND EXCHANGE, ORLANDO, FLORIDA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may convey to the City of Orlando, Florida, all right, title, and interest of the United States in and to a tract of real property located in Orlando, Florida, consisting of approximately 36 acres, together with improvements thereon, comprising the United States Army Reserve training facility located at the former McCoy Air Force Base, Orlando, Florida.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), the City shall—

(1) convey to the United States a tract of real property consisting of approximately 36 acres located at Orlando Jetport, Orlando, Florida; and

(2) design, and construct on such real property, suitable replacement facilities, in accordance with the requirements of the Secretary, for the training activities of the United States Army Reserve.

(c) PAYMENT BY THE CITY.—If the fair market value (as determined by the Secretary) of the real property and improvements conveyed by the United States to the City under subsection (a) exceeds the sum of the fair market value (as determined by the Secretary) of the property conveyed by the City to the United States and the fair market value of the facilities constructed by the City on the real property conveyed to the United States under subsection (b), the City shall pay to the United States an amount equal to the difference.

(d) LEGAL DESCRIPTION OF THE REAL PROPERTY.—The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate and to protect the interests of the United States.

SEC. 2740. SALE OF LAND AND REPLACEMENT OF CERTAIN WAREHOUSING FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 14.41 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate warehousing facilities located on such property.

(b) CONSIDERATION.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement warehousing facilities to be constructed at Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of warehousing facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) SALE AND REPLACEMENT ACTIVITIES.—The Secretary may use any amount received from the purchaser under paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) COMPETITIVE BID PROCEDURES.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2741. LAND EXCHANGE, AIEA, HAWAII

(a) IN GENERAL.—The Secretary of the Navy may transfer to the United States Postal Service jurisdiction over approximately 3.2 acres of real property, together with improvements thereon, located in Aiea, Hawaii, if the Postal Service pays to the Secretary, out of funds available to the Postal Service for obligation, an amount equal to the greater of the following:

(1) The approved fair market value of the property over which jurisdiction is to be transferred (as determined by the Secretary).

(2) The cost of providing fleet laundry and dry cleaning facilities to the Navy to replace facilities located on the real property over which jurisdiction is to be transferred pursuant to this section.

(b) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property over which jurisdiction is to be transferred under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of the surveys shall be borne by the Postal Service.

(c) ADDITIONAL TERMS.—(1) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

(2) If the fair market value of the property over which jurisdiction is to be transferred to the Postal Service under subsection (a) exceeds the cost of the replacement fleet laundry and dry cleaning facilities, the Secretary shall deposit the excess into the general fund of the Treasury.

SEC. 2742. LAND EXCHANGE, SANTA FE, NEW MEXICO

(a) AUTHORITY TO CONVEY.—(1) Subject to paragraph (4) of this subsection and to subsections (b) through (f), the Secretary of the Army may make the conveyances described in paragraphs (2) and (3).

(2) The Secretary may convey to the City of Santa Fe, New Mexico (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the southernmost 27.88 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296) and currently being leased to the City as a public park.

(3) The Secretary may convey to the New Mexico State Armory Board (hereinafter in this section referred to as the "Board"), all right, title, and interest of the United States in and to the northernmost 21.61 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296), and currently serving as the location of the State headquarters of the New Mexico National Guard.

(4) Except as provided in subsection (f)(2), the conveyances authorized in paragraphs (2) and (3) shall be made without reimbursement to the United States.

(b) CONDITIONS.—The lands conveyed by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The City shall, in accordance with the agreement entered into under subsection (d), provide to the Board a site of not less than 250 acres determined by the Board to be acceptable for the construction of—

(A) an armory for all New Mexico National Guard units located in Santa Fe, New Mexico;

(B) an organizational maintenance shop;

(C) a United States property and fiscal office building and warehouse;

(D) a headquarters complex for the New Mexico National Guard;

(E) a local training area for the New Mexico National Guard units;

(F) a complex for the New Mexico Army National Guard officer candidate school and noncommissioned officer academy; and

(G) additional facilities specified by the National Guard Bureau or the New Mexico State Armory Board.

(2) The Board shall use the land provided to it by the City pursuant to paragraph (1) for the training and support of the National Guard of New Mexico, and for other military purposes and if the site ever ceases to be used for such purposes, all right, title, and interest in and to such property shall revert to and become the property of the United States which shall have the immediate right of entry thereon.

(c) MINERAL RIGHTS.—The conveyances made by the Secretary under subsection (a) shall reserve all mineral rights, including oil and gas, to the United States in accordance with the Act of June 19, 1956 (70 Stat. 296).

(d) GENERAL AUTHORITY.—To implement the land exchange authorized by this section, the Secretary may enter into agreements with the City, the Board, and such other parties the Secretary determines are necessary to effectuate the purpose of this section.

(e) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the lands provided by the City to the Board in accordance with subsection (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City or the Board.

(f) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary may require such other terms and conditions with respect to the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(2) The terms and conditions described in paragraph (1) may include a requirement for payment to the United States by the City or the Board, or both, to the extent (if any) that the value of the property conveyed by the United States pursuant to subsection (a) exceeds the value of the property conveyed to the Board pursuant to subsection (b).

SEC. 2743. LEASE OF PROPERTY AT THE NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA

(a) IN GENERAL.—The Secretary of the Navy may lease to the South Carolina Ports Authority approximately 118 acres of real property, together with improvements thereon, at the Naval Weapons Station, Charleston, South Carolina.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event to exceed 25 years.

(c) CONSIDERATION.—In addition to the fair rental value to be paid by the South Carolina Ports Authority for the premises leased pursuant to this section, such Authority shall pay for the cost of replacing certain facilities on the leased premises. The replacement facilities shall be constructed in a manner and at a site determined by the Secretary.

(d) AUTHORITY TO DEMOLISH AND CONSTRUCT FACILITIES.—The Secretary may, under the terms of the lease, authorize the South Carolina Ports Authority to demolish existing facilities on the leased land and to

construct new facilities on such land for the use of such Authority.

SEC. 2744. PROPERTY MANAGEMENT

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Army approximately 235 acres of real property (and improvements thereon) near Beltsville, Maryland, for such use as the Secretary of the Army considers appropriate.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

SEC. 3001. TABLE OF CONTENTS

The table of contents for this division is as follows:

TABLE OF CONTENTS

Sec. 3001. Table of contents.

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Sec. 3101. Short title.

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

Sec. 3111. Operating expenses.
Sec. 3112. Plant and capital equipment.
Sec. 3113. Authorization for Strategic Defense Initiative activities.

PART B—RECURRING GENERAL PROVISIONS

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Fund transfer authority.
Sec. 3125. Authority for construction design.
Sec. 3126. Authority for emergency construction design.
Sec. 3127. Funds available for all national security programs of the Department of Energy.
Sec. 3128. Adjustments for pay increases.
Sec. 3129. Availability of funds.

PART C—MISCELLANEOUS PROVISIONS

Sec. 3131. Protection of sensitive technical information.
Sec. 3132. Restriction on use of funds to pay penalties under environmental laws.
Sec. 3133. Community assistance payments.
Sec. 3134. Authority for Department of Energy contractor employees to carry firearms beyond boundaries of a DOE facility.
Sec. 3135. Report on containment facilities.
Sec. 3136. Study of production reactor safety.
Sec. 3137. Establishment of Nuclear Weapons Council.
Sec. 3138. Extension of date for certain contract authority.

TITLE II—NATIONAL DEFENSE STOCKPILE

Sec. 3201. Extension of prohibition on reductions in stockpile goals.
Sec. 3202. Designation of National Defense Stockpile Manager.
Sec. 3203. Extension of uses of Stockpile Transaction Fund and codification of revolving fund provisions.
Sec. 3204. Authorizated disposals from National Defense Stockpile.
Sec. 3205. Conversion of chromium and manganese ore to high carbon ferrochromium and high carbon ferromanganese.
Sec. 3206. Report on war emergency situations and mobilization requirements.
Sec. 3207. Miscellaneous technical amendments.

TITLE III—CIVIL DEFENSE

Sec. 3301. Authorization of appropriations for civil defense functions.

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,300,879,000 to be allocated as follows:

(A) For research and development, $866,000,000, of which $13,000,000 shall be used to continue operation or to close out plasma separation process activities.

(B) For weapons testing, $517,800,000.

(C) For production and surveillance, $1,859,700,000.

(D) For program direction, $57,379,000.

(2) For the defense inertial confinement fusion program, $145,000,000.

(3) For verification and control technology, $95,390,000.

(4) For defense nuclear materials production, $1,516,348,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $170,000,000.

(B) For other uranium enrichment, $14,500,000.

(C) For production reactor operations, $586,320,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $489,000,000, of which $70,900,000 shall be used for special isotope separation.

(E) For supporting services, $234,200,000.

(F) For program direction, $22,328,000.

(5) For defense nuclear waste and byproduct management, $431,990,000, to be allocated as follows:

(A) For interim waste management, $309,945,000.

(B) For long-term waste management technology, $80,605,000.

(C) For terminal waste storage, $39,100,000.

(D) For program direction, $2,340,000.

(6) For nuclear materials safeguards and security technology development program, $60,408,000.

(7) For security investigations, $33,300,000.

(8) For naval reactors development, $516,505,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

(a) AUTHORIZATIONS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 87-D-101, general plant projects, various locations, $29,000,000.

Project 87-D-104, safeguards and security enhancements, phase II, Lawrence Livermore National Laboratory, Livermore, California, $2,000,000.

Project 87-D-121, general plant projects, various locations, $30,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $500,000.

Project 87-D-127, environmental, safety and health upgrade, Mound Plant, Miamisburg, Ohio, $2,400,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $300,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,300,000, for a total project authorization of $9,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $13,000,000, for a total project authorization of $17,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $5,800,000, for a total project authorization of $12,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,000,000, for a total project authorization of $15,000,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $2,420,000, for a total project authorization of $5,420,000.

Project 86-D-123, environmental hazards elimination, various locations, $15,000,000, for a total project authorization of $23,700,000.

Project 86-D-124, safeguards and site security upgrading, Phase II, Mound Plant, Miamisburg, Ohio, $1,880,000, for a total project authorization of $4,880,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $8,410,000, for a total project authorization of $9,910,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $29,700,000, for a total project authorization of $34,700,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $14,085,000, for a total project authorization of $114,885,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $6,500,000, for a total project authorization of $27,600,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $7,400,000, for a total project authorization of $22,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $330,000, for a total project authorization of $3,030,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $19,000,000, for a total project authorization of $38,800,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $1,790,000, for a total project authorization of $24,790,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $13,440,000, for a total project authorization of $34,040,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,160,000, for a total project authorization of $28,160,000.

Project 85-D-125, tactical bomb production facilities, various locations, $12,800,000, for a total project authorization of $28,800,000.

Project 84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $3,000,000, for a total project authorization of $40,500,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $13,300,000, for a total project authorization of $79,240,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $14,500,000, for a total project authorization of $155,200,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $9,280,000, for a total authorization of $38,280,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $27,220,000, for a total project authorization of $40,220,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $97,904,000, for a total project authorization of $838,304,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $6,000,000, for a total project authorization of $40,000,000.

(2) For materials production:

Project 87-D-146, general plant projects, various locations, $31,980,000.

Project 87-D-149, reduced chemical discharges to process sewers, Richland, Washington, $3,150,000.

Project 87-D-150, radioactive liquid effluent treatment facility, partial design only, Richland, Washington, $4,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $1,500,000.

Project 87-D-159, environmental, health, and safety improvements, Phase I, Feed Materials Production Center, Fernald, Ohio, $10,000,000.

Project 86-D-149, productivity retention program, Phase I and II, various locations, $42,625,000, for a total project authorization of $66,825,000.

Project 86-D-150, in-core neutron monitoring system, N reactor, Richland, Washington, $2,760,000, for a total project authorization of $7,220,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $2,480,000, for a total project authorization of $4,980,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $5,410,000, for a total project authorization of $7,410,000.

Project 86-D-153, additional line III furnace, Savannah River, South Carolina, $7,605,000, for a total project authorization of $9,105,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $15,650,000, for a total project authorization of $18,150,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $8,550,000, for a total project authorization of $11,550,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $32,430,000, for a total project authorization of $54,430,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $21,000,000, for a total project authorization of $39,000,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $27,500,000, for a total project authorization of $53,300,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $7,515,000, for a total project authorization of $34,415,000.

Project 84-D-135, process facility modifications, Richland, Washington, $24,475,000, for a total project authorization of $56,975,000.

Project 84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee, $1,000,000, for a total project authorization of $20,600,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $3,511,000, for a total project authorization of $352,045,000.

(3) For defense waste and byproducts management:

Project 87-D-171, general plant projects, interim waste operations and long-term waste management technology, various locations, $24,535,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $2,800,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $2,100,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $900,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,000,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $960,000.

Project 86-D-172, B-plant F-filter, Richland, Washington, $2,949,000, for a total project authorization of $3,949,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $8,072,000, for a total authorization of $10,572,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $5,258,000, for a total project authorization of $7,258,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $1,044,000, for a total project authorization of $6,744,000.

Project 85-D-159, new waste transfer facilities, Savannah River, South Carolina, $4,118,000, for a total project authorization of $24,118,000.

Project 85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory, Idaho, $2,703,000, for a total project authorization of $6,953,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $123,967,000, for a total project authorization of $721,467,000.

(4) For naval reactors development:

Project 87-N-101, general plant projects, various locations, $4,800,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $5,000,000.

Project 87-N-103, computation laboratory addition, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $2,300,000.

(5) For verification and control technology:

Project 85-D-171, Space Science Laboratory, Los Alamos, New Mexico, $2,000,000, for a total project authorization of $7,500,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $278,000,000.

(B) For the defense inertial confinement fusion program, $9,000,000.

(C) For materials production, $107,200,000.

(D) For defense waste and byproducts management, $35,505,000.

(E) For verification and control technology, $4,200,000.

(F) For nuclear safeguards and security, $4,800,000.

(G) For naval reactors development, $49,200,000.

(b) REDUCTION IN AMOUNT FOR PRIOR PROJECT.—The amount previously authorized for Project 84-D-113, Antisubmarine Warfare/Standoff Weapon Warhead production facilities, various locations, is hereby reduced by $5,000,0000, for a total project authorization of $5,000,000. Not more than $5,000,000 of the funds authorized for such project in fiscal year 1986 may be obligated or expended for such project.

SEC. 3113. AUTHORIZATION FOR STRATEGIC DEFENSE INITIATIVE ACTIVITIES

Of the amounts authorized to be appropriated in sections 3111 and 3112, $317,000,000 is authorized for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(1) no amount appropriated pursuant to this title may be used for any program in excess of 105 percent of the amount authorized for that program by this title or $10,000,000 more than the amount authorized for that program by this title, whichever is the lesser, and

(2) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (hereinafter in this part referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish to the appropriate committees of Congress a complete report explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—Whenever the current estimated cost of a construction project which is authorized by section 3112 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress,

construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

To the extent specified in appropriation Acts, funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. PROTECTION OF SENSITIVE TECHNICAL INFORMATION

(a) PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES.—Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a) (ii) or (iv) of title 35, United States Code, or pursuant to section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery. Such decision shall be made within a reasonable time (which shall usually be six months from the date of the request by the contractor for assignment of such rights).

(b) MATTERS TO BE CONSIDERED.—In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or subsections (c) and (d) of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)—

(1) whether national security will be compromised;

(2) whether sensitive technical information (whether classified or unclassified) under the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

SEC. 3132. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS

(a) RESTRICTION.—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) the Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

SEC. 3133. COMMUNITY ASSISTANCE PAYMENTS

Section 1532 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 99 Stat. 773) is amended by adding at the end the following new subsection:

"(d) RULE OF CONSTRUCTION.—The authority of the Secretary of Energy under subsection (a) to provide a final financial settlement with Anderson County and Roane County, Tennessee, and with the City of Oak Ridge, Tennessee, and terminate all annual assistance payments made to those entities pursuant to section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391) does not affect any other right, function, or duty of the Secretary with respect to such Act (42 U.S.C. 2301), and the Secretary shall consider the purposes of such Act a continuing atomic energy defense function of the Department of Energy.".

SEC. 3134. AUTHORITY FOR DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEES TO CARRY FIREARMS BEYOND BOUNDARIES OF A DOE FACILITY

Section 161 k. of the Atomic Energy Act of 1954 is amended—

(1) by inserting "and subcontractors (at any tier)" in the second sentence after "employees of its contractors";

(2) by striking out "owned by the United States and" in the second sentence and inserting in lieu thereof "under the jurisdiction of the United States";

(3) by inserting "or being transported to or from such facilities" in the second sentence after "contracted to the United States";

(4) by inserting after the third sentence the following new sentence: "An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual

to be arrested is within, or in direct flight from, the area of such offense."; and

(5) by striking out the semicolon at the end and inserting in lieu thereof the following: ". The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;".

SEC. 3135. REPORT ON CONTAINMENT FACILITIES

The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the costs and effects on safety that would result from constructing containment facilities for nuclear reactors of the Department of Energy compared with the costs and effects on safety involved in constructing a new production reactor. Such report shall be submitted not later than March 15, 1987.

SEC. 3136. STUDY OF PRODUCTION REACTOR SAFETY

(a) REQUIREMENT FOR INDEPENDENT STUDY.—(1) The Secretary of Energy shall request the National Academy of Sciences and the National Academy of Engineering—

(A) to make an independent assessment of the safety of continuing operations of the "N" Production Reactor, located near Richland, Washington, including any technical and safety issues raised by the nuclear reactor accident at Chernobyl in the Soviet Union; and

(B) to provide a report on such assessment, together with findings and recommendations, concurrently to Congress and the Secretary not later than March 1, 1987.

(2) The assessment should—

(A) be made by distinguished scientists and engineers drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine chosen with regard for their special competence and expertise; and

(B) be conducted in a manner that would allow for appropriate public participation in the review process consistent with statutory requirements to prevent the unauthorized disclosure of classified information.

(b) REVIEW AND COMMENT BY SECRETARY.—The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(1) the Secretary's comments on such findings and recommendations; and

(2) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

SEC. 3137. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PRESIDENT'S BLUE RIBBON TASK GROUP ON NUCLEAR WEAPONS PROGRAM MANAGEMENT

(a) ESTABLISHMENT OF COUNCIL.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 179. Nuclear Weapons Council

"(a) There is a Joint Nuclear Weapons Council (hereinafter in this section referred to as the 'Council') composed of three members as follows:

"(1) The Director of Defense Research and Engineering.

"(2) The Vice Chairman of the Joint Chiefs of Staff.

"(3) One senior representative of the Department of Energy appointed by the Secretary of Energy.

"(b)(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member appointed under subsection (a)(1).

"(2) A meeting of the Council shall be chaired by the representative appointed under subsection (a)(3) whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

"(c)(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

"(2) The Assistant to the Secretary of Defense for Atomic Energy shall be the Staff Director of the Council.

"(d) The Council shall be responsible for the following matters:

"(1) Preparing the annual Nuclear Weapons Stockpile Memorandum.

"(2) Developing nuclear weapons stockpiles options and the costs of such options.

"(3) Coordinating programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.

"(4) Identifying various options for cost-effective schedules for nuclear weapons production.

"(5) Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts.

"(6) Ensuring that adequate consideration is given to design, performance, and cost tradeoffs for all proposed new nuclear weapons programs.

"(7) Providing broad guidance regarding priorities for research on nuclear weapons.

"(8) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

"(9) Providing—

"(A) broad guidance regarding priorities for research on improved conventional weapons, and

"(B) comments on annual proposals for budget levels for research on improved conventional weapons, and transmitting such guidance and comments to the Secretary of Defense before the preparation of the annual budget request of the Department of Defense.

"(e) The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"179. Nuclear Weapons Council.".

(b) CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS.—If on the date of the enactment of this section the position of Vice Chairman of the Joint Chiefs of Staff, or comparable position, has not been established by law, the Chairman of the Joint Chiefs of Staff shall be a member of the Nuclear Weapons Council established by section 179 of title 10, United States Code, as added by subsection (a). If the position of Vice Chairman of the Joint Chiefs of Staff (or comparable position) is established by law after the date of the enactment of this section, the Chairman of the Joint Chiefs of Staff shall remain a member of such Council only until an individual has been appointed Vice Chairman of the Joint Chiefs of Staff.

(c) REPEAL.—Section 27 of the Atomic Energy Act of 1954 (42 U.S.C. 2037) is repealed.

SEC. 3138. EXTENSION OF DATE FOR CERTAIN CONTRACT AUTHORITY

(a) EXTENSION.—Section 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2394) is amended by striking out "June 30, 1986" and "June 30, 1987" and inserting in lieu thereof "June 30, 1996" in both places.

(b) BUDGET ACT CONTRACT LIMITATION.—(1) Such section is further amended by adding at the end the following new sentence: "The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1996, only to the extent or in such amounts as are provided in appropriation Acts.".

(2) The amendment made by paragraph (1) shall not apply with respect to a contract with the county of Los Alamos, New Mexico, to the extent that it covers the period before July 1, 1987.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. EXTENSION OF PROHIBITION ON REDUCTIONS IN STOCKPILE GOALS

Section 1612(a)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 776), is amended by striking out "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

SEC. 3202. DESIGNATION OF NATIONAL DEFENSE STOCKPILE MANAGER

(a) DESIGNATION OF SINGLE STOCKPILE MANAGER.—The Strategic and Critical Materials Stockpiling Act is amended by inserting after section 6 the following new section:

"NATIONAL DEFENSE STOCKPILE MANAGER

"SEC. 6A. (a) The President shall designate a single Federal official to perform the functions of the President under this Act. The official designated shall be an officer who holds a civilian position to which the person was appointed by the President, by and with the advice and consent of the Senate.

"(b) The officer designated by the President under this section shall be known for purposes of his functions under this Act as the 'National Defense Stockpile Manager'.".

(b) DEADLINE FOR DESIGNATION.—The President shall designate an official as the National Defense Stockpile Manager, as required by section 6A of the Strategic and Critical Materials Stock Piling Act (as added by subsection (a)), not later than February 15, 1987.

SEC. 3203. EXTENSION OF USES OF STOCKPILE TRANSACTION FUND AND CODIFICATION OF REVOLVING FUND PROVISIONS

(a) IN GENERAL.—Section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C 98h(b)) is amended—

(1) by striking out the second sentence of paragraph (1); and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

"(A) The acquisition of strategic and critical materials under section 6(a)(1).

"(B) Transportation, storage, and other incidental expenses related to such acquisition.

"(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

"(D) Testing and quality studies of stockpile materials.

"(E) Studying future material and mobilization requirements for the stockpile.

"(F) Other reasonable requirements for management of the stockpile.

"(3) Moneys in the fund shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 110 of Public Law 97-377 (96 Stat. 1911) is amended by striking out "Notwithstanding" and all that follows through "That during" and inserting in lieu thereof "During".

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) apply with respect to funds covered into the National Defense Stockpile Fund before, on, or after the date of the enactment of this Act.

SEC. 3204. AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE

(a) IN GENERAL.—(1) The President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) and that are hereby determined to be excess to the current requirements of the stockpile:

Antimony	1,500 short tons
Diamonds, Industrial Stone.	1,125,000 carats
Iodine	800,000 pounds
Mercury	3,700 flasks
Mica, Muscovite Film	3,000 pounds
Mica, Muscovite Splittings.	262,000 pounds
Silicon Carbide	7,600 short tons
Silver (Coinage Program Only).	3,000,000 troy ounces
Tannin, Chestnut	1,000 long tons
Tannin, Quebracho	4,000 long tons
Thorium Nitrate	10,000 pounds
Tin	4,000 metric tons
Tungsten	1,900,000 pounds of tungsten metal equivalent

(2) Authority provided by paragraph (1) is in addition to any other authority provided by law to dispose of materials from the National Defense Stockpile.

(b) SPECIAL DISPOSAL AUTHORITY.—During fiscal year 1987, the President may contract to carry out authorized disposals of materials from the National Defense Stockpile without regard to the limitation in section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act, but only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for purposes authorized under section 9(b)(2) of such Act (as amended by section 3203).

SEC. 3205. CONVERSION OF CHROMIUM AND MANGANESE ORE TO HIGH CARBON FERROCHROMIUM AND HIGH CARBON FERROMANGANESE

(a) REQUIRED UPGRADING.—During each of fiscal years 1987 through 1993, the President shall—

(1) obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese; and

(2) award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) QUANTITIES TO BE UPGRADED.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and not less than 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile during each of the fiscal years covered by subsection (a).

(2) If, during any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as required by paragraph (1), is not met, the quantity of such material to be added to the stockpile in the next fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) DEFINITION.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3206. REPORT ON WAR EMERGENCY SITUATIONS AND MOBILIZATION REQUIREMENTS

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report describing war emergency situations that would necessitate total mobilization of the economy of the United States for a conventional global war of a duration of at least three years. With respect to each such war emergency situation, the Secretary shall include estimates of—

(1) the length and intensity of the assumed emergency;

(2) the military force structure to be mobilized; and

(3) the defense expenditures required during each such war emergency situation.

(b) STOCKPILE PLANNING.—The Secretary shall indicate in the report which of the war emergency situations described in the report should serve as the basis for planning for and management of the National Defense Stockpile.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than January 31, 1987.

SEC. 3207. MISCELLANEOUS TECHNICAL AMENDMENTS

(a) TECHNICAL AMENDMENTS.—(1) Section 4(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c(a)) is amended—

(A) by striking out "on the day before the date of the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraphs (1) and (3) and inserting in lieu thereof "on July 29, 1979", and

(B) by striking out "on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraph (2) and inserting in lieu thereof "after July 29, 1979".

(2) Section 5(b) of such Act (50 U.S.C. 98d(b)) is amended by striking out "(4)" and inserting in lieu thereof "(3), (4),".

(3) Section 11(b) of such Act (50 U.S.C. 98h-2) is amended by striking out "each year" and all that follows through "the next fiscal year" and inserting in lieu thereof "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31, United States Code, for the next fiscal year,".

(b) CLARIFYING AMENDMENT.—Section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) is amended by striking out "the form most" and inserting in lieu thereof "a form more".

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for fiscal year 1987 the sum of $120,565,000 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

DIVISION D—CHILD NUTRITION PROGRAMS

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS FOR DIVISION.—The table of contents for this division is as follows:

Sec. 4001. Short title; table of contents.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

Sec. 4101. Summer Food Service Program for children.
Sec. 4102. Commodity Distribution Program.
Sec. 4103. State administrative expenses.
Sec. 4104. Special supplemental food program for women, infants, and children.
Sec. 4105. Nutrition Education and Training Program.

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

Sec. 4201. Basis of commodity assistance.
Sec. 4202. Inclusion of whole milk as a school lunch beverage.
Sec. 4203. Automatic eligibility for certain programs.
Sec. 4204. Limitation on meal contracting.
Sec. 4205. Change in tuition limitation for private schools.
Sec. 4206. Use of school lunch facilities for elderly programs.
Sec. 4207. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 4208. Department of Defense Overseas Dependents' Schools.
Sec. 4209. Restoration of certain kindergartens to the special milk program.
Sec. 4210. Improvement of breakfast program meal pattern.
Sec. 4211. Extension of offer versus serve provision to the school breakfast program.
Sec. 4212. Staffing standards.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Sec. 4301. Costs for Nutrition Services and Administration.
Sec. 4302. State eligibility for WIC funds.
Sec. 4303. Participation report.
Sec. 4304. Plan of operation and administration.
Sec. 4305. Public comment.
Sec. 4306. Availability of program benefits.
Sec. 4307. Repayment of certain benefits by recipients.
Sec. 4308. Priority funds for WIC migrant programs.
Sec. 4309. Improving State agency administrative systems.
Sec. 4310. Paperwork reduction.
Sec. 4311. Allocation standards.
Sec. 4312. Advance payments.

Sec. 4313. Availability of funds.
TITLE IV—OTHER NUTRITION PROGRAMS
Sec. 4401. Hearings on Federal audit actions under the Child Care Food Program.
Sec. 4402. Basis for nutrition education grants.
Sec. 4403. Extension of alternative means of assistance.
Sec. 4404. National Donated Commodity Processing Programs.
TITLE V—TECHNICAL CORRECTIONS
Sec. 4501. Obsolete provisions.
Sec. 4502. Obsolete references to Health, Education, and Welfare.
Sec. 4503. Conforming amendments.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

SEC. 4101. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4102. COMMODITY DISTRIBUTION PROGRAM

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4103. STATE ADMINISTRATIVE EXPENSES

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4104. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,570,000,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4105. NUTRITION EDUCATION AND TRAINING PROGRAM

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 4201. BASIS OF COMMODITY ASSISTANCE

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 4202. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 4203. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 4204. LIMITATION ON MEAL CONTRACTING

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 4205. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended—

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

(c) APPLICATION.—(1) The amendments made by subsections (a)(1) and (b)(1) shall apply for the fiscal year beginning on October 1, 1986, and each school year thereafter.

(2) The amendments made by subsections (a)(2) and (b)(2) shall apply for the school year beginning on July 1, 1988, and each school year thereafter.

SEC. 4206. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 4207. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 4208. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 4209. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM

Effective October 1, 1986, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten pro-

grams conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 4210. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN

(a) ADDITIONAL ASSISTANCE.—Effective October 1, 1986, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

(2) Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 4211. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 4212. STAFFING STANDARDS

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 103) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 4301. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 4302. STATE ELIGIBILITY FOR WIC FUNDS

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this Act.

SEC. 4303. PARTICIPATION REPORT

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 104(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

SEC. 4304. PLAN OF OPERATION AND ADMINISTRATION

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 4305. PUBLIC COMMENT

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 4306. AVAILABILITY OF PROGRAM BENEFITS

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information

on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 4307. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 4308. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 104(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 4309. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 104(2)(A) and 303(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 4310. PAPERWORK REDUCTION

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 4311. ALLOCATION STANDARDS

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 4312. ADVANCE PAYMENTS

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 4313. AVAILABILITY OF FUNDS

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this Act.

TITLE IV—OTHER NUTRITION PROGRAMS

SEC. 4401. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 4402. BASIS FOR NUTRITION EDUCATION GRANTS

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 4403. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out out this paragraph, to be available without fiscal year limitation.".

SEC. 4404. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

TITLE V—TECHNICAL CORRECTIONS

SEC. 4501. OBSOLETE PROVISIONS

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 207 and 208(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 4502. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C., 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) REFERENCES IN CHILD NUTRITION ACT OF 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 4503. CONFORMING AMENDMENTS

(a) DEFINITION OF SECRETARY.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) REDESIGNATION OF SUBSECTION.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 105, 402, and 502(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

From the Committee on Armed Services for consideration of the entire Senate bill and House amendments (unless otherwise restricted):

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
BILL NICHOLS,
DAN DANIEL,
G.V. MONTGOMERY,
PAT SCHROEDER,
BEVERLY BYRON,
NICK MAVROULES,
EARL HUTTON,
IKE SKELTON,
DAVE MCCURDY,
RICHARD RAY,
JOHN SPRATT,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
MARJORIE S. HOLT,
ELWOOD HILLIS,
ROBERT E. BADHAM,
BOB STUMP,
JIM COURTER,
LARRY J. HOPKINS,
BOB DAVIS,

From the Permanent Select Committee on Intelligence, solely when differences regarding intelligence-related activities are under consideration:

LEE H. HAMILTON,
LOUIS STOKES,
DICK CHENEY,

From the Committee on Foreign Affairs, solely for the consideration of sections 205(f), 952, 1205-1209, 1214-1217, 1228, 1231, and 1233 of the Senate bill and sections 1024 and 1041 of the House amendments:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,
BENJAMIN A. GILMAN,

Solely for the consideration of section 1032 of the House amendments and modifications committed to conference:

GUS SAVAGE,

Solely for the consideration of sections 109, 203, 205(a)(1), 1210, 1230, and 3114(a) of the Senate bill and sections 123, 128, 208, 215, 1061, 3013, and 3036 of the House amendments:

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
PAT SCHROEDER,
BEVERLY BYRON,
NICK MAVROULES,
DAVE MCCURDY,
JOHN SPRATT,
GEORGE E. BROWN, JR.,
RICHARD A. GEPHARDT,
VIC FAZIO,
THOMAS J. DOWNEY,
EDWARD MARKEY,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
MARJORIE S. HOLT,
ROBERT E. BADHAM,
JIM COURTER,
ROBERT J. LAGOMARSINO,
HENRY J. HYDE,

Solely for the consideration of title IX of division A of the Senate bill and sections 213, 1025, 1026, 1048, and title IX of division A of the House amendments:

GERALD SOLOMON,
NICHOLAS MAVROULES,
CHARLES E. BENNETT,
DAVE MCCURDY,
DENNIS M. HERTEL,
NORMAN SISISKY,
JOHN SPRATT,
PAT SCHROEDER,
BARBARA BOXER,
RON WYDEN,
MEL LEVINE,
GERRY SIKORSKI,
JOHN BRYANT,
JIM COURTER,
WM. L. DICKINSON,
BOB DAVIS,
JOHN R. KASICH,
BOB STUMP,

Solely for the consideration of section 1002 of the Senate bill and section 2715 of the House amendments:

MELVIN PRICE,
RONALD V. DELLUMS,

From the Committee on Education and Labor, solely for the consideration of section 1002 of the Senate bill and section 2715 of the House amendments:

GUS HAWKINS,
AUSTIN J. MURPHY,
WILLIAM CLAY,
PAT WILLIAMS,
ALTON R. WALDON,

From the Committee on Education and Labor, solely for the consideration of division F of the Senate bill and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
RICK BOUCHER,
CARL C. PERKINS,
JIM JEFFORDS,
BILL GOODLING,
ROD CHANDLER,
JOHN R. MCKERNAN, JR.,
HARRIS W. FAWELL,

Solely for the consideration of division B of the Senate bill and division B of the House amendments:

RONALD V. DELLUMS,
G.V. MONTGOMERY,
EARL HUTTO,
MARVIN LEATH,
DENNIS M. HERTEL,
KEN KRAMER,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,

Solely for the consideration of division D of the House amendments and modifications committed to conference:

LES ASPIN,
BILL NICHOLS,
IKE SKELTON,
NICHOLAS MAVROULES,
WM. L. DICKINSON,
LARRY J. HOPKINS,
JOHN R. KASICH,

Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
DAN QUAYLE,
PETE WILSON,
JEREMIAH DENTON,
JAMES T. BROYHILL,
SAM NUNN,
GARY HART,
JIM EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorizations for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, military construction, family housing, and for civil defense that total $210.0 billion. This figure is $25.6 billion below the President's request, $3.1 billion below the Senate bill, and $5.5 billion above the House amendment.

The conferees have agreed to authorizations for the Department of Energy National Security programs that total $7.45 billion. This figure is $650 million below the President's budget request, $26 million above the Senate bill, and equal to the House amendment.

The defense authorization bill provides authorizations for appropriations but does not provide budget authority. Budget authority is provided in appropriations bills.

In order to relate the conference recommendation to the budget resolution, matters in addition to the dollar authorizations contained in the bill must be taken into account.

In addition to defense programs authorized by dollar amount, the authorization bill

establishes personnel levels and includes a number of legislative provisions affecting military compensation. In total it is estimated that the conference agreement with respect to personnel matters would result in a reduction of $2.2 billion from the President's request.

The conferees have included a provision that would reduce the authorizations provided in the bill by $6.6 billion unless provisions are included in an appropriations bill to either: Delay the date on which military pay is paid from the last day of the month in which pay is earned to the first day of the month following the month in which pay is earned: or to reduce the amount of progress payments that may be paid under a defense contract.

The provision is included because the authorization in the bill are estimated to result in outlays during fiscal year 1987, in the absence of the use of "gimmicks" or lower appropriations, of $281.8 billion.

The table below summarizes authorizations included in the bill (in the column labeled conference agreement) and, in addition, summarizes the implication of the conference action for the budget totals for National Defense (Budget Function 050).

SUMMARY OF AUTHORIZATIONS (in millions of dollars)

	Fiscal year 1986 Authorization P.L. 99-145 P.L. 99-167	Fiscal year 1987 Appropriation Request	Fiscal year 1987 Authorization Request	House Passed Authorization	Senate Passed Authorization	Conference Agreement	Implication of Conference Agreement (BA)
Department of Defense, Military (subfunction 051)							
Total, Military Personnel		76,615.8					74,440.0
Procurement							
Army:							
Aircraft	3,676.1	3,264.7	3,264.7	2,741.7	2,793.7	2,725.5	2,725.5
Missiles	3,272.7	2,438.2	2,438.2	2,232.4	2,198.2	2,150.9	2,150.9
Weapons and tracked combat vehicles	5,211.0	4,452.6	4,452.6	3,875.0	3,794.9	3,888.1	3,888.1
Ammunition	2,549.0	2,254.0	2,254.0	2,062.8	2,283.3	2,126.1	2,126.1
Other procurement	5,323.5	6,169.0	6,169.0	4,911.3	5,365.9	5,112.8	5,112.8
Total, Army	20,032.3	18,578.5	18,578.5	15,823.2	16,436.0	16,003.4	16,003.4
Navy:							
Aircraft	11,599.9	11,304.3	11,304.3	9,077.1	10,041.1	9,828.1	9,828.1
Weapons procurement	5,655.1	6,095.4	6,095.4	5,725.8	5,597.5	5,450.0	5,450.0
Shipbuilding and conversion	10,001.2	11,046.2	11,046.2	8,355.3	9,323.8	10,607.1	10,607.1
Other procurement	6,040.8	6,538.8	6,538.8	5,773.1	5,934.1	5,826.9	5,826.9
Procurement, Marine Corps	1,727.4	1,565.0	1,565.0	1,456.9	1,382.7	1,477.4	1,477.4
Marine Corps Reserve Equipment							
Total, Navy	35,024.4	36,549.7	36,549.7	30,388.2	32,279.1	33,189.5	33,189.5
Air Force:							
Aircraft	24,435.3	19,127.4	19,127.4	15,752.6	16,383.1	17,018.6	17,018.6
Missiles	9,008.6	8,982.4	8,982.4	6,059.3	8,370.8	7,570.5	7,570.5
Other procurement	8,571.1	10,900.3	10,900.3	8,640.1	10,117.8	9,180.9	9,180.9
Total, Air Force	42,015.0	39,010.1	39,010.1	30,452.0	34,871.8	33,770.0	33,770.0
DOD NATO Cooperative Programs	75.0						
National Guard and Reserve Equipment	658.4			509.1	454.3	563.5	563.5
Defense agencies	1,342.3	1,488.4	1,488.4	1,365.2	1,431.3	1,418.7	1,418.7
Defense Production Act		30.0					30.0
DoD Chemical Demilitarization Program		120.1	120.1	120.1	120.1	120.1	120.1
Total, procurement	99,147.4	95,776.8	95,746.8	78,657.8	85,592.6	85,065.1	85,095.1
Research, Development, Test and Evaluation							
Army	4,848.7	5,550.3	5,550.3	4,763.7	4,815.7	4,712.7	4,712.7
Navy (and Marine Corps)	10,106.4	10,586.8	10,586.8	8,641.0	9,289.7	9,294.1	9,294.1
Air Force	13,719.7	17,275.4	17,275.4	13,725.0	14,941.8	15,019.1	15,019.1
Defense agencies	6,720.5	8,364.3	8,364.3	6,523.6	7,159.3	7,044.5	7,044.5
Director, Test and Evaluation	93.5	141.8	141.8	136.8	140.4	133.8	133.8
Director, Operational Test and Eval		11.3	11.3	11.3	11.3	11.3	11.3
Total, R.D.T.&E.	35,488.8	41,929.9	41,929.9	33,801.3	36,358.1	36,215.6	36,215.6

SUMMARY OF AUTHORIZATIONS (in millions of dollars)

	Fiscal year 1986 Authorization P.L. 99-145 P.L. 99-167	Fiscal year 1987 Appropriation Request	Fiscal year 1987 Authorization Request	House Passed Authorization	Senate Passed Authorization	Conference Agreement	Implication of Conference Agreement (BA)
Operation and Maintenance							
Army	19,177.4	21,341.9	21,341.9	20,742.1	20,596.1	20,025.9	20,025.9
Navy	24,608.8	25,688.5	25,688.5	24,377.0	24,010.0	23,164.8	23,164.8
Marine Corps	1,626.7	1,864.1	1,864.1	1,845.7	1,830.3	1,794.2	1,794.2
Air Force	20,096.1	21,214.5	21,214.5	19,293.8	19,310.8	18,894.2	18,894.2
Defense agencies	7,553.3	8,573.7	8,573.7	6,696.8	8,344.9	7,979.4	7,979.4
Army Reserve	780.1	793.1	793.1	789.8	776.1	770.3	770.3
Navy Reserve	900.6	975.9	975.9	907.5	887.4	887.4	887.4
Marine Corps Reserve	57.2	65.3	65.3	64.8	62.8	64.2	64.2
Air Force Reserve	902.1	975.6	975.6	927.1	887.1	922.1	922.1
Army National Guard	1,625.8	1,786.9	1,786.9	1,790.1	1,714.8	1,734.6	1,734.6
Air Force National Guard	1,806.2	1,932.7	1,932.7	1,783.1	1,727.9	1,790.4	1,790.4
National Board for the promotion of rifle practice	0.9	0.9	0.9	0.9	0.9	4.3	4.3
Claims, Defense	143.3	155.6	155.6	153.1	144.1	144.4	144.4
Court of Military Appeals	3.2	3.4	3.4	3.4	3.2	3.2	3.2
Pan American Games	10.0	15.0	15.0	15.0	15.0	15.0	15.0
Foreign Currency Fluctuations, Defense							
Summer Olympics							
Drug interdiction							
Other legislation		102.6	102.6				
Envirnmental restoration		385.9	385.9	385.9	385.9	385.9	385.9
Military Health Care				1,569.5			
Aid to Afghanistan				6.0	10.0	17.0	17.0
Total, O&M	79,291.7	85,875.6	85,875.6	81,351.6	80,707.3	78,597.3	78,597.3
Working Capital Funds							
Defense Production Guarantee, FFB Loans		6.0					6.0
Army stock fund	393.0	296.7	296.7	286.7	271.7	230.1	230.1
Navy stock fund	638.5	478.5	478.5	458.5	438.5	379.6	379.6
Marine Corps stock fund	37.7	45.9	45.9	44.4	41.9	31.2	31.2
Air Force stock fund	415.9	239.4	239.4	239.4	219.4	200.4	200.4
Defense stock fund	174.5	136.8	136.8	126.8	125.8	66.9	66.9
Total, Working Capital Funds	1,659.6	1,203.3	1,197.3	1,155.8	1,097.3	908.3	914.3
Other							
Revise Davis-Bacon				(2.0)	(28.0)		
Barry Goldwater Scholarship Program					40.0	40.0	40.0
Henry Jackson Foundation						10.0	10.0
Procurement Technical Assistance	5.0						
Repeal of Walsh Healy Act	(416.3)						
Special foreign currency	2.1	3.5	3.5	3.5	3.5	3.5	3.5
Payments to NASA for shuttle services				531.0			
Allowance for civilian pay		735.0	735.0	559.0	559.0	559.0	559.0
Dental insurance of dependents					18.0		
Special Defense Acquisition Fund					100.0	70.0	70.0
Subtotal, Other	(409.2)	738.5	738.5	1,091.5	692.5	682.5	682.5

SUMMARY OF AUTHORIZATIONS (in millions of dollars)

	Fiscal year 1986 Authorization P.L. 99-145 P.L. 99-167	Fiscal year 1987 Appropriation Request	Fiscal year 1987 Authorization Request	House Passed Authorization	Senate Passed Authorization	Conference Agreement	Implication of Conference Agreement (BA)
Military Construction							
Army	1,685.7	1,695.2	1,698.6	1,237.2	1,325.9	1,263.3	1,259.9
Navy/Marine Corps	1,669.4	1,814.1	1,795.4	1,368.1	1,437.2	1,430.3	1,449.0
Air Force	1,759.1	1,773.2	1,702.8	1,260.5	1,314.3	1,302.5	1,372.9
Defense agencies	238.3	762.1	674.6	498.8	555.9	514.4	601.9
Army National Guard	149.1	121.1	121.1	121.1	118.7	133.3	133.3
Air National Guard	139.0	140.0	140.0	140.0	137.0	145.3	145.3
Army Reserve	70.7	86.7	86.7	86.7	83.2	86.7	86.7
Naval Reserve	51.8	44.5	44.5	44.5	43.8	44.5	44.5
Air Force Reserve	70.7	58.9	58.9	58.9	55.4	58.9	58.9
NATO infrastructure	38.0	247.0	247.0	247.0	239.0	247.0	247.0
Total, military construction	5,871.8	6,742.8	6,569.6	5,062.7	5,310.3	5,226.2	5,399.4
Family Housing							
Army	1,627.1	1,733.0	1,740.6	1,670.8	1,618.4	1,601.6	1,594.0
Navy	738.7	784.3	792.9	742.2	724.2	717.2	708.6
Air Force	941.9	853.5	860.4	848.3	835.4	841.2	834.3
Defense agencies	20.3	17.6	17.6	17.6	17.6	17.6	17.6
Homeowners Assistance Fund, Defense		8.0	6.0	6.0	5.5	5.5	7.5
Total, family housing	3,328.1	3,396.4	3,417.6	3,284.8	3,201.1	3,183.1	3,162.0
Base Closure Commission					1.0		
Total, MILCON and Family Housing	9,199.8	10,139.2	9,987.1	8,347.6	8,512.4	8,409.3	8,561.4
Enacted in prior years		(708.4)					(708.4)
Total, Department of Defense, Military	224,378.1	311,570.7	235,475.2	204,405.5	212,960.2	209,878.0	283,797.7
Department of Energy National Security Programs							
Total, Department of Energy National Security Programs	7,684.3	8,230.0	8,098.4	7,451.0	7,425.2	7,451.0	7,582.6
Other Defense Related Activities (subfunction 054)							
Intelligence Community Staff	0.0	22.9		0.0			22.9
Civil Defense (FEMA)	130.0	304.5	126.6	126.6	111.6	120.6	298.5
Stockpile Management	0.0	29.4		0.0	120.0	0.0	29.4
CIA Retirement Fund	0.0	125.8		0.0			125.8
Selective Service	0.0	27.5		0.0			27.5
Total, Other Defense Related Activities	130.0	510.1	126.6	126.6	231.6	120.6	504.1
Grand total	232,192.4	320,310.8	243,700.2	211,983.1	220,617.0	217,449.6	291,884.4
Total outlay implication							281,858.8

71-059 O-87-37 (Pt. 21)

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS
TITLE I—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED: CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED: RECOMMENDATION QTY	SENATE BILL AS PASSED: RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED: CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED: RECOMMENDATION QTY	HOUSE BILL AS PASSED: RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL: CHANGE FROM REQUEST QTY	CONFERENCE BILL: CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL: RECOMMENDATION QTY	CONFERENCE BILL: RECOMMENDATION AMOUNT
FIXED WING																		
C-12 CARGO AIRPLANE	6	12,000																
STANDARD/COMMON SENSOR RQLL																		
RC-12D RECON AIRPLANE																		
ROTARY																		
CH-47 CARGO HELICOPTER (CHINOOK)																		
EH-60A HELICOPTER (QUICKFIX) (MYP)	18	104,600	18	125,000		-20,000	18	115,000		-26,300	18	108,700		-6,300		-26,300	18	108,700
ADVANCE PROCUREMENT (CY)		24,400		16,900				16,900				16,900						16,900
AH-64 ATTACK HELICOPTER (APACHE)	144	1,087,800	144	1,189,300	-24	-125,000	120	1,064,300	-24	-139,100	120	1,050,200		-14,100	-24	-156,500	120	1,032,800
ADVANCE PROCUREMENT (CY)		55,300		39,100				39,100				39,100						39,100
UH-60A (BLACK HAWK) (MYP)	78	210,900	78	155,400			78	155,400		-3,000	78	152,400		-3,000			78	155,400
ADVANCE PROCUREMENT (CY)		199,000		195,900		-10,000		185,000		-56,000		139,000		-46,000		-29,900		165,100
CLASSIFIED PROGRAMS																		
SUBTOTAL, AIRCRAFT		1,694,000		1,738,700		-155,000		1,575,700		-224,400		1,506,300		-69,400		-212,700		1,518,000
MODIFICATION OF AIRCRAFT																		
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)		22,700		24,900				24,900		-5,000		19,900		-5,000		-2,500		22,400
RC-12D RECON AIRPLANE																		
RV-1 RECON AIRPLANE				2,700				2,700				2,700						2,700
AHLS ATTACK HELICOPTER (COBRA-TOW)		128,900		61,000		-27,000		34,000		-48,600		12,400		-21,600		-35,000		26,000
AH-64 MODS				33,400				33,400				33,400						33,400
CH-47 CARGO HELICOPTER (MYP)		219,000		208,400				208,400		-10,000		198,400		-10,000				208,400
ADVANCE PROCUREMENT (CY)		124,800		58,600				58,600				58,600						58,600
CH-54 CARGO HELICOPTER (TARHE)		500		1,300				1,300				1,300						1,300
EH-1 ELECTRONIC HELICOPTER (U-FIX MOD)																		
OH-58 OBSERVATION HELICOPTER (KIOWA)																		
UH-1 UTILITY HELICOPTER (IROQUOIS)		11,700		6,300				6,300				6,300						6,300
UH-60A (BLACK HAWK) MODS		13,600		7,700				7,700				7,700						7,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)		166,600		164,900		-29,000		135,900	-12	-42,400		122,500		-13,400		-42,400		122,500
ADVANCE PROCUREMENT (CY)		20,900		45,400				45,400		-23,600		21,800		-23,600		-22,900		22,500
AIR TO AIR STINGER ACFT MOD				28,800				28,800				28,800						28,800
AIRBORNE AVIONICS		1,000		100				100				100						100
ASE MODIFICATIONS CLOSE COMBAT				3,500				3,500				3,500						3,500
MODIFICATIONS UNDER $2.0M (AIRCRAFT)		100		100				100				100						100
ACFT SMAU		16,300		12,000				12,000				12,000						12,000
SOF AIRCRAFT MODIFICATIONS				3,500				3,500				3,500				-3,500		0
GROUND PROXIMITY WARNING SYSTEM		0		0				0		13,700		13,700		13,700		6,900		6,900
SUBTOTAL, MODIFICATION OF AIRCRAFT		726,100		662,600		-56,000		606,600		-115,900		546,700		-59,900		-99,400		563,200
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		814,300		710,500		0		710,500		-150,000		560,500		-150,000		-100,000		610,500
SUPPORT EQUIPMENT AND FACILITIES																		
GROUND SUPPORT AVIONICS																		
AIRCRAFT SURVIVABILITY EQUIPMENT				11,600				11,600				11,600						11,600
OTHER SUPPORT																		
AVIONICS SUPPORT EQUIPMENT		65,000		57,900		-7,900		50,000		-10,500		47,400		-2,600		-10,500		47,400
HELIBORNE C2 CONSOLE																		
MLS AVIONICS																		
COMMON GROUND EQUIPMENT		33,500		28,400				28,400				28,400						28,400
AIR TRAFFIC CONTROL		9,000		4,800				4,800				4,800						4,800
SYNTHETIC FLIGHT TRAINING SYSTEMS	7	117,100	3	37,700			3	37,700			3	37,700					3	37,700
INDUSTRIAL FACILITIES		59,300		16,000				16,000				16,000						16,000
WAR CONSUMABLES		5,900		4,500				4,500				4,500						4,500
SUBTOTAL, SUPPORT EQUIPMENT AND FACILITIES		289,800		160,900		-7,900		153,000		-10,500		150,400		-2,600		-10,500		150,400
UNDISTRIBUTED REDUCTION		—		—		-13,000		-13,000				—		13,000				—
PRIOR YEAR PROGRAM SAVINGS (FY 86)		—		—		-47,200		-47,200		-22,200		-22,200		25,000				—
PRIOR YEAR INFLATION SAVINGS (FY 85)		—		—		-12,000		-12,000				—		12,000				—
PRIOR YEAR INFLATION SAVINGS (FY 86)		—		—		-63,300		-63,300				—		63,300				—
INFLATION REESTIMATE (FY 87)		—		—		-116,600		-116,600				—		116,600		-116,600		-116,600
OBLIGATION LIMITATION (FY 85 AND 86)		—		—				—		(-131,800)		(-131,800)		(-131,800)		(-131,800)		(-131,800)
TOTAL, ARMY AIRCRAFT		3,524,200		3,264,700		-471,000		2,793,700		-523,800		2,741,700		-52,000		-539,200		2,725,500

AIRCRAFT PROCUREMENT, ARMY

EH-60A (Quickfix)

The budget request contained $135.0 million for the procurement of 18 EH-60A (Quickfix) helicopters and $16.9 million for advance procurement. The House amendment would authorize $108.7 million for 18 EH-60A (Quickfix) helicopters and $16.9 million for advance procurement. The Senate bill would authorize $115.0 million for 18 EH-60A (Quickfix) helicopters and $16.9 million for advance procurement.

The Senate recedes.

AH-40 (Apache)

The budget request contained $1,189.3 million for the procurement of 144 AH-64 (Apache) helicopters and $39.1 million for advance procurement. The House amendment would authorize $1,050.2 million for 120 AH-64 helicopters and $39.1 million for advance procurement. The Senate bill would authorize $1,064.3 million for 120 Apache helicopters and $39.1 million for advance procurement.

The conferees recommend authorization of $1,032.8 million for the procurement of 120 AH-64 (Apache) helicopters and $39.1 million for advance procurement.

UH-60A (Blackhawk)

The budget request contained $155.4 million for the procurement of 78 UH-60A (Blackhawk) helicopters and $195.0 million for the advance procurement of 85 helicopters in fiscal year 1988. The House amendment would authorize $152.4 million for 78 Blackhawk helicopters and $139.0 million for the advance procurement of 78 helicopters. The Senate bill would authorize $155.4 million for the procurement of 78 UH-60A (Blackhawk) helicopters and $185.0 million for the advance procurement of 85 helicopters.

The conferees recommend authorization of $155.4 million for 78 Blackhawk helicopters and the advance procurement of $165.1 million for 72 UH-60A Blackhawk helicopters. The conferees recommend approval of the requested multiyear procurement authority for both the UH-60A and EH-60A airframe, provided savings of at least 12 percent are achieved.

Modification of Army aircraft

The request contained $662.6 million for Army aircraft modifications for fiscal year 1987.

The Senate bill would authorize $606.6 million for Army aircraft modifications. The House amendment would authorize $546.7 million for Army aircraft modifications. The conferees agreed to authorize $563.2 million for procurement of Army aircraft modifications in fiscal year 1987.

Specific program authorizations are detailed in the foregoing table.

Spares and repair parts

The budget request contained $710.5 million for Army aviation spares and repair parts. The House amendment would authorize $560.5 million for the program. The Senate bill would authorize the requested amount.

The conferees recommend authorization of $610.5 million for aviation spares and repair parts.

Support equipment and facilities

The budget request contained $160.9 million for aviation support equipment and facilities. The House amendment would authorize $150.4 million for such purposes. The Senate bill would authorize $153.0 million for such activities.

The conferees recommend authorization of $150.4 million for aviation support equipment and facilities as detailed in the foregoing table.

MISSILE PROCUREMENT, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
OTHER MISSILES																		
SURFACE-TO-AIR MISSILE SYSTEM																		
CHAPARRAL		54,900	456	103,700		-3,000	456	100,700	-100	-20,000	356	83,700	-100	-17,000		-73,700		30,000
HIGH LINE OF SIGHT AIR DEFENSE SYSTEM																		
AIR DEFENSE DIVISION SYSTEM HEAVY				9,100		-9,100		0		-9,100		0				-9,100		0
AIR DEFENSE DIVISION SYSTEM LIGHT																		
OTHER MISSILE SUPPORT		5,000		6,500				6,500				6,500						6,500
PATRIOT (MYP)	585	928,100	700	951,500		-31,500	700	920,000	-115	-30,000	585	921,500	-115	1,500		-31,500	700	920,000
ADVANCE PROCUREMENT (CY)				45,300				45,300				45,300				-5,000		40,300
STINGER (MYP)	3,429	246,600	4,180	251,700			4,180	251,700			4,180	251,700					4,180	251,700
ADVANCE PROCUREMENT (CY)				40,300				40,300				40,300						40,300
AIR-TO-SURFACE MISSILE SYSTEM																		
LASER HELLFIRE SYSTEM	5,750	223,200																
ANTI-TANK/ASSAULT MISSILE SYSTEM																		
TOW 2	12,700	160,900	12,000	134,600		-8,600	12,000	126,000		-20,600	12,000	114,000		-12,000		-24,100	12,000	110,500
ADVANCE PROCUREMENT (CY)		22,000		15,500				15,500		-15,500		0		-15,500		-15,500		0
PERSHING	[ ]	224,500		31,800				31,800				31,800						31,800
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	72,000	468,900	72,000	474,200		-5,000	72,000	469,200		-10,000	72,000	464,200		-5,000		-12,500	72,000	461,700
ADVANCE PROCUREMENT (CY)		41,000																
CLASSIFIED PROGRAMS																		
SUBTOTAL, OTHER MISSILES		2,375,100		2,044,200		-57,200		2,007,000		-105,200		1,959,000		-48,000		-171,400		1,892,800
MODIFICATION OF MISSILES																		
PATRIOT		16,500		38,600				38,600		-22,100		16,500		-22,100				38,600
CHAPARRAL		106,732		5,200				5,200				5,200						5,200
HAWK		46,900		68,200				68,200		-21,300		46,900		-21,300		-9,200		59,000
TOW		16,900		53,000				53,000		-36,100		16,900		-36,100				53,000
DRAGON				4,700		-4,700		0		-4,700		0				-4,700		0
LANCE MODIFICATIONS				3,800				3,800		-3,800		0		-3,800				3,800
LCSS																		
PERSHING MODIFICATIONS																		
AN/TSQ-73																		
SUBTOTAL, MODIFICATION OF MISSILES		187,032		173,500		-4,700		168,800		-88,000		85,500		-83,300		-13,900		159,600
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		286,800		150,900		-5,000		145,900		0		150,900		5,000		-5,000		145,900
SUPPORT EQUIPMENT AND FACILITIES																		
AIR DEFENSE TARGETS		19,800		32,400				32,400		-12,600		19,800		-12,600		-5,000		27,400
ITEMS LESS THAN $2.0M (MISSILES)		3,700		1,500				1,500				1,500						1,500
PRODUCTION BASE SPT		29,900		15,700				15,700				15,700						15,700
OTHER PRODUCTION CHARGES		2,000																
SUBTOTAL, SUPPORT EQUIPMENT AND FACILITIES		55,400		49,600		0		49,600		-12,600		37,000		-12,600		-5,000		44,600
UNDISTRIBUTED REDUCTION		---		---		-16,400		-16,400				---		16,400				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-12,200		-12,200				---		12,200				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-52,500		-52,500				---		52,500				---
INFLATION REESTIMATE (FY 87)		---		---		-92,000		-92,000				---		92,000		-92,000		-92,000
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-113,300)		(-113,300)		(-113,300)		(-113,300)		(-113,300)
TOTAL, ARMY MISSILES		2,904,332		2,438,200		-240,000		2,198,200		-205,800		2,232,400		34,200		-287,300		2,150,900

MISSILES, ARMY

Chaparral missile system

The budget request contained $103.7 million for procurement of 456 Chaparral Rosette Scan Seeker (RSS) missiles.

The House amendment would authorize $83.7 million for procurement of 356 Chaparral missiles.

The report accompanying the House amendment (H. Rept. 99-718) directs the Secretary of the Army not to obligate any of the amount authorized until the Secretary submits a report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives providing detailed comparisons of the various procurement options available and assessing the value of establishing an analytic methodology that could be applied to major acquisition programs throughout the Army. A separate, independent report by the Cost Analysis Improvement Group (CAIG) in the Office of the Secretary of Defense, reviewing the Army's proposed acquisition strategy, is also to be provide to the committees

The Senate bill would authorize $100.7 million for procurement of 456 Chaparral missiles. The report accompanying the Senate bill (S. Rept. 99-331) contained no similar requirement.

The conferees agreed to authorize $30 million for procurement of Chaparral missiles. The conferees agreed to require the Secretary of the Army to submit the report directed by the House.

The Senate recedes.

Patriot missiles

The budget request contained $951.5 million for the procurement of 700 missiles and 12 Patriot fire units. The request also contained $45.3 million to support advance procurement.

The House amendment would authorize $921.5 million for procurement of 585 missiles and 12 fire units and $45.3 million for advance procurement. Section 110(a) of the House amendment would authorize the Secretary of the Army to enter a multiyear contract for procurement of the Patriot, providing that the contract contains negotiated price options that vary quantities by 30 percent in each year and that the multiyear contract offers 12 percent savings compared to annual contracts.

The Senate bill would authorize $920.0 million for 700 missiles and 12 fire units and $45.3 million for advance procurement. Section 108(a) of the Senate bill would provide authorization to enter into a multiyear procurement contract.

The conferees agreed to authorize $920.0 million for 700 Patriot missiles and 12 fire units and $40.3 million for advance procurement. Further, the conferees agreed to a provision that would authorize the Secretary to enter a multiyear contract for procurement of the Patriot providing that the multiyear contract offers 12 percent savings compared to annual contracts.

The Senate recedes with an amendment.

Stinger

The budget request contained $251.7 million for the procurement of 4,180 Stinger missiles and $40.3 million in advance procurement.

The House amendment would authorize the requested amount, subject to the conditions set forth in Section 110(a).

The Senate bill would also authorize the requested amounts. Section 108(b) of the Senate bill would direct the Secretary of the Army to solicit bids to establish a competitive second source for the Stinger missile and to determine which contracting method, multiyear or contracting, is more cost-effective. In order to enter into a multiyear contract, the Secretary would need to certify in a report, validated by the Government Accounting Office (GAO), that the multiyear method is the least costly.

The conferees agreed to authorize $251.7 million for procurement of 4,180 Stinger missiles. The conferees agreed to incorporate the provisions contained in the Senate bill.

The House recedes.

TOW II missile

The report accompanying the Senate bill (S. Rept. 99-331) directed the army to establish, expeditiously, a competitive second source for TOW II missiles. Funds are to be made available from procurement of missiles in fiscal year 1987 to select and qualify the second source.

The house report contained no similar language.

The conferees believe that cost savings and reliability improvements could be achieved. Consequently, the conferees agreed to direct the Secretary of the Army to establish a competitive second source for the procurement of the TOW II missile, unless the Secretary certifies to the Committees on Armed Services of the Senate and the House of Representatives that such a course of action is not cost-effective.

The House recedes.

Multiple launch rocket system

The budget request contained $474.2 million for procurement of 72,000 rockets and 44 self-propelled launcher loaders.

The House amendment would authorize $464.2 million for procurement of 72,000 rockets and 44 self-propelled launcher loaders, with 30 of the 44 launchers procured to be used to equip three batteries of the Army National Guard.

The report accompanying the House amendment (H. Rept. 99-718) directs that the Secretary of the Army examine acquisition strategies that provide for economic purchase of the launchers. A report concerning the proposed acquisition strategy, together with future Army requirements for launchers, is to be submitted to the Committees on Armed Services of the Senate and House of Representatives by February 1, 1987. Further, the House report directs that 30 of the 44 launchers be procured to equip three batteries of the Army National Guard.

The Senate bill would authorize $469.2 million for procurement of 72,000 rockets and self-propelled launcher loaders. The report accompanying the Senate bill (S. Rept. 99-331) contains no similar directions.

The conferees agreed to authorize $461.7 million for procurement of 72,000 rockets and self-propelled launcher loaders. The conferees agree to the provisions in the House report requiring a report from the Secretary of the Army concerning requirements and proposed acquisition strategies for MLRS launchers. The conferees agreed not to designate launchers for the Army National Guard.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
TRACKED COMBAT VEHICLES																		
CARRIER, COMMAND POST LIGHT, FT, M577A2	144	30,600	300	64,100			300	64,100			300	64,100					300	64,100
CARRIER, PERSONNEL, FT, ARN, M113A3	451	117,700																
BRADLEY FIGHTING VEHICLES (NYP)	716	905,900	870	1,121,800	-150	-195,000	720	926,800	-277	-291,800	593	830,000	-127	-96,800	-150	-226,000	720	895,800
ADVANCE PROCUREMENT (CY)		27,600		20,600				20,600				20,600						20,600
BRADLEY FVS TRAINING DEVICES		73,200		9,500				9,500				9,500						9,500
BRADLEY FVS TRAINING DEVICES (MOD)																		
FIELD ARTILLERY AMMUNITION SUPPORT VEH	135	64,800	141	67,500		-4,000	141	63,500		-5,000	141	62,500		-1,000		-5,000	141	62,500
HOWITZER,MED SP, FT, 155MM, M109A2																		
RECOVERY VEHICLE, MED, FT, M88A1	233	199,400		42,800		-34,000		8,800		-34,000		8,800				-42,800		0
ABRAMS TANK SERIES ROLL (NYP)	840	1,505,000	840	1,643,600			840	1,643,600		-65,000	840	1,578,600		-65,000		-65,000	840	1,578,600
ADVANCE PROCUREMENT (CY)		348,200		351,400				351,400				351,400						351,400
M60 SERIES TANK TRAINING DEVICES		16,800		33,500				33,500				33,500						33,500
M1 SERIES TANK TRAINING DEVICES		61,000		9,500				9,500		-1,000		8,500		-1,000		-500		9,000
MODIFICATION OF TRACKED COMBAT VEHICLES																		
CARRIER,MOD		54,700		48,600		-6,500		41,900		-6,500		41,900				-6,500		41,900
IMPROVED TOW VEHICLE (ITV) (MOD)																		
FIST VEHICLE (MOD)		71,900		53,800				53,800				53,800						53,800
BFVS SERIES (MOD)		12,000		35,100				35,100				35,100						35,100
HOWITZER, MED SP FT 155MM M109 SER (MOD)		6,000		20,800				20,800		-15,000		5,800		-15,000		-15,000		5,800
ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)		15,600																
TANK,COMBAT,FT,105MM GUN,M60SER (MOD)(NYP)		105,200		48,300				48,300				48,300						48,300
TANK, M1 SERIES (MOD)		53,900		80,400				80,400		-26,500		53,900		-26,500				80,400
9MM																		
MOD TNG BASE EQUIP				17,000		-10,000		7,000		-1,500		15,500		8,500		-7,000		10,000
HOST NATION SUPPORT				4,700				4,700		-4,700		0		-4,700				4,700
SUPPORT EQUIPMENT AND FACILITIES																		
SPARES AND REPAIR PARTS		600,600		469,800				469,800		-70,000		399,800		-70,000		-27,400		442,400
VALUE ENGINEERING																		
ITEMS LESS THAN $2.0M (TCV-WTCV)		800		2,000				2,000				2,000						2,000
PRODUCTION BASE SUPPORT (TCV-WTCV)		78,900		57,800				57,800		-6,600		51,200		-6,600				57,800
SUBTOTAL, TRACKED COMBAT VEHICLES		4,349,800		4,202,400		-249,500		3,952,900		-527,600		3,674,800		-278,100		-395,200		3,807,200
WEAPONS AND OTHER COMBAT VEHICLES																		
FOLLOW-ON AIR DEFENSE GUN		150,000																
HOWITZER, LIGHT,TOWED, 105MM, L119			64	26,500			64	26,500	-64	-14,500		12,000	-64	-14,500			64	26,500
HOWITZER, MED, TOWED, 155MM, M198																		
MACHINE GUN, 7.62MM, M60			1,647	5,000			1,647	5,000	-1,647	-5,000		0	-1,647	-5,000			1,647	5,000
ARMOR MACHINE GUN, 7.62MM M240			4,589	24,200			4,589	24,200	-4,589	-24,200		0	-4,589	-24,200	-4,589	-24,200		0
MOUNT MACH GUN CAL 50 M3																		
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM			4,800	12,900			4,800	12,900			4,800	12,900					4,800	12,900
GRENADE LAUNCHER, AUTO, 40MM, MK19-3		0		0		15,000		15,000				0		-15,000		15,000		15,000
LAUNCHER, SMOKE GRENADE	3,177	2,100	4,217	1,800			4,217	1,800			4,217	1,800					4,217	1,800
MORTAR, 81MM, M252	168	5,700	457	10,100			457	10,100	-207	-4,800	250	5,300	-207	-4,800			457	10,100
MORTAR 120 MM	63	5,000	145	13,200			145	13,200			145	13,200					145	13,200
M16 RIFLE	71,990	35,000	76,235	36,800			76,235	36,800			76,235	36,800					76,235	36,800
PERSONAL DEFENSE WEAPON, 9MM	25,400	7,500	21,219	4,400			21,219	4,400			21,219	4,400					21,219	4,400
VEH RAPID FIRE WPN SYS-BUSHMASTER (NYP)	715	31,900	947	37,300			947	37,300			947	37,300					947	37,300
ADVANCE PROCUREMENT (CY)		8,300		3,200				3,200				3,200						3,200
TANK MUZZLE BORESIGHT DEVICE	2,327	4,000																
MODIFICATION OF WEAPONS AND OTHER COMBA																		
M16A1 RIFLE MODS		3,300		3,300				3,300				3,300						3,300
MODIFICATIONS UNDER $2.0M (WOCV-WTCV)		2,500		4,000				4,000		-1,500		2,500		-1,500				4,000
SUPPORT EQUIPMENT AND FACILITIES																		
REP SPARES AND REPAIR PARTS (WOCV-WTCV)		28,600		17,600				17,600				17,600						17,600
ITEMS LESS THAN $2.0M (WOCV-WTCV)		2,900		3,300				3,300				3,300						3,300
PRODUCTION BASE SUPPORT (WOCV-WTCV)		40,200		37,000				37,000				37,000						37,000
CANNON TUBE FORGINGS FOR SURGE				9,600		-3,600		6,000				9,600		3,600		-9,600		0
SUBTOTAL, WEAPONS AND OTHER COMBAT VEHICLES		327,000		250,200		11,400		261,600		-50,000		200,200		-61,400		-18,800		231,400
UNDISTRIBUTED REDUCTION		---		---		-74,700		-74,700				---		74,700				---
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-38,800		-38,800				---		38,800				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-25,100		-25,100				---		25,100				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-130,500		-130,500				---		130,500				---
INFLATION REESTIMATE (FY 87)		---		---		-150,500		-150,500				---		150,500		-150,500		-150,500
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-255,300)		(-255,300)		(-255,300)		(-255,300)		(-255,300)
TOTAL, ARMY WEAPONS AND TRACKED COMBAT VEHICLES		4,676,800		4,452,600		-657,700		3,794,900		-577,600		3,875,000		80,100		-564,500		3,888,100

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

M2/M3 Bradley fighting vehicle

The budget request contained $1,121.8 million for procurement of 870 Bradley fighting vehicles and $20.6 million in advance procurement for fiscal year 1988.

The House amendment would authorize $830.0 million for procurement of 593 Bradley fighting vehicles and $20.6 million for advance procurement for fiscal year 1988. The House amendment included a provision (sec. 121) that would establish a set of detailed requirements for the development of a test plan and conduct of the live-fire testing of the Bradley.

The Senate bill would authorize $926.8 million for procurement of 720 Bradley fighting vehicles and $20.6 million for advance procurement for fiscal year 1988. The Senate bill contained no provisions related to a test plan or conduct of live-fire testing.

The conferees agreed to authorize $895.8 million for procurement of 720 Bradley fighting vehicles and $20.6 million for advance procurement.

The conferees agreed that further testing of the proposed modifications to the Bradley vehicle, including alternative configurations designed to improve survivability, is warranted. However, the conferees believe that vehicle survivability should not be taken out of context, and that decisions concerning future modifications would be incomplete unless the combat performance of the alternative design configurations is thoroughly tested and evaluated.

The conferees agreed to a provision (sec. 121) that directs the Secretary of Defense to develop a balanced and affordable test plan to evaluate alternative design configurations for the Bradley fighting vehicle. The Secretary should utilize the Office of Development Test and Evaluation to develop the survivability testing, and the Office of Operational Test and Evaluation to develop the combat performance testing.

The conferees note that this provision is not intended to preclude the Secretary of the Army from initiating testing required by this section, as detailed testing procedures are approved by the Office of the Secretary of Defense.

The conferees also direct that the Army may not proceed with modifications to install reactive armor on the Bradley vehicle until the tests specified in this section have been completed. The Army may proceed at the earliest practical date with any other minor modifications that improve the survivability of the vehicle.

The Senate recedes with an amendment.

M1 Abrams tank

The budget request contained $1,643.6 million for procurement of 840 M1 tanks and $351.4 million for advance procurement for fiscal year 1988.

The House amendment would authorize $1,578.6 million for procurement of 840 M1 tanks and $351.4 million for advance procurement.

The Senate bill authorizes $1,643.6 million for procurement of 840 M1 tanks and $351.4 million for advance procurement.

The conferees agreed on authorization of $1,578.6 million for procurement of 840 M1 tanks, and $351.4 million for advance procurement.

The Senate recedes.

The conferees have been informed that while the overall totals in the President's budget submission for the M1 tank were correct, the allocation between funds required for procurement and those required for advanced procurement was incorrect.

The conferees expect that the Secretary of the Army will procure not less than 840 M1 tanks with the total funds authorized. To accomplish this objective, the conferees would welcome a reprogramming request from the fiscal year 1987 advance procurement funds.

WEAPONS AND OTHER COMBAT VEHICLES, ARMY

L119 howitzer

The budget request contained $26.5 million to procure 64 towed 105mm L119 howitzers.

The House amendment would authorize $12.0 million for the facilitization on-shore for future howitzer production, but would provide no authorization for purchase of any howitzers in fiscal year 1987.

The Senate bill would authorize $26.5 million for procurement of 64 howitzers.

The conferees agreed on authorization of $26.5 million for 64 howitzers.

The House recedes.

120mm mortar

The budget request contained $13.2 million to procure 145 120mm mortars.

The House amendment would authorize the amounts requested. The House amendment included a provision (sec. 122(a)) that would prohibit obligation of funds for procurement of 120mm mortars or mortar ammunition that is manufactured or assembled outside the United States, except for those mortars required for testing, evaluation, or type classification. Section 122(a) would also prohibit obligation of funds for fiscal year 1987 for procurement of 120mm mortars until the Secretary of the Army purchases the technical data package and conducts a cost-effectiveness analysis concerning potential domestic sources for manufacturing of mortars. The latter provision is consistent with the direction contained in the joint explanatory statement of the conference report (H. Rept. 99-235) on the fiscal year 1986 Defense Authorization Act (Public Law 99-145).

The Senate bill would authorize $13.2 million to procure 145 120mm mortars.

The conferees agreed to authorize $13.2 million to procure 145 120mm mortars.

The Senate recedes with an amendment that restricts the obligation of fiscal year 1987 funds only until the Secretary of the Army conducts the cost-effectiveness analysis concerning potential domestic sources for manufacturing of mortars.

Cannon tube forgings for surge

The report accompanying the House amendment (H. Rept. 99-718) directs the Secretary of the Army to provide to the Committees on Armed Services of the Senate and the House of Representatives a master plan concerning mobilization surge requirements.

The Senate bill contained no similar provision.

The Senate recedes.

PROCUREMENT OF AMMUNITION, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED: CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED: RECOMMENDATION QTY	SENATE BILL AS PASSED: RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED: CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED: RECOMMENDATION QTY	HOUSE BILL AS PASSED: RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL: CHANGE FROM REQUEST QTY	CONFERENCE BILL: CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL: RECOMMENDATION QTY	CONFERENCE BILL: RECOMMENDATION AMOUNT
AMMUNITION																		
ATOMIC MATERIEL																		
NUCLEAR WEAPONS SUPPORT MATERIEL		3,400		2,600				2,600				2,600						2,600
PROJECTILE, NUCLEAR				11,700				11,700				11,700						11,700
CONTROLLED ITEMS																		
CTG, 5.56MM, BALL M193	66,420	10,100	109,784	15,000			109,784	15,000			109,784	15,000					109,784	15,000
CTG, 5.56MM, TRACER			20,982	5,600			20,982	5,600			20,982	5,600					20,982	5,600
CTG, 5.56MM, TRACER CLIP			15,625	4,800			15,625	4,800			15,625	4,800					15,625	4,800
CTG, 5.56MM, BLANK M200	77,496	10,000	56,965	7,000	136,268	12,500	193,233	19,500	136,268	12,500	193,233	19,500			136,268	12,500	193,233	19,500
CTG, 5.56MM, BLK M200, LKD F/SAW	8,998	2,200	90,476	18,400	-30,496	-6,200	59,980	12,200			90,476	18,400	30,496	6,200	-30,496	-6,200	59,980	12,200
CTG, 5.56MM, 4 BALL M855/1 TRCR M856 LKD	27,164	9,600	99,098	29,400			99,098	29,400			99,098	29,400					99,098	29,400
CTG, 5.56MM BALL M16-A2	125,679	25,000	18,845	3,400			18,845	3,400			18,845	3,400					18,845	3,400
CTG, 5.56MM TRACER M16-A2	21,954	6,500																
CTG, 7.62MM, 4 BALL M80/1 TRCR M62 LKD	93,576	25,800	275,589	68,500	-140,800	-35,200	134,789	33,300			275,589	68,500	140,800	35,200	-140,800	-35,200	134,789	33,300
CTG, 7.62MM, BALL M80 LKD/M13	2,484	700	10,562	2,700			10,562	2,700			10,562	2,700					10,562	2,700
CTG, 7.62MM, LKD 4 BALL ITRACER DHF	6,049	2,000	1,667	500			1,667	500			1,667	500					1,667	500
CTG, 7.62MM, BLANK M82 LKD/M13			72,064	15,900	17,075	3,400	89,139	19,300	17,075	3,400	89,139	19,300			17,075	3,400	89,139	19,300
CTG, CAL .45, BALL M1911	16,902	2,200	5,936	700			5,936	700			5,936	700					5,936	700
CTG, CAL .50, PLASTIC LKD 4 BALL/1 TRACER			4,665	5,400			4,665	5,400			4,665	5,400					4,665	5,400
CTG, CAL .50, LKD 4 BALL/1 TRCR W/M15A2L	7,727	11,300	7,395	9,600			7,395	9,600			7,395	9,600					7,395	9,600
CTG, CAL .50, APIT, M20 LKD	961	1,400	3,026	4,000			3,026	4,000			3,026	4,000					3,026	4,000
CTG, CAL .50, BALL LKD	3,830	3,800	2,778	2,500			2,778	2,500			2,778	2,500					2,778	2,500
CTG, CAL .50, BLK, M1A1, LKD W/M9LK F/M2 MG																		
CTG, CAL .50, BLANK M1A1,LKD F/MBSM6(MYP)																		
CTG, CAL .50, LKD TRACER M17																		
CTG, CAL .50, LKD 4 BALL/1 TRACER W/M9 L	45,325	48,000	23,752	22,900			23,752	22,900			23,752	22,900					23,752	22,900
CTG, 20MM, LKD TP-T M220 SERIES MLB M14A	2,238	7,900	3,028	9,700	2,648	1,600	5,676	11,300	2,648	1,600	5,676	11,300			2,648	1,600	5,676	11,300
CTG, 20MM, LKD 4 TP M55A2/1TP-T M220			1,202	3,300	733	2,000	1,935	5,300	733	2,000	1,935	5,300			733	2,000	1,935	5,300
CTG, 25MM, HEI-T M792 W/F	1,081	24,900	2,813	48,700	-1,415	-24,500	1,398	24,200	-1,415	-24,500	1,398	24,200			-1,415	-24,500	1,398	24,200
CTG, 25MM, APDS-T M791 W/M28(MYP)	489	11,100																
CTG, 25MM, TPT LKD M793 MLB M28	2,724	41,200	2,018	25,500	-46	-600	1,972	24,900			2,018	25,500	46	600	-46	-600	1,972	24,900
CTG, 30MM, LKD HEDP M789 W/FUZE	142	5,000																
CTG, 30MM, LKD TP M788	913	9,300	260	2,400			260	2,400			260	2,400					260	2,400
CTG, 40MM, HEDP M430	3,674	43,500	2,673	28,700	-857	-9,200	1,816	19,500			2,673	28,700	857	9,200	-857	-9,200	1,816	19,500
CTG 40MM TP F/MK19	344	4,800	541	7,500			541	7,500			541	7,500					541	7,500
CTG,40MM, GREEN STAR PARACHUTE																		
CTG, 40MM, PRAC M781	2,744	4,600	2,363	3,600	4,307	6,600	6,670	10,200	4,307	6,600	6,670	10,200			4,307	6,600	6,670	10,200
CTG,40MM, RED SMOKE MARKER			133	1,800			133	1,800			133	1,800					133	1,800
CTG,40MM, GREEN SMOKE MARKER			141	1,900			141	1,900			141	1,900					141	1,900
CTG,40MM, YELLOW SMOKE MARKER			139	1,900			139	1,900			139	1,900					139	1,900
CTG,40MM WHITE STAR CLUSTER M585 F/LCDR M79																		
CTG,40MM, RED STAR, PARACHUTE																		
CTG, 75MM, BLANK, M337A1 F/HOWITZER	151	2,800																
CTG, 81MM: ILLUM M853	25	7,500	12	3,400			12	3,400			12	3,400					12	3,400
CTG, 81MM: HE, M821 W/FUZE M734 MD	255	47,700	404	91,300			404	91,300		-30,200	404	61,100		-30,200	-264	-61,100	140	30,200
CTG, 81MM: SMOKE, RP, M819	18	6,200	45	11,000			45	11,000		-5,000	45	6,000		-5,000		-5,000	45	6,000
CTG, 81MM: FULL RANGE, PRACTICE, M879																		
CTG, 81MM: 1/10 RNG, PRAC,M880	27	2,400	41	2,900			41	2,900			41	2,900					41	2,900
CTG, 4.2-IN HE M329A2 W/O FUZE	339	32,400	247	22,000			247	22,000			247	22,000					247	22,000
CTG, 120MM: HE, M933, W/FUZE M734 MD			126	44,700	-60	-21,200	66	23,500	-60	-21,200	66	23,500			-60	-21,200	66	23,500
CTG,120MM: ILLUM, M930			11	5,500	-4	-1,900	7	3,600	-4	-1,900	7	3,600			-4	-1,900	7	3,600
CTG,120MM: SMOKE, M929			29	14,300	-13	-6,900	16	7,400	-13	-6,900	16	7,400			-13	-6,900	16	7,400
CTG, 105MM, HEAT MP T M456A2	118	41,600	19	7,700	-19	-7,700		0	-19	-7,700		0			-19	-7,700		0
CTG, 105MM, TP-T, M490	241	32,100			241	32,000	241	32,000				0	-241	-32,000	135	18,000	135	18,000
CTG, 105MM, TRACE-P FOR M833		2,300																
TG, 105MM, DS-TP M724	531	89,400	274	41,600			274	41,600			274	41,600					274	41,600
CTG, 105MM, APFSDS-T M833	77	42,300	41	20,300			41	20,300			41	20,300					41	20,300
CTG, 120MM APFSDS-T M829	88	132,000	62	75,900			62	75,900			62	75,900					62	75,900
CTG, 120MM HEAT-MP-T,M830(MYP)	20	42,100	15	27,800			15	27,800			15	27,800					15	27,800
CTG, 120MM TP-T M831 (MYP)	33	39,600		[ ]				[ ]				[ ]						[ ]
CTG, 120MM TPCSDS-T, M865(MYP)	85	65,000	174	104,900	-21	-12,400	153	92,500	-21	-12,400	153	92,500			-21	-12,400	153	92,500
PROJ,155MM,HE,ICM M483	609	269,800	441	173,000			441	173,000			441	173,000					441	173,000
PROJ, 155M, SMK, WP, M825	35	13,100	52	13,500	36	9,400	88	22,900	36	9,400	88	22,900			36	9,400	88	22,900
PROJ, 155MM, HE, ADAM M692																		
PROJ,155MM,HE,ADAM M731	5	20,600	9	33,900	2	5,700	11	39,600			9	33,900	-2	-5,700	2	5,700	11	39,600
PROJ, 155MM, HE, RAAMS M718			9	11,900		-3,100	9	8,800		-3,100	9	8,800				-3,100	9	8,800
PROJ, 155MM, HE, RAAMS M741	46	75,100	74	105,400	-47	-64,500	27	40,900	-30	-40,000	44	65,400	17	24,500	-47	-64,500	27	40,900
PROJ, 155MM, BASEBLEED, M864.			35	31,600			35	31,600			35	31,600					35	31,600
PROJ, 155M, HE, COPPERHEAD (EA)	5,874	219,100	220	8,200	85	10,000	305	18,200			220	8,200	-85	-10,000	85	10,000	305	18,200
PROJ, 155MM, CHEM GB-2	18	21,700		[ ]				[ ]						[ ]				[ ]
CHARGE, PROPELLING, M155MM, GREEN BAG M3	252	12,200	866	38,000	-266	-11,700	600	26,300	-266	-11,700	600	26,300			-266	-11,700	600	26,300
CHARGE, PROPELLING, M155MM, WHITE BAG M4																		
CHARGE, PROPELLING, M155MM, RED BAG M203	61	20,400	77	20,000			77	20,000			77	20,000					77	20,000
CHARGE, PROPELLING, M155MM, RED BAG M119			637	55,600			637	55,600			637	55,600					637	55,600
PROJ, 8-INCH, HE, ICM (DP), M509	54	50,000			90	86,700	90	86,700	90	86,700	90	86,700			90	86,700	90	86,700
PROJ, 8-INCH, HE, RAP, M650	23	26,000	36	37,300	-13	-13,500	23	23,800			36	37,300	13	13,500	-13	-13,500	23	23,800
CHARGE, PROPELLING, 8-INCH WB, M188			22	4,000	-22	-4,000		0			22	4,000	22	4,000	-22	-4,000		0
FUZE, PROXIMITY, M732																		
FUZE, PD M739/M739A1					480	9,700	480	9,700	480	9,700	480	9,700			480	9,700	480	9,700
FUZE, MTSQ M577/M577A1	798	49,300	207	11,700	60	3,400	267	15,100	60	3,400	267	15,100			60	3,400	267	15,100
FUZE, MTSQ M582/M582A1	164	10,500	191	11,200			191	11,200			191	11,200					191	11,200
PRIMER, PERC, M82	1,418	2,900	970	1,800	674	1,200	1,644	3,000	674	1,200	1,644	3,000			674	1,200	1,644	3,000
GROUND IMP MINE SCAT SYS AP M74(MYP)						8,600		8,600				0		-8,600				0
GROUND IMP MINE SCAT SYS AT M75(MYP)						20,600		20,600				0		-20,600				0
CANISTER MINE PRACTICE M88 (VOLCANO)			8	1,900			8	1,900	-8	-1,900		0	-8	-1,900			8	1,900
CANISTER MINE (VOLCANO) M87			16	31,600			16	31,600	-16	-31,600		0	-16	-31,600			16	31,600

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
MTR RKT 5 IN MK22 MOD4	3,143	11,400	4,048	13,300	-1,278	-4,200	2,770	9,100	-1278	-4,200	2,770	9,100			-1,278	-4,200	2,770	9,100
LINE CHARGE MSBA3 (NICLIC)	1,894	22,300	2,307	24,400	-104	-1,100	2,203	23,300	-104	-1,100	2,203	23,300			-104	-1,100	2,203	23,300
MODUALR PACK MINE SYSTEM			1,940	23,400			1,940	23,400			1,940	23,400					1,940	23,400
PURSUIT DETERRENT MUNITION			11	2,100			11	2,100			11	2,100					11	2,100
DEMOLITION MUNITIONS & OTHER		16,500		13,700				13,700				13,700						13,700
DEMO KIT BANGALORE TORPEDO	7	3,000																
RETROFIT, CTG 105MM HE M760																		
LIGHTWEIGHT MULTI-PURPOSE WEAPON	81	58,200	136	82,500			136	82,500			136	82,500			-85	-13,000	51	69,500
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	1,645	3,100	963	2,500	447	4,800	1,410	7,300			963	2,500	-447	-4,800	447	4,800	1,410	7,300
HYDRA 70 RKT, MPSH HE M261 WHD(MYP)	33	28,990																
HYDRA 70 RKT HE/RS (M151/M433)					15	7,700	15	7,700	15	7,700	15	7,700			15	7,700	15	7,700
HYDRA 70 SMK					28	13,700	28	13,700	28	13,700	28	13,700			28	13,700	28	13,700
HYDRA 70 RKT ILLUM M257 WHD					27	19,600	27	19,600	27	19,600	27	19,600			27	19,600	27	19,600
HYDRA 70 RKT, MPSH PRAC M267 WHD	8	5,400	4	2,700	42	18,900	46	21,600	42	18,900	46	21,600			42	18,900	46	21,600
HYDRA 70 RKT, HE/PD (M151/M423/M66)	23	7,000	185	44,800			185	44,800			185	44,800					185	44,800
GRENADE, HAND, ALL TYPES		28,700		27,400				27,400				27,400						27,400
GREN SMK SCREENING RP LBA1/LBA3	212	9,800	150	6,300			150	6,300		-4,300	150	2,000		-4,300			150	6,300
GRENADE, SMOKE SCREENING IR M76	112	11,500	91	9,000			91	9,000			91	9,000					91	9,000
SIGNALS, ALL TYPES		14,900		18,000		2,900		20,900				18,000		-2,900				18,000
SIMULATORS, ALL TYPES		19,900		4,300		7,200		11,500		4,400		8,700		-2,800		4,400		8,700
MISCELLANEOUS																		
AMMO COMPONENTS/SUPPORT, ALL TYPES		21,300		20,300				20,300				20,300						20,300
CAD/PAD		500		2,500				2,500				2,500						2,500
ITEMS LESS THAN $2.0M (MISC-AMMO)		11,000		5,200		1,500		6,700		1,500		6,700				1,500		6,700
SPARES AND REPAIR PARTS				1,200				1,200				1,200						1,200
AMMUNITION PECULIAR EQUIPMENT		5,200		7,800				7,800				7,800						7,800
NITROGUANIDINE (LB)		25,000		23,200				23,200				23,200						23,200
COMP A-5				12,200				12,200				12,200				-12,200		0
COMP C-4				9,500		-1,500		8,000		-1,500		8,000				-9,500		0
PBX 0280				3,800				3,800				3,800				-3,800		0
COMP LX-14				3,800				3,800				3,800				-3,800		0
HMX EXPL-805				5,700				5,700		-5,700		0		-5,700		-5,700		0
WAR RESERVE STOCKPILING(EXPL/PROPELLANTS)																		
AMMO 9MM/ELT		1,700		1,600				1,600				1,600						1,600
CLASSIFIED PROGRAMS				99,400				99,400		-28,000		71,400		-28,000				99,400
UNDISTRIBUTED REDUCTION		---		---				---		-85,000		-85,000		-85,000				---
SUBTOTAL, AMMUNITION		1,995,700		1,900,100		60,300		1,960,400		-125,600		1,774,500		-185,900		-101,200		1,798,900
AMMUNITION PRODUCTION BASE SUPPORT																		
PROVISION OF INDUSTRIAL FACILITIES		280,600		159,000		51,300		210,300		-15,400		143,600		-66,700		-15,400		143,600
COMPONENTS FOR PROVE-OUT		14,000		8,700				8,700				8,700						8,700
LAYAWAY OF INDUSTRIAL FACILITIES		20,500		22,900				22,900				22,900						22,900
JEFFERSON PROVING GROUND MODERNIZATION		2,000		2,200				2,200				2,200						2,200
CHEMICAL DEMILITARIZATION PROGRAM		81,300																
PRODUCTION BASE MODERNIZATION		103,100		161,100		-22,800		138,300		-50,200		110,900		-27,400		28,500		189,600
SUBTOTAL, AMMUNITION PRODUCTION BASE SUPPORT		501,500		353,900		28,500		382,400		-65,600		288,300		-94,100		13,100		367,000
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-2,400		-2,400				---		2,400				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-17,300		-17,300				---		17,300				---
INFLATION REESTIMATE (FY 87)		---		---		-39,800		-39,800				---		39,800		-39,800		-39,800
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-34,200)		(-34,200)		(-34,200)		(-34,200)		(-34,200)
TOTAL, ARMY AMMUNITION		2,497,200		2,254,000		29,300		2,283,300		-191,200		2,062,800		-220,500		-127,900		2,126,100

AMMUNITION, ARMY

Overview, ammunition

The budget request contained $2,254.0 million for Army ammunition procurement in fiscal year 1987. The House amendment would authorize $2,062.8 million for procurement of Army ammunition. The Senate bill would authorize $2,283.3 million for the same purpose.

The conferees recommend authorization of $2,126.1 million for procurement of Army ammunition in fiscal year 1987. The amounts requested for specific items that were in dispute, the amounts allowed by the House amendment and the amounts in the Senate bill are listed in the foregoing table.

Copperhead

The budget request contained $8.2 million for the procurement of 220 Copperhead projectiles.

The House amendment would authorize the requested amount. The House amendment included a provision (sec. 122(b)) that would prohibit obligation of the funds for procurement until the Secretary of Defense certifies that a second production source has been established.

The Senate bill would authorize $18.2 million for the procurement of 305 projectiles. The Senate bill included no similar limitation.

The conferees agreed to authorize $18.2 million for procurement of 305 Copperhead projectiles.

The House recedes.

Lightweight multi-purpose weapons

The budget request contained $82.5 million for procurement of 136,000 lightweight multi-purpose weapons and $2.5 million for procurement of 963 training rounds.

The House amendment would authorize the requested amount. The House amendment included a provision (sec. 122(g)) that would prohibit obligation of the funds for procurement of the AT-4 weapon until the Secretary of the Army (1) completes development and operational testing of the M72E4 light antiarmor weapon; (2) type classifies the M72E4 weapon; (3) acquires a technical data package for the M72E4 weapon.

The Senate bill would authorize $82.5 million for procurement of 136,000 lightweight multi-purpose weapons and $7.3 million for procurement of 1410 training rounds.

The conferees agreed to authorize $69.5 million for procurement of 51,000 lightweight multi-purpose weapons and $7.3 for procurement of training rounds.

The conferees agreed to delete the House provision prohibiting obligation of funds for the AT-4 because the Urgent Fiscal Year 1986 Supplemental Act (Public Law 99-349) currently requires the Secretary of the Army to complete the required testing for M72E4, type classify the weapon, and acquire a technical data package. As such, the House provision is duplicative. In agreeing to delete this provision, the conferees expect that the Secretary will comply with existing public law.

Authorization of ammunition plants

To avoid duplication in Military Construction and Department of Defense authorization legislation, the report accompanying the House amendment (H. Rept. 99-718) directs that the authorizations for construction associated with ammunition plants in fiscal year 1988 and subsequent years be requested in conjunction with Department of Defense authorization legislation only.

The Senate bill contained no similar directions.

The Senate recedes.

Demonstration of casting

The report accompanying the House amendment (H. Rept. 99-718), directs that within the authorization for Army ammunition $6.0 million is to be used for conducting a demonstration of advanced casting technology in the production of selected artillery and mortar projectiles. On completion of the demonstration, program results are to be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

The Senate report contained no similar direction.

The Senate recedes.

Mississippi Army Ammunition Plant

The conferees endorse the Army's program to achieve the designed mobilization rates of the M483 ICM round at the Mississippi Army Ammunition Plant. The conferees have no objection to the obligation of the remaining fiscal year 1986 M483 ICM funds for prove-out and M483 production.

OTHER PROCUREMENT, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
TACTICAL AND SUPPORT VEHICLES																		
TACTICAL VEHICLES																		
CHASSIS TRAILER GEN 2 1/2 TON 2W M200A1	1,949	7,600	908	4,100			908	4,100			908	4,100					908	4,100
CHASSIS, TRAILER, GP, 3 1/2T, 2W, M353			618	3,700			618	3,700	-618	-3,700		0	-618	-3,700	-618	-3,700		0
DOLLY SET, TRANS SHELTER, 2 1/2T, M720																		
DOLLY SET, TRANS SHELTER, 5 1/4 T, M832																		
DOLLY SET, TRANS SHELTER, 7 1/2T, M1022	201	5,500	219	6,200			219	6,200			219	6,200					219	6,200
MOTORCYCLE, GED, 2W, ROUGH TERRAIN	333	2,000	2,732	7,100			2,732	7,100			2,732	7,100					2,732	7,100
SEMITRAILER BB/CONT 22 1/2T M871 C/S																		
SEMITRAILER BB/CONT 34T M872 C/S	169	3,400	286	6,400			286	6,400			286	6,400					286	6,400
SEMITRAILER, LB, 12T K270A1-M269A1	238	9,300																
SEMITRAILER, LOW BED, 40T M870 (C/S)	598	12,200	73	1,900			73	1,900			73	1,900					73	1,900
SEMITRAILER, LOW BED HET, XM1000																		
SEMITRAILER, TANK, 5000G	445	19,800	172	8,800			172	8,800			172	8,800					172	8,800
SEMITRAILER, TANK, 7500G, BULKHAUL			187	7,300			187	7,300	-187	-7,300		0	-187	-7,300			187	7,300
SEMITRAILER VAN ELECTRONIC 6T 2W M373A2																		
SEMITRAILER VAN SUPPLY 12T, 2W, M1296C			242	7,000			242	7,000	-242	-7,000		0	-242	-7,000	-142	-3,000	100	4,000
TRAILER, CARGO 3/4T, 2W, M101A2 W/E	943	3,500	1,476	5,600			1,476	5,600			1,476	5,600					1,476	5,600
TRAILER, CARGO, 1 1/2T, 2W, M105A2	2,695	11,100																
TRAILER, HEAVY, EXPANDED MOBILITY			286	7,400			286	7,400		-2,000	286	5,400		-2,000	-116	-1,000	170	4,400
TRAILER TANK WATER 400G 1 1/2T 2W M149A1	650	4,000	966	5,900			966	5,900			966	5,900					966	5,900
HI MOB MULTI-PURP WHLD VEH (HMMWV)(HTV)	12,132	313,300	12,842	330,600			12,842	330,600			12,842	330,600					12,842	330,600
COMMERCIAL UTILITY AND CARGO VEHICLE																		
SMALL UNIT SUPPORT VEHICLE (SUSV)	125	13,800	241	26,200			241	26,200		-12,400	241	13,800		-12,400	-116	-12,400	125	13,800
TRUCK, ST, 6X6, ABT (HVY)	2,097	216,800																
TRUCK, 10T, 8X8, ABT (HVY)	651	116,100	1,523	234,300		-50,000	1,523	184,300	250	50,000	1,773	284,300	250	100,000			1,523	234,300
TRUCK, TRACTOR, LINE HAUL, M915A1																		
TRUCK, TRACTOR, YARD TYPE, M878 (C/S)	42	3,100																
MODIFICATION OF IN-SERVICE EQUIPMENT		1,500		3,800				3,800				3,800						3,800
SHOP EQUIPMENT, AUTO MAINT & REP	111	900	306	2,500			306	2,500			306	2,500					306	2,500
ITEMS LESS THAN $2.0M (TAC VEH)		1,700		1,900				1,900				1,900						1,900
NON-TACTICAL VEHICLES																		
PASSENGER CARRYING VEHICLES	2,464	30,000	480	13,800			480	13,800	-480	-13,800		0	-480	-13,800			480	13,800
GENERAL PURPOSE VEHICLES	3,765	39,900	2,246	34,900			2,246	34,900	-2246	-34,900		0	-2,246	-34,900			2,246	34,900
SPECIAL PURPOSE VEHICLES	802	13,000	639	9,700			639	9,700	-639	-9,700		0	-639	-9,700			639	9,700
SUPPORT EQUIPMENT AND FACILITIES																		
SPARES AND REPAIR PARTS		135,000		136,600				136,600				136,600						136,600
PRODUCTION BASE SUPPORT (TAC)																		
UNDISTRIBUTED REDUCTION		---		---				---				---				-58,400		-58,400
SUBTOTAL, TACTICAL AND SUPPORT VEHICLES		963,500		865,700		-50,000		815,700		-40,800		824,900		9,200		-78,500		787,200
COMMUNICATIONS AND ELECTRONICS EQUIPMENT																		
TELECOMM EQUIP - HEAD CMD COMM																		
JCSE EQUIPMENT (USREDCOM)		380		1,800				1,800		-600		1,200		-600		-600		1,200
CCMCS INITIATIVE				4,100				4,100				4,100						4,100
CLASSIFIED PROJECT 9AW		14,200		9,100				9,100				9,100						9,100
TELECOMM EQUIP - JOINT TACTICAL COMM PR																		
MOD RCRO TFC TERM (MRTT)		29,300		31,900				31,900		-31,900		0		-31,900		-31,900		0
LESS PRIOR YEAR (MRTT)		---		---				---		-47,600		-47,600		-47,600				---
DIG GROUP MULTIPLEXER (DGM)		20,400		10,800				10,800				10,800				-10,800		0
RPTR/TERM ASSBLGS		15,700		19,900				19,900				19,900						19,900
RADIO TERMINALS AN/TRC-170		29,200		32,400				32,400				32,400						32,400
MAINTENANCE SYSTEM AN/ARM-16A				3,300				3,300				3,300						3,300
UNIT LEVEL SWITCHES		10,500		12,200				12,200				12,200				-12,200		0
CBN SYS CBN EL AN/TYQ-16		15,900		23,600				23,600				23,600						23,600
DIG NSEC VTER TA-954	4,500	4,000	4,600	3,900			4,600	3,900			4,600	3,900					4,600	3,900
AMDVT-TAC TERM, CV-2591	159	4,000	159	3,900			159	3,900			159	3,900					159	3,900
LIGHTWEIGHT DIGITAL FACSIMILE			85	1,200			85	1,200	-85	-1,200		0	-85	-1,200	-85	-1,200		0
MOB SUBSCRIBER EQUIP		335,200		903,700				903,700		-50,000		853,700		-50,000				903,700
MOD OF IN-SVC EQ (TRI-TAC)		22,500		9,900				9,900				9,900						9,900
TELECOMM EQUIP-COMBAT SUPPORT COMM																		
COMM SYS (NTLD)		8,500																
SINCGARS	400	102,100	16,000	204,000		-150,000	16,000	54,000	-16,000	-204,000		0	-16,000	-54,000		-194,000		10,000
DIGITAL DATA GENERATOR BOX SG-1139																		
HAND CRANK GENERATOR, G-76			358	2,500			358	2,500			358	2,500					358	2,500
IHF RADIO MODS																		
IMP HF RADIO FAMILY		26,600		11,100				11,100				11,100						11,100
OPTICAL LONG HAUL TRAN SYS			620	9,300			620	9,300			620	9,300					620	9,300
PWR SUPPLY PP-6148/U	115	900	609	4,000			609	4,000			609	4,000					609	4,000
PULSE FORM RESTORER TD-204																		
RADIO SET AN/PRC-70	305	11,600																
SOF MOD RADIOS				4,500				4,500				4,500						4,500
ANTENNA GROUP OE-254	5,170	2,500	13,540	6,500			13,540	6,500			13,540	6,500					13,540	6,500
SMALL UNIT TRANS AN/PRC - 68	510	1,000																
SMALL UNIT TRANSCEIVER				3,700				3,700				3,700						3,700
STEER NULL ANT PROC, CP-1280		15,400																
TELETYPEWRITER TERMINAL AN/UGC-74	155	2,100																
VEHICULAR INTERCOM SYSTEM			100	10,200			100	10,200	-100	-10,200		0	-100	-10,200	-100	-10,200		0
MOD OF IN-SVC EQUIP (CSC)		18,856		26,400				26,400		-6,900		19,500		-6,900		-6,900		19,500
RDF COMMS(S.W. ASIA)		19,500		14,900				14,900				14,900						14,900
ITEMS LESS THAN $2.0M (CSC-C-E)		7,100		5,900				5,900				5,900						5,900
SPEC OPS COMM SUP ELMT		11,300		15,200				15,200				15,200						15,200
TELECOMM EQUIP - NMCS WIDE SUPPORT, ARM																		
SECURE CONFERENCING PROJECT				4,500				4,500		-4,000		500		-4,000				4,500
TELECOMM EQUIP - STARCOM MOD-DCS																		

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
AR TELECOM AUTO PR (ATCAP)		9,200		3,200				3,200				3,200						3,200
C-E FACILITIES/PROJECTS		18,800		4,700				4,700				4,700						4,700
SOUTHCOM C3 UPGRADE		13,800		16,000				16,000		-4,400		11,600		-4,400		-4,400		11,600
ELECTROMAG COMP PROG(EMCP)		600		500				500				500						500
LONG-HAUL COM (DCS)																		
AUTODIN (DCS)		4,800																
DEFENSE DATA NETWORK (DDN)		6,500																
SECURE VOICE IMPRV PROG (SVIP)																		
TRANSMISSION MEDIA (EUCOM)		16,200		11,100				11,100				11,100						11,100
TRANSMISSION MEDIA (PACOM)		30,800		15,800				15,800				15,800						15,800
WW TECH CON IMP PR(WWTCIP)		5,300		2,700				2,700				2,700						2,700
TELECOMM EQUIP - SATCOM-GRD ENVIRON																		
DIGITAL EQUIPMENT (DSCS)		39,900		29,300				29,300				29,300						29,300
INTERCONNECT FACILITY (DSCS)		7,900		2,200				2,200				2,200						2,200
JAM RESISTANT SECURE COM (JRSC)		19,600		9,300				9,300				9,300						9,300
MED SAT TERM AN/GSC		62,000																
SPRD SPEC MUL ACC (DSCS)		18,000																
DSCS OPERATIONS CONTROL SYS (DOCS)		31,200		80,300				80,300		-39,200		41,100		-39,200		-39,200		41,100
MOD IN-SVC EQUIP (DSCS)		8,500																
MPK SAT UHF TERM, AN/PSC-3	90	3,900	115	5,000			115	5,000			115	5,000					115	5,000
VEN SAT UHF TERM, AN/PSC-7	24	1,400	30	1,400			30	1,400			30	1,400					30	1,400
SINGLE CHANNEL OBJECT TACT TERM (SCOTT)																		
MOD IN-SVC EQUIP (TAC SAT)		53,300		7,000				7,000				7,000						7,000
TELECOMM EQUIP - EUCOM C3 SYSTEM																		
EUCOM C3 (WWS)		98,600		68,400				68,400				68,400						68,400
PACOM C3(WWS)				13,000				13,000				13,000		-2,000				11,000
EUCOM ALTERNATE SPT HQ (ASH)		7,700		3,800				3,800				3,800						3,800
USAREUR C2 PROJECT				7,700				7,700				7,700						7,700
TELECOMM EQUIP - COMSEC EQUIPMENT																		
AUTO KEY DC KGX-93/TSEC		4,300		4,100				4,100				4,100						4,100
SEC VO IMPRV PRG (COMSEC)		12,000		13,700				13,700				13,700						13,700
LOOP KEY GEN TSEC/KG-82	1,544	2,100																
DED LOOP ENCRYP DEV KG-84	7,867	31,800	4,155	18,700		3,500	4,155	22,200			4,155	18,700		-3,500		3,500	4,155	22,200
TRK ENCRP DEV TSEC/KG-93	218	2,200	208	2,100			208	2,100				2,100					208	2,100
TSEC/KG-94		7,800		12,300				12,300				12,300						12,300
TSEC/KG-95 KEY GENERATOR																		
INT LEV T SET TSEC/ST-34	14	800																
DIG SUB VOICE TSEC/KY-68	525	2,000																
TSEC/KY-99	138	5,400																
KEY GENERATOR, TSEC/KG-87	33	2,000	30	1,800			30	1,800			30	1,800					30	1,800
KGV-6/TSEC																		
COMSEC MODULE, TSEC/KGV-13	144	3,800	753	19,900			753	19,900		-3,000	753	16,900		-3,000		-1,500	753	18,400
FREQ MODULE, KGV-10/TSEC	15,867	13,990	18,200	9,100			18,200	9,100			18,200	9,100			-18,200	-9,100		0
SPEECH SECUR EQ TSEC/KY-57		25,000																
SPEECH SECUR EQ TSEC/KY-58																		
TSEC/KYV-5 (VACTOR) SECURE EQUIP	160	900	89	500			89	500			89	500					89	500
TEMPEST (COMSEC)		1,100		700				700				700						700
KOK-13/TSEC (KOC)			21	1,900			21	1,900			21	1,900					21	1,900
TSEC/KGV-8 (THORNTON) SECURE MODULE			17	600			17	600			17	600					17	600
BERDAN KGV-9																		
TSEC/KGV-11/SECURE MODULE		1,300		1,400				1,400				1,400						1,400
UNSTEAD CC (CI-11-1)		3,000																
UNSTEAD RT (CI-11-2)		4,800																
BATSON II, TSEC/CI-14		8,400																
ITEMS LESS THAN $2.0M (COMSEC)		8,200		11,700				11,700		-3,500		8,200		-3,500		-2,000		9,700
TELECOMM EQUIP - BASE COMM																		
BASE COMM (CONUS)		34,500		35,800				35,800				35,800						35,800
LOCAL AREA NETWORK (LAN)				1,700				1,700		-1,700		0		-1,700				1,700
BASE COMM (EUCOM)		6,800		7,900				7,900				7,900						7,900
BASE COMM (PACOM)		4,000		1,600				1,600				1,600						1,600
DA COMD + CON SYS (DACCS)		10,300																
ARMY OPNS CTR		5,000		4,300				4,300				4,300						4,300
PENTAGON TELECOM CTR (PTC)		9,800		4,100				4,100				4,100						4,100
TRDE FOR TELECOMM																		
TRDE MODERNIZATION		27,000		16,900				16,900				16,900						16,900
OTHER ELECT SYS/EQUIP - INTELLIGENCE SU																		
4TH PSYOP GROUP				12,500				12,500				12,500						12,500
ALL-SOURCE ANALYSIS SYSTEM				[ ]				[ ]		-20,000		-20,000		-20,000		-15,000		-15,000
COMMANDERS TACTICAL TERMINAL				[ ]				[ ]				[ ]						[ ]
TRAILBLAZER	1	19,200		[ ]				[ ]		-47,300		-47,300		-47,300		-25,300		-25,300
TAC ELEC SURV SYS		15,800		4,000				4,000				4,000						4,000
MANPACK RADIO OF SYSTEM	12	7,000		[ ]				[ ]				[ ]						[ ]
TEAM PACK	4	6,000																
MOD IN SER EQ (INT SPT) TIARA		20,200		37,300				37,300				37,300						37,300
ITEMS LESS THAN $2.0M (INT SPT-C-E)		5,600		500				500				500						500
FT DEVENS TRAINING SUPPORT		400		400				400				400						400
TROJAN		9,200		[ ]				[ ]				[ ]						[ ]
OTHER ELECT SYS/EQUIP - GEN DEF INTEL P																		
INTEL DATA HANDLING SYSTEM		[ ]		[ ]		-12,200		-12,200		-16,900		-16,900		-4,700		-15,697		-15,697
TECH RECON AND SURV SYSTEM		[ ]		[ ]				[ ]		-2,000		-2,000		-2,000		-1,000		-1,000
ITEMS LESS THAN $2.0M (FCI/S&IA-C-E)		[ ]		[ ]				[ ]				[ ]						[ ]
ITEMS LESS THAN $2.0M (GDIP-C-E)		[ ]		[ ]				[ ]		-2,800		-2,800		-2,800		-650		-650
OTHER ELEC SYS/EQUIP - AUTO DATA PROCE																		
VERT INSTL AUTO BASELINE (VIABLE-BASOPS)		18,700		41,800				41,800				41,800						41,800
VIABLE INSTALLATIONS IN EUROPE & WESTCOM																		
BATTERY COMPUTER SYSTEM	89	17,700	66	11,000			66	11,000			66	11,000					66	11,000
AMC FIVE YEAR ADP PROGRAM				4,000				4,000		-2,000		2,000		-2,000		-2,000		2,000
ADV FIELD ARTILLERY TACT DATA SYS		25,600																
ARMY DATA DISTRIBUTION SYSTEM-ADDS		21,600		75,500				75,500		-42,800		32,700		-42,800				75,500
TRADOC AUTOMATION				3,700				3,700				3,700						3,700
USAREUR TACTICAL AUTOMATION		2,200		2,000				2,000				2,000						2,000
LIFE CYCLE SOFTWARE SUP. (LCSS)		3,500		9,100				9,100				9,100						9,100

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
ADPE FOR NGM TAC MGT INFO SYS		42,100		40,400				40,400				40,400						40,400
SUPERCOMPUTERS				22,900				22,900		-22,900		0		-22,900				22,900
ARMY CORPORATE DATABASE				900				900		-900		0		-900				900
SOLDIER DATA TAG																		
PROJECT BOX PHASE II				12,900				12,900				12,900						12,900
TRANS OF PERS PROP				2,900				2,900		-2,900		0		-2,900				2,900
STD ARMY AUTO CONTRACT SY				6,800				6,800		-2,300		4,500		-2,300				6,800
DIGITAL MESSAGE DEVICE																		
FIRE SUPPORT TEAM DIGITAL MESSAGE	427	17,200	381	17,000			381	17,000			381	17,000					381	17,000
FORWARD ENTRY DEVICE				12,000				12,000				12,000						12,000
NON-CENTRALLY MANAGED ITEMS		105,300																
MANUEVER CONTROL SYS		59,900		56,900				56,900				56,900						56,900
MOD IN-SVC CND/CONTROL (C2)		2,900																
CORPS/THEATER ADP SVC CTR (CTASC)				9,700				9,700				9,700						9,700
TACT ARMY CMBT COMPT SY(TACCS)	2,185	44,600	1,960	42,900			1,960	42,900			1,960	42,900					1,960	42,900
DECENTLZD AUTO SER SUP SY MOD 'B'																		
COMPUTER BALLISTICS: MORTAR XM-23	880	6,000																
CSS LOG APPLC AUTO MARK/READ SYMBS(LOG MARS		10,600		11,400				11,400				11,400						11,400
WARCCS INFORMATION SYSTEM (WIS)		7,100		36,200				36,200				36,200						36,200
UNIT LEVEL COMPUTER (ULC).		5,500																
AUDIO VISUAL																		
AFRTS (AUDIO VISUAL)		7,800		8,000				8,000				8,000						8,000
DIG STRG & RTRVL ENERG DATA SYS (DSREDS)		24,300																
ITEMS LESS THAN $2,000,000 (A/V-C-E)		11,300		9,100				9,100		-9,100		0		-9,100		-2,300		6,800
OTHER ELECT SYS/EQUIP - ELECTRONIC WARF																		
COUNTERMEASURES AN/TLQ-17A	9	5,700																
JAMMER, HAND EMPLACED, EXPENDABLE																		
TACJAM, AN/MLQ-34	5	19,000	11	33,000			11	33,000			11	33,000					11	33,000
TACTICAL DECEPTION (TAC-D)		5,200																
MOD IN-SVC EQUIP (EW)		2,100		8,300				8,300				8,300						8,300
ITEMS LESS THAN $2.0M (EW-C-E)		2,900		800				800				800						800
OTHER ELECT SYS/EQUIP - TACTICAL ELECTR																		
BATTERY CHARGER PP-7286/U	540	3,500	535	3,000			535	3,000			535	3,000					535	3,000
POWER SUPPLY, PP-6224	1,434	1,900	2,400	3,200			2,400	3,200			2,400	3,200					2,400	3,200
COMPUTER/INDICATOR, CP-696/PD	842	4,000	1,102	3,700			1,102	3,700			1,102	3,700					1,102	3,700
METEOLOGICAL DATA SYS (FAMAS)	21	33,000	20	32,800			20	32,800	-20	-32,800		0	-20	-32,800	-20	-32,800		0
GROUND/VEHICLE LASER LOC DESIGNATOR (G/V	210	45,000																
HAND HELD LASER RANGEFINDER AN/GVS-5			1,085	6,800			1,085	6,800			1,085	6,800					1,085	6,800
INTRUSION DETECTION DEVICES		16,600		20,800				20,800				20,800						20,800
NAVSTAR GLOBAL POSITIONING SYSTEM	127	9,700	377	5,200			377	5,200			377	5,200					377	5,200
POSITION/AZIMUTH DETERMINING SYS (PADS)	50	19,900	107	35,700			107	35,700		-10,700	107	25,000		-10,700		-5,700	107	30,000
TAM-6 NIGHT SIGHT MAINTENANCE FACILITY	17	4,200																
AN/TAM-3 TEST SET, NIGHT VISION SIGHT	83	2,300																
NIGHT OBS DEVICE LONG RANGE AN/TAS-6																		
NIGHT VISION GOGGLES		64,900		63,200				63,200				63,200						63,200
NIGHT VISION SIGHT INDIV WPN AN/PVS-4	3,611	9,900	3,947	10,000			3,947	10,000			3,947	10,000					3,947	10,000
POS LOCATION REPORTING SYS (PLRS) (NYP)		45,100		4,000				4,000				4,000						4,000
RADIAC SET AN/VDR-2	629	2,000	3,459	4,000			3,459	4,000			3,459	4,000					3,459	4,000
REMBASS-TIARA		22,000																
RPV TA/DESIGN AERIAL RECON SYS (TADARS)		21,900		117,700		-67,700		50,000		-117,700		0		-50,000		-67,700		50,000
JOINT STARS (ARMY)		S		63,400				63,400		-63,400		0		-63,400		-53,400		10,000
SHOP SHELTER NTD ASH-189			37	2,200			37	2,200			37	2,200					37	2,200
SHOP SHELTER NTD(STOR) AN/ASH-190																		
TEST SET, RADAR, AN/TPM-25																		
SHOP SHELTER MDT-REP AN/ASH-146			63	2,100			63	2,100			63	2,100					63	2,100
MODIFICATION OF IN-SERVICE EQ (TAC EL)		3,500		38,500				38,500				38,500						38,500
ITEMS LESS THAN $2,000,000 (TACT ELEC-C-E)		9,500		8,400				8,400				8,400						8,400
TMDE FOR TACTICAL ELECTRONICS																		
TEST STA,ELECTRONIC EQUIP,AN/USM-410	3	8,900																
BASE SHOP TEST FACILITY																		
CONTACT TEST SET																		
TMDE FOR STE/ICE	937	5,600	1,386	6,500			1,386	6,500			1,386	6,500					1,386	6,500
CORE ELECTRONIC AUTO TEST (STE-X)	115	8,500	39	3,000			39	3,000			39	3,000					39	3,000
OTHER ELECT SYS/EQUIP - SUP EQUIP AND F																		
SPARES AND REPAIR PARTS		189,200		183,200				183,200				183,200		-10,000				173,200
SPARES AND REPAIR PARTS		14,600		11,400				11,400				11,400						11,400
SPARES AND REPAIR PARTS		205,000		260,300				260,300		-68,500		191,800		-68,500		-50,000		210,300
JOINT STARS SPARES				(6,900)				(6,900)		(-6,900)		(0)		(-6,900)		(-6,900)		(0)
TRAIL BLAZER SPARES				(1,300)				(1,300)		(-1,300)		(0)		(-1,300)		(-1,300)		(0)
WAR RESERVE SPARES		18,000																
SPECIAL PROGRAMS		95,000		115,800				115,800				115,800						115,800
QUICK RETURN ON INVESTMENT (QRIP) PGM		500																
PRODUCTIVITY INVESTMENT FUNDING		40,700		31,100				31,100				31,100						31,100
PROD ENHANCING CAP INVESTMENT PROG (PECIP)		1,000		21,800				21,800		-21,800		0		-21,800				21,800
PRODUCTION BASE SUPPORT (C-E)		5,000		8,100				8,100				8,100						8,100
CLASSIFIED PROGRAMS		36,800		251,600				251,600				251,600						251,600
SUBTOTAL, COMMUNICATIONS & ELECTRONICS EQUIPMENT		2,936,856		3,698,000		-226,400		3,471,600		-895,000		2,803,000		-668,600		-614,047		3,082,953
OTHER SUPPORT EQUIPMENT																		
CHEMICAL DEFENSIVE EQUIPMENT																		
SIM DET CHEM AGENT AUTO ALARM XM81	692	4,700																
DECONTAMINATE APP PWR DR LT WT XM17	548	6,400	343	3,900			343	3,900			343	3,900					343	3,900
MASK, PROTECTIVE, NBC	110,300	30,300	66,884	19,900			66,884	19,900			66,884	19,900					66,884	19,900
CHEMICAL AGENT MONITOR	3,729	19,400																
SIMP COLL PROT EQUIP XM20	344	3,900	445	4,100			445	4,100			445	4,100					445	4,100
MODULAR/COLL PROT EQUIP FOR VV AND S	100	3,100																
AUTO CHEMICAL AGENT ALARM (ACADA), XM22			346	9,000			346	9,000		-2,000	346	7,000		-2,000			346	9,000
GEN SET, SMOKE, MECH: PUL JET,XM157	145	4,200	247	7,000			247	7,000		-2,000	247	5,000		-2,000			247	7,000
MODS IN SVC (CHEM)																		

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
BRIDGING EQUIPMENT																		
RIBBON BRIDGE ERECTION BOAT	185	25,400	144	19,200			144	19,200			144	19,200					144	19,200
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	188	7,100	194	7,200			194	7,200			194	7,200					194	7,200
BRIDGE, FLOAT-RIBBON, RAMP	87	3,800	78	3,200			78	3,200			78	3,200					78	3,200
BRIDGE, FLOAT-RIBBON, TRANSPORTER	163	18,000	165	18,200			165	18,200			165	18,200					165	18,200
ITEMS LESS THAN $2.0M(BRIDGING)		900		1,300				1,300				1,300						1,300
ENGINEER (NON-CONSTRUCTION) EQUIPMENT																		
GEMSS ADV MINE DISPNSR XM138 (FLIPPER)	237	2,000	444	3,900			444	3,900		-2,000	444	1,900		-2,000		-1,000	444	2,900
DISPENSER MINE XM139			6	1,700			6	1,700			6	1,700					6	1,700
MIXER/PUMPER UNIT (MPU) TEXS																		
MARKING SYS, CLEAR LANE	74	3,000	88	3,200			88	3,200			88	3,200					88	3,200
E DET SET, MINE, MET/NON-MET, AN/PRS-8	6,010	8,100																
DETECTING SET, MINE, AN/PSS-12			4,665	4,900			4,665	4,900			4,665	4,900					4,665	4,900
MINE PLOW			135	5,500			135	5,500			135	5,500					135	5,500
MINE CLEARING ROLLER	50	3,500	55	3,700			55	3,700			55	3,700					55	3,700
REMOTE CONTROL UNIT(MEPMS)	581	4,600	1,560	9,800			1,560	9,800		-5,200	1,560	4,600		-5,200			1,560	9,800
SURVEY SET DISTANCE MEASURING INFRARED			278	2,800			278	2,800			278	2,800					278	2,800
M-9 ARMORED COMBAT EARTHMOVER (ACE) (HYP	22	42,400	21	30,400			21	30,400			21	30,400					21	30,400
ITEMS LESS THAN $2.0M(ENG NON-CONST)		3,300		900				900				900						900
COMBAT SERVICE SUPPORT EQUIPMENT																		
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES		14,800		32,200				32,200		-12,200		20,000		-12,200		-7,200		25,000
FIELD KITCHEN,MOBILE, TRL MTD.	337	5,300	836	13,100			836	13,100			836	13,100					836	13,100
MODULAR FIELD KITCHEN			465	11,600			465	11,600			465	11,600					465	11,600
DIVING EQUIPMENT		400		1,800				1,800				1,800						1,800
FIRETRUCKS		9,000		16,000				16,000		-2,900		13,100		-2,900				16,000
HEATER DUCT TYPE, 250,000/400,000 BTU																		
LAUNDRY UNIT/TRL MTD			110	7,300			110	7,300			110	7,300					110	7,300
TAG PRINTING AND BINDING EQUIPMENT		5,400		4,300				4,300				4,300						4,300
ITEMS LESS THAN $2.0M (CSS-EQ)		8,700		11,300				11,300		-1,000		10,300		-1,000				11,300
MODIFICATIONS OF IN SERVICE EQUIP (CSE)		3,800		8,900				8,900				8,900						8,900
PETROLEUM EQUIPMENT																		
TANK ASSEMBLY FAB COLL POL 50000 G	335	5,100	282	4,600			282	4,600			282	4,600					282	4,600
FORWARD AREA REFUELING EQUIPMENT (FARE)			300	2,800			300	2,800			300	2,800					300	2,800
TANK ASSEMBLY FAB COLLAPSIBLE POL 100000	492	5,800	600	6,600			600	6,600			600	6,600					600	6,600
TANK ASST, FAB COLLAPS, 20,000 GAL POL			652	6,300			652	6,300			652	6,300					652	6,300
TANK/PUMP UNIT LIQ DISP F/TRK MOUNTING			109	1,000			109	1,000			109	1,000					109	1,000
LABORATORY,PETROLEUM,SEMI-TRLR MTD			3	3,200			3	3,200			3	3,200					3	3,200
PUMP ASST LIQ GAS WHL 4 IN OUT 350 GPM	361	5,800	744	12,200			744	12,200			744	12,200					744	12,200
PUMP CENTRIFUGAL 4X4 DED																		
PIPELINE FOR TUSA																		
SWA PETROLEUM DISTRIBUTION SYSTEM		38,900		39,300				39,300				39,300						39,300
ITEMS LESS THAN $2.0M (POL)		3,500		6,700				6,700				6,700						6,700
WATER EQUIPMENT																		
WTR PUR UNIT REV OS 3000 GPH (ROWPU)	24	14,000	80	33,900		-20,000	80	13,900		-20,600	80	13,300		-600		-20,000	80	13,900
WATER PUR UNIT, REV OSMOSIS, 600GPH (ROW	92	24,000	111	29,500		-20,000	111	9,500		-5,500	111	24,000		14,500		-5,500	111	24,000
WATER STOR AND DIST SYS 800,000 GAL																		
WATER STOR DIST SYS 1,000,000 GAL																		
TACTICAL WATER DISTR SYS	2	8,300																
FWD AREA WTR POINT SUP SYSTER																		
TANK,FABRIC,COLL,WTR,3000 GAL (SWFT)																		
TANK,FAB COLLAPS,3000 GAL,WATER(ONION)			1,200	2,900			1,200	2,900			1,200	2,900					1,200	2,900
TANK,FABRIC,COLL,WTR,SEMI-TRLR MTD SN(SH	140	1,600																
SMALL MOBILE WATER CHILLER (SMAC)	274	2,200	167	1,500			167	1,500	-167	-1,500		0	-167	-1,500			167	1,500
DRILL MACH,WELL 600FT																		
PUMP CENTRIFUGAL, 650PM	2,183	3,400	1,230	2,100			1,230	2,100			1,230	2,100					1,230	2,100
ITEMS LESS THAN $2.0M (WATER EQ)		1,900		2,500				2,500				2,500						2,500
MEDICAL EQUIPMENT																		
DEPLOYABLE MEDICAL SYSTEM (DMS)		96,700		88,800				88,800		-53,300		35,500		-53,300		-53,300		35,500
CBT SUP EQUIP MEDICAL		98,700		48,100				48,100		-27,800		20,300		-27,800		-27,800		20,300
MEDICAL SUPPORT EQUIPMENT		83,900		70,800				70,800				70,800						70,800
MAINTENANCE EQUIPMENT																		
SHOP EQ CONTACT MAINTENACE TRK MTD (HYP)	1,330	27,000																
ADVANCE PROCUREMENT (CY)																		
SHOP EQUIPMENT, ORS REPAIR, TRK MTD																		
WELDING SHOP, TRAILER MTD	236	9,800	236	9,700			236	9,700			236	9,700					236	9,700
SHOP EQ ELECTRICAL RPR SEMI-TRL MTD	107	13,500	114	14,500			114	14,500			114	14,500					114	14,500
STEAM CLEANER			930	5,000			930	5,000			930	5,000					930	5,000
E WELDING MACHINE ELEC ARC 250 AMP (CC-CP)			510	5,700			510	5,700			510	5,700					510	5,700
BUILDING, PRE-FAB, RELOCATABLE				1,200				1,200				1,200						1,200
CALIBRATION SET SUPPORT		7,700		12,700				12,700		-1,000		11,700		-1,000		-500		12,200
ITEMS LESS THAN $2.0M (MAINT EQ)		9,500		10,300				10,300				10,300						10,300
CONSTRUCTION EQUIPMENT																		
GRADER, ROAD MOTORIZED, HVY, 6X4 (CCE)																		
LOADER, SCOOP TYPE, DD 4WHL, 2-1/2 CU YD																		
TRACTOR FULL TRACKED LOW SPEED DD MED	129	26,400	357	73,600		-50,000	357	23,600			357	73,600		50,000		-28,600	357	45,000
SMALL EMPLACEMENT EXCAVATOR (SEE)	356	25,300	314	25,000			314	25,000		-2,100	314	22,900		-2,100		-2,100	314	22,900
CRANE, WHL MTD, HYDRAULIC 7 1/2 TON																		
COMPRESSOR, AIR ROTARY, 250 CFM, 100 PSI																		
MODS OF IN SERVICE EQUIP (CONST EQUIP)				100				100				100						100
ITEMS LESS THAN $2.0M (CONST EQUIP)		6,000		700				700				700						700
RAIL FLOAT CONTAINERIZATION EQUIPMENT																		
LANDING, CRAFT, UTILITY	5	22,900	6	29,300			6	29,300		-4,800	6	24,500		-4,800			6	29,300
TUG INLAND AND COASTAL WATERWAYS			2	30,100			2	30,100		-10,000	2	20,100		-10,000			2	30,100
LOGISTIC SUPPORT VESSEL (LSV)			1	19,900			1	19,900	-1	-19,900		0	-1	-19,900	-1	-19,900		0
RO/RO DISCHARGE PLATFORM	2	11,200																
CAUSEWAY SYSTEMS		12,900	5	28,200			5	28,200			5	28,200					5	28,200
ARAPAHO		5,000																
RAILWAY CAR, TANK, POL, 200006			209	9,800			209	9,800		-4,800	209	5,000		-4,800			209	9,800
RAILWAY CAR, FLAT, 140 TON																		
SHIPPING CONTAINER																		
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)		1,000		5,700				5,700				5,700						5,700

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
ITEMS LESS THAN $2.0M (FLOAT/RAIL)		4,200		1,000				1,000				1,000						1,000
GENERATORS																		
GEN AND ASSOCIATED EQUIP	4,919	90,000	5,912	115,900		-10,000	5,912	105,900		-10,000	5,912	105,900				-10,000	5,912	105,900
MATERIEL HANDLING EQUIPMENT																		
TRUCK, FORK LIFT, CBO, PT, 4000 LB.			465	13,300			465	13,300		-3,300	465	10,000		-3,300		-800	465	12,500
TRUCK, FORK LIFT, CBO, PT, 6000 LB.	354	13,500	304	12,300			304	12,300			304	12,300					304	12,300
TRUCK, FORK LIFT, DE, SRT, 2000 LB	123	2,900																
TRUCK, FORK LIFT, DE, PT, RT, 10000 LB																		
TRUCK, FORK LIFT, DE, PT, RT, 6000 LB			206	21,000			206	21,000			206	21,000					206	21,000
TRUCK, FORK LIFT, ELEC, SRT, 6000 LB	116	4,600																
TRK FORK LFT ELC SKI FRT/SIDE LDR	23	2,000																
TRUCK, FORK LIFT, ELEC, SRT, 4000 LB	670	12,900	57	1,700			57	1,700				1,700					57	1,700
65 TON CRANE	11	6,200	91	42,600		-12,600	91	30,000		-36,700		5,900		-24,100		-12,600	91	30,000
ITEMS LESS THAN $2.0M (MHE)		5,000		2,400				2,400				2,400						2,400
OTHER SUPPORT EQUIPMENT																		
SPARES AND REPAIR PARTS		37,700		54,400				54,400		-18,700		35,700		-18,700				54,400
BASE LEVEL COM'L EQUIPMENT																		
AREA ORIENTED DEPOT UPGRADE		83,200		60,500				60,500		-60,500		0		-60,500		-60,500		0
PROD ENHANCING CAPITAL INVEST PROG																		
QUICK RETURN ON INVESTMENT PROGRAM																		
PROJECT RESHAPE (RR BARCON)		6,000																
PRODUCTION BASE SUPPORT (BTH)		7,900		34,400				34,400				34,400						34,400
OSD PRODUCTIVITY INVESTMENT FUNDING				4,900				4,900				4,900						4,900
SPECIAL EQUIPMENT FOR USER TESTING		11,200		13,300				13,300				13,300						13,300
ITEMS LESS THAN $2.0M (OTH SPT EQ)		600		1,000				1,000				1,000						1,000
HOST NATION SUPPORT - EUROPE		41,000		41,900				41,900				41,900						41,900
NATIONAL TRAINING CTR SUP		13,300		10,800				10,800				10,800						10,800
SHA STAGING BASES		6,400																
TRAINING DEVICES, NONSYSTEM		177,800		186,100				186,100		-5,000		181,100		-5,000				186,100
SPECIAL PROGRAMS																		
DCE (MCNI)				61,600				61,600				61,600						61,600
PECIP (MCNI)				6,500				6,500				6,500						6,500
QRIP (MCNI)				9,100				9,100		-9,100		0		-9,100				9,100
SUBTOTAL, OTHER SUPPORT EQUIPMENT		1,339,900		1,605,300		-112,600		1,492,700		-321,900		1,283,400		-209,300		-249,800		1,355,500
UNDISTRIBUTED REDUCTION		—		—		-220,700		-220,700				—		220,700				—
PRIOR YEAR INFLATION SAVINGS (FY 85)		—		—		-8,900		-8,900				—		8,900				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		—		—		-70,600		-70,600				—		70,600				—
INFLATION REESTIMATE (FY 87)		—		—		-113,900		-113,900				—		113,900		-113,900		-113,900
OBLIGATION LIMITATION (FY 85 AND 86)		—		—				—		(-139,200)		(-139,200)		(-139,200)		(-139,200)		(-139,200)
TOTAL, ARMY OTHER PROCUREMENT		5,240,256		6,169,000		-803,100		5,365,900		-1,257,700		4,911,300		-454,600		-1,056,247		5,112,753

OTHER PROCUREMENT, ARMY

Tactical and support vehicles

The budget request contained $865.7 million for procurement of tactical and support vehicles.

The House amendment would authorize $824.9 million for tactical and support vehicles. The Senate bill would authorize $815.7 million for tactical and support vehicles.

The conferees agreed to authorize $787.2 million for tactical and support vehicles. Within the authorization, the conferees agreed to an undistributed reduction of $58.4 million. In applying this reduction, the conferees encourage the Department of the Army initially to consider categories such as administrative use vehicles or passenger cars and other noncritical items.

Motorcycles

The budget request contained $7.1 million to procure 2,732 motorcycles. The House amendment would authorize the requested amount. The House amendment included a provisions (sec. 122(c)) that would prohibit obligation of funds for procurement of motorcycles until the Secretary of the Army certifies to the Congress that the acquisition strategy includes consideration of life-cycle costs, safety, maintenance, and durability.

The Senate bill would authorize the requested amount with no restrictions on the obligation of funds.

The Senate recedes.

10-ton trucks

The budget request contained $234.3 million for procurement of 1,523 Heavy Expanded Mobility Tactical Truck (HEMTT) trucks.

The House amendment would authorize $284.3 million for procurement of 1,773 HEMTT trucks. The House amendment included a provision (sec. 122(e)) that would provide the authority for the Secretary of the Army to purchase and validate the technical data package for the HEMTT truck program. Section 122(f) would provide the authority for the Secretary to exercise remaining fiscal year 1986 options to purchase 412 HEMTT trucks.

The Senate bill would authorize $234.3 million for procurement of 1523 10-ton trucks.

The conferees agreed to authorize $234.3 million to procure 1,523 10-ton trucks.

Under the current multiyear contract for the 10-ton truck (HEMTT), the production rate is six vehicles per day. The Army's budget request for fiscal year 1987 also anticipates a production rate of 6 vehicles per day. The conferees expect that this production rate will be sustained in fiscal year 1987 in order to avoid unnecessary cost increases, and the Secretary of the Army shall take whatever actions are necessary to maintain this production rate.

The conferees direct the Secretary of the Army to conduct a life-cycle cost study of future options for procurement of heavy tactical vehicles. This study should include an analysis of modifications to the existing 10 ton truck that incorporate Palletized Loading Systems. This analysis should also include an assessment of the savings available through procurement of non-development items of equipment and the cost of introducing new equipment items in the logistics support structure.

The conferees encourage the Secretary of the Army to acquire the technical data package for the HEMTT unless the Secretary determines it is not cost-effective. The House recedes on section 122(e) and 122(f).

Communications and electronic equipment

The budget request contained $3,698.0 million for communications and electronic equipment.

The House amendment would authorize $2,803.0 million for communications and electronic equipment. The Senate bill would authorize $3,471.6 million for communications and electronic equipment.

The conferees agreed to authorize $3,084.0 million for communications and electronic equipment.

Mobile subscriber equipment

The budget request contained $903.7 million for procurement of mobile subscriber equipment (MSE). The House amendment would authorize $853.7 million for procurement of MSE. The Senate bill would authorize $903.7 million for procurement of MSE.

The conferees agreed to authorize $903.7 million for procurement of MSE. The conferees agreed to a provision (sec. 122(e) that would place a cap on the total acquisition cost for the MSE program at $4.3 billion. This cap corresponds to the Army's current program that equips 26 Division Signal Battalion sets, 20 Corps Signal Battalion sets, and 2 training sets. The conferees direct that, if the Secretary of the Army determines that additional equipment is required due to changes in force structure, those added equipment requirements shall be identified in the Selection Acquisition Reports (SAR), and are not subject to the cost cap.

The House recedes with an amendment.

Single channel ground and airborne radio system (SINCGARS)

The administration requested $204.0 million for the procurement of 16,000 Single Channel Ground and Airborne Radio Systems (SINCGARS).

The House amendment contains no authorization for SINCGARS.

The Senate bill would authorize $54.0 million for the procurement of 16,000 SINCGARS. As a result of SINCGARS program delays, the fixed price production option (for procurement of 16,000 units in Option III) may lapse and require renegotiation. The report accompanying the Senate bill (S. Rept. 99-331) directs that the Option III contract for procurement of 16,000 units not cost the government any more than would have been paid under the lapsed fixed agreement. The report directs the Secretary of the Army to provide written notification to the Armed Services Committees of the Senate and the House of Representatives when the renegotiations are concluded. The report also strongly encourages the Army to take all necessary steps to accelerate the selection and qualification of a second source.

The conferees agreed to authorize $10 million for the procurement of SINCGARS radios.

The House recedes.

Trailblazer

The conferees agreed to authorize funds for the procurement of a trailblazer training simulator for the school at Fort Devens.

Supercomputers

The budget request contained $22.9 million for procurement of supercomputers for the Army.

The House amendment contained no authorization for supercomputers. The Senate bill would authorize $22.9 million for procurement of supercomputers.

The conferees agreed to authorize $22.9 million for procurement of supercomputers.

The conferees direct that none of the funds authorized for procurement of supercomputers be obligated until the Secretary of the Army submits a master plan to the Armed Services Committees of the Senate and the House of Representatives concerning the acquisition and deployment of supercomputers over the next five years.

The House recedes.

Aquila remotely piloted vehicle

The budget request contained $117.7 million for the remotely piloted vehicle (RPV) system consisting of unmanned air vehicles, ground stations, launcher and recovery subsystems, and maintenance shelters.

The House amendment contains no authorization for the Aquila program.

The Senate bill would authorize $50 million for procurement of the Aquila RPV. The Senate bill contained a provision (sec. 101(b)) that restricts obligation of funds until (1) the Director of Operational Test and Evaluation completes an assessment of the system; and (2) the Secretary of the Army certifies that the Aquila meets or exceeds all performance criteria and the Army has negotiated a procurement contract that limits the government's liability on the overall program.

The conferees agreed to authorize $50 million for procurement of the Aquila system. Further, the conferees agreed to incorporate the Senate provisions restricting the obligation of funds.

The House recedes.

GENERAL ARMY MATTERS

Acquisition plans for major army systems

The report accompanying the Senate bill (S. Rept. 99-331) directs the Secretary of the Army to conduct a comprehensive evaluation of the Army's future acquisition plans for major combat systems.

The report accompanying the House amendment (H. Rept. 99-718) directs the Secretary of the Army to conduct an analysis on future requirements for Army tank production.

The conferees believe that the Secretary of the Army should undertake a comprehensive review of its acquisition plans for major combat weapons.

This major review is directed because the conferees are concerned that:

(1) production of several primary combat systems are scheduled to end several years before the initiation of procurement for follow-on systems;

(2) presently approved production plans for major combat systems do not allow the Army to fully modernize its force structure;

(3) future bugetary constraints will limit major development efforts over the next several years.

Therefore, the conferees direct the Secretary of the Army to conduct a major review and provide a master plan to the Committees on Armed Services of the Senate and the House of Representatives by March 15, 1987. This report should address:

(a) requirements for retaining an active production base for combat systems,

(b) a reevaluation of the inventory objective for existing systems,

(c) feasible improvements in existing systems that will improve their combat capabilities, and

(d) a transition plan that ties together the current system, block improvements to current systems, and postulated future systems which are still in early R&D phases but which represent long-term Army plans for future combat.

The conferees expect that this master plan will represent the Army's roadmap for major acquisitions in light of realistic funding constraints. The conferees expect, however, that the plan will indicate the extent to which the master plan satisfies total Army requirements for force modernization.

DOD family of remotely piloted vehicles

The report accompanying the House amendment (H. Rept. 99-718) directed the Department of Defense of provide a master plan for Remotely Piloted Vehicles (RPVs) in conjunction with the submission of the fiscal year 1988 budget. At a minimum, this plan should incorporate: (1) harmonization of service requirements; (2) utilization of commonality to the maximum extent possible; (3) trade-offs between manned and unmanned vehicles in order to provide for future cost savings.

The Senate bill contained no similar direction.

The conferees agreed to require the master plan for RPVs.

The Senate recedes.

AIRCRAFT PROCUREMENT, NAVY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
COMBAT AIRCRAFT																		
A-6E/F (ATTACK) INTRUDER (NYP)	11	274,849	11	278,893			11	278,893			11	278,893				-20,000	11	258,893
ADVANCE PROCUREMENT (CY)		20,056		80,032				80,032				80,032						80,032
EA-6B (ELECTRONIC WARFARE) PROWLER		417,608	12	417,686			12	417,686			12	417,686					12	417,686
ADVANCE PROCUREMENT (CY)		23,798		22,008				22,008				22,008						22,008
AV-8B (V/STOL) HARRIER	46	768,380	42	623,284			42	623,284			42	623,284					42	623,284
ADVANCE PROCUREMENT (CY)		83,073		77,002				77,002				77,002						77,002
F-14A/D (FIGHTER) TOMCAT	18	637,753	15	541,063			15	541,063	-5	-180,400	10	360,663	-5	-180,400		-20,663	15	520,400
ADVANCE PROCUREMENT (CY)		119,185		127,724				127,724				127,724						127,724
F/A-18 (FIGHTER) HORNET (NYP)	84	2,176,279	120	2,896,374	-24	-430,000	96	2,466,374	-36	-755,800	84	2,140,574	-12	-325,800	-36	-646,374	84	2,250,000
ADVANCE PROCUREMENT (CY)		281,645		405,900		-100,000		305,900		-207,600		198,300		-107,600		-235,900		170,000
CH/MH-53E (HELO) SUPER STALLION (NYP)	14	225,535	14	189,034			14	189,034			14	189,034					14	189,034
ADVANCE PROCUREMENT (CY)		33,300		30,900				30,900				30,900						30,900
V-22 OSPREY																		
AH-1T (HELICOPTER) SEA COBRA	22	188,811		36,212				36,212				36,212				-15,000		21,212
ADVANCE PROCUREMENT (CY)		0		0				0				0				15,000		15,000
SH-60B (ASW HELO) SEAHAWK	18	233,288	17	199,651			17	199,651	-6	-70,400	11	129,251	-6	-70,400			17	199,651
ADVANCE PROCUREMENT (CY)		52,683		21,121				21,121				21,121						21,121
SH-60F (CV ASW HELO)			7	138,770			7	138,770		-21,000	7	117,770		-21,000		-21,000	7	117,770
ADVANCE PROCUREMENT (CY)		30,000		29,361				29,361				29,361						29,361
P-3C (PATROL) ORION	9	322,871	9	312,388			9	312,388	-9	-312,388		0	-9	-312,388			9	312,388
ADVANCE PROCUREMENT (CY)		89,288		93,198				93,198				93,198						93,198
E-2C (EARLY WARNING) HAWKEYE	6	367,098	6	286,483	4	138,000	10	424,483			6	286,483	-4	-138,000		-5,500	6	280,983
ADVANCE PROCUREMENT (CY)		30,036		24,120				24,120				24,120						24,120
SH-2F (ASW HELO) SEASPRITE	6	57,628	6	52,798	-6	-52,798		0			6	52,798	6	52,798			6	52,798
ADVANCE PROCUREMENT (CY)		6,432																
SUBTOTAL, COMBAT AIRCRAFT		6,299,596		6,884,002		-444,798		6,439,204		-1,547,588		5,336,414		-1,102,790		-949,437		5,934,565
AIRLIFT AIRCRAFT																		
C-9 SKYTRAIN II																		
UC-12B	12	25,604																
C-20	2	38,385																
C-2 (NYP)	8	134,640	9	99,718			9	99,718			9	99,718					9	99,718
ADVANCE PROCUREMENT (CY)		35,200																
SUBTOTAL, AIRLIFT AIRCRAFT		233,829		99,718		0		99,718		0		99,718		0		0		99,718
TRAINER AIRCRAFT																		
T-34C	19	23,650																0
ADVERSARY (F-16)	12	110,967																0
T-45TS GOSHAWK																		
ADVANCE PROCUREMENT (CY)				56,374				56,374				56,374						56,374
TH-57																		
SUBTOTAL, TRAINER AIRCRAFT		134,617		56,374		0		56,374		0		56,374		0		0		56,374
OTHER AIRCRAFT																		
KC-130T (TANKER) HERCULES																		
TANKER CONVERSIONS		105,550																
E-6A	2	285,295	3	226,619			3	226,619	-2	-143,600	1	83,019	-2	-143,600			3	226,619
ADVANCE PROCUREMENT (CY)		55,946		72,879				72,879		-48,600		24,279		-48,600				72,879
UH-60A																		
UH-60	9	102,800		24,706				24,706		-24,706		0		-24,706				24,706
ADVANCE PROCUREMENT (CY)																		
SUBTOTAL, OTHER AIRCRAFT		549,599		324,204		0		324,204		-216,906		107,298		-216,906		0		324,204

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
MODIFICATION OF AIRCRAFT																		
A-3 SERIES		4,815		1,501				1,501				1,501						1,501
A-4 SERIES		10,294		19,675				19,675		-10,000		9,675		-10,000		-4,775		14,900
A-6 SERIES (HYP)		230,654		379,220				379,220				379,220				-3,720		375,500
EA-6 SERIES		37,036		39,387				39,387		-3,000		36,387		-3,000				39,387
A-7 SERIES		16,764		927				927				927						927
AV-8 SERIES		14,219		1,490				1,490				1,490						1,490
F-4 SERIES		9,436		4,879				4,879		-1,600		3,279		-1,600				4,879
RF-4 SERIES		1,358		1,394				1,394				1,394						1,394
F-14 SERIES		161,458		187,301				187,301				187,301						187,301
F-8 SERIES		96		95				95				95						95
F-5 SERIES		1,614		974				974				974						974
OV-10 SERIES		12,033		67,473				67,473		-17,500		49,973		-17,500		-10,873		57,400
F-18 MODS		15,458		5,865				5,865				5,865						5,865
H-46 SERIES		138,478		67,919				67,919		-25,700		32,219		-35,700		-18,919		49,000
H-53 SERIES		33,329		22,641				22,641				22,641						22,641
SH-60 SERIES		1,569		3,344				3,344		-1,800		1,544		-1,800				3,344
H-1 SERIES		70,105		58,415				58,415		-49,300		9,115		-49,300		-13,500		44,915
H-2 SERIES		32,498		4,185				4,185		32,300		36,485		32,300				4,185
H-3 SERIES		92,786		38,565				38,565		-10,900		27,665		-10,900				38,565
EP-3 SERIES		34,975		47,529				47,529				47,529						47,529
P-3 SERIES		389,823		38,356				38,356				38,356						38,356
S-3 SERIES		281,452		215,395				215,395		-11,100		204,295		-11,100		-11,100		204,295
E-2 SERIES		56,876		41,358				41,358				41,358						41,358
TRAINER A/C SERIES		5,850		6,745				6,745				6,745						6,745
TH-57																		
EC-130 SERIES		5,981		16,561				16,561				16,561						16,561
C-130 SERIES		10,948		6,856				6,856				6,856						6,856
FENNS		21,757		17,214				17,214				17,214						17,214
CARGO/TRANSPORT A/C SERIES		6,842		5,094				5,094				5,094						5,094
VARIOUS		4,611		3,786				3,786				3,786						3,786
POWER PLANT CHANGES		8,002		2,742				2,742				2,742						2,742
MISC FLIGHT SAFETY CHANGES		4,159		947				947				947						947
COMMON ECM EQUIPMENT		189,098		97,808				97,808		-29,400		68,408		-29,400		-26,800		71,008
COMMON AVIONICS CHANGES		31,847		21,572				21,572		11,500		33,072		11,500		6,028		27,600
SUBTOTAL, MODIFICATION OF AIRCRAFT		1,936,621		1,427,213		0		1,427,213		-126,500		1,300,713		-126,500		-82,859		1,344,354
AIRCRAFT SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		1,259,111		1,856,145		0		1,856,145		-336,400		1,519,745		-336,400		-66,045		1,790,100
INITIAL SPARES:				(559,900)				(559,900)		(-102,500)		(457,400)		(-102,500)		(-29,400)		(530,500)
F-14				(27,100)				(27,100)		(-9,100)		(18,000)		(-9,100)				(27,100)
F/A-18				(104,400)				(104,400)		(-44,200)		(60,200)		(-44,200)		(-29,400)		(75,000)
AV-8				(1,000)				(1,000)		(-1,000)		(0)		(-1,000)				(1,000)
SH-60B				(14,100)				(14,100)		(-9,700)		(4,400)		(-9,700)				(14,100)
P-3C				(8,600)				(8,600)		(-8,600)		(0)		(-8,600)				(8,600)
E-6A				(29,900)				(29,900)		(-29,900)		(0)		(-29,900)				(29,900)
REPLEN SPARES				(1,296,300)				(1,296,300)		(-233,900)		(1,062,400)		(-233,900)		(-36,645)		(1,259,655)
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES																		
COMMON GROUND EQUIPMENT		605,932		538,603				538,603				538,603				-25,590		513,013
AIRCRAFT INDUSTRIAL FACILITIES		50,699		32,610				32,610				32,610						32,610
WAR CONSUMABLES		57,713		34,482				34,482				34,482						34,482
OTHER PRODUCTION CHARGES		47,961		50,949				50,949				50,949						50,949
SUBTOTAL, AIRCRAFT SUPPORT EQUIPMENT & FACILITIES		762,305		656,644		0		656,644		0		656,644		0		-25,590		631,054
UNDISTRIBUTED REDUCTION		---		---		-89,000		-89,000				---		89,000				---
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-80,432		-80,432				---		80,432				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-49,300		-49,300				---		49,300				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-247,400		-247,400				---		247,400				---
INFLATION REESTIMATE (FY 87)		---		---		-352,300		-352,300				---		352,300		-352,300		-352,300
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-532,400)		(-532,400)		(-532,400)		(-532,400)		(-532,400)
ROUNDING ADJUSTMENT		---		---				---		194		194		194				---
TOTAL, NAVY AIRCRAFT		11,175,678		11,304,300		-1,263,230		10,041,070		-2,227,200		9,077,100		-963,970		-1,476,231		9,828,069

AIRCRAFT PROCUREMENT, NAVY

A-6E attack aircraft (Intruder)

The budget request contained $278.9 million for procurement of 11 A-6E aircraft in fiscal year 1987, $80.0 million for advance procurement of 12 A6-F aircraft in fiscal year 1987 and $31.2 million for initial spares. The House amendment and the Senate bill would authorize the amounts requested.

The conferees recommend authorization of $258.9 million for procurement of 11 A-6E aircraft in fiscal year 1987, $80.0 million for advance procurement of 12 A6-F aircraft in fiscal year 1988 and $31.2 million for initial spares.

The conferees support the Navy decision to replace existing Liquid Oxygen Systems (LOX) with an On-Board Oxygen Generating System (OBOGS) for carrier aircraft in the interest of shipboard safety and dollar savings. However, the conferees understand that installation of an OBOGS is best and most affordably accomplished during aircraft manufacture, yet the current A-6F baseline program does not include an OBOGS. Accordingly, the Secretary of the Navy is directed to incorporate an OBOGS in the A-6F.

F-14A fighter aircraft (Tomcat)

The budget request contained $541.1 million to procure 15 aircraft in fiscal year 1987, $127.7 million for advance procurement of 12 aircraft in fiscal year 1988 and $27.1 million for initial spares. The House amendment would authorize $360.7 million for procurement of 10 F-14A aircraft in fiscal year 1987, $127.7 million for advance procurement of 12 aircraft in fiscal year 1988 and $27.1 million for initial spares. The Senate bill would authorize the requested amount.

The conferees recommend authorization of $520.4 million for procurement of 15 F-14A aircraft in fiscal year 1987, $127.7 million for advance procurement of 12 aircraft in fiscal year 1988 and $27.1 million for initial spares.

The House recedes with an amendment.

As in the case of the A-6E aircraft discussed above, the conferees are concerned that the F-14D baseline program may not include an On-Board Oxygen Generating System (OBOGS). Accordingly, the Secretary of the Navy is directed to incorporate an OBOGS in the F-14D.

FA-18 fighter attack aircraft (Hornet)

The budget request contained $2,896.4 million to procure 120 aircraft in fiscal year 1987, $405.9 million for advance procurement of 132 aircraft in fiscal year 1988 and $104.4 million for initial spares.

The House amendment would authorize $2,140.6 million for procurement of 84 aircraft in fiscal year 1987, $198.3 million for advance procurement of 84 aircraft in fiscal year 1988 and $60.2 million for initial spares. The Senate bill would authorize $2,466.4 million for procurement of 96 aircraft in fiscal year 1987, $305.9 million for advance procurement of 102 aircraft in fiscal year 1988 and $104.4 million for initial spares.

The conferees recommend authorization of $2,250.0 million for procurement of 84 FA-18 aircraft in fiscal year 1987, $170.0 million for advance procurement of 84 aircraft in fiscal year 1988 and $75.0 million for initial spares.

The Senate recedes with an amendment.

Reductions made are without prejudice and are strictly the result of budgetary constraints. As in the case of the A-6E aircraft discussed above, the conferees are concerned that the FA-18 baseline may not include an On-Board Oxygen Generating System (OBOGS). Accordingly, the Secretary of the Navy is directed to incorporate an OBOGS in the FA-18.

AH-1T attack helicopter (Sea Cobra)

The budget request contained $36.2 million for AH-1T procurement for fiscal year 1987, no advance procurement and $1.0 million for initial spares. The House amendment and the Senate bill would authorize the amount requested.

The conferees were informed that Navy aircraft procurement plans have changed and that the Navy now plans procurement of improved AH-IW aircraft in fiscal year 1988. Accordingly, the conferees recommend authorization of $21.2 million for AH-1T procurement for fiscal year 1987, $15.0 million for advance procurement of AH-1W aircraft in fiscal year 1988 and $1.0 million for initial spares.

SH-60B antisubmarine warfare helicopter (Seahawk)

The budget request contained $199.7 million for procurement of 17 aircraft in fiscal year 1987, $21.1 million for advance procurement of 6 aircraft in fiscal year 1988 and $14.1 million for initial spares.

The House amendment would authorize $129.3 million for procurement of 11 aircraft in fiscal year 1987, $21.1 million for advance procurement of 6 aircraft in fiscal year 1988 and $14.1 million for initial spares. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of the amounts requested.

The House recedes.

SH-60F anti-submarine warfare helicopter (CV Helo)

The budget request contained $138.8 million for procurement of seven aircraft in fiscal year 1987, $29.4 million for advance procurement of 18 aircraft in fiscal year 1988 and $18.2 million for initial spares.

The House amendment would authorize $117.8 million for procurement of seven aircraft in fiscal year 1987, $29.4 million for advance procurement of 18 aircraft in 1988 and $18.2 million for initial spares. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $117.8 million for procurement of seven aircraft in fiscal year 1987, $29.4 million for advance procurement of 18 aircraft in fiscal year 1988 and $18.2 million for initial spares.

The Senate recedes.

P-3C Antisubmarine warfare aircraft (Orion)

The budget request contained $312.4 million to procure 9 aircraft in fiscal year 1987, $93.2 million to support the procurement of nine aircraft in fiscal year 1988 and $8.6 million for initial spares.

The House amendment would provide no authorization for procurement of aircraft in fiscal year 1987, $93.2 million for advance procurement of an improved P-3G aircraft for fiscal year 1988 and no authorization for initial spares. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of the amounts requested.

The House recedes with an amendment.

The conferees find that the situation regarding procurement of P-3C aircraft is essentially unchanged from that outlined in the conference report on the fiscal year 1986 Defense Authorization Act (H. Rept. 99-235). The procurement program remains an annual struggle between the Navy and the Office of the Secretary of Defense with the result that an inefficient program is perpetuated. This debate has not addressed the real issues involved with strengthening U.S. long-range ASW capabilities in the face of Soviet advances in submarine warfare.

To address the problem, the conference report required the Navy to submit a report with supporting analysis justifying the way in which the Navy allocated budget authority cost effectively between P-3C aircraft and P-3 aircraft modifications prior to obligating fiscal year 1986 funds for the P-3 program. Further, the Navy was required to establish a long-range maritime patrol (VP) procurement plan to expand the capabilities of the VP fleet, introduce competition into the program and provide for greater capabilities within the same general budget share.

To date, the Committees on Armed Services of the Senate and the House of Representatives have not received the required report, yet fiscal year 1986 funds have been obligated. And, despite speculation concerning a more capable successor to the current P-3C (VPX, P-3D, P-3G and Update IV mission avionics), the committees have not been provided the long-range maritime patrol procurement plan called for. Nevertheless, the conferees are aware of proposed Navy plans to pursue a so-called P-3G program that would combine the current airframe with new engines, elongated bomb-bay, cockpit changes, and enhanced survivability features with an Update IV mission avionics suite now nearing development competition.

Absent the required report and plan, the conferees question the feasibility and cost-effectiveness of the Navy's plan. Except for the Update IV avionics, the conferees do not believe the proposed P-3G would offer sufficient capability improvement to justify the investment.

The conferees believe the formula established last year in the fiscal year 1986 Defense Authorization Act still constitutes a fundamentally sound basis for proceeding with the long-range ASW patrol program. The centerpiece of that plan is broader competition for the P-3 mission avionics. The conferees intended that the Update III modification program be expanded to include competition similar to that ongoing in the Update IV program.

Last year the conferees authorized the Secretary of the Navy to transfer up to $120 million from procurement into modifications to accelerate the Update III modification program and foster competition. The conferees include the same provision in this year's conference bill (sec. 102(f)(1)). The provision would also cap expenditures for the fiscal year 1987 P-3 procurement program to those authorized in this act.

In addition, the bill also includes a provision (sec. 102(f)(3)) that would permit the Navy to transfer two of the P-3 aircraft authorized in fiscal year 1986 to fulfill the U.S. Navy obligations pursuant to the classified Maritime Surveillance Agreement of 1986.

Looking to the future, the conferees believe the key to increased competition in the P-3 modernization program is through industry competition for system integration and total system responsibility, as is the case with other ASW aircraft.

Accordingly, the Secretary of the Navy is directed to provide for P-3 system integra-

tion and total system responsibility through competitive procedures beginning with the first production P-3 Update IV mission avionics configured aircraft. Should a prototype P-3 Update IV configured aircraft be required for the purpose of competing system integration, the Secretary of the Navy may request reprogramming authority to use a portion of the advance procurement authorization for fiscal year 1988 for this purpose since such a course differs from the plans in the President's budget. The conferees stress that the Navy should not prototype a system with other than Update IV mission avionics.

E-2C (Hawkeye)

The budget request contained $286.5 million for procurement of six aircraft in fiscal year 1987, $24.1 million for advance procurement of six aircraft in fiscal year 1988 and $24.7 million for initial spares.

The House amendment would authorize the amounts requested. The Senate bill would authorize $424.5 million for procurement of 10 aircraft in fiscal year 1987, $24.1 million for advance procurement of six aircraft in fiscal year 1988 and $24.7 million for initial spares.

The conferees recommend authorization of $281.0 million for procurement of six aircraft in fiscal year 1987, $24.1 million for advance procurement of six aircraft in fiscal year 1988 and $24.7 million for initial spares.

The Senate recedes with an amendment.

SH-2F antisubmarine warfare helicopter (Seasprite)

The budget request contained $52.8 million for procurement of 6 aircraft in fiscal year 1987. The House amendment would authorize the amount requested. The Senate bill would provide no authorization for the SH-2F aircraft.

The conferees recommend authorization of $52.8 million for procurement of six aircraft in fiscal year 1987.

The Senate recedes with an amendment.

The conferees note that the recommended authorization would provide for one SH-2 Lamps Mark I helicopter system for each small deck ship not capable of handling the SH-60 Lamps Mark III helicopter system. Given competing priorities and budgetary constraints, the conferees believe one SH-2 Lamps Mark I system per small deck ship adequately addresses the Naval Reserve antisubmarine warfare helicopter requirement. Accordingly, the conferees intend that the U.S. Navy's procurement of SH-2F helicopters end with the fiscal year 1987 authorization.

E-6A electronic communications aircraft (TACAMO)

The budget request contained $226.6 million for procurement of three E-6A TACAMO aircraft in fiscal year 1987, $72.9 million for advance procurement of three aircraft in fiscal year 1988 and $29.9 million of initial spares. The House amendment would authorize $83.0 million for procurement of one E6A aircraft in fiscal year 1987, $24.3 million for advance procurement of one aircraft in fiscal year 1988 and no initial spares. The Senate bill would authorize the requested amounts.

The conferees recommend authorization of the amounts requested

The House recedes with an amendment.

The conferees recognize the importance of the TACAMO mission in the President's strategic modernization program. The conferees also recognize the advantageous contract between the Navy and its prime contractor and that the Defense Department has authorized the Navy to provide full funding to maintain certain not-to-exceed prices within the contract.

Nevertheless, the conferees are aware that very capable complements to the E-6A TACAMO may not be reasonably available. Accordingly, and in concert with the Secretary of the Navy, the Secretary of Defense is directed to evaluate satellite laser communications complements to the current E-6A TACAMO program and report his findings and recommendation to the Committees on Armed Services of the Senate and House of Representatives prior to March 1, 1987.

Modification of aircraft

The budget request contained $1,427.2 million for modification of Navy aircraft for fiscal year 1987. The House amendment would authorize $1,300.8 million for modification of aircraft. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $1,344.4 million for modification of Navy aircraft for fiscal year 1987. Specific details are presented in the foregoing table.

The conferees support cost effective approaches to improve aviation safety in the military forces. One such approach is the use of second generation or later ground collision avoidance systems for transport aircraft. Accordingly, the recommended authorization provides $27.6 million for common avionics, including $6.0 million for procurement of ground collision avoidance system retrofit kits for E-2/C-2, T-39 and UC-12B aircraft.

Aircraft spares and repair part

The budget request contained $1,856.1 million for aircraft spares and repair parts in fiscal year 1987. The House amendment would authorize $1,519.7 million for spares and repair parts in fiscal year 1987. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $1,790.1 million for aircraft spares and repair parts in fiscal year 1987. Specific details are presented in the foregoing table.

Aircraft support equipment and facilities

The budget request contained $656.6 million for support equipment and facilities for fiscal year 1987. The House amendment and the Senate bill would authorize the amounts requested.

The conferees recommend authorization of $631.1 million for aircraft support equipment and facilities for fiscal year 1987. Specific details are presented in the foregoing table.

WEAPONS PROCUREMENT, NAVY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
BALLISTIC MISSILES																		
POSEIDON		4,755		3,974				3,974				3,974						3,974
TRIDENT I		34,444		4,739				4,739				4,739						4,739
TRIDENT II		294,829	21	1,124,439			21	1,124,439			21	1,124,439					21	1,124,439
ADVANCE PROCUREMENT (CY)		256,059		300,000				300,000				300,000						300,000
MODIFICATION OF MISSILES																		
UGM-73A (C-3) POSEIDON MODS				95				95				95						95
SUPPORT EQUIPMENT AND FACILITIES																		
REPLENISHMENT SPARES																		
MISSILE INDUSTRIAL FACILITIES		4,280		3,790				3,790				3,790						3,790
ASTRONAUTICS		8,183																
SUBTOTAL, BALLISTIC MISSILES		602,560		1,437,037		0		1,437,037		0		1,437,037		0		0		1,437,037
OTHER MISSILES																		
STRATEGIC MISSILES																		
BGM-109 TOMAHAWK	249	670,204	324	721,736		-55,000	324	666,736		-78,200	324	643,536		-23,200		-55,000	324	666,736
ADVANCE PROCUREMENT (CY)		54,600		68,800				68,800				68,800						68,800
TACTICAL MISSILES																		
AIM/RIM-7 F/M SPARROW	1,948	340,666	1,716	279,394			1,716	279,394		-20,300	1,716	259,094		-20,300		-10,000	1,716	269,394
AMRAAM																		
ADVANCE PROCUREMENT (CY)																		
AIM-9L/M SIDEWINDER	2,120	106,956	627	46,977			627	46,977			627	46,977				-700	627	46,277
ADVANCE PROCUREMENT (CY)				17,641				17,641		-17,641		0		-17,641		-17,641		0
AIM-54A/C (PHOENIX)	265	324,026	205	289,272			205	289,272	95	-13,800	300	275,472		-13,800	95	-22,000	300	267,272
ADVANCE PROCUREMENT (CY)		24,800		28,400				28,400				28,400				-5,300		23,100
AGM-84A HARPOON	370	266,318	94	128,387	16	11,476	110	139,863			94	128,387	-16	-11,476			94	128,387
ADVANCE PROCUREMENT (CY)				11,476		-11,476		0		-11,476		0				-11,476		0
AGM-88A HARM (HYP)	825	224,389	1,110	256,682			1,110	256,682	-285	-50,400	825	206,282	-285	-50,400			1,110	256,682
SH-1 HR		20,300																
SH-2 HR	846	517,764	844	513,611			844	513,611			844	513,611					844	513,611
SH-2 ER	470	319,800	350	217,017			350	217,017			350	217,017					350	217,017
RAM			50	63,209		-23,209	50	40,000	-50	-63,209		0	-50	-40,000	-15	-23,209	35	40,000
STINGER			685	51,940			685	51,940		-12,200	685	39,740		-12,200		-12,200	685	39,740
SIDEARM	200	28,970	256	22,858			256	22,858			256	22,858					256	22,858
HELLFIRE	1,304	49,223																
LASER MAVERICK	1,500	164,929	1,800	198,791			1,800	198,791	-300	-33,100	1,500	165,691	-300	-33,100		-8,000	1,800	190,791
IIR MAVERICK	195	26,442	419	52,055			419	52,055	-224	-27,800	195	24,255	-224	-27,800	-224	-27,800	195	24,255
PERQUIN																		
AERIAL TARGETS		93,152		97,386				97,386		-5,600		91,786		-5,600		-1,386		96,000
DRONES AND DECOYS		29,005		36,136				36,136				36,136						36,136
OTHER MISSILE SUPPORT		11,704		22,017				22,017		-10,500		11,517		-10,500				22,017
MODIFICATION OF MISSILES																		
TOMAHAWK MODS		2,377		7,235				7,235				7,235						7,235
AIM/RIM-7E/F SPARROW MOD		2,189		1,233				1,233				1,233						1,233
AIM-9 SIDEWINDER MOD		19,274		3,131				3,131				3,131						3,131
AIM-54A/C PHOENIX MOD		9,627																
AGM-84A HARPOON MOD		9,940																
STANDARD MISSILES MOD		17,096		2,093				2,093				2,093						2,093
SUPPORT EQUIPMENT AND FACILITIES																		
SPARES AND REPAIR PARTS																		
WEAPONS INDUSTRIAL FACILITIES		23,683		7,490		5,175		12,665				7,490		-5,175		5,175		12,665
FLEET SATELLITE COMMUNICATIONS		53,956		65,138		-3,000		62,138		-12,800		52,338		-9,800		-3,000		62,138
DEFENSE METEOROLOGICAL SATELLITE PROGRAM																		
ORDNANCE SUPPORT EQUIPMENT																		
ORDNANCE SUPPORT EQUIPMENT		26,189		132,958				132,958				132,958						132,958
UNDISTRIBUTED REDUCTION		—		—				—				—						—
SUBTOTAL, OTHER MISSILES		3,455,859		3,343,963		-76,034		3,267,029		-357,026		2,986,037		-280,992		-192,537		3,150,526
TORPEDOES AND RELATED EQUIPMENT																		
MK-48																		
TORPEDO MK-48 ADCAP	123	395,927	227	508,370			227	508,370	-30	-40,000	197	468,370	-30	-40,000	-177	-253,600	50	254,770
ASW TORPEDO			34	16,995			34	16,995	-34	-16,995		0	-34	-16,995	-34	-16,995		0
TORPEDO MK-46 (HYP)	500	95,333	500	74,061			500	74,061			500	74,061					500	74,061
ADVANCE PROCUREMENT (CY)		23,600		23,800				23,800				23,800						23,800
ADV LIGHTWEIGHT TORPEDO			84	109,937			84	109,937	-17	-15,000	67	94,937	-17	-15,000	-17	-15,000	67	94,937
MK-60 CAPTOR	150	56,595						0	130	59,500	130	59,500	130	59,500	60	30,000	60	30,000
MOBILE TARGET MK-30 (HYP)	6	17,685																
MK-30 NIXI MOBILE TARGET	1,200	3,232																
ASROC		14,026		13,597				13,597				13,597						13,597
VERTICAL LAUNCHED ASROC			200	74,289			200	74,289			200	74,289					200	74,289
MOD OF TORPEDOES AND RELATED EQUIP																		
MOBILE MINE MK-67		3,639																
TORPEDO MK-46 MODS	672	81,032	672	76,975			672	76,975			672	76,975					672	76,975
ADVANCE PROCUREMENT (CY)		8,400		5,200				5,200				5,200						5,200
CAPTOR MODS		14,933		11,619				11,619				11,619						11,619
SWIMMER WEAPON SYSTEM		1,501		3,911				3,911				3,911						3,911
SUPPORT EQUIPMENT																		
TORPEDO SUPPORT EQUIPMENT		44,810		32,496				32,496				32,496						32,496
ASW RANGE SUPPORT		22,019		20,114				20,114				20,114						20,114
SPARES AND REPAIR PARTS																		
SUBTOTAL, TORPEDOES AND RELATED EQUIPMENT		782,732		971,364		0		971,364		-12,495		958,869		-12,495		-255,595		715,769

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
OTHER WEAPONS																		
GUNS AND GUN MOUNTS																		
MK-15 CLOSE IN WEAPONS SYSTEM	39	139,304	27	105,606			27	105,606			27	105,606					27	105,606
MK-75 76MM GUN MOUNT	6	16,988	5	14,875			5	14,875			5	14,875					5	14,875
MK-19/40MM MACHINE GUN	56	1,137	25	632			25	632			25	632					25	632
25MM GUN MOUNT	29	5,092	22	3,919			22	3,919			22	3,919					22	3,919
SMALL ARMS AND WEAPONS		10,749		10,082				10,082				10,082						10,082
MODIFICATION OF GUNS AND GUN MOUNTS																		
CIWS MODS		29,933		42,965				42,965				42,965						42,965
5"/54 GUN MOUNT MODS		12,933		6,128				6,128				6,128						6,128
3"/50 GUN MOUNT MODS		637		1,637				1,637				1,637						1,637
MK 75 76MM GUN MOUNT MODS		3,792		4,101				4,101				4,101						4,101
MODS UNDER $900,000		1,782		2,384				2,384				2,384						2,384
SUPPORT EQUIPMENT																		
GUN SUPPORT EQUIPMENT		1,100		873				873				873						873
SPARES AND REPAIR PARTS																		
SUBTOTAL, OTHER WEAPONS		223,447		193,202		0		193,202		0		193,202		0		0		193,202
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		151,497		150,734		0		150,734		0		150,734		0		0		150,734
UNDISTRIBUTED REDUCTION		—		—		-73,476		-73,476				—		73,476				—
PRIOR YEAR INFLATION SAVINGS (FY 85)		—		—		-27,900		-27,900				—		27,900				—
PRIOR YEAR INFLATION SAVINGS (FY 86)		—		—		-123,200		-123,200				—		123,200				—
INFLATION REESTIMATE (FY 87)		—		—		-197,300		-197,300				—		197,300		-197,300		-197,300
OBLIGATION LIMITATION (FY 85 AND 86)		—		—				—		(-264,400)		(-264,400)		(-264,400)		(-264,400)		(-264,400)
REMOVING ADJUSTMENT		—		—				—		-79		-79		-79				—
TOTAL, NAVY WEAPONS		5,216,095		6,095,400		-497,910		5,597,490		-369,600		5,725,800		128,310		-645,432		5,449,968

WEAPONS PROCUREMENT, NAVY

Overview

The budget request contained $6,095.4 million for weapons procurement for the Navy for fiscal year 1987. The House amendment would authorize $5,725.8 million for weapons procurement. The Senate bill would authorize $5,597.5 million for weapons procurement.

The conferees recommend authorization of $5,450.0 million for weapons procurement for the Navy for fiscal year 1987.

Ballistic missiles

The budget request contained $1,437.0 million for ballistic missiles. The House amendment and the Senate bill would authorize the amounts requested.

The conferees recommend authorization of the amounts requested.

Other missiles

The budget request contained $3,343.1 million for other missiles for fiscal year 1987.

The House amendment would authorize $2,986.0 million for other missiles. The Senate bill would authorize $3,267.0 million for other missiles.

The conferees recommend authorization of $3,150.5 million for other missiles for fiscal year 1987. Specific details are presented in the foregoing table.

AIM-54 A/C (Phoenix)

The budget request contained $289.3 million for procurement of 205 missiles in fiscal year 1987 and $28.4 million for advance procurement of missiles for fiscal year 1988.

The House amendment would authorize $275.5 million for 300 missiles in fiscal year 1987 and $28.4 million for advance procurement of missiles for fiscal year 1988. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $267.3 million for procurement of 300 missiles for in fiscal year 1987 and $23.1 million for advance procurement of missiles for 1988.

The recommendation should not be interpreted as reduced support by the conferees for the stated goals and objectives of the Navy's competitive second source strategy for this program. Rather, it reflects what the conferees believe can and should be achieved by using current proposals from industry and recent changes in Navy acquisition policies and procedures. The conferees note that this approach has achieved both near term and long term savings in the Standard missile second source program.

Drones and decoys

The budget request contained $36.1 million for drones and decoys for in fiscal year 1987. The House amendment and the Senate bill would authorize the amounts requested.

The conferees are extremely interested in the military exploitation of unmanned aerial vehicles (UAVs). Accordingly, the Secretary of the Navy is directed to report the status of ongoing Navy UAV evaluations to the Committees on Armed Services of the Senate and the House of Representatives prior to March 1, 1987.

Weapons industrial facilities

The budget request contained $7.5 million of weapons industrial facilities for in fiscal year 1987. The House amendment would authorized the amount requested. The Senate bill would authorize $12.7 million for in fiscal year 1987.

The conferees recommend authorization of $12.7 million for weapons industrial facilities for in fiscal year 1987, an increase of $5.2 million from the budget request.

The conferees agreed that the increased authorization is to be used to continue the restoration of facilities damaged by accidental fire and explosives at the Allegheny Ballistics Laboratory. Allegheny Ballistics Laboratory is a government-owned, contractor-operated facility in West Virginia that produces rocket motors for Navy air-to-air missiles. The additional authorization is sufficient to construct a new cure bay complex, magazine, rocket motor disassembly building and a munitions assembly building.

MK-48 advanced capability (ADCAP) torpedoes

The budget request contained $508.4 million for 227 MK-48 advanced capacility (ADCAP) torpedoes.

The Senate bill would authorize the quantity and funds requested. The House amendment would authorize $468.4 million for 197 torpedoes.

The conferees have received information from the Navy indicating that ADCAP production delays are expected in fiscal year 1987 because of problems discovered (and corrected) during testing this past year. Accordingly, the conferees recommend authorization of $254.8 million for 50 torpedoes.

Anti-surface warfare (ASUW) torpedo

The budget request contained $17 million for 34 anti-surface warfare torpedoes.

The Senate bill would authorize the amount requested. The House amendment would provide no authorization for this program.

The Senate recedes.

MK-50 advanced lightweight torpedo

The budget request contained $109.9 million for 84 MK-50 advanced lightweight torpedoes.

The Senate bill would authorize the amounts requested. The House amendment would authorize $94.9 million for 67 torpedoes.

The Senate recedes.

MK-60 captor (encapsulated torpedo)

The budget requested no authorization for the MK-60 captor deep-water mine.

The Senate bill contained no authorization for the Captor mine. The House amendment would authorize $59.5 million for 130 mines.

The conferees agreed to provide authorization of $30 million for the procurement of 60 Captor mines.

Weapons procurement, undistributed reduction and inflation savings

The Senate bill would reduce the total authorization for the weapons procurement, Navy account by $445.1 million, including $96.7 million for an undistributed reduction and $348.4 million in inflation savings. The House amendment made no similar reductions.

The conferees agreed to a reduction of $197.3 million to reflect lower inflation in 1987.

The Senate recedes with an amendment.

SHIPBUILDING AND CONVERSION, NAVY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
NEW CONSTRUCTION SHIPS																		
TRIDENT (NUCLEAR)	1	1,151,300	1	1,362,700			1	1,362,700	-1	-1,362,700		0	-1	-1,362,700		-62,700	1	1,300,000
ADVANCE PROCUREMENT (CY)		158,100		146,400				146,400		-146,400		0		-146,400				146,400
SSN-688 CLASS SUBMARINE (NUCLEAR)	4	2,054,500	4	2,047,800			4	2,047,800			4	2,047,800				-81,800	4	1,966,000
ADVANCE PROCUREMENT (CY)		486,400		284,800				284,800				284,800						284,800
SSN-21 ADVANCED PROCUREMENT				454,300				454,300				454,300						454,300
CG-47 AEGIS CRUISER (MYP)	3	2,597,700	2	1,913,800			2	1,913,800	1	801,300	3	2,715,100	1	801,300	1	801,300	3	2,715,100
ADVANCE PROCUREMENT (CY)		14,600		10,500				10,500				10,500						10,500
DDG-51 (MYP)			3	2,448,000		18,000	3	2,466,000	-2	-1,576,300	1	871,700	-2	-1,594,300		-57,700	3	2,390,300
ADVANCE PROCUREMENT (CY)		74,000		79,800				79,800				79,800						79,800
LSD-41 LANDING SHIP DOCK (CY)	2	373,400																
LHD-1 AMPHIBIOUS ASSAULT SHIP (MYP)	1	1,102,700																
ADVANCE PROCUREMENT (CY)		165,600		232,000				232,000				232,000				-197,000		35,000
MCM MINE COUNTERMEASURES SHIP	2	197,200																
MSH-1 COASTAL MINE HUNTER	4	184,500	4	196,100	-4	-196,100		0	-4	-196,100		0			-4	-196,100		0
TAO FLEET OILER	2	266,300	2	275,500			2	275,500			2	275,500				-16,500	2	259,000
TAGOS SURTASS SHIPS	2	113,900	3	148,100			3	148,100	-1	-49,800	2	98,300	-1	-49,800			3	148,100
ADVANCE PROCUREMENT (CY)		1,200																
AOE			1	612,700	-1	-612,700		0			1	612,700	1	612,700		-113,700	1	499,000
OCEANOGRAPHIC RESEARCH SHIP			1	33,000			1	33,000			1	33,000					1	33,000
CONVERSIONS																		
BATTLESHIP REACT	1	469,000																
CV SLEP																		
ADVANCE PROCUREMENT (CY)		52,000		83,500				83,500				83,500						83,500
LPD-4 SLEP				23,100		-23,100		0		-23,100		0				-23,100		0
LSD-41 (CARGO VARIANT)																		
AO (JUMBO)			1	62,300			1	62,300	-1	-62,300		0	-1	-62,300		-30,300	1	32,000
AE AMMUNITION SHIP																		
AG SOUND BARGE	1	57,000																
MOORED TRNG SHIP DEMO (CURRENT YEAR ADV PROC)		175,400																
TACS CRANE SHIP	3	82,500	2	61,100			2	61,100			2	61,100					2	61,100
TAVB AVN SUP SHIP	1	26,900																
OTHER SCN																		
MRC MINEHUNTER					2	0	2	0			0	0	-2	0	1	0	1	0
SERVICE CRAFT		62,700		39,900				39,900				39,900						39,900
LANDING CRAFT				19,000				19,000				19,000						19,000
STRATEGIC SEALIFT		228,400		27,800				27,800				27,800						27,800
LCAC LANDING CRAFT	12	276,200																
ADVANCE PROCUREMENT (CY)		30,800																
SEALIFT ENHANCEMENT				20,700				20,700				20,700						20,700
OUTFITTING		228,500		226,100				226,100				226,100						226,100
POST DELIVERY		112,600		167,800				167,800				167,800						167,800
SHIP CONTRACT DESIGN				69,400		10,000		79,400				69,400		-10,000				69,400
COST GROWTH		97,000																
PRICE ADJUSTMENTS (FY 87)		---		---		-139,100		-139,100				0		139,100				---
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-188,600		-188,600		-75,500		-75,500		113,100		-461,500		-461,500
PRIOR YEAR INFLATION SAVINGS (FY 83)		---		---		-22,000		-22,000				---		22,000				---
PRIOR YEAR INFLATION SAVINGS (FY 84)		---		---		-20,000		-20,000				---		20,000				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-96,400		-96,400				---		96,400				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-109,700		-109,700				---		109,700				---
INFLATION REESTIMATE (FY 87)		---		---		-342,700		-342,700				---		342,700				---
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-536,200)		(-536,200)		(-536,200)		(-536,200)		(-536,200)
TOTAL, NAVY SHIPBUILDING AND CONVERSION		10,840,400		11,046,200		-1,722,400		9,323,800		-2,690,900		8,355,300		-968,500		-439,100		10,607,100

SHIPBUILDING AND CONVERSION

The President's budget request contained $11,046.2 million for the construction, conversion, service life extension, and acquisition of 24 naval vessels.

The Senate bill contained an authorization of $9,323.8 million for 19 naval vessels. The House amendment contained an authorization of $8,355.3 million for 16 naval vessels.

The conferees agreed to authorizations totaling $10,607.1 million for 21 naval vessels.

Trident ballistic missile submarine (SSBN)

The budget request contained $1,509.1 million for the Trident submarine program, including $1,362.7 million for the fourteenth submarine and $146.4 million for advance procurement.

The Senate bill would authorize the amounts requested. The House amendment would provide no authorization for the Trident program.

The conferees agreed to authorizations of $1,446.4 million for the Trident submarine program, including $146.4 million for advance procurement.

Aegis ships

The budget request contained $1,913.8 million for 2 CG-47 class guided missile cruisers and $10.5 million for advance procurement. The budget also contained a request for $2,448 million for 3 DDG-51 class guided missile destroyers and $79.8 million for advance procurement.

The Senate bill would authorize the amounts requested for the CG-47 class guided missile cruiser program and $2,466 million for 3 DDG-51 guided missile cruisers and $79.8 million for advance procurement.

The House amendment would authorize $2,715.1 million for 3 CG-47 class guided missile cruisers and $10.5 million for advance procurement and $871.7 million for one DDG-51 class guided missile cruiser and $79.8 million for advance procurement.

The conferees agreed to authorizations of $2,715.1 million for 3 CG-47 class missile cruisers and $10.5 million for advance procurement and $2,390.3 million for a 3 DDG-51 class guided missile destroyers and $79.8 million for advance procurement.

Fleet oiler (conversion) (AO-177)

The budget contained a request for $62.3 million to enlarge one AO-177 class oiler.

The Senate bill would authorize the amount requested. The House amendment would provide no authorization for the AO-177 conversion.

The conferees agreed to provide $32.0 million for the fleet oiler conversion program. The conferees understand that this conversion will add 60,000 barrels of capacity to the AO-177 class ships.

Ocean surveillance ship (TAGOS)

The budget contained a request for $148.1 million for 3 TAGOS ocean surveillance ships.

The Senate bill authorize the amount requested. The House amendment would authorize $98.3 million for two TAGOS vessels.

The House recedes.

Fast combat support ship (AOE)

The budget contained a request for $612.7 million for one fast combat support ship (AOE).

The Senate bill would provide no authorization for this ship. The House amendment would authorize the amount requested.

The conferees agreed to provide $499 million for the fast combat support ship program.

Ship contract design

The budget contained a request for $69.4 million for ship contract design.

The Senate bill would authorize $79.4 million. The House amendment would authorize the amount requested.

The Senate recedes.

Shipbuilding and conversion, price adjustment and prior year savings

The Senate bill would reduce the total amounts authorized for the shipbuilding and conversion account by a total of $918.5 million, including fiscal year 1987 price adjustments of $139.1 million, prior-year program savings of $188.6 million, and inflation savings of $590.8 million.

The House amendment would reduce the shipbuilding and conversion account by $75.5 million based on savings from a prior-year program.

The conferees agreed to reflect price adjustments and inflation savings for fiscal year 1987 within individual shipbuilding programs. Prior-year shipbuilding funds remaining available for obligation total $461.5 million and are taken as a reduction against the fiscal year 1987 program.

OTHER PROCUREMENT, NAVY

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
SHIPS SUPPORT EQUIPMENT																		
SHIP PROPULSION EQUIPMENT																		
LM-2500 GAS TURBINE		13,335		22,351				22,351				22,351						22,351
ALLISON 501K GAS TURBINE	2	15,534	2	14,740			2	14,740			2	14,740					2	14,740
LM2500 SPECIAL SUPPORT EQUIPMENT		940		967				967				967						967
STEAM PROPULSION IMPROVEMENT PROGRAM		6,805		11,766				11,766				11,766						11,766
OTHER PROPULSION EQUIPMENT		18,533		27,249				27,249				27,249						27,249
GENERATORS																		
OTHER GENERATORS		15,368		14,946				14,946				14,946						14,946
PUMPS																		
OTHER PUMPS		11,073		18,538				18,538				18,538						18,538
AIR COMPRESSORS																		
HIGH PRESSURE AIR COMPRESSOR	12	3,241	28	7,048			28	7,048			28	7,048					28	7,048
OTHER AIR COMPRESSORS			8	1,461			8	1,461			8	1,461					8	1,461
PROPELLERS																		
SUBMARINE PROPELLERS	15	2,976	17	2,157			17	2,157			17	2,157					17	2,157
OTHER PROPELLERS AND SHAFTS		10,545		9,557				9,557				9,557						9,557
NAVIGATION EQUIPMENT																		
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	8	34,869	13	34,510			13	34,510			13	34,510					13	34,510
CARRIER NAVIGATION SYSTEM		6,266		3,433				3,433				3,433						3,433
OTHER NAVIGATION EQUIPMENT		13,428		8,850				8,850				8,850						8,850
UNDERWAY REPLENISH EQUIP																		
UNDERWAY REPLENISHMENT EQUIPMENT		8,457		2,959				2,959				2,959						2,959
PERISCOPES																		
TYPE 18 PERISCOPE		14,825		21,325				21,325				21,325						21,325
TYPE 8 PERISCOPES		120		282				282				282						282
PERISCOPES AND ACCESSORIES		4,998		5,603				5,603				5,603						5,603
OTHER SHIPBOARD EQUIPMENT																		
FIREFIGHTING EQUIPMENT		5,013		11,848				11,848				11,848						11,848
COMMAND AND CONTROL SWITCHBOARDS	10	10,585	5	2,799			5	2,799			5	2,799					5	2,799
POLLUTION CONTROL EQUIPMENT		9,246		8,471				8,471				8,471						8,471
SUBMARINE SILENCING EQUIPMENT		18,032		27,084				27,084				27,084						27,084
SURFACE SHIP SILENCING EQUIPMENT		1,379		8,975				8,975				8,975						8,975
SUBMARINE BATTERIES	43	8,227	53	12,200			53	12,200			53	12,200					53	12,200
STRATEGIC PLATFORM SUPPORT EQUIPMENT		53,755		72,778				72,778				72,778						72,778
DSSP EQUIPMENT		11,262		9,797				9,797				9,797						9,797
SEALIFT SUPPORT EQUIPMENT		43,752		58,277				58,277		12,000		70,277		12,000		12,000		70,277
AIR CONDITIONERS																		
HOUSEKEEPING CABLE		5,019		7,350				7,350				7,350						7,350
MINOR ITEMS UNDER $100K		10,690		28,661				28,661				28,661						28,661
SURFACE IMA		6,970		21,877				21,877				21,877						21,877
DEGAUSSING EQUIPMENT																		
UNDERSEA CONTROLS		2,201		227				227				227						227
ORDNANCE ELECTRONIC REPAIR		1,028		1,001				1,001				1,001						1,001
CHEMICAL WARFARE DETECTORS	314	15,386	214	10,940			214	10,940			214	10,940					214	10,940
SUBMARINE LIFE SUPPORT SYSTEM	4	6,529	15	27,892			15	27,892			15	27,892					15	27,892
NUCLEAR ENGINEERED MAINTENANCE		8,497		4,067				4,067				4,067						4,067
SHIPBOARD ENERGY CONSERVATION																		
REACTOR PLANT EQUIPMENT																		
REACTOR POWER UNITS	6	163,368	6	202,502			6	202,502			6	202,502					6	202,502
REACTOR COMPONENTS		227,754		227,883				227,883				227,883						227,883
OCEAN ENGINEERING																		
DIVING AND SALVAGE EQUIPMENT		8,250		11,855				11,855				11,855						11,855
NAVAL SPECIAL WARFARE EQUIPMENT		37,401		31,707				31,707				31,707						31,707
SMALL BOATS																		
SMALL BOATS	251	14,777	340	19,570			340	19,570			340	19,570					340	19,570
TRAINING EQUIPMENT																		
NEW SHIP TRAINING EQUIP		19,572		12,547				12,547				12,547						12,547
OTHER SHIPS TRAINING EQUIPMENT		10,876		6,075				6,075				6,075						6,075
PRODUCTION FACILITIES EQUIPMENT																		
CALIBRATION EQUIPMENT		1,852		1,590				1,590				1,590						1,590
PRODUCTION SUPPORT FACILITIES		5,794		13,737				13,737				13,737						13,737
OPERATING FORCES IPE				4,914				4,914				4,914						4,914
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS																		
REDUCTION IN BA-1		—		—				—		-76,000		-76,000		-76,000		-64,000		-64,000
SUBTOTAL, SHIPS SUPPORT EQUIPMENT		907,548		1,054,366		0		1,054,366		-64,000		990,366		-64,000		-52,000		1,002,366
COMMUNICATIONS AND ELECTRONICS EQUIPMENT																		
SHIP RADARS																		
AN/SPS-67	23	9,287	17	7,209			17	7,209			17	7,209					17	7,209
AN/SPS-49		14,776		17,732				17,732				17,732						17,732
AN/SPS-48		67,443		48,800				48,800				48,800						48,800
AN/SPS-49		14,127		17,012				17,012				17,012						17,012
AN/SPS-67	6	12,327	4	13,725			4	13,725			4	13,725					4	13,725
HE 23 TARGET ACQUISITION SYSTEM	2	13,148	12	20,080			12	20,080			12	20,080					12	20,080
RADAR SUPPORT		24,989		13,869				13,869				13,869						13,869
SHIP SONARS																		
AN/SQS-26/53/53A		7,319		14,222				14,222				14,222						14,222
AN/SQS-53B	5	30,446	4	25,086			4	25,086			4	25,086					4	25,086
AN/SQS-53C			1	34,001			1	34,001			1	34,001					1	34,001
AN/WSN-5		99,345		83,327				83,327				83,327						83,327
TB-16 TOWED ARRAY (SURF)	9	1,515	18	4,610			18	4,610			18	4,610					18	4,610
SURF SONAR DOMES AND DOMES		8,284		10,378				10,378				10,378						10,378
SONAR SUPPORT EQUIPMENT		11,786		10,430				10,430				10,430						10,430
SONAR SUITCASES AND TRANSDUCERS		29,387		36,470				36,470				36,470						36,470
ASW SYSTEMS SONARS		19,512		1,787				1,787				1,787						1,787

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
ASW ELECTRONIC EQUIPMENT																		
SUBMARINE ACOUSTIC WARFARE SYSTEMS		10,241		23,231				23,231				23,231						23,231
AN/SLQ-25 (NIXIE)	44	11,365	27	9,359			27	9,359			27	9,359					27	9,359
ACOUSTIC COMMUNICATIONS		376		655				655				655						655
SUBMARINE ADVANCED COMBAT SYSTEM		49		46,228				46,228				46,228						46,228
SOSUS		85,156		83,183				83,183				83,183						83,183
AN/SQR-17 ACOUSTIC PROCESSOR	23	21,998	20	7,829			20	7,829		9,100	20	16,929		9,100	-20	-7,829		0
USNR FRIGATE MODERNIZATION		0		0				0				0				16,929		16,929
AN/SQR-18 TOWED ARRAY SONAR		40,967		28,721				28,721				28,721						28,721
AN/SQR-15 TOWED ARRAY SONAR		1,880		1,197				1,197				1,197						1,197
AN/SQR-19 TOWED ARRAY SONAR	17	139,010	10	112,414			10	112,414			10	112,414					10	112,414
SURTASS		15,564		19,750				19,750				19,750						19,750
ASW OPERATIONS CENTER		23,328		12,723				12,723				12,723						12,723
CARRIER ASW MODULE		31,016		27,894				27,894				27,894						27,894
ELECTRONIC WARFARE EQUIPMENT																		
AN/SLQ-32		97,319		75,993				75,993				75,993						75,993
AN/SLQ-17	2	14,229	5	14,19/			5	14,197			5	14,197					5	14,197
AN/WLR-1		3,533		4,269				4,269				4,269						4,269
AN/WLR-8	1	3,011																
ICAD SYSTEMS		4,822																
OFFBOARD DECEPTION DEVICES		18,122		22,554				22,554				22,554						22,554
EW SUPPORT EQUIPMENT		21,290		10,240				10,240				10,240						10,240
FLEET EW SUPPORT GROUP		1,716		1,648				1,648				1,648						1,648
C3 COUNTERMEASURES		637		69,155				69,155				69,155						69,155
RECONNAISSANCE EQUIPMENT																		
COMBAT CRYPTOLOGIC SUPPORT CONSOLE		4,012		5,203				5,203				5,203						5,203
COMBAT DF		25,071		36,665				36,665				36,665						36,665
OUTBOARD		36,381		26,063				26,063				26,063						26,063
NAVAL INTELLIGENCE PROCESSING SYSTEM		15,460		9,595				9,595				9,595						9,595
BATTLE GROUP PASSIVE HORIZON EXT SYS																		
SUBMARINE SURVEILLANCE EQUIPMENT																		
AN/WLD-4 DEPOT		5,441		1,170				1,170				1,170						1,170
AN/WLD-4 IMPROVEMENTS		2,452		3,582				3,582				3,582						3,582
AN/BSD-7/8/9																		
AN/BSH-5 (TUBA)																		
AN/BLD-1 (INTERFEROMETER)	5	11,800						0	8	16,800	8	16,800	8	16,800	8	16,800	8	16,800
SUBMARINE SUPPORT EQUIPMENT PROGRAM		4,000		4,911				4,911				4,911						4,911
OTHER SHIP ELECTRONIC EQUIPMENT																		
NAVY TACTICAL DATA SYSTEM		130,321		104,681				104,681				104,681						104,681
TACTICAL FLAG COMMAND CENTER	4	20,768	3	17,237			3	17,237			3	17,237					3	17,237
COMMAND AND CONTROL PROCESSOR			4	3,939			4	3,939			4	3,939					4	3,939
MINESWEEPING SYSTEM REPLACEMENT		3,054		2,149				2,149				2,149						2,149
OMEGA SHIPBOARD EQUIPMENT	44	1,619																
NAVSTAR GPS RECEIVERS	62	20,763	135	24,915			135	24,915			135	24,915					135	24,915
HF LINK-11 DATA TERMINALS	13	3,570	18	4,324			18	4,324			18	4,324					18	4,324
ARMED FORCES RADIO AND TV		6,943		5,127				5,127				5,127						5,127
STRATEGIC PLATFORM SUPPORT EQUIPMENT		187,518		161,346				161,346				161,346						161,346
TRAINING EQUIPMENT																		
OTHER NAVELEX TRAINING EQUIPMENT		132																
OTHER NAVSEA TRAINING EQUIPMENT		3,803		5,035				5,035				5,035						5,035
AVIATION ELECTRONIC EQUIPMENT																		
NATCALS		6,661		29,556				29,556				29,556						29,556
TERPES																		
SHIPBOARD AIR TRAFFIC CONTROL		13,330		12,914				12,914				12,914						12,914
AUTOMATIC CARRIER LANDING SYSTEMS				23,092				23,092				23,092						23,092
TACAN		4,831		873				873				873						873
AIR STATION SUPPORT EQUIPMENT		11,479		15,054				15,054				15,054						15,054
MICROWAVE LANDING SYSTEM			12	6,146			12	6,146			12	6,146					12	6,146
FACSFAC		16,925		22,098				22,098				22,098						22,098
RADAR AIR TRAFFIC CONTROL	15	1,494	15	1,521			15	1,521			15	1,521					15	1,521
MK XII AIMS IFF		2,737		9,422				9,422				9,422						9,422
OTHER SHORE ELECTRONIC EQUIPMENT																		
NAVAL SPACE SURVEILLANCE SYSTEM				3,053				3,053				3,053						3,053
SPACE SYSTEM PROCESSING		2,133		2,166				2,166				2,166						2,166
NULTOTS		565		1,242				1,242				1,242						1,242
NCCS ASHORE		34,978		39,604				39,604				39,604						39,604
RADIAC		8,582		7,931				7,931				7,931						7,931
OVER THE HORIZON RADAR				2,270				2,270				2,270						2,270
REMOTE SENSORS		1,578																
GPETE		28,640		28,326				28,326				28,326						28,326
INTEG COMBAT SYS TEST FACILITY		5,000		4,806				4,806				4,806						4,806
CALIBRATION STANDARDS		6,965		8,216				8,216				8,216						8,216
EMI CONTROL INSTRUMENTATION		9,387		7,369				7,369				7,369						7,369
SHORE ELEC ITEMS UNDER $900K		8,874		8,718				8,718				8,718						8,718
SHIPBOARD COMMUNICATIONS																		
SHIPBOARD HF COMMUNICATIONS		4,982		11,737				11,737				11,737						11,737
SHIPBOARD UHF COMMUNICATIONS		7,283		9,445				9,445				9,445						9,445
FLIGHT DECK COMMUNICATIONS		5,812		1,991				1,991				1,991						1,991
PORTABLE RADIOS	271	3,693	674	8,282			674	8,282			674	8,282					674	8,282
SHIP COMMUNICATIONS AUTOMATION		15,787		17,950				17,950				17,950						17,950
SHIP COMM ITEMS UNDER $900K		9,206		13,486				13,486				13,486						13,486
SEALIFT SHIP COMM		4,828		4,716				4,716				4,716						4,716
SUBMARINE COMMUNICATIONS																		
ELF COMMUNICATIONS	34	13,223	77	30,836			77	30,836			77	30,836					77	30,836
SHORE LF/VLF COMMUNICATIONS		15,867		17,781				17,781				17,781						17,781
VERDIN		16,096		11,824				11,824				11,824						11,824
SSN INTEGRATED COMMUNICATIONS		1,679		2,237				2,237				2,237						2,237
SUBMARINE COMMUNICATION ANTENNAS		15,435		27,925				27,925				27,925						27,925
DATA COLLECTION AND RECORD SYS	25	979	25	943			25	943			25	943					25	943
COMPACT VLF RECEIVER																		
CIRCUIT RATFLOWER		254																
SATELLITE COMMUNICATIONS																		

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED: CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED: RECOMMENDATION QTY	SENATE BILL AS PASSED: RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED: CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED: RECOMMENDATION QTY	HOUSE BILL AS PASSED: RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL: CHANGE FROM REQUEST QTY	CONFERENCE BILL: CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL: RECOMMENDATION QTY	CONFERENCE BILL: RECOMMENDATION AMOUNT
SATCOM SHIP TERMINALS		45,996		34,544				34,544				34,544						34,544
SATCOM SHORE TERMINALS		22,754		8,979				8,979				8,979						8,979
SHORE COMMUNICATIONS																		
JCS COMMUNICATIONS EQUIPMENT		2,073		6,739				6,739				6,739						6,739
ELECTRICAL POWER SYSTEMS		122		1,523				1,523				1,523						1,523
SHORE HF COMMUNICATIONS		29,595		11,334				11,334				11,334						11,334
JOINT TACTICAL COMM (TRI-TAC)		26,713		33,872				33,872				33,872						33,872
DCS TECH CONTROL IMPROVEMENTS				98				98				98						98
VOICE FREQ CARRIER TELEGRAPH				49				49				49						49
ASHORE MOBILE COMM VANS	2	6,031		6				6				6						6
WORLDWIDE WIDEBAND COMM		2,088		3,655				3,655				3,655						3,655
DEFENSE DATA NETWORK		2,783																
WWMCCS COMMUNICATIONS EQUIPMENT		1,099		406				406				406						406
SHORE COMMUNICATIONS AUTOMATION		9,892		9,700				9,700				9,700						9,700
SHORE COMM ITEMS UNDER $900K		3,146		2,054				2,054				2,054						2,054
CRYPTOGRAPHIC EQUIPMENT																		
SINGLE AUDIO SYSTEM		18,153		16,965				16,965				16,965						16,965
TSEC/KY-71/72 (STU-II/STU-IIK)		3,114		13,572				13,572				13,572						13,572
TSEC/KG-84		27,080		27,871				27,871				27,871				10,000		37,871
TSEC/KY-57/58 (VINSON)		25,017		20,397				20,397				20,397						20,397
TSEC/KYV-5 (ANDVT)		4,629		6,333				6,333				6,333						6,333
TSEC/KW-46		14,283		8,797				8,797				8,797						8,797
TSEC/KG-72/KSV-14 (FDCS)	6	1,363																
TSEC/KG-81 (WALBURN)		5,251		1,188				1,188				1,188						1,188
TSEC/KG-44 (DMSP)	123	7,893		5,013				5,013				5,013						5,013
TSEC/KGR-96 (ITSS)			21	2,518			21	2,518			21	2,518					21	2,518
TSEC/KG-58/KSV-6 (PLRS)		9,483																
TRITAC CRYPTO		11,928		28,414				28,414		-2,000		26,414		-2,000		-2,000		26,414
TSEC/KY-67 (BANCROFT)	1,615	13,474																
TSEC/KSV-11	136	4,455	632	14,784			632	14,784			632	14,784					632	14,784
COMMON FILL DEVICES		1,997		479				479				479						479
SIGNAL SECURITY		1,891		362				362				362						362
CRYPTOGRAPHIC ITEMS UNDER $900K		5,500		12,221				12,221				12,221						12,221
TSEC/KSV-8																		
CRYPTOLOGIC EQUIPMENT																		
CRYPTOLOGIC COMMUNICATIONS EQUIP		4,335		810				810				810						810
SHIPS SIGNAL EXPLOITATION SPACE		3,625		1,625				1,625				1,625						1,625
CRYPTOLOGIC ITEMS UNDER $900K		6,016		5,613				5,613				5,613						5,613
CRYPTOLOGIC RESERVES EQUIPMENT		824		1,172				1,172				1,172						1,172
CRYPTOLOGIC FIELD TRAINING EQUIP		2,065		768				768				768						768
SHORE CRYPTOLOGIC SUPPORT SYSTEM		2,273		2,020				2,020				2,020						2,020
OTHER ELECTRONIC SUPPORT																		
WAR RESERVE		76		1,013				1,013				1,013						1,013
ELEC ENGINEERED MAINT (NAVSEA)		5,339		5,153				5,153				5,153						5,153
ELEC ENGINEERED MAINT (NAVELEX)		2,128		1,933				1,933				1,933						1,933
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS																		
REDUCTION IN BA-2		—		—				—		-144,600		-144,600		-144,600		-120,700		-120,700
SUBTOTAL, COMMUNICATIONS & ELECTRONICS EQUIPMENT		2,016,065		2,031,430		0		2,031,430		-120,700		1,910,730		-120,700		-86,800		1,944,630
AVIATION SUPPORT EQUIPMENT																		
SONOBUOYS																		
AN/SSQ-36 (BT)	31,600	2,300	32,536	4,728			32,536	4,728			32,536	4,728					32,536	4,728
ADVANCE PROCUREMENT (CY)																		
AN/SSQ-53 (DIFAR)	415,000	141,952	273,615	100,583			273,615	100,583			273,615	100,583					273,615	100,583
AN/SSQ-57 (SPECIAL PURPOSE)	30,575	5,570	11,935	2,881			11,935	2,881			11,935	2,881					11,935	2,881
AN/SSQ-62 (DICASS)	29,900	26,731	27,436	35,265			27,436	35,265		-7,700	27,436	27,565		-7,700			27,436	35,265
AN/SSQ-75 (ERAPS)																		
AN/SSQ-77 (VLAD)	95,000	81,474	95,800	61,388			95,800	61,388			95,800	61,388					95,800	61,388
AN/SSQ-71 (ATAC)																		
AN/SSQ-86 (DLC)	1,875	2,994	1,860	2,840			1,860	2,840			1,860	2,840					1,860	2,840
SIGNAL UNDERWATER SOUND (SUS)	5,376	1,351	4,500	1,228			4,500	1,228			4,500	1,228					4,500	1,228
SONOBUOY SPECIAL TEST EQUIPMENT																		
LOW COST SONOBUOY	200,000	45,445	490,000	26,569			490,000	26,569			490,000	26,569					490,000	26,569
AIR LAUNCHED ORDNANCE																		
SKIPPER	1,004	27,616	1,600	44,706			1,600	44,706			1,600	44,706					1,600	44,706
GENERAL PURPOSE BOMBS		144,217		126,929				126,929		-89,800		37,129		-89,800		-40,029		86,900
BSU-75/B										(-18,100)		(-18,100)		(-18,100)				
FMU-139/B FUZE										(-54,700)		(-54,700)		(-54,700)				
MK-83										(-17,000)		(-17,000)		(-17,000)				
LASER GUIDED BOMB KITS	2,552	27,150	515	6,344			515	6,344			515	6,344					515	6,344
WALLEYE		38,352		35,293				35,293		-35,293		0		-35,293		-25,293		10,000
ROCKEYE	1,388	8,829	1,528	8,875			1,528	8,875		-7,600	1,528	1,275		-7,600		-7,600	1,528	1,275
ZUNI ROCKET		47,370		26,271				26,271		-18,000		8,271		-18,000		-18,000		8,271
2.75 INCH ROCKET		58,934		31,416				31,416				31,416						31,416
PARACHUTE FLARES	1,004	4,357	302	1,947			302	1,947			302	1,947					302	1,947
MACHINE GUN AMMUNITION		13,841		21,180				21,180		-500		20,680		-500				21,180
PRACTICE BOMBS		57,392		30,678				30,678		-5,200		25,478		-5,200		-3,678		27,000
CARTRIDGES + CARTRIDGE ACTUATED DEVICES		37,212		25,253				25,253				25,253						25,253
AIRCRAFT ESCAPE ROCKETS		8,055		7,458				7,458				7,458						7,458
AIRBORNE EXPENDABLE COUNTERMEASURES		47,608		40,852				40,852		-9,600		31,252		-9,600		-9,600		31,252
MARINE LOCATION MARKERS		6,656		8,307				8,307		-1,400		6,907		-1,400				8,307
DEFENSE NUCLEAR AGENCY MATERIAL		2,186		2,454				2,454				2,454						2,454
BIGEYE CHEMICAL WEAPON			585	28,533			585	28,533		-18,500	585	10,033		-18,500		-8,533	585	20,000
JATOS		2,894		2,621				2,621		-600		2,021		-600				2,621
GATOR			912	42,585			912	42,585	-912	-42,585		0	-912	-42,585	-512	-17,585	400	25,000
MISC AIR LAUNCHED ORDNANCE		176		566				566				566						566
AIRCRAFT SUPPORT EQUIPMENT																		
WEAPONS RANGE SUPPORT EQUIPMENT		89,983		46,431				46,431				46,431						46,431
EXPEDITIONARY AIRFIELDS		2,057		1,292				1,292				1,292						1,292
AIRCRAFT REARMING EQUIPMENT		54,730		38,830				38,830				38,830						38,830
CATAPULTS AND ARRESTING GEAR		23,803		33,670				33,670		-9,100		24,570		-9,100				33,670

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
AIRFIELD ARRESTING GEAR																		
METEOROLOGICAL EQUIPMENT		2,331		19,015				19,015		-9,000		10,015		-9,000				19,015
OTHER PHOTOGRAPHIC EQUIPMENT		7,331		2,078				2,078				2,078						2,078
MISC SURVIVAL EQUIPMENT		16,805		17,603				17,603				17,603						17,603
AIRBORNE MINE COUNTERMEASURES		27,094		32,304				32,304		-4,300		28,004		-4,300		-12,504		19,800
LAMPS MK III SHIPBOARD EQUIPMENT		49,893		34,993				34,993				34,993						34,993
REMSON PHOTOGRAPHIC EQUIPMENT		2,250		1,858				1,858				1,858						1,858
STOCK SURVEILLANCE EQUIPMENT		2,256		1,971				1,971				1,971						1,971
OTHER AVIATION SUPPORT EQUIPMENT		2,233		5,719				5,719		-3,400		2,319		-3,400				5,719
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS																		
SUBTOTAL, AVIATION SUPPORT EQUIPMENT		1,141,428		963,514		0		963,514		-262,578		700,936		-262,578		-142,822		820,692
ORDNANCE SUPPORT EQUIPMENT																		
SHIP GUN AMMUNITION																		
3 /50 GUN AMMUNITION				3,743				3,743				3,743						3,743
5 /38 GUN AMMUNITION		4,461		6,309				6,309				6,309						6,309
5 /54 GUN AMMUNITION		46,763		75,825				75,825				75,825						75,825
5 INCH GUIDED PROJECTILE		104,192		127,916				127,916				127,916						127,916
16 INCH GUN AMMUNITION		7,081		7,667				7,667				7,667						7,667
CIWS AMMUNITION		31,203		41,814				41,814				41,814						41,814
76MM GUN AMMUNITION		10,023		17,092				17,092				17,092						17,092
OTHER SHIP GUN AMMUNITION		15,369		25,990				25,990				25,990						25,990
SHIP GUN SYSTEM EQUIPMENT																		
GUN FIRE CONTROL EQUIPMENT		29,918		19,188				19,188				19,188						19,188
COAST GUARD GUN SYSTEM	3	28,777	2	20,930			2	20,930			2	20,930					2	20,930
SHIP MISSILE SYSTEMS EQUIPMENT																		
MK 92 FIRE CONTROL SYSTEM		2,832		3,471				3,471				3,471						3,471
MK-92 CORT				0				0	6	54,000	6	54,000	6	54,000				0
HARPOON SUPPORT EQUIPMENT		12,664		13,041				13,041				13,041						13,041
TERRIER SUPPORT EQUIPMENT		111,920		56,810				56,810				56,810						56,810
TARTAR SUPPORT EQUIPMENT		106,584		47,052				47,052				47,052						47,052
POINT DEFENSE SUPPORT EQUIPMENT (NTU)		11,842		42,314				42,314				42,314						42,314
AIRBORNE ECM/ECCM		1,044		1,061				1,061				1,061						1,061
AEGIS SUPPORT EQUIPMENT		56,985		60,592				60,592				60,592						60,592
SURFACE TOMAHAWK SUPPORT EQUIPMENT		83,801		109,593				109,593				109,593						109,593
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT		18,821		11,916				11,916				11,916						11,916
VERTICAL LAUNCH SYSTEM	3	100,233	4	137,767			4	137,767			4	137,767					4	137,767
FBM SUPPORT EQUIPMENT																		
STRATEGIC PLATFORM SUPPORT EQUIPMENT		146,893		105,318				105,318				105,318						105,318
STRATEGIC MISSILE SYSTEMS EQUIPMENT																		
ASW SUPPORT EQUIPMENT																		
MK 117 FIRE CONTROL SYSTEM	35	57,505	29	54,187			29	54,187			29	54,187					29	54,187
SUBMARINE ASW SUPPORT EQUIPMENT		24,531		23,336				23,336				23,336						23,336
SURFACE ASW SUPPORT EQUIPMENT		20,175		24,886				24,886				24,886						24,886
MK 116 FIRE CONTROL SYSTEM	5	23,906	4	40,929			4	40,929			4	40,929					4	40,929
ASW RANGE SUPPORT EQUIPMENT		6,272		5,429				5,429				5,429						5,429
OTHER ORDNANCE SUPPORT EQUIPMENT																		
EXPLOSIVE ORDNANCE DISPOSAL EQUIP		10,625		15,238				15,238				15,238						15,238
SWIMMER WEAPONS SYSTEMS		847		847				847				847						847
UNMANNED SEABORNE TARGET		7,670		2,872				2,872				2,872						2,872
ANTI-SHIP MISSILE DECOY SYSTEMS	5	4,606	5	6,362			5	6,362			5	6,362					5	6,362
CALIBRATION EQUIPMENT		3,276		6,290				6,290				6,290						6,290
STOCK SURVEILLANCE EQUIPMENT		2,080		2,096				2,096				2,096						2,096
ORDNANCE FACILITIES EQUIPMENT																		
OTHER ORDNANCE TRAINING EQUIPMENT		1,492		2,362				2,362				2,362						2,362
OTHER EXPENDABLE ORDNANCE																		
SMALL ARMS AND LANDING PARTY AMMO		21,645		31,002				31,002				31,002						31,002
PYROTECHNIC AND DEMOLITION MATERIAL		21,223		29,613				29,613				29,613						29,613
QUICKSTRIKE		39,714		29,852				29,852				29,852						29,852
FLEET MINE SUPPORT EQUIPMENT		24,761		20,692				20,692				20,692						20,692
MINE NEUTRALIZATION DEVICES		2,599		2,719				2,719				2,719						2,719
DEFENSE NUCLEAR AGENCY MATERIAL		7,892		7,435				7,435				7,435						7,435
SHIPBOARD EXPENDABLE COUNTERMEASURES		29,255		18,264				18,264				18,264						18,264
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS																		
REDUCTION IN BA-4		---		---				---		-144,700		-144,700		-144,700		-90,700		-90,700
SUBTOTAL, ORDNANCE SUPPORT EQUIPMENT		1,241,480		1,259,820		0		1,259,820		-90,700		1,169,120		-90,700		-90,700		1,169,120
CIVIL ENGINEERING SUPPORT EQUIPMENT																		
PASSENGER CARRYING VEHICLES	804	10,085	810	10,925			810	10,925	-810	-10,925		0	-810	-10,925			810	10,925
ARMORED SEDANS	1	95																
TRUCKS	2,539	39,024	2,639	38,335			2,639	38,335	-2,639	-38,335		0	-2,639	-38,335			2,639	38,335
TRAILERS	271	3,726	326	4,811			326	4,811	-326	-4,811		0	-326	-4,811			326	4,811
CRUSH, MIX, BATCH, PAVE EQUIPMENT		4,774		4,987				4,987				4,987						4,987
DRILLING AND BLASTING EQUIPMENT		2,649		3,094				3,094				3,094						3,094
EARTH MOVING EQUIPMENT	179	15,700	300	11,244			300	11,244			300	11,244					300	11,244
LIGHTING AND POWER GENERATING EQUIP		3,460		2,415				2,415				2,415						2,415
MISC CONSTRUCTION AND MAINTENANCE EQUIP		3,626		5,957				5,957				5,957						5,957
FIRE FIGHTING EQUIPMENT	69	6,059	60	4,680			60	4,680			60	4,680					60	4,680
WEIGHT HANDLING EQUIPMENT	80	12,578	82	13,210			82	13,210			82	13,210					82	13,210
AMPHIBIOUS EQUIPMENT		72,998		32,987				32,987				32,987						32,987
COMBAT CONSTRUCTION SUPPORT EQUIPMENT		9,521		9,296				9,296				9,296						9,296
TELEPHONE EQUIPMENT		36																
MOBILE UTILITIES SUPPORT EQUIPMENT		6,616		2,152				2,152				2,152						2,152
COLLATERAL EQUIPMENT				2,284				2,284				2,284						2,284
OCEAN CONSTRUCTION EQUIPMENT				1,318				1,318				1,318						1,318
FLEET MOORINGS		7,336		4,460				4,460				4,460						4,460
POLLUTION CONTROL EQUIPMENT		2,653		1,932				1,932				1,932						1,932
OTHER CIVIL ENG SUPPORT EQUIPMENT				2,625				2,625				2,625						2,625
SPARES AND REPAIR PARTS																		

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
FLEET HOSPITALS	1	27,654	4	110,548			4	110,548	-1	-27,600	3	82,948	-1	-27,600	-1	-27,600	3	82,948
REDUCTION IN BA-5		---		---				---				---				-54,071		-54,071
SUBTOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT		229,390		267,260		0		267,260		-81,671		185,589		-81,671		-81,671		185,589
SUPPLY SUPPORT EQUIPMENT																		
FORKLIFT TRUCKS	243	9,028	392	9,518			392	9,518			392	9,518					392	9,518
OTHER MATERIALS HANDLING EQUIPMENT		3,326		3,290				3,290				3,290						3,290
AUTOMATED MATERIALS HANDLING SYSTEMS		12,917		23,783				23,783		-10,400		13,383		-10,400		-10,400		13,383
OTHER SUPPLY SUPPORT EQUIPMENT				9,023				9,023				9,023						9,023
POLLUTION CONTROL EQUIPMENT		2,288																
SPECIAL ACTIVITIES, NAVY																		
SPECIAL PURPOSE SUPPLY SYSTEMS		31,300		36,609				36,609				36,609						36,609
SUBTOTAL, SUPPLY SUPPORT EQUIPMENT		58,859		82,223		0		82,223		-10,400		71,823		-10,400		-10,400		71,823
PERSONNEL AND COMMAND SUPPORT EQUIPMENT																		
TRAINING DEVICES																		
SURFACE SONAR TRAINERS		35,792		33,368				33,368				33,368						33,368
SUBMARINE SONAR TRAINERS		6,923		8,546				8,546				8,546						8,546
SURFACE COMBAT SYSTEM TRAINERS		23,694		25,487				25,487				25,487						25,487
SUBMARINE COMBAT SYSTEM TRAINERS		11,916		30,319				30,319				30,319						30,319
SHIP SYSTEM TRAINERS		15,268		16,217				16,217				16,217						16,217
SPARES AND REPAIR PARTS																		
TRAINING SUPPORT EQUIP		2,353		12,632				12,632		-5,100		7,532		-5,100				12,632
TRAINING DEVICE MODIFICATIONS		6,666		3,340				3,340				3,340						3,340
COMMAND SUPPORT EQUIPMENT																		
COMMAND SUPPORT EQUIPMENT				14,540				14,540		-3,900		10,640		-3,900				14,540
EDUCATION SUPPORT EQUIPMENT				4,966				4,966				4,966						4,966
MEDICAL SUPPORT EQUIPMENT		61,423		25,085				25,085				25,085						25,085
INTELLIGENCE SUPPORT EQUIPMENT		41,624		52,823		-1,143		51,680		-14,300		38,523		-13,157		-5,265		47,558
ITEMS UNDER $00K		1,218		1,032				1,032				1,032						1,032
OPERATING FORCES SUPPORT EQUIPMENT				21,331				21,331				21,331						21,331
NAVAL RESERVE SUPPORT EQUIPMENT				4,992				4,992		-4,992		0		-4,992				4,992
OCEANOGRAPHIC SUPPORT EQUIPMENT		14,000		25,592				25,592		-15,400		10,192		-15,400				25,592
PHYSICAL SECURITY EQUIPMENT		12,416		31,087				31,087		-18,300		12,787		-18,300				31,087
COMPUTER ACQUISITION PROGRAM																		
COMPUTER ACQUISITION PROGRAM		163,496		221,279				221,279		-52,200		169,079		-52,200				221,279
NAVAL WAR GAMING SYSTEM																		
NONCENTRALLY MANAGED ITEMS		125,300																
PRODUCTIVITY PROGRAMS																		
PRODUCTIVITY INVESTMENT FUND (PIF)		4,393		20,245				20,245				20,245						20,245
PROD ENHANCING INCENTIVE FUND (PEIF)				3,414				3,414				3,414						3,414
REDUCTION IN BA-7		---		---				---				---				-100,000		-100,000
SUBTOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT		526,482		556,295		-1,143		555,152		-114,192		442,103		-113,049		-105,265		451,030
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		260,030		323,892		0		323,892		-21,500		302,392		-21,500		-21,500		302,392
UNDISTRIBUTED REDUCTION		---		---		-400,000		-400,000				---		400,000				---
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-16,000		-16,000				---		16,000				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-9,200		-9,200				---		9,200				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-57,700		-57,700				---		57,700				---
INFLATION REESTIMATE (FY 87)		---		---		-120,700		-120,700				---		120,700		-120,700		-120,700
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-133,200)		(-133,200)		(-133,200)		(-133,200)		(-133,200)
ROUNDING ADJUSTMENT		---		---				---		41		41		41				---
TOTAL, NAVY OTHER PROCUREMENT		6,381,282		6,538,800		-604,743		5,934,057		-765,700		5,773,100		-160,957		-711,858		5,826,942

OTHER PROCUREMENT, NAVY

Overview

The budget request contained $6,538.8 million for Navy other procurement for fiscal year 1987. The House amendment would authorize $5,773.1 million for other procurement. The Senate bill would authorize $5,934.1 million.

The conferees recommend authorization of $5,826.9 million for other procurement, Navy for fiscal year 1987. Specific details are presented in the foregoing table.

Sealift support equipment/seasheds

The budget request contained $58.3 million for sealift support equipment.

The Senate bill would authorize the amount requested. The House amendment would authorize $70.3 million, an increase of $12 million for seasheds.

The Senate recedes.

The conferees are in agreement that achieving sufficient logistics-over-the-shore capability should be a priority program. As such, the conferees urge the Navy to provide adequate support to complete this important effort as soon as possible.

The Department of Navy is encouraged to reprogram funds from available savings to stabilize the procurement of this important program.

The conferees also urge the Navy to consider the P-1 series steel pontoon as an alternative to the cantilevered elevated causeway.

AN/SQR-17 acoustic processor

The budget request contained $7.8 million for 8 AN/SQR-17 acoustic processors.

The Senate bill would authorize the amount requested. The House amendment would authorize $16.9 million for 20 AN/SQR-17 acoustic processors. This equipment would improve the antisubmarine warfare (ASW) capability of the FFG-7 class frigates assigned to the naval reserve.

The conferees wish the Navy to attain the greatest improvement in ASW capability for reserve frigates consistent with budget constraints. Recent testimony on the ability of these ships to perform adequately against a rapidly improving submarine threat demonstrates the need to seek cost-effective ASW improvements.

Accordingly, the conferees have agreed to provide no specific authorization for the AN/SQR-17 but to instead authorize $16.9 million for Reserve Frigate ASW Modernization. The conferees expect that the Navy will competitively evaluate both the cost and performance of various ASW systems, including the AN/SQR-17 processor and the AN/SQQ-89 system, to arrive at the best mix of systems of use on reserve ASW frigates within the funds available. The conferees also expect that, in accordance with current law, any equipment purchases made through this account will be made by competitive means.

AN/BLD-1 microwave intercept receiver

The budget requested no authorization for the AN/BLD-1 microwave intercept receiver.

The Senate bill contained no authorization for the AN/BLD-1 system. The House amendment would authorize $16.8 million for 8 systems.

The Senate recedes.

Aviation support equipment

The budget request contained $963.5 million for procurement of aviation support equipment for the Navy for fiscal year 1987. The House amendment would authorize $700.9 million for aviation support equipment. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $820.7 million for aviation support equipment for fiscal year 1987.

MK-92 coherent receiver transmitter (CORT) production kits

The budget requested no authorization for MK-92 coherent receiver transmitter (CORT) production kits.

The Senate bill contained no authorization for MK-92 CORT production kits. The House amendment specified that of the funds authorized for ordnance support equipment, $54 million is available only for the procurement of 6 CORT production kits.

The House recedes.

Civil engineering support equipment

The budget request contained $267.3 million for civil engineering support equipment for fiscal year 1987.

The House amendment would authorize $185.6 million for civil engineering support equipment. The Senate bill would authorize the amounts requested.

The conferees recommend authorization of $185.6 million for civil engineering support equipment for fiscal year 1987. Within the authorization, the conferees agreed to an undistributed reduction of $54.1 million. In applying this reduction, the conferees encourage the Department of the Navy to consider categories such as administrative use vehicles, or passenger cars, and other noncritical items.

Supply support equipment

The budget request contained $82.2 million for supply support equipment for the Navy for fiscal year 1987. The House amendment would authorize $71.8 million for supply support equipment. The Senate bill would authorize the amount requested.

The conferees recommend authorization of $71.8 million for supply support equipment for the Navy for fiscal year 1987.

Personnel and command support equipment

The budget request contained $556.3 million for personnel and command support equipment for fiscal year 1987. The House amendment would authorize $442.1 million for personnel and command support equipment. The Senate bill would authorize $555.2 million.

The conferees recommend authorization of $451.0 million for personnel and command support equipment for fiscal year 1987.

Spares and repair parts

The budget request contained $323.9 million for spares and repair parts.

The Senate bill would authorize the amount requested. The House amendment would authorize $302.4 million.

The Senate recedes.

Other procurement, undistributed reduction, prior-year program savings, and inflation savings

The Senate bill would reduce the total amount authorized for the other procurement, Navy account by $603.6 million, including an undistributed reduction of $400 million, prior-year program savings of $16 million and inflation savings of $187.6 million.

The House amendment made no similar reductions.

The conferees agreed to reductions in programs and budget activities as shown in the accompanying table.

The Senate recedes with an amendment.

PROCUREMENT, MARINE CORPS

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED: CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED: RECOMMENDATION QTY	SENATE BILL AS PASSED: RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED: CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED: RECOMMENDATION QTY	HOUSE BILL AS PASSED: RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL: CHANGE FROM REQUEST QTY	CONFERENCE BILL: CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL: RECOMMENDATION QTY	CONFERENCE BILL: RECOMMENDATION AMOUNT
AMMUNITION																		
LINEAR CHARGES, ALL TYPES		3,194																
SMALL ARMS AMO, ALL TYPES		12,791		18,539				18,539				18,539						18,539
MACHINE GUN AMMO, ALL TYPES		35,729		32,003				32,003				32,003						32,003
MORTAR AMMO, ALL TYPES		28,889		216,774				216,774		-23,400		193,374		-23,400		-23,400		193,374
GRENADES, ALL TYPES		2,202		8,311				8,311				8,311						8,311
ROCKETS, ALL TYPES		61,422		41,279		2,900		44,179				41,279		-2,900		2,900		44,179
TRAINING AMMO, ALL TYPES		34,513		31,117				31,117				31,117						31,117
155MM AMMO, ALL TYPES		233,612		202,048		-17,600		184,448				202,048		17,600		-17,600		184,448
ANTI-ARMOR AMMO, ALL TYPES																		
155MM PROJ COPPERHEAD		53,670		37,831				37,831				37,831						37,831
8 INCH AMMO, ALL TYPES		11,238				14,700		14,700				0		-14,700		14,700		14,700
FUZES, ALL TYPES		31,258		12,893				12,893				12,893						12,893
AMMO MODERNIZATION		5,721		4,197				4,197				4,197						4,197
OTHER SUPPORT																		
ITEMS LESS THAN $900K		3,863		3,331				3,331				3,331						3,331
SUBTOTAL, AMMUNITION		518,102		608,323		0		608,323		-23,400		584,923		-23,400		-23,400		584,923
WEAPONS AND COMBAT VEHICLES																		
TRACKED COMBAT VEHICLES																		
ORD/VEH SPT EQUIPMENT																		
AAV7A1 PIP			100	14,268			100	14,268			100	14,268					100	14,268
LVT7 WPN SYSTEM																		
LVT7 SERVICE LIFE EXT PROG																		
LIGHT ARMORED VEHICLE																		
SPARES AND REPAIR PARTS																		
MODIFICATION KITS (TRKD VEH)	756	1,693		1,005				1,005				1,005						1,005
M-1 MAIN BATTLE TANK																		
ADVANCE PROCUREMENT (CY)																		
RECOVERY VEHICLE M88	5	4,544																
BRIDGE, ARMORED VEH LAUNCHED	16	8,640	8	4,480			8	4,480			8	4,480					8	4,480
ITEMS LESS THAN $900K (TRKD VEH)		1,476																
ARTILLERY AND OTHER WEAPONS																		
PDS AZIMUTH DETERM SYS (PADS)			17	5,633			17	5,633			17	5,633					17	5,633
BATTERY COMPUTER SYSTEM	166	26,345																
M198 155MM HOWITZER	50	26,301	94	44,954			94	44,954			94	44,954					94	44,954
SPARES AND REPAIR PARTS																		
ITEMS LESS THAN $900K (ATL-DTH)		2,586		1,295				1,295				1,295						1,295
WEAPONS																		
9MM HANDGUN	10,000	2,370	22,181	5,432			22,181	5,432		-900	22,181	4,532		-900		-900	22,181	4,532
MACHINE GUN, AUTO SAW 5.56MM			1,000	3,440			1,000	3,440		-700	1,000	2,740		-700		-700	1,000	2,740
M-16 5.56MM RIFLE	28,186	11,993	17,725	7,865			17,725	7,865			17,725	7,865					17,725	7,865
MK-19 40MM MACHINE GUN	103	1,000	189	1,912			189	1,912		-900	189	1,012		-900		-900	189	1,012
EOD EQUIPMENT																		
MORTAR, MED. EXTENDED RANGE			350	7,467			350	7,467	-100	-2,200	250	5,267	-100	-2,200			350	7,467
SMAW BLNK ROCKET	535	4,676																
SUBTOTAL, WEAPONS AND COMBAT VEHICLES		91,624		97,751		0		97,751		-4,700		93,051		-4,700		-2,500		95,251
GUIDED MISSILES AND EQUIPMENT																		
GUIDED MISSILES																		
HAWK	550	122,665	430	115,372			430	115,372			430	115,372					430	115,372
HAWK MOD		39,078		24,269				24,269				24,269						24,269
STINGER	800	57,997	1,442	69,284			1,442	69,284			1,442	69,284					1,442	69,284
DRAGON MISSILE SYSTEM																		
TOW	4,238	39,505	3,400	33,524			3,400	33,524		-1,200	3,400	32,324		-1,200		-1,200	3,400	32,324
OTHER SUPPORT																		
SPARES AND REPAIR PARTS																		
MODIFICATION KITS		712		744				744				744						744
SUBTOTAL, GUIDED MISSILES AND EQUIPMENT		259,857		243,193		0		243,193		-1,200		241,993		-1,200		-1,200		241,993
COMMUNICATIONS AND ELECTRONICS EQUIPMENT																		
MANPACK RADIOS																		
MANPACK RADIOS AND EQUIP		12,656		2,662				2,662				2,662						2,662
VEHICLE MOUNTED RADIOS AND EQUIPMENT																		
VEHICLE MTD RADIOS & EQUIPMENT		10,366		1,482				1,482				1,482						1,482
TELEPHONE AND TELETYPE EQUIPMENT																		
UNIT LEVEL CIRCUIT SWITCH (ULCS)		12,600		74,199				74,199				74,199						74,199
ULCS LIFE CYCLE SUPPORT		15,361		8,035				8,035				8,035						8,035
TACT COMM CENTER EQUIP		3,970	13	199			13	199			13	199					13	199
SB-3614(V)TT AUTO TELEPHONE SWITCHBOARD																		
AN/PSC( ) DIGITAL COMM TERMINAL			472	15,174			472	15,174			472	15,174					472	15,174
REPAIR AND TEST EQUIPMENT																		
PP-6224/4 POWER SUPPLY																		
AN/USM-323 GEN SERL, ELECTRONIC	456	5,580																
AUTO TEST EQUIP SYS	45	5,186	51	6,145			51	6,145		-700	51	5,445		-700			51	6,145
CALIBRATION FACILITY ELECTRONIC				9,830				9,830				9,830						9,830
MAINTENANCE COMPLEX, ELECTRONIC		5,306		10,599				10,599		-5,100		5,499		-5,100				10,599
ELECTRONIC TEST EQUIP (TEL)		1,000	10	2,706			10	2,706			10	2,706					10	2,706
OTHER COMM/ELEC EQUIPMENT																		
PP-7333 POWER SUPPLY	1,012	3,813																
AN/TRQ-35(V)TACTICAL FREQ MANAGEMENT SYS																		
TACT FACSIMILE SET AN/GXC-7	359	6,725																
AN/VIT/TACTERM	34	1,513	75	2,681			75	2,681			75	2,681					75	2,681

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
TIME DIVERSITY ADDER MX-() (TL)																		
HAVE QUICK TIMING DISTR SYSTEM																		
SINGLE CHAN GRD & AIR RADIO																		
OTHER SUPPORT (TEL)																		
TEST CALIB + MAINT SPT		1,000		1,638				1,638				1,638						1,638
REPLENISHMENT SPARES (TEL)																		
SPARES (TEL)																		
MODIFICATION KITS (TEL)		3,219	1	3,690			1	3,690			1	3,690					1	3,690
ITEMS LESS THAN $900K (TEL)		1,153		811				811				811						811
COMMAND + CONTROL SYSTEMS (NON-TEL)																		
POS LOCATING RPTG SYSTEM (PLRS)	2	46,384																
TACTICAL AIR OPER MODULE (TAOM)	3	71,550	7	50,458			7	50,458			7	50,458					7	50,458
AN/UYQ 4 SEMI AUTO,DIRECT AIR SUPPORT CENTRAL				6,310				6,310				6,310						6,310
RADAR + EQUIPMENT (NON-TEL)																		
AN/TPS-59 DECOY	5	6,109																
AN/PPN-19 RADAR TRANSPONDER	255	13,192																
AN/TPS-32 DECOY																		
INTELL/COMM EQUIPMENT (NON-TEL)																		
AIRBORNE RADIO DIRECTION FINDER																		
JINTACS/JAMS																		
METEOROLOGICAL DATA SYSTEM	9	13,338																
MOBILE EW SUP SYS (MEWSS)			12	15,367			12	15,367			12	15,367					12	15,367
GRD BASED ELECT INTELL SPT SYS																		
REPAIR + TEST EQUIPMENT (NON-TEL)																		
ELECTRONIC TONE REPAIR FACILITY			6	4,684			6	4,684			6	4,684					6	4,684
STE/ICE SIMPL TEST EQ			264	1,296			264	1,296			264	1,296					264	1,296
MECH TEST TMDE			1	2,446			1	2,446			1	2,446					1	2,446
ELECTRONIC TEST EQUIP (NONTEL)		1,000		3,344				3,344				3,344						3,344
OTHER COMM/ELEC EQUIPMENT (NON-TEL)																		
PP-7286 BATTERY CHARGER																		
CAMPS																		
MOD [illegible]V LASER EQUIP (MULE)																		
NIGHT VIS[illegible] EQUIPMENT		10,823		1,927				1,927				1,927						1,927
PROD ENHANCEMENT		5,016																
ADP EQUIPMENT	1	19,050		46,125				46,125		-26,400		19,725		-26,400				46,125
CP-696()/PD RADIAC IMDIC COMPUTER																		
OTHER SUPPORT (NON-TEL)																		
TEST CALIB & MAINT SPT (NON-TEL)		1,582		1,638				1,638				1,638						1,638
SPARES AND REPAIR PARTS																		
MODIFICATION KITS (NONTEL)	42	8,433	13	4,445			13	4,445			13	4,445					13	4,445
ITEMS LESS THAN $900K (NONTEL)		1,799		970				970				970						970
SUBTOTAL, COMMUNICATIONS & ELECTRONICS EQUIPMENT		287,724		278,861		0		278,861		-32,200		246,661		-32,200		0		278,861
SUPPORT VEHICLES																		
ADMINISTRATIVE VEHICLES																		
COMMERCIAL PASSENGER VEHICLES	203	2,702		2,278				2,278		-2,278		0		-2,278				2,278
COMMERCIAL CARGO VEHICLES		20,121	1	3,814			1	3,814	-1	-3,814		0	-1	-3,814			1	3,814
TACTICAL VEHICLES																		
UTILITY MOTORCYCLE																		
5/4T TRUCK HMMWV	4,832	113,041	743	18,760			743	18,760			743	18,760					743	18,760
A/C FIRE/RESCUE VEHICLE	6	1,006																
TRUCKS, 5 TON, ALL TYPES	470	46,162																
5 TON RETROFIT	691	7,177	209	5,230			209	5,230			209	5,230					209	5,230
COMMERCIAL UTILITY CARGO VEHICLE																		
LOGISTICS VEHICLE SYSTEM	719	69,148	1,210	103,994			1,210	103,994	-410	-32,600	800	71,394	-410	-32,600			1,210	103,994
TRAILERS, ALL TYPES		10,836		7,656				7,656				7,656						7,656
LUBE AND SERVICE UNIT 1500	70	1,331	39	755			39	755			39	755					39	755
OTHER SUPPORT																		
SPARES AND REPAIR PARTS																		
MODIFICATION KITS		4,338		3,194				3,194				3,194						3,194
ITEMS LESS THAN $900K		1,140		388				388				388						388
UNDISTRIBUTED REDUCTION		—		—				—				—				-6,092		-6,092
SUBTOTAL, SUPPORT VEHICLES		277,802		146,069		0		146,069		-38,692		107,377		-38,692		-6,092		139,977
ENGINEER AND OTHER EQUIPMENT																		
ENGINEER AND EQUIPMENT																		
PUMP REFUELER FUEL DISP																		
MINE CLEARANCE SYSTEM KIT (LVTP-7)																		
ENVIRONMENTAL CONTROL EQ ASSORT		1,728		1,445				1,445				1,445						1,445
HEAVY RT CRANE			71	26,027			71	26,027			71	26,027					71	26,027
LIGHT RT CRANE																		
GRADER ROAD MOTORIZED	118	8,370	63	4,407			63	4,407			63	4,407					63	4,407
TRACTORS, ALL TYPES		12,094		30,090				30,090				30,090						30,090
RUNWAY SWEEPER, VACUUM	18	2,157																
SHOP EQ GEN PUR REP SEMI-TRLR	28	4,669																
CONTAINER HNDLR, ROUGH TERR	27	7,486																
FORKLIFTS, ALL TYPES		10,540		6,879				6,879				6,879						6,879
LAUNDRY UNIT SKID MTD			60	2,744			60	2,744			60	2,744					60	2,744
FIELD BATH SHOWER UNIT	100	2,349	100	2,431			100	2,431			100	2,431					100	2,431
REFRIGERATION UNIT	528	1,347	272	684			272	684			272	684					272	684
REFRIGERATION BOX	218	1,798																
REV OSMOSIS/WATER PUR 600 GL	178	11,166	34	4,184			34	4,184			34	4,184					34	4,184
M-33 ICE CREAM PLANT THOMPSON																		
WATER SUPPLY SUPPORT SYSTEM																		
FIELD WIRING HARNESS			749	5,375			749	5,375			749	5,375					749	5,375
FUEL & WATER PUMP & STORAGE MODULE		4,056		4,880				4,880				4,880						4,880
AMPHIBIOUS ASSAULT FUEL SYSTEM	5	5,882																
HELO EXPED REFUELING SYS	6	652																

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
TACT AIRFIELD FUEL DISP SYS																		
TOPOGRAPHIC REPRODUCTION EQUIPMENT TRL																		
SURVEY EQUIP F/CONST USE			16	924			16	924			16	924					16	924
WET GAP BRIDGE SYSTEM			168	6,190			168	6,190			168	6,190					168	6,190
BOAT BRIDGE	21	2,582	14	1,698			14	1,698			14	1,698					14	1,698
MEDIUM GIRDER BRIDGE	20	10,926																
POWER EQUIPMENT ASSORTED		8,260		5,999				5,999				5,999						5,999
MOB ELECT POWER DIST SYS (MEPDS)	17	4,982	4	2,976			4	2,976			4	2,976					4	2,976
CONVENTIONAL MINE LAYING SYSTEM																		
CLEARED LANE MARKING SYSTEM																		
MATERIALS HANDLING EQUIPMENT																		
COMMAND SUPPORT EQUIPMET		2,788		10,506				10,506				10,506						10,506
GARRISON MOBILE ENGR EQUIP		5,698		3,975				3,975				3,975						3,975
TELEPHONE SYSTEM		4,300		5,226				5,226				5,226						5,226
AUTO MAT HANDLING EQUIP		691		1,035				1,035				1,035						1,035
HMMC ITEMS		1,000		1,307				1,307				1,307						1,307
MATERIEL HANDLING EQUIP		1,509		2,309				2,309				2,309						2,309
GENERAL PROPERTY																		
LTWT DECONTAMINATN SYSTEM																		
TRN DEVICES (AUDIO VISUAL)		1,635		1,761				1,761				1,761						1,761
TRN DEVICES (SIMULATORS)		10,408	1	5,615			1	5,615			1	5,615					1	5,615
SHELTER FAMILY	870	17,361	326	7,154			326	7,154			326	7,154					326	7,154
CONTAINER FAMILY	4,900	6,969	10,570	15,163			10,570	15,163		-8,000	10,570	7,163		-8,000			10,570	15,163
CHEMICAL ALARM SYSTEM	778	1,870																
CHEMICAL PROTECTION EQUIPMENT																		
DECON APPARATUS PUR DRIVEN	65	1,201	18	321			18	321			18	321					18	321
SANITATION EQUIPMENT KITCHEN			78	1,252			78	1,252			78	1,252					78	1,252
OTHER SUPPORT																		
SPARES AND REPAIR PARTS																		
MODIFICATION KITS		2,764		354				354				354						354
ITEMS LESS THAN $900K		4,086		3,218				3,218				3,218						3,218
SUBTOTAL, ENGINEER AND OTHER EQUIPMENT		163,324		166,129		0		166,129		-8,000		158,129		-8,000		0		166,129
SPARES AND REPAIR PARTS																		
SPARES & REPAIR PARTS		42,133		14,151				14,151				14,151						14,151
REPLENISHMENT SPARES		21,000		10,523				10,523				10,523						10,523
SUBTOTAL, SPARES AND REPAIR PARTS		63,133		24,674		0		24,674		0		24,674		0		0		24,674
UNDISTRIBUTED REDUCTION		---		---		-79,000		-79,000						79,000				---
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-9,000		-9,000						9,000				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-10,300		-10,300						10,300				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-29,600		-29,600						29,600				---
INFLATION REESTIMATE (FY 87)		---		---		-54,400		-54,400						54,400		-54,400		-54,400
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-70,200)		(-70,200)		(-70,200)		(-70,200)		(-70,200)
ROUNDING ADJUSTMENT		---		---				---		92		92		92				---
TOTAL, MARINE CORPS PROCUREMENT		1,660,766		1,565,000		-182,300		1,382,700		-106,100		1,456,900		74,200		-87,592		1,477,408

PROCUREMENT, MARINE CORPS

Overview

The budget request contained $1,565.0 million for procurement, Marine Corps, for fiscal year 1987. The House amendment would authorize $1,456.9 million for procurement, Marine Corps. The Senate bill would authorize $1,382.7 million.

The conferees recommend authorization of $1,477.4 million for procurement, Marine Corps for fiscal year 1987. Specific details are presented in the foregoing table. Within the authorization, the conferees agreed to an undistributed reduction of $6.1 million. In applying this reduction, the conferees encourage the Marines Corps initially to consider categories such as administrative use vehicles, or passenger car, and other noncritical items.

AIRCRAFT PROCUREMENT, AIR FORCE

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
COMBAT AIRCRAFT																		
STRATEGIC OFFENSIVE																		
ACM INTEGRATION		96,000																
B-1B (MYP)	48	4,952,900																
ADVANCE PROCUREMENT (CY)																		
TACTICAL FORCES																		
AIR DEFENSE COMPETITION	10	192,000	20	296,300	-20	-296,300		0			20	296,300	20	296,300			20	296,300
ADVANCE PROCUREMENT (CY)				114,600		-114,600		0				114,600		114,600				114,600
F-15 D/E	48	1,687,300	48	1,675,400			48	1,675,400	-24	-700,000	24	975,400	-24	-700,000	-6	-132,400	42	1,543,000
ADVANCE PROCUREMENT (CY)		201,660		218,900				218,900		-108,900		110,000		-108,900		-60,900		158,000
F-16 C/D (MYP)	180	2,492,000	216	2,881,900	-24	-235,000	192	2,646,900	-66	-955,600	150	1,926,300	-42	-720,600	-36	-528,900	180	2,353,000
ADVANCE PROCUREMENT (CY)		514,100		612,000		-126,000		486,000		-112,000		500,000		14,000		-149,000		463,000
OTHER COMBAT AIRCRAFT																		
KC-10A (ATCA) (MYP)	12	196,600	8	104,400			8	104,400		-26,300	8	78,100		-26,300		-15,400	8	89,000
ADVANCE PROCUREMENT (CY)		219,800																
AC-130H GUNSHIP	1	33,400																
ADVANCE PROCUREMENT (CY)				18,200				18,200		-18,200		0		-18,200		-18,200		0
MC-130H	2	119,100	5	229,700			5	229,700	-3	-123,200	2	106,500	-3	-123,200			5	229,700
ADVANCE PROCUREMENT (CY)		11,700		15,100				15,100		-7,800		7,300		-7,800				15,100
SUBTOTAL, COMBAT AIRCRAFT		10,716,500		6,166,500		-771,900		5,394,600		-2,052,000		4,114,500		-1,280,100		-904,800		5,261,700
AIRLIFT AIRCRAFT																		
STRATEGIC AIRLIFT																		
C-5B	16	1,735,000	21	1,937,378			21	1,937,378		-29,000	21	1,908,378		-29,000		-18,100	21	1,919,278
ADVANCE PROCUREMENT (CY)		313,800																
TACTICAL AIRLIFT																		
C-17				182,300				182,300		-37,000		145,300		-37,000		-37,000		145,300
ADVANCE PROCUREMENT (CY)				35,000				35,000				35,000						35,000
C-130H																		
OTHER AIRLIFT																		
C-12D																		
C-12J																		
C-20A	8	147,700																
VC-X	2	280,000		34,500		-34,500		0		-34,500		0				-34,500		0
SUBTOTAL, AIRLIFT AIRCRAFT		2,476,500		2,189,178		-34,500		2,154,678		-100,500		2,088,678		-66,000		-89,600		2,099,578
TRAINER AIRCRAFT																		
UPT TRAINERS																		
T-46A (NST)				0				0	12	124,000		124,000		124,000				0
ADVANCE PROCUREMENT (CY)				0				0		27,000		27,000		27,000				0
SUBTOTAL, TRAINER AIRCRAFT		0		0		0		0		151,000		151,000		151,000		0		0
OTHER AIRCRAFT																		
HELICOPTERS																		
HH-60																		
MISSION SUPPORT AIRCRAFT																		
CIVIL AIR PATROL A/C			38	1,600			38	1,600			38	1,600					38	1,600
FLIGHT INSPECT ACFT REPLACEMENT																		
RANGE CONTROL AIRCRAFT																		
OTHER AIRCRAFT																		
TR-1/U-2	6	287,900	3	94,549			3	94,549	-3	-49,400		45,149	-3	-49,400	-1	-14,349	2	80,200
ADVANCE PROCUREMENT (CY)		8,600																
COUNTER-INFILTRATION AIRCRAFT		0		0				0	2	8,400	2	8,400	2	8,400				0
SUBTOTAL, OTHER AIRCRAFT		296,500		96,149		0		96,149		-41,000		55,149		-41,000		-14,349		81,800
MODIFICATION OF INSERVICE AIRCRAFT																		
STRATEGIC AIRCRAFT																		
B-52		416,200		413,400		-158,600		254,800				413,400		158,600		-158,600		254,800
FB-111		8,700		3,300				3,300				3,300						3,300
B-1B		31,400		96,400		-6,400		90,000				96,400		6,400		-6,400		90,000
TACTICAL AIRCRAFT																		
A-7		60,000		14,100				14,100				14,100						14,100
A-10		69,500		52,600				52,600				52,600						52,600
F/RF-4		183,800		119,400				119,400				119,400						119,400
F-5		28,532		5,500				5,500				5,500						5,500
F-15		106,500		269,000				269,000		-87,000		182,000		-87,000				269,000
F-16		52,300		87,700				87,700				87,700						87,700
F-111		298,700		273,200				273,200		-1,300		271,900		-1,300		-1,300		271,900
EF-111																		
TR-1A		9,800		9,300				9,300				9,300						9,300
T/AT-37																		
AIRLIFT AIRCRAFT																		
C-5		9,800		46,800				46,800				46,800						46,800
C-9				200				200				200						200
C-137				200				200				200						200
C-141		4,900		10,900				10,900				10,900						10,900
TRAINER AIRCRAFT																		
T-38		27,800		39,500				39,500				39,500						39,500
T-43				400				400				400						400

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
OTHER AIRCRAFT																		
KC-10A (ATCA)		1,000		6,700				6,700				6,700						6,700
C-12		1,500																
C-130		180,200		212,900				212,900		-26,400		186,500		-26,400		-13,900		199,000
C-135		902,500		1,077,400		-80,000		997,400		-29,200		1,048,200		50,800		-80,000		997,400
E-3		4,100		33,500				33,500				33,500						33,500
E-4		20,100		16,000		-11,000		5,000				16,000		11,000		-11,000		5,000
H-1				11,200				11,200				11,200						11,200
H-3 AIRCRAFT SYSTEM				1,500				1,500		20,000		21,500		20,000				1,500
HH-53 AIRCRAFT		87,600		55,300				55,300		213,000		268,300		213,000		106,500		161,800
OTHER AIRCRAFT		109,200		153,300				153,300				153,300						153,300
OV-10																		
OTHER MODIFICATIONS																		
CLASSIFIED PROJECTS		112,385		91,611				91,611		-10,000		81,611		-10,000				91,611
SPECIAL SUPPORT PROJECTS																		
GROUND PROXIMITY WARNING SYSTEM		0		0				0		7,600		7,600		7,600		7,600		7,600
CIVIL RESERVE AIRLIFT FLEET (CRAF)		-																
CIVIL RESERVE AIRLIFT FLEET (CRAF)		158,800																
SUBTOTAL, MODIFICATION OF INSERVICE AIRCRAFT		2,885,317		3,101,311		-256,000		2,845,311		86,700		3,188,011		342,700		-157,100		2,944,211
AIRCRAFT SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		3,811,105		3,477,903		-49,760		3,428,143		-229,400		3,248,503		-179,640		-161,000		3,316,903
INITIAL SPARES:				(927,800)				(927,800)		(-228,500)		(699,300)		(-228,500)		(-105,500)		(822,300)
F-15E			(48)	(123,000)			(48)	(133,000)	(-24)	(-66,500)	(24)	(66,500)	(-24)	(-66,500)	(-6)	(-18,000)	(42)	(115,000)
F-16			(216)	(348,700)			(216)	(348,700)	(-66)	(-106,600)	(150)	(242,100)	(-66)	(-106,600)	(-36)	(-43,700)	(180)	(305,000)
MC-130H			(5)	(6,700)			(5)	(6,700)	(-3)	(-4,000)	(2)	(2,700)	(-3)	(-4,000)			(5)	(6,700)
T-46A				(0)				(0)		(8,400)		(8,400)		(8,400)				(0)
TR-1 SPARES				(5,800)				(5,800)		(-2,000)		(3,800)		(-2,000)		(-1,000)		(4,800)
MODIFICATION SPARES				(203,100)				(203,100)		(-27,100)		(176,000)		(-27,100)		(-12,100)		(191,000)
OTHER PRODUCTION SPARES																		
PLSS				(28,900)				(28,900)		(-28,900)		(0)		(-28,900)		(-28,900)		(0)
USM-464 FLIGHT LINE TEST SET				(1,800)				(1,800)		(-1,800)		(0)		(-1,800)		(-1,800)		(0)
REPLENISHMENT SPARES:				(2,550,100)				(2,550,100)		(-900)		(2,549,200)		(-900)		(-55,500)		(2,494,600)
ALE-45 COUNTERMEASURE DISPENSER				(900)				(900)		(-900)		(0)		(-900)				(900)
UNDISTRIBUTED REDUCTION				(—)		(-49,600)		(-49,600)				(—)		(49,600)		(-55,500)		(-55,500)
CLASSIFIED PROGRAMS				[ ]		(-160)		(-160)				(—)		(160)				[ ]
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES																		
COMMON GROUND EQUIPMENT		535,497		321,370				321,370		-58,700		262,670		-58,700		-21,370		300,000
INDUSTRIAL RESPONSIVENESS		51,900		38,400				38,400				38,400						38,400
WAR CONSUMABLES		83,200		51,100				51,100				51,100						51,100
OTHER PRODUCTION CHARGES		2,174,005		3,685,489		-103,000		3,582,489		-707,700		2,977,789		-604,700		-171,349		3,514,140
SUBTOTAL, AIRCRAFT SUPPORT EQUIPMENT & FACILITIES		2,844,602		4,096,359		-103,000		3,993,359		-766,400		3,329,959		-663,400		-192,719		3,903,640
STRATEGIC BOMBER A/C CONTINGENCY FUND		0		0				0		(200,000)		(200,000)		(200,000)				0
UNDISTRIBUTED REDUCTION		—		—		-90,000		-90,000				—		90,000				—
PRIOR YEAR PROGRAM SAVINGS (FY 85)		—		—		-117,400		-117,400				—		117,400				—
PRIOR YEAR PROGRAM SAVINGS (FY 86)		—		—		-219,936		-219,936				—		219,936				—
PRIOR YEAR PROGRAM SAVINGS (FY 85 & 86)		—		—				—		-423,200		-423,200		-423,200				—
PRIOR YEAR INFLATION SAVINGS (FY 85)		—		—		-121,400		-121,400				—		121,400				—
PRIOR YEAR INFLATION SAVINGS (FY 86)		—		—		-391,200		-391,200				—		391,200				—
INFLATION REESTIMATE (FY 87)		—		—		-589,200		-589,200				—		589,200		-589,200		-589,200
OBLIGATION LIMITATION (FY 85 AND 86)		—		—				—		(-927,000)		(-927,000)		(-927,000)		(-927,000)		(-927,000)
TOTAL, AIR FORCE AIRCRAFT		23,030,524		19,127,400		-2,744,296		16,383,104		-3,374,800		15,752,600		-630,504		-2,108,768		17,018,632

AIRCRAFT PROCUREMENT, AIR FORCE

Air defense competition

The budget request contained $296.3 million for procurement of 20 air defense aircraft in fiscal year 1987 and $114.6 million in advance procurement for 60 aircraft in the following year. The House amendment would authorize the amount requested. The Senate bill contained no funds for air defense competition.

The House amendment contained a provision (sec. 113) that would permit the Secretary of the Air Force to award a multiyear contract for the procurement of the air defense aircraft. If the multiyear contracting authority provided were used, the Air Force would be required, immediately after contract award, to furnish the Committees on Armed Services of the Senate and House of Representatives with multiyear justification exhibits validating that the savings meet the prescribed criteria.

The Senate bill contained no similar provision.

The conferees recommend authorization of $296.3 million for procurement of 20 aircraft for air defense competition in fiscal year 1987 and $114.6 million in advance procurement for 60 aircraft.

The Senate recedes on the authorization to enter into a multiyear contract. The conferees expect the fiscal year 1988 budget request to properly fund the cancellation ceiling liability.

F-15 fighter aircraft (Eagle)

The budget request contained $1,675.4 million for procurement of 48 aircraft in fiscal year 1987 and $218.9 million for advance procurement in fiscal year 1988. The House amendment would authorize $975.4 million for procurement of 24 aircraft in fiscal year 1987 and $110.0 million for advance procurement in fiscal year 1988. The Senate bill would authorize $1,675.4 million for procurement of 48 aircraft in fiscal year 1987 and $218.9 million in advance procurement in fiscal year 1988.

The House amendment contained a provision (sec. 127(a)) that would restrict obligation of the funds authorized for procurement of the F-15E aircraft until the Secretary of the Air Force decides on whether to procure either the F-15E or the Advanced Tactical Fighter. The Senate bill contained no similar provision.

The conferees recommend authorization of $1,543.0 for procurement of 42 aircraft in fiscal year 1987, and $158.0 for advance procurement of 42 aircraft in fiscal year 1988.

The House recedes on section 127(a).

F-16 fighter aircraft (Falcon)

The budget request contained $2,881.9 million for procurement of 216 aircraft in fiscal year 1987 and $612.0 million for advance procurement in fiscal year 1988. The House amendment would authorize $1,926.3 million for procurement of 150 aircraft in fiscal year 1987 and $500.00 million for advance procurement of 180 aircraft in fiscal year 1988. The Senate bill would authorize $2,646.9 million for procurement of 192 aircraft in fiscal year 1987 and 486.0 million for advance procurement in fiscal year 1988.

The House amendment contained a provision (sec. 127(f)) that would restrict obligation of funds for the procurement of the F-16 until:

(1) the Joint Requirements and Management Board is convened to establish an acquisition plan for the F-16 aircraft;

(2) the plan is submitted to the Committee on Armed Services of the Senate and House of Representatives; and

(3) 30 calendar days expire after submission of the plan to the committees.

At the time the House of Representatives considered the fiscal year 1987 Defense authorization request, the Department of Defense and the Department of the Air Force did not agree on the configuration of the F-16 fire control radar. The House believed that the issue should be resolved before funds are obligated for the program. Subsequent agreement has been reached between the Department of Defense and the Department of the Air Force.

The Senate bill contained no similar limitation.

The conferees recommend authorization of $2,353.0 million for procurement of 180 aircraft in fiscal year 1987 and $463.0 million for advance procurement of 180 aircraft in fiscal year 1988.

The House recedes on section 127(f).

KC-10A combat aircraft (Extender)

The budget request contained $104.4 million for procurement of 8 aircraft in fiscal year 1987. The House amendment would authorize $78.1 million for procurement of 8 aircraft in fiscal year 1987. The Senate bill would authorize $104.4 million for procurement of 8 aircraft in fiscal year 1987.

The conferees recommend authorization of $89.0 million for procurement of 8 aircraft in fiscal year 1987.

AC-130H gunship

The budget request contained $18.2 million for initial start up for the AC-130H gunship combat aircraft. The House amendment did not authorize the AC-130H aircraft. The Senate bill would authorize $18.2 million for the AC-130H aircraft.

The Senate recedes.

MC-130H (Combat Talon)

The budget request contained $229.7 million for procurement of 5 aircraft in fiscal year 1987 and $15.1 million for advance procurement in fiscal year 1988. The House amendment would authorize $106.5 million for procurement of 2 aircraft in fiscal year 1987 and $7.3 million in advance procurement in fiscal year 1988. The Senate bill would authorize $229.7 million for procurement of 5 aircraft in fiscal year 1987 and $15.1 million in advance procurement in fiscal year 1988.

The conferees recommend authorization of $229.7 million for 5 aircraft in fiscal year 1987 and $15.1 million in advance procurement.

C-5B (Galaxy)

The budget request contained $1,937.4 million for procurement of 21 aircraft in fiscal year 1987. The House amendment would authorize $1,908.4 million for procurement of 21 aircraft in fiscal year 1987. The Senate bill would authorize $1,937.4 million for procurement of 21 aircraft in fiscal year 1987.

The conferees recommend authorization of $1,919.3 million for procurement of 21 aircraft in fiscal year 1987.

C-17 tactical airlift aircraft

The budget request contained $182.3 million for procurement of the C-17 in fiscal year 1987 and $35.0 million for advance procurement in fiscal year 1988. The House amendment would authorize $145.3 million in fiscal year 1987 and $35.0 million for advance procurement in fiscal year 1988. The Senate bill would authorize $182.3 million in fiscal year 1987 and $35.0 million for advance procurement in fiscal year 1988.

Section 127(c) of the House amendment would restrict obligation of funds authorized for the procurement of the C-17 aircraft until 60 legislative days have expired from the time the Committees on Armed Services of the Senate and House of Representatives receive the report of the General Accounting Office on the C-17 aircraft program. Section 127(c) would further provide that, in the event Congress decides that the C-17 aircraft is to not be procured, the funds may be used for the procurement of additional Air Force airlift aircraft, including the C-5B aircraft. The Senate bill contained no similar provision.

The conferees recommend authorization of $145.3 million for procurement of the C-17 aircraft in fiscal year 1987 and $35.0 million for advance procurement in fiscal year 1988.

The Senate recedes with an amendment to section 127(c). The amendment would restrict obligation of funds to $64.0 million until April 15, 1987.

T-46A trainer aircraft

No authorization was requested for the T-46A trainer aircraft. The House amendment would authorize $124.0 million for procurement of 12 aircraft in fiscal year 1987 and $27.0 million for procurement of 44 aircraft in fiscal year 1988. The Senate bill contained no authorization for the aircraft in fiscal year 1987.

Section 127(e) in the House amendment would provide that the maximum program production cost for the T-46A, excluding initial spares funding, could not exceed $3.1 billion in fiscal year 1986 dollars for 650 production aircraft. The maximum production unit cost for such program could not exceed $4.8 million in fiscal year 1986 dollars. Furthermore, if either limitation is exceeded in any year, the Secretary of the Air Force could not procure any T-46A trainer aircraft during a later fiscal year until competitions were held.

Section 202(e) of the Senate bill would prohibit obligation of any funds for the T-46 program.

The conferees agreed to delete both section 127(e) of the House amendment and section 202(e) of the Senate bill.

The conferees also agreed that no funds may be obligated or expended for the procurement of T-46 aircraft until the Secretary of the Air Force conducts a competition evaluating the cost and performance of the T-46A aircraft, the current trainer (T-37), an upgraded version of the T-37, and any other suitable aircraft (including the Navy's training aircraft, the T-34 and T-45). This competition shall consist of a fly-off between the T-37, T-46, and any other candidate aircraft.

The conferees further agreed that funds appropriated in fiscal year 1986 for the T-46A aircraft program shall be available to conduct the proposed competition.

Finally, the conferees agreed that no funds would be authorized in fiscal year 1987 for the procurement of T-46 trainer aircraft.

TR-1/U-2 aircraft

The budget request contained $94.5 million for procurement of 3 aircraft in fiscal year 1987. The House amendment would authorize $45.1 million for the program in fiscal year 1987. The Senate bill would authorize $94.5 million for procurement of 3 aircraft in fiscal year 1987.

The conferees recommend authorization of $80.2 million for procurement of 2 aircraft in fiscal year 1987.

Counter-infiltration aircraft

The budget request contained no authorization for funds for counter-infiltration aircraft. The House amendment would authorize $8.4 million for procurement of 2 aircraft in fiscal year 1987. The Senate bill contained no authorization for the aircraft in fiscal year 1987.

The House recedes.

Modification of Air Force aircraft

The budget request contained $3,101.3 million for modification of various Air Force aircraft in fiscal year 1987. The House amendment would authorize $3,188.0 million for Air Force aircraft modifications. The Senate bill would authorize $2,845.3 million for Air Force aircraft modifications.

The conferees recommend authorization of $2,944.2 million for Air Force aircraft modifications as detailed in the foregoing table.

In reaching agreement on the various modification programs, the conferees agreed that if the Secretary of the Air Force submits a reprogramming request for the H-3 helicopter program, it would be considered in a timely fashion.

B-52 modifications

The Administration requested $413.4 million to continue modification programs for B-52 aircraft. The Senate bill, for budgetary considerations, deleted funding associated with electronic countermeasure and radar modifications. The House amendment approved the requested amount.

The conferees received new information with regard to the availability of prior year funding in the B-52 modification accounts that would allow a significant portion of the program to proceed, even at the Senate level. The conferees, therefore, agreed to the Senate reduction of $158.6 million.

Air Force aircraft spares and repair parts

The budget request contained $3,477.9 million for Air Force aircraft spares and repair parts in fiscal year 1987. The House amendment would authorize $3,248.5 million for Air Force aircraft spares and repair parts. The Senate bill would authorize $3,428.1 million for procurement of Air Force aircraft spares and repair parts.

The conferees recommend authorization of $3,316.9 million for Air Force aircraft spares and repair parts as detailed in the foregoing table.

Air Force aircraft support equipment and facilities

The budget request contained $4,096.4 million for procurement of Air Force aircraft support equipment and facilities in fiscal year 1987. The House amendment would authorize $3,330.0 million for this purpose. The Senate bill would authorize $3,993.4 million for Air Force aircraft support equipment and facilities.

The conferees recommend authorization of $3,903.6 million for Air Force aircraft support equipment and facilities as detailed in the foregoing table.

MISSILE PROCUREMENT, AIR FORCE

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
BALLISTIC MISSILES																		
STRATEGIC																		
PEACEKEEPER (M-X)	12	1,676,000	21	1,418,131			21	1,418,131	-9	-303,400	12	1,114,731	-9	-303,400	-9	-303,400	12	1,114,731
MISSILE REPLACEMENT EQUIPMENT - BALLISTIC																		
MISSILE REPLACEMENT EQ-BALLISTIC		63,901		69,696				69,696				69,696						69,696
SUBTOTAL, BALLISTIC MISSILES		1,739,901		1,487,827		0		1,487,827		-303,400		1,184,427		-303,400		-303,400		1,184,427
OTHER MISSILES																		
STRATEGIC																		
ADVANCED CRUISE MISSILE		[ ]		[ ]				[ ]		-468,000		-468,000		-468,000				[ ]
ADVANCED PROCUREMENT (CY)		[ ]		[ ]				[ ]		-93,800		-93,800		-93,800				[ ]
SRAM II																		
AIR LAUNCH CRUISE MISSILE		32,640		12,407				12,407				12,407						12,407
TACTICAL																		
AIM-7F/M SPARROW	497	77,900	379	64,887			379	64,887		-3,200	379	61,687		-3,200		-3,200	379	61,687
AIM-9L/M SIDEWINDER	1,650	76,900	1,710	95,636			1,710	95,636			1,710	95,636				-1,800	1,710	93,836
AGM-130 POWERED GBU-15	5	19,000	51	26,577			51	26,577	-51	-26,577		0	-51	-26,577	-31	-8,777	20	17,800
AGM-65D MAVERICK	2,600	407,889	4,700	580,984	-1,100	-100,000	3,600	480,984	-4,115	-505,300	585	75,684	-515	-405,300	-1,100	-170,500	3,600	410,484
ADVANCE PROCUREMENT (CY)																		
HARPOON																		
AGM-88A HARM	1,450	414,807	2,130	493,382			2,130	493,382	-680	-130,900	1,450	362,482	-680	-130,900	-475	-119,000	1,655	374,382
RAPTER		7,581		6,400				6,400				6,400						6,400
AMRAAM		149,589	260	656,628			260	656,628	-125	-269,000	135	387,628	-125	-269,000	-80	-119,300	180	537,328
ADVANCE PROCUREMENT (CY)		59,400		89,900				89,900		-51,000		38,900		-51,000		-16,800		73,100
GRD LAUNCH CRUISE MISSILE	95	505,793	76	128,600			76	128,600		-12,900	76	115,700		-12,900		-12,900	76	115,700
ADVANCE PROCUREMENT (CY)		9,372		4,600				4,600				4,600						4,600
STINGER				1,709				1,709				1,709						1,709
TARGET DRONES																		
TARGET DRONES		34,298		19,637				19,637				19,637						19,637
TACTICAL DRONES																		
TACTICAL DRONES		[ ]		[ ]				[ ]				[ ]						[ ]
INDUSTRIAL FACILITIES																		
INDUSTRIAL FACILITIES		20,626		14,458				14,458				14,458						14,458
MISSILE REPLACEMENT EQUIPMENT - OTHER																		
MISSILE REPLACEMENT EQ-OTHER		13,750		17,205				17,205		-1,400		15,805		-1,400		-705		16,500
CLASSIFIED PROGRAMS		480,400		841,573				841,573				841,573						841,573
SUBTOTAL, OTHER MISSILES		2,309,945		3,054,583		-100,000		2,954,583		-1,562,077		1,492,506		-1,462,077		-452,982		2,601,601
MODIFICATION OF INSERVICE MISSILES																		
CLASS IV																		
CLASSIFIED PROGRAMS				4,367				4,367				4,367						4,367
LGM-30F/G MINUTEMAN II/III		126,746		105,589		-12,400		93,189		-5,200		100,389		7,200		-5,200		100,389
AGM-88A HARM		2,300		2,859				2,859				2,859						2,859
AIR LAUNCH CRUISE MISSILE		15,298		16,560				16,560				16,560						16,560
GRD LAUNCH CRUISE MISSILE		8,707		15,294				15,294				15,294						15,294
PEACEKEEPER (M-X)																		
MODIFICATIONS UNDER $2.0M		2,594		1,858				1,858				1,858						1,858
SUBTOTAL, MODIFICATION OF INSERVICE MISSILES		155,645		146,527		-12,400		134,127		-5,200		141,327		7,200		-5,200		141,327
SPARES AND REPAIR PARTS																		
SPARES AND REPAIR PARTS		441,670		334,166		0		334,166		-68,100		266,066		-68,100		-5,100		329,066
REPLENISHMENT SPARES				(177,500)				(177,500)		(-68,100)		(109,400)		(-68,100)		(-5,100)		(172,400)
CLASSIFIED PROGRAMS				[ ]				[ ]		(-36,300)		(-36,300)		(-36,300)				[ ]
MAVERICK				(5,600)				(5,600)		(1,900)		(3,700)		(1,900)		(-1,600)		(4,000)
MX				(55,400)				(55,400)		(-23,800)		(31,600)		(-23,800)				(55,400)
AMRAAM				(10,300)				(10,300)		(5,300)		(5,000)		(5,300)		(-3,300)		(7,000)
AGM-130 POWERED GBU-15				(800)				(800)		(-800)		(0)		(-800)		(-200)		(600)
OTHER SUPPORT																		
SPACE PROGRAMS																		
SPACEBORNE EQUIP (COMSEC)		34,346		61,899				61,899		-10,000		51,899		-10,000		-5,000		56,899
GLOBAL POSITIONING (MYP)	9	197,398	8	129,665			8	129,665		-3,700	8	125,965		-3,700		-3,665	8	126,000
ADVANCE PROCUREMENT (CY)																		
SPACE SHUTTLE OPERATIONS		240,699		59,062		254,600		313,662				59,062		-254,600				59,062
ADVANCE PROCUREMENT (CY)																		
DEF METEOROLOGICAL SAT PROG (MYP)		40,979		19,427				19,427				19,427						19,427
DEFENSE SUPPORT PROGRAM (MYP)		124,082		108,515				108,515				108,515				-44,900		63,615
ADVANCE PROCUREMENT (CY)				250,000				250,000		-115,600		134,400		-115,600		-27,300		222,700
DEFENSE SATELLITE COMM SYSTEM (MYP)	2	127,406	2	117,131		-10,000	2	107,131		-7,200	2	109,931		2,800		-10,000	2	107,131
ADVANCE PROCUREMENT (CY)		13,660		5,540				5,540				5,540						5,540
AF SATELLITE COMM SYSTEM	1	32,584																
SPACE BOOSTERS			1	52,747		50,000	1	102,747		50,000	1	102,747				31,000	1	83,747
ADVANCE PROCUREMENT (CY)		120,194		230,000		-50,000		180,000		-69,000		161,000		-19,000		-50,000		180,000
SPACE DEFENSE SYSTEM																		
ADVANCE PROCUREMENT (CY)				28,481				28,481		-28,481		0		-28,481		-28,481		0
SPACE SHUTTLE		20,973																
SPECIAL PROGRAMS																		
OTHER PROGRAMS				45,311				45,311				45,311						45,311
HAVE FLAG		[ ]		[ ]				[ ]				[ ]						[ ]
FOREST GREEN		4,549		2,061				2,061		-1,700		361		-1,700				2,061
IDNDS (MYP)		44,035		24,854				24,854				24,854						24,854
SPECIAL PROGRAMS		1,752,900		1,851,958		-180,000		1,671,958		-322,200		1,529,758		-142,200		-228,600		1,623,358

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
SPECIAL UPDATE PROGRAMS		916,076		972,646				972,646		-414,800		557,846		-414,800				972,646
SPECIAL SUPPORT PROGRAMSU																		
CLASSIFIED PROGRAMS		[ ]		[ ]				[ ]				[ ]						[ ]
CLASSIFIED PROGRAMS																		
SUBTOTAL, OTHER SUPPORT		3,669,881		3,959,297		64,600		4,023,897		-922,681		3,036,616		-987,281		-366,946		3,592,351
PRIOR YEAR PROGRAM SAVINGS (FY 86)		---		---		-6,800		-6,800				---		6,800				---
PRIOR YEAR PROGRAM SAVINGS (FY 85)		---		---		-61,800		-61,800		-61,800		-61,800						---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-30,400		-30,400				---		30,400				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-186,500		-186,500				---		186,500				---
INFLATION REESTIMATE (FY 87)		---		---		-278,300		-278,300				---		278,300		-278,300		-278,300
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-379,800)		(-379,800)		(-379,800)		(-379,800)		(-379,800)
ROUNDING ADJUSTMENT		---		---				---		158		158		158				---
TOTAL, AIR FORCE MISSILES		8,317,042		8,982,400		-611,600		8,370,800		-2,923,100		6,059,300		-2,311,500		-1,411,928		7,570,472

MISSILES, AIR FORCE

MX advanced intercontinental ballistic missile system

The budget request contained $1,418.1 million for procurement of 21 MX missiles in fiscal year 1987. The House amendment would authorize $1,114.7 million for procurement of 12 MX missiles. The Senate bill would authorize $1,418.1 million for procurement of 21 MX missiles in fiscal year 1987.

The conferees recommend authorization of $1,114.7 million for procurement of 12 MX missiles.

The Senate recedes.

Advanced cruise missile

The Senate bill would provide the requested authorization for the advanced cruise missile. The House amendment would reduce the requested amount by $468.0 million and reduce the advance procurement request by $93.8 million.

Section 127(b) of the House amendment would restrict obligation of funds for the advanced cruise missile until the Secretary of the Air Force decides whether to procure either the Advanced Cruise Missile or the SRAM II weapon system.

The conferees recommend authorization of the requested amounts for the advanced cruise missile. The conferees stipulated certain restrictions on the obligation of procurement funds pending the completion of development milestones that are detailed in the classified annex to this report.

The House recedes on section 127(b).

AIM-7F/M Sparrow

The budget request contained $64.9 million for procurement of 379 Sparrow missiles. The House amendment would authorize $61.7 million for procurement of 379 Sparrow missiles in fiscal year 1987. The Senate bill would authorize the amount requested for 379 Sparrow missiles.

The conferees recommend authorization of $61.7 million for procurement of 379 AIM-7F/M Sparrow missiles in fiscal year 1987.

AIM-9L/M Sidewinder

The budget request contained $95.6 million for procurement of 1710 AIM-9L/M Sidewinder missiles in fiscal year 1987. The Senate bill would authorize the amount requested. The House amendment would authorize the amount requested.

The conferees recommend authorization of $93.8 million for procurement of 1710 AIM-9L/M Sidewinder missiles in fiscal year 1987.

AGM-130 Powered GBU-15

The budget request contained $26.6 million for procurement of 51 AGM powered GBU-15 missiles in fiscal year 1987. The House amendment contained no authorization for the program. The Senate bill would authorize the amount requested.

The conferees recommend authorization of $17.8 million for procurement of 20 missiles in fiscal year 1987.

AGM-65D Maverick

The budget request contained $581.0 million for procurement of 4,700 AGM-65D Maverick missiles in fiscal year 1987. The House amendment would authorize $75.7 million for procurement of 585 Maverick missiles in fiscal year 1987. The Senate bill would authorize $481.0 million for procurement of 3,600 Maverick missiles in fiscal year 1987.

The conferees recommend authorization of $410.5 million for procurement of 3,600 Maverick missiles in fiscal year 1987.

AGM-88A HARM

The budget request contained $493.4 million for procurement of 2,130 AGM-88A HARM missiles in fiscal year 1987. The House amendment would authorize $362.5 million for procurement of 1,450 HARM missiles in fiscal year 1987. The Senate bill would authorize $493.4 million for procurement of 2,130 HARM missiles in fiscal year 1987.

The conferees agreed to authorize $374.4 million for procurement of 1,655 AGM-88A HARM missiles in in fiscal year 1987.

Advanced medium range air-to-air missile (AMRAAM)

The budget request contained $656.6 million for procurement of 260 AMRAAM missiles and $89.9 million for advance procurement.

The Senate bill would authorize the amount requested. The House amendment would authorize $387.6 million for procurement of 135 AMRAAM missiles and $38.9 for advance procurement.

The House amendment contained a provision (sec. 127(d)) that would restrict obligation for low rate production procurement of the AMRAAM missile until the flight test results measuring the performance and design stability of the missile are evaluated against established program specifications. The Secretary of the Air Force is directed to provide to the respective Committees on Armed Services of the Senate and House of Representatives a report on the flight test results.

Section 127(d) would also require that:

(1) AMRAAM missiles that incorporate the producibility enchancements established for the program be flight tested before full rate production is undertaken;

(2) the test results be reported to the Committees on Armed Services of the Senate and House of Representatives, and

(3) 60 calendar days expire.

The section would also cap the cost of the AMRAAM program at $7.0 billion in fiscal year 1984 dollars for the procurement of 24,000 missiles.

The Senate bill contained no similar provision.

The conferees recommend authorization of $537.3 million for 180 missiles and $73.1 million for the advance procurement of 640 missiles.

The Senate recedes with an amendment that would require the following:

(1) no funds could be obligated for low rate production procurement until the Committees on Armed Services of the Senate and House of Representatives receive a report evaluating the flight test results of the missile against the low rate production criteria; except that not more than $170 mil-

lion may be obligated for long-lead procurement of the authorized missiles;

(2) all producibility enhancement must be tested before incorporation into the production missiles; and

(3) a cost cap of $7.0 billion for 24,000 missiles is established. The cap may be adjusted to reflect changes in congressional funding actions.

Modification of missiles

The budget request contained $146.5 million for the modification of missiles. The House amendment would authorize $141.3 million. The Senate bill would authorize $134.1 million.

The Senate recedes.

Missile spares and repair parts

The budget request contained authorization of $334.2 million for missile spares and repair parts. The House amendment would authorize $266.1 million. The Senate bill would authorize $334.2 million.

The conferees recommend authorization of $329.1 million as detailed in the foregoing table.

Air Force other support

The budget request contained $3,959.3 million in authorization for other support in fiscal year 1987. The House amendment would authorize $3,036.6 million. The Senate bill would authorize $4,023.9 million.

The conferees recommend authorization of $3,592.4 million for Air Force other support in fiscal year 1987.

Spaceborne equipment (COMSEC)

The budget request contained $61.9 million for procurement of communications security (COMSEC) equipment for spaceborne communications systems. The House amendment would authorize $51.9 million for the program. The Senate bill would authorize the request amount.

The conferees recommend authorization of $56.9 million for COMSEC in fiscal year 1987.

NAVSTAR global positioning system

The budget request contained $129.7 million to procure 8 NAVSTAR global positioning satellites and associated equipment. The House amendment would authorize $126.0 million for the program. The Senate bill would authorize the requested amount.

The conferees recommend authorization of $126.0 million for 8 satellites.

Space shuttle operations

The budget request contained $59.1 million for space shuttle operations. The House amendment would authorize the requested amount. The Senate bill would authorize $313.7 million for the program

The Senate recedes.

Defense support program

The budget request contained $108.5 million for the defense support program (DSP) and $250.0 million in advance procurement. The fiscal year 1987 request would initiate a new multiyear procurement for the program. The House amendment would authorize $108.5 million for the DSP program, $134.4 million in advance procurement and deny the proposed multiyear procurement. The Senate bill would authorize the requested amount, including the multiyear procurement.

The conferees recommend authorization of $63.6 million for the program, $222.7 million in advance procurement, and approval of the multiyear procurement request. The conferees agree that the Department of the Air Force may utilize the total funding available for the defense support program in order to execute a multiyear procurement contract.

Section 107(c) of the conference agreement would provide authority for the Department of the Air Force to enter into the multiyear contract. Such authority is contingent on certification by the Secretary of the Air Force that at least 20 percent savings would be realized under a multiyear contract.

Defense satellite communications program

The budget request contained $117.1 million to support the Defense Satellite Communications System (DSCS) in fiscal year 1987. The budget also contained $5.5 million in advance procurement. The House amendment would authorize $109.9 million for the program and $5.5 million in advance procurement. The Senate bill would authorize $107.1 million and $5.5 million in advance procurement.

The House recedes.

Space boosters

The budget request contained $52.7 million for the complementary expendable launch vehicle (CELV) program and $230.0 million for advance procurement. The request also contained authorization for a multiyear procurement. The House amendment would authorize $102.7 million for the CELV program, $161.0 million in advance procurement and deny the multiyear procurement. The Senate bill would authorize $102.7 million for the program, $180.0 million in advance procurement and approve the multiyear procurement.

The conferees recommend authorization of $83.7 million for the CELV and $180.0 million in advance procurement. The House recedes on the multiyear procurement because it was approved previously in the fiscal year 1986 Urgent Supplemental Appropriations Act.

Space defense system

The budget request contained authorization of $28.5 million for advance procurement for the antisatellite (ASAT) weapons system. The House amendment would provide no authorization. The Senate bill would authorize the requested amount.

The Senate recedes.

Special programs

The budget request for Air Force other missile support contained $45.3 million for other programs, $2.1 million for forest green, $24.9 million for IONDS, $1,852.0 million for special programs and $972.6 million for special update programs. The House amendment would authorize the requested amount for other programs and IONDS, $0.4 million for forest green, $1,529.8 million for special programs and $557.8 million for special update programs. The Senate bill would authorize the requested amounts for all of the foregoing programs except special programs. The Senate bill recommends authorization of $1,672.0 million for special programs.

The confereees recommend authorization of $45.3 million for other programs, $2.1 million for forest green, $24.9 million for IONDS, $1,623.4 million for special programs, and $972.6 million for special update programs.

OTHER PROCUREMENT, AIR FORCE

(DOLLARS IN THOUSANDS)

	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
PROGRAM	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
MUNITIONS AND ASSOCIATED EQUIPMENT																		
ROCKETS + LAUNCHERS																		
2.75 INCH ROCKET MOTOR	98,004	22,276	100,000	23,684			100,000	23,684		-1,800	100,000	21,884		-1,800			100,000	23,684
2.75' ROCKET HEAD, H.P.			117,380	8,314			117,380	8,314	-104,700	-7,300	12,680	1,014	-104,700	-7,300			117,380	8,314
GTR-18 MISSILE SIMULATOR	65,867	1,987																
ROCKET TRAINING 25MM	52,280	1,692																
ITEMS LESS THAN $2,000,000		4,601		5,704				5,704		-1,300		4,404		-1,300		-1,300		4,404
CARTRIDGES (THOUSANDS)																		
9MM PARABELLUM	7,362	1,178	15,000	1,650			15,000	1,650			15,000	1,650					15,000	1,650
7.62 MM BLANK, LINKED			2,000	420			2,000	420			2,000	420					2,000	420
5.56 MM	29,513	4,522	57,706	8,264			57,706	8,264	-28,193	-3,900	29,513	4,364	-28,193	-3,900			57,706	8,264
20 MM COMBAT			3,225	11,898			3,225	11,898	-1,273	-3,700	1,952	8,198	-1,273	-3,700	-1,273	-3,700	1,952	8,198
20MM TRAINING	450	1,530	10,041	22,291			10,041	22,291	-441	-1,000	9,600	21,291	-441	-1,000	-441	-1,000	9,600	21,291
30 MM TRAINING	8,195	88,625	6,023	59,086			6,023	59,086	-1,400	-17,300	4,623	41,786	-1,400	-17,300		-4,900	6,023	54,186
30 MM HEI																		
30 MM API	2,165	30,613	2,364	40,000			2,364	40,000	199	-8,300	2,563	31,700	199	-8,300	199	-8,300	2,563	31,700
40MM HEI (GUNSHIP)																		
81 MM			208	20,031			208	20,031	-193	-19,000	15	1,031	-193	-19,000	-193	-19,000	15	1,031
40MM TP GRENADES	2,030	3,533	469	713			469	713			469	713					469	713
40MM HE GRENADES	1,435	16,095																
CART CHAFF RR-170	5,707	17,823	5,912	19,627			5,912	19,627			5,912	19,627					5,912	19,627
CART CHAFF, RR-136	67	546																
SIGNAL MK-4 MOD 3	1,258	1,681	1,440	1,454			1,440	1,454			1,440	1,454					1,440	1,454
MJU-4A/A ENGINE STARTER	50	4,972	79,968	8,341			79,968	8,341	-55,968	-5,800	24,000	2,541	-55,968	-5,800	-27,894	-2,900	52,074	5,441
CART IRP 3000 FT/LBS	1,395	3,181	1,586	3,743			1,586	3,743			1,586	3,743					1,586	3,743
ITEMS LESS THAN $2,000,000		8,650		12,428				12,428		-3,900		8,528		-3,900		-3,900		8,528
BOMBS																		
MK-82 INERT/BDU-50	49,638	13,386	35,000	8,093			35,000	8,093	-35,000	-8,093		0	-35,000	-8,093			35,000	8,093
DURANDAL	2,659	80,600	3,400	88,131			3,400	88,131	-741	-19,200	2,659	68,931	-741	-19,200	-1,200	-25,431	2,200	62,700
TIMER ACTUATOR FIN FUZE	4,591	1,963	17,230	4,870			17,230	4,870	-12,639	-2,900	4,591	1,970	-12,639	-2,900	-12,639	-2,900	4,591	1,970
BSU-49 INFLATABLE RETARDER	49,379	31,233	47,987	27,375			47,987	27,375			47,987	27,375					47,987	27,375
BSU-50 INFLATABLE RETARDER	9,300	10,231	7,875	7,574			7,875	7,574			7,875	7,574					7,875	7,574
BOMB 2000 LB HIGH EXPLOSIVE	8,491	31,856	12,017	25,294			12,017	25,294			12,017	25,294					12,017	25,294
BOMB HARD TARGET 2000LB			2,290	37,818			2,290	37,818	-1,256	-24,500	1,034	13,318	-1,256	-24,500	-1,210	-20,018	1,080	17,800
DAHCN																		
CLUSTER BOMB, MK-20 (ROCKEYE)	1,496	4,397																
LASER BOMB GUIDANCE KIT																		
GBU-15	495	85,000	696	138,905			696	138,905	-696	-138,905		0	-696	-138,905	-146	-28,905	550	110,000
BOMB PRACTICE 25 POUND	1100000	20,892	1087752	18,083			1087752	18,083	-480	-7,700	1087272	10,383	-480	-7,700			1087752	18,083
BOMB PRACTICE BDU-38	622	5,421																
BOMB, PRACTICE MK-106	120,656	1,303																
MK-84 BOMB-EMPTY	4,736	6,810		1,770				1,770				1,770						1,770
CBU-89(TMD/GATOR)	3,640	172,015	5,390	194,197			5,390	194,197	-2,246	-80,900	3,144	113,297	-2,246	-80,900	-2,246	-80,900	3,144	113,297
CBU-87(COMBINED EFFECTS MUNITION)	18,005	400,000	28,850	566,748			28,850	566,748	-9,650	-180,100	19,200	386,648	-9,650	-180,100	-9,650	-190,448	19,200	376,300
BIGEYE				28,400				28,400		-28,400		0		-28,400		-13,400		15,000
ITEMS LESS THAN $2,000,000		1,531		2,516				2,516		-1,000		1,516		-1,000		-1,000		1,516
TARGETS																		
AERIAL TOW TARGET	361	6,798	609	12,961			609	12,961	-248	-6,200	361	6,761	-248	-6,200	-124	-3,100	485	9,861
ITEMS LESS THAN $2,000,000		292		127				127				127						127
OTHER ITEMS																		
FLARE, IR MJU-7B	563,040	13,346	563,253	11,909			563,253	11,909			563,253	11,909					563,253	11,909
FLARE, PARA, LUU-4B	3,600	1,401																
FLARE, IR MJU-2	100,022	3,109	156,873	2,823			156,873	2,823			156,873	2,823					156,873	2,823
MJU-10B			165,000	29,833			165,000	29,833	-81	-11,700	164,919	18,133	-81	-11,700		-19,800	165,000	10,033
M-206 CARTRIDGE FLARE																		
MC-3223 RETARD DEVICE																		
SIGNAL, SMOKE/ILLUM MK-6	20,356	1,959																
SIGNAL SMOKE AND ILLUMINATING	229,220	2,450																
MC-3468, RETARD DEVICE	153	1,878																
RAPID MUNITIONS ASSEMBLY	49	2,825																
CHAFF PACKAGE RR-141A/L			111,776	4,850			111,776	4,850			111,776	4,850					111,776	4,850
PRODUCTIVITY INVESTMENT AMMO																		
SPARES AND REPAIR PARTS		7,147		4,191				4,191				4,191						4,191
MODIFICATIONS		687		200				200				200						200
ITEMS LESS THAN $2,000,000		19,034		31,448		-2,000		29,448		-12,700		18,748		-10,700		-6,350		25,098
FUZES																		
FMU-112/FMU-139	45,893	41,725	35,383	36,824			35,383	36,824		-4,300	35,383	32,524		-4,300		-4,300	35,383	32,524
ITEMS LESS THAN $2,000,000		184		35				35				35						35
OTHER WEAPONS																		
M-203 GRENADE LAUNCHER	1,314	771	921	558			921	558			921	558					921	558
MACHINE GUN, 7.62MM, M-60	1,259	3,764	97	372			97	372			97	372					97	372
GAU-5 MACHINE GUN	2,917	1,367																
40MM MACHINE GUN, MK-19	499	4,221																
81MM MORTAR			27	392			27	392			27	392					27	392
9MM HANDGUN	19,000	4,776	24,500	8,656		-2,417	24,500	6,239		-3,600	24,500	5,056		-1,183		-3,600	24,500	5,056
SHOTGUN - 12 GAGE			665	278			665	278			665	278					665	278
NATIONAL RIFLE - M14			174	101			174	101			174	101					174	101
HOST NATION SUPPORT WEAPONS			1,930	3,201			1,930	3,201			1,930	3,201					1,930	3,201
SUBTOTAL, MUNITIONS AND ASSOCIATED EQUIPMENT		1,199,877		1,546,181		-4,417		1,541,764		-603,498		942,683		-599,081		-445,152		1,101,029
VEHICULAR EQUIPMENT																		
PASSENGER CARRYING VEHICLES																		
SEDAN, 4 DR 4X2	293	1,951	396	3,085			396	3,085			396	3,085					396	3,085
STATION WAGON, 4X2	283	2,184	391	3,236			391	3,236			391	3,236					391	3,236
BUS, 28 PASSENGER	155	4,797	127	4,000			127	4,000			127	4,000					127	4,000
BUS INTERCITY	10	1,604	8	1,307			8	1,307			8	1,307					8	1,307

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
BUS, 44 PASSENGER	81	2,779	45	1,782			45	1,782			45	1,782					45	1,782
AMBULANCE, BUS	27	2,150	32	2,681			32	2,681			32	2,681					32	2,681
MODULAR AMBULANCE			163	5,902			163	5,902			163	5,902					163	5,902
14-20 PASSENGER BUS			10	272			10	272			10	272					10	272
LAW ENFORCEMENT VEHICLE			335	2,955			335	2,955			335	2,955					335	2,955
CARGO + UTILITY VEHICLES																		
TRUCK, STAKE/PLATFORM	540	6,758	555	8,016			555	8,016			555	8,016					555	8,016
TRUCK, CARGO-UTILITY, 3/4T, 4X4	336	3,699	275	3,039			275	3,039			275	3,039					275	3,039
TRUCK, CARGO-UTILITY, 1/2T, 4X2	486	4,446	306	2,918			306	2,918			306	2,918					306	2,918
TRUCK, PICKUP, 1/2T, 4X2	850	6,195	654	4,698			654	4,698			654	4,698					654	4,698
TRUCK, PICKUP, COMPACT	1,168	6,389	857	4,748			857	4,748			857	4,748					857	4,748
TRUCK, PICKUP 3/4T 4X4																		
TRUCK MULTI-STOP 1 TON 4X2	751	11,147	627	9,360			627	9,360			627	9,360					627	9,360
TRUCK, PANEL, 4X2	348	3,251	279	2,798			279	2,798			279	2,798					279	2,798
SHOP VAN 4X4	20	869																
TRUCK CARRYALL	571	7,529	575	7,876			575	7,876			575	7,876					575	7,876
COMMERCIAL UTILITY CARGO VEHICLE	258	3,610																
TRUCK, CARGO, 2 1/2T, 6X6, M-35	361	15,168	388	18,247			388	18,247			388	18,247					388	18,247
TRUCK CARGO ST M-923,M-925	223	17,088	73	6,664			73	6,664			73	6,664					73	6,664
SEMI-TRAILER, 20 T	34	344																
TRUCK, CARGO, 2 1/2T			58	1,639			58	1,639			58	1,639					58	1,639
HIGH MOBILITY VEHICLE (HMV)	578	15,290	400	10,713			400	10,713			400	10,713					400	10,713
TRUCK, TRACTOR, ST			43	1,553			43	1,553			43	1,553					43	1,553
TRUCK TRACTOR ST M-932 (HMV)	15	978	6	412			6	412			6	412					6	412
TRUCK TRACTOR, OVER ST	105	4,624	114	5,484			114	5,484			114	5,484					114	5,484
TRUCK WRECKER	7	369																
TRUCK WRECKER ST M936 (HMV)	24	3,616	15	2,423			15	2,423			15	2,423					15	2,423
TRUCK, DUMP 5 TON	183	8,149	220	10,930			220	10,930			220	10,930					220	10,930
TRUCK, UTILITY	218	2,091																
VAN MISSILE MAINT																		
ITEMS LESS THAN $2,000,000		8,058		20,565				20,565				20,565						20,565
SPECIAL PURPOSE VEHICLES																		
TRUCK MAINT 4X2	287	2,453	295	3,073			295	3,073			295	3,073					295	3,073
TRUCK, MAINT, 4X4	101	998																
TRUCK, MAINT, HI-REACH	26	1,898	17	1,888			17	1,888			17	1,888					17	1,888
TRUCK, TELEPHONE MAINTENANCE	26	3,763	18	2,685			18	2,685			18	2,685					18	2,685
TRUCK, TANK, 1200 GAL	56	1,961	50	2,135			50	2,135			50	2,135					50	2,135
TRUCK TANK FUEL M-9																		
TRUCK, TANK, FUEL, M-49	31	1,786	35	2,487			35	2,487			35	2,487					35	2,487
TRUCK, TANK, LIQ NIT, C-5	2	467																
TRACTOR A/C TOW U-30																		
TRACTOR, A/C TOW, M8-2																		
TRACTOR, A/C TOW, M8-4	110	2,675	167	4,135			167	4,135			167	4,135					167	4,135
TRACTOR, TOW, FLIGHTLINE	260	3,853	370	5,487			370	5,487			370	5,487					370	5,487
TRACTOR, WHEELED, INDUSTRIAL	150	1,915																
TRACTOR, DOZER	37	2,443	83	5,538			83	5,538			83	5,538					83	5,538
VEHICLE,LAW ENFORCEMENT	271	2,342																
TRUCK, DENTMERAL WATER, 2600 GAL	9	942	23	2,473			23	2,473			23	2,473					23	2,473
TRUCK HI LIFT CS	2	119																
TRUCK HI LIFT 3T	3	186																
TRUCK, HI LIFT, 9T	3	182																
TRUCK REFUSE	23	1,793																
TRANSPORTABLE MAINT UNIT																		
TRUCK HYDRANT FUEL	39	2,919																
TRAILER WATER M149	19	128																
TRAILER FUEL A1B	7	68																
SEMI TRAILER COMPRESSED GAS	16	2,725	11	2,731			11	2,731			11	2,731					11	2,731
SEMI TRAILER TANK UOMH	1	137																
DOLLY M720																		
DOLLY M832	19	427																
MOBILE ARM RECON VEHICLE																		
POLYMER PLACEMENT TRUCK																		
RESIN TANK TRUCK																		
SCAB VEHICLE REPAIR																		
M-113 ARM PERS CARRIER																		
TRACTOR WHEELED W DOZER																		
ITEMS LESS THAN $2,000,000		7,530		15,369				15,369				15,369						15,369
FIRE FIGHTING EQUIPMENT																		
TRUCK CRASH P-4/P-19	140	23,744																
TRUCK CRASH P-15	5	3,494	3	2,248			3	2,248			3	2,248					3	2,248
TRUCK CRASH P-2	18	8,201																
TRUCK WATER P-18	52	3,866	79	6,088			79	6,088			79	6,088					79	6,088
TRUCK,PUMPER, P-8	16	1,852	28	3,242			28	3,242			28	3,242					28	3,242
TRUCK, PUMPER, P-12	2	186	18	1,700			18	1,700			18	1,700					18	1,700
TRUCK CRASH P-10	14	466																
TRUCK CRASH P-13/P-20	20	494																
TRUCK FIRE HI-REACH																		
ITEMS LESS THAN $2,000,000		839		4,015				4,015				4,015						4,015
MATERIALS HANDLING EQUIPMENT																		
TRUCK F/L 4,000 LB GED/DED 144"	151	2,143	215	3,295			215	3,295			215	3,295					215	3,295
TRUCK, F/L 6000 LB	203	4,934	183	6,529			183	6,529			183	6,529					183	6,529
TRUCK, F/L 10,000 LB	196	8,279	216	9,413			216	9,413			216	9,413					216	9,413
TRUCK F/L LARGE CAPACITY RT	10	627																
TRUCK, F/L 15000 LB	19	715																
LARGE CAPACITY LOADER			10	4,328			10	4,328			10	4,328					10	4,328
25K A/C LOADER			46	4,224			46	4,224			46	4,224					46	4,224
TACTICAL CARGO LOADER																		
TRACTOR, WHSE, 4,000 LB	101	849																
CONTAINER, LIFT, TRUCK	20	4,453	43	9,833			43	9,833			43	9,833					43	9,833
ITEMS LESS THAN $2,000,000		2,658		10,532				10,532				10,532						10,532
BASE MAINTENANCE SUPPORT																		
LOADER, SCOOP	54	3,601	102	7,042			102	7,042			102	7,042					102	7,042

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
LOADER, SCOOP, W/BACKHOE	20	699				21,500		21,500				0		-21,500				0
DISTRIBUTOR, WATER 1500 GALLON	49	2,457	56	2,855			56	2,855			56	2,855					56	2,855
PRODUCTIVITY INVESTMENT VEHICLES																		
CLEANER, RUNWAY/STREET	101	5,850	191	18,038			191	18,038			191	18,038					191	18,038
ROLLER, VIBRATING	31	611																
TRUCK DUMP 22T	9	860																
GRADER, ROAD, MOTORIZED	54	3,110	36	2,154			36	2,154			36	2,154					36	2,154
CRANE, 7-50 TON	23	3,133	118	12,072			118	12,072			118	12,072					118	12,072
EXCAVATOR, DED, PT	29	4,305	38	5,045			38	5,045			38	5,045					38	5,045
WATERCRAFT	3	4,295	8	4,055			8	4,055			8	4,055					8	4,055
SPARES AND REPAIR PARTS		4,512		6,492				6,492				6,492						6,492
MODIFICATIONS		197		295				295				295						295
ITEMS LESS THAN $2,000,000		14,611		12,997				12,997				12,997						12,997
UNDISTRIBUTED REDUCTION		—		—				—		-31,600		-31,600		-31,600		-31,600		-31,600
SUBTOTAL, VEHICULAR EQUIPMENT		304,824		331,796		21,500		353,296		-31,600		300,196		-53,100		-31,600		300,196
ELECTRONICS AND TELECOMMUNICATIONS EQUIP																		
COMM SECURITY EQUIPMENT(COMSEC)																		
SPACE SYSTEMS (COMSEC)		33,497		10,002				10,002				10,002						10,002
TEMPEST EQUIPMENT		546		612				612				612						612
TAC SECURE VOICE		13,201		10,802				10,802				10,802						10,802
DCS SECURE VOICE (COMSEC)		20,185		13,338				13,338				13,338						13,338
SECURE DATA		42,228		35,141				35,141				35,141						35,141
TRI-TAC (COMSEC)		28,921		46,082				46,082		-3,000		43,082		-3,000		-3,000		43,082
SPARES AND REPAIR PARTS		7,563		11,876				11,876				11,876						11,876
MODIFICATIONS (COMSEC)		282		330				330				330						330
INTELLIGENCE PROGRAMS																		
INTELLIGENCE DATA HANDLING SYS		24,727		31,817		-264		31,553		-6,900		24,917		-6,636		-264		31,553
INTELLIGENCE TRAINING EQUIPMENT		6,201		12,641				12,641				12,641						12,641
INTELLIGENCE COMM EQUIP		4,585		11,000				11,000				11,000						11,000
COBRA JUDY				248				248				248						248
COBRA SHOE		2,973		3,084				3,084				3,084						3,084
ITEMS LESS THAN $2,000,000		6,375		17,545				17,545		-1,200		16,345		-1,200				17,545
ELECTRONICS PROGRAMS																		
TRAFFIC CONTROL/LANDING		4,981		11,899				11,899		-7,000		4,899		-7,000				11,899
TACTICAL AIR CONTROL SYS IMPROVE		84,408		64,316				64,316		-32,300		32,016		-32,300		-12,816		51,500
WEATHER OBSERV/FORCAST		27,468		61,494				61,494		-34,500		26,994		-34,500		-6,494		55,000
DEFENSE SUPPORT PROGRAM		117,825		100,093				100,093				100,093						100,093
OTH-B RADAR		173,036		188,157				188,157		-188,157		0		-188,157		-78,157		110,000
SACDIN		1,129																
SAC COMMAND AND CONTROL		11,123		11,265				11,265				11,265						11,265
LAUNCH CONTROL CENTER COMMUNICATIONS				9,415				9,415		-9,415		0		-9,415		-3,415		6,000
CHEYENNE MOUNTAIN COMPLEX		54,136		10,770				10,770		-2,000		8,770		-2,000		-2,000		8,770
PAVE PAWS/SLBM WARNING SYSTEMS		9,025		120,206				120,206				120,206				-20,800		99,406
BMEWS MODERNIZATION		70,754		41,032				41,032		-41,032		0		-41,032				41,032
SPACETRACK		10,068		4,888				4,888				4,888						4,888
NAVSTAR GPS		3,351		12,356				12,356		-9,100		3,256		-9,100		-4,000		8,256
USAFE COMMAND/CONTROL SYSTEM		8,700		12,144				12,144				12,144						12,144
PACAF COMMAND/CONTROL		9,897		1,153				1,153				1,153						1,153
DEFENSE METEOROLOGICAL SAT PROG		9,998		3,442				3,442				3,442						3,442
CARIBBEAN BASIN RADAR NETWORK		4,400		11,272				11,272		-4,300		6,972		-4,300		-4,300		6,972
MARS/USAF-FAA RADAR UPGRADE		2,798		16,194				16,194				16,194				-16,194		0
TAC SIGINT SUPPORT		34,671		15,755				15,755				15,755						15,755
DIST ERLY WARNING RDR/NORTH WASHING		8,858		4,318				4,318				4,318						4,318
TACTICAL GROUND INTERCEPT FACILITY		17,464		5,155				5,155				5,155						5,155
TR-1 GROUND STATIONS		10,103																
AIR BASE SURVIVABILITY		1,567		3,885				3,885		-3,885		0		-3,885		-1,085		2,800
CMDR'S TACTICAL TERMINALS(CTT)/TEREC		4,056		2,805				2,805				2,805						2,805
IMAGERY TRANS		19,960		12,349				12,349				12,349						12,349
NUDET DETECTION SYSTEM (NDS)																		
TACTICAL WARNING SYSTEMS SUPPORT		390		3,435				3,435		-3,000		435		-3,000		-935		2,500
NORTH ATLANTIC DEFENSE C3		22,362		26,643				26,643		-4,400		22,243		-4,400		-2,443		24,200
SPECIAL COMM-ELECTRONICS PROJECTS																		
AUTOMATIC DATA PROCESSING EQUIP		162,261		135,569				135,569		-200		135,369		-200		-200		135,369
WWMCCS/WIS ADPE		38,228		40,092		-20,000		20,092		-4,300		35,792		15,700		-20,000		20,092
NAC COMMAND AND CONTROL SUPPORT		17,120		53,197				53,197		-40,100		13,097		-40,100		-10,197		43,000
GLCM COMMUNICATIONS		14,471		5,983				5,983				5,983						5,983
AIR FORCE PHYSICAL SECURITY SYSTEM		52,508		7,154				7,154				7,154						7,154
WEAPONS STORAGE/SECURITY		2,944		20,535				20,535		-17,600		2,935		-17,600				20,535
RANGE IMPROVEMENTS		90,173		143,878				143,878		-55,000		88,878		-55,000		-35,300		108,578
RADAR BOMB SCORER		9,100		12,837				12,837		-3,700		9,137		-3,700		-1,837		11,000
PLSS		26,623		27,231		-27,231		0		-27,231		0				-27,231		0
C3 COUNTERMEASURES		21,388		8,146				8,146				8,146						8,146
JOINT SURVEILLANCE SYSTEM				9,410				9,410				9,410						9,410
SPACE SHUTTLE		4,978		7,756				7,756		-2,900		4,856		-2,900		-2,900		4,856
BASE LEVEL DATA AUTO PROGRAM		47,994		99,221				99,221		-52,000		47,221		-52,000		-50,000		49,221
SATELLITE CONTROL FACILITY		66,262		126,614				126,614		-61,400		65,214		-61,400		-17,614		109,000
JTIDS																		
CONSTANT WATCH		15,924		4,286				4,286				4,286						4,286
CONSOLIDATED SPACE OPS CENTER		17,613		75,988				75,988		-13,000		62,988		-13,000				75,988
CND CENTER PROCESSING/DISPLAY SYS		2,552		2,110				2,110				2,110						2,110
HAMMER ACE		831		1,703				1,703				1,703						1,703
SAKTO TEST RANGES I&M		22,144		66,928				66,928		-45,100		21,828		-45,100		-23,500		43,428
EMP HARDENING		12,685		15,786				15,786		-3,300		12,486		-3,300		-3,300		12,486
AIR FORCE COMMUNICATIONS																		
PROGRAM 678AJ		1,965		1,927				1,927				1,927						1,927
INFORMATION TRANSMISSION SYSTEMS		5,748		8,038				8,038		-2,300		5,738		-2,300		-1,038		7,000
TELEPHONE EXCHANGE		52,926		76,590				76,590		-24,400		52,190		-24,400		-24,400		52,190
JOINT TACTICAL COMM PROGRAM		160,227		234,093				234,093		-76,500		157,593		-76,500		-78,393		155,700
USREDCOM		2,971		13,417				13,417		-7,500		5,917		-7,500		-2,917		10,500
USCENTCOM		26,863		26,427				26,427				26,427						26,427
AFSATCOM																		

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
AUTOMATED TELECOMMUNICATIONS PRG		18,826		23,792				23,792		-5,000		18,792		-5,000		-2,292		21,500
CINC MOBILE COMMAND CENTER				30,260				30,260		-30,260		0		-30,260		-30,260		0
MILSTAR				50,614		-50,614		0		-50,614		0				-50,614		0
TELETYPEWRITER EQUIPMENT		11,724																
SATELLITE TERMINALS		65,071		10,977				10,977				10,977						10,977
DCA PROGRAMS																		
WIDEBAND SYSTEMS UPGRADE		45,798		68,740				68,740		-23,500		45,240		-23,500		-23,500		45,240
TECH CONTROL EXPANSION																		
MINIMUM ESSENTIAL EMER COMM NET		14,385		97,187				97,187		-83,000		14,187		-83,000		-46,000		51,187
DCS SECURE VOICE EQUIPMENT		18,380		37,762				37,762		-19,700		18,062		-19,700		-16,862		20,900
ORGANIZATION AND BASE																		
TACTICAL C-E EQUIPMENT		17,946		66,376				66,376		-40,100		26,276		-40,100		-16,376		50,000
PRODUCTIVITY INV TELECOM		16,431		3,939				3,939				3,939						3,939
RADIO EQUIPMENT		38,609		58,307				58,307		-20,300		38,007		-20,300		-10,307		48,000
PRODUCTIVITY ENH TELECOMM				4,572				4,572				4,572						4,572
FIBER OPTICS		1,430		3,318				3,318		-1,900		1,418		-1,900		-318		3,000
TV EQUIPMENT (AFRTV)		4,493		4,920				4,920				4,920						4,920
CCTV/AUDIOVISUAL EQUIPMENT		4,657		7,556				7,556		-3,000		4,556		-3,000		-1,556		6,000
C3 REPLACEMENT PROGRAM																		
E + I REQUIREMENTS		10,795		1,822				1,822				1,822						1,822
SPARES AND REPAIR PARTS		350,662		423,269				423,269		-89,100		334,169		-89,100		-59,500		363,769
ITEMS LESS THAN $2,000,000		15,468		20,690				20,690		-5,500		15,190		-5,500		-4,400		16,290
MODIFICATIONS																		
COMM-ELECTRONICS CLASS IV		36,179		39,990				39,990		-3,200		36,790		-3,200		-1,490		38,500
TRAFFIC CONTROL/LANDING		3,418																
ORGANIZATION AND BASE																		
BNEMS (474L)																		
TACTICAL EQUIPMENT		25,393		21,398				21,398				21,398						21,398
ANTIJAM VOICE		10,909		23,758				23,758		-11,300		12,458		-11,300		-3,758		20,000
SUBTOTAL, ELECTRONICS & TELECOMMUNICATIONS EQUIP		2,493,905		3,183,122		-98,109		3,085,013		-1,173,194		2,009,928		-1,075,085		-721,963		2,461,159
OTHER BASE MAINTENANCE AND SUPPORT EQUIP																		
TEST EQUIPMENT																		
BASE/ALC CALIBRATION PACKAGE		45,027		54,464				54,464		-10,200		44,264		-10,200				54,464
NEWARK AFS CALIBRATION PACKAGE		3,359		2,851				2,851				2,851						2,851
TEST EQUIPMENT-GEN PURP		28,772		12,456				12,456				12,456						12,456
ITEMS LESS THAN $2,000,000		35,585		49,841				49,841		-15,400		34,441		-15,400		-10,000		39,841
PERSONAL SAFETY AND RESCUE EQUIP																		
LIFE RAFT, 20 MAN	652	989																
AUTOMATIC LIFE PRESERVER	3,000	2,981	5,355	5,396			5,355	5,396			5,355	5,396					5,355	5,396
NIGHT VISION GOGGLES	683	7,338	1,098	8,763			1,098	8,763			1,098	8,763					1,098	8,763
BREATHING APPARATUS TWO HOUR																		
CHEMICAL/BIOLOGICAL DEF PROG		72,620		114,599				114,599				114,599						114,599
ITEMS LESS THAN $2,000,000		6,966		9,824				9,824		-3,000		6,824		-3,000		-3,000		6,824
DEPOT PLANT + MATERIALS HANDLING EQ																		
BASE MECHANIZATION EQUIPMENT		37,099		34,731				34,731				34,731						34,731
AIR TERMINAL MECHANIZATION EQUIP		1,215		3,153				3,153		-2,000		1,153		-2,000				3,153
ITEMS LESS THAN $2,000,000		13,493		16,085				16,085		-2,900		13,185		-2,900		-2,900		13,185
ELECTRICAL EQUIPMENT																		
GENERATORS-MOBILE ELECTRIC		27,892		26,709				26,709				26,709						26,709
FLOOD LIGHTS	656	7,745	926	11,282		-8,865	926	2,417	-26	-3,600	900	7,682	-26	5,265	-26	-5,582	900	5,700
ITEMS LESS THAN $2,000,000		479		4,155				4,155				4,155						4,155
BASE SUPPORT EQUIPMENT																		
BASE PROCURED EQUIPMENT				59,793				59,793		-16,300		43,493		-16,300		-8,193		51,600
MEDICAL/DENTAL EQUIPMENT		120,839		143,916		-2,000		141,916		-26,600		117,316		-24,600		-12,500		131,416
AIR BASE SURVIVABILITY		19,700		22,855				22,855		-22,855		0		-22,855		-11,355		11,500
COB ESSENTIAL FACILITIES		5,229		4,060				4,060		-4,060		0		-4,060				4,060
BARRIER, AIRCRAFT ARRESTING SYSTEM	2	157																
PALLET, AIR CARGO, 108"X88"	3,000	2,670	2,077	2,089			2,077	2,089			2,077	2,089					2,077	2,089
NET ASSEMBLY, 108"X88"		3,306		4,501				4,501		-1,300		3,201		-1,300		-1,300		3,201
PUMPS AND COMPRESSORS		1,282																
MOBILITY CONTAINERS	341	2,425																
BLADDERS FUEL	184	2,260	200	2,498			200	2,498			200	2,498					200	2,498
TACTICAL SHELTER	72	16,822	59	25,879		-2,718	59	23,161		-9,300	59	16,579		-6,582		-6,300	59	19,579
PHOTOGRAPHIC EQUIPMENT		6,486		6,526				6,526				6,526						6,526
PRODUCTIVITY ENHANCEMENT				10,390		-1,000		9,390				10,390		1,000		-1,000		9,390
PRODUCTIVITY INVESTMENTS		928		2,126				2,126		-1,200		926		-1,200				2,126
ANTI-TERRORISM EQUIPMENT																		
MOBILITY EQUIPMENT		43,048		60,977				60,977		-18,600		42,377		-18,600		-18,600		42,377
WARTIME HOST NATION SUPPORT		5,069		8,197				8,197				8,197						8,197
SPARES AND REPAIR PARTS		13,295		13,915		-2,000		11,915		-900		13,015		1,100		-2,000		11,915
ITEMS LESS THAN $2,000,000		15,832		16,246				16,246		-1,400		14,846		-1,400		-1,400		14,846
SPECIAL SUPPORT PROJECTS																		
INTELLIGENCE PRODUCTION ACTIVITY		19,124		22,739		-300		22,439		-4,400		18,339		-4,100		-300		22,439
SCIENTIFIC/TECHNICAL INTELLIGENCE		4,258		10,130				10,130		-1,400		8,730		-1,400		-1,000		9,130
TECH SURV COUNTERMEASURES EQ		4,939		7,757				7,757				7,757						7,757
DEFENSE DISSEMINATION SYSTEM		12,571		8,335				8,335				8,335						8,335
AF TECHNICAL APPLICATION CENTER		15,849		13,634		-843		12,791		-2,100		11,534		-1,257		-843		12,791
PHOTO PROC/INTERPRET SYS		10,001		1,470				1,470				1,470						1,470
SELECTED ACTIVITIES		3,800,211		4,115,736		-85,800		4,029,936		-168,300		3,947,436		-82,500		-136,600		3,979,136
SPECIAL UPDATE PROGRAM		84,664		871,847				871,847		-1,400		870,447		-1,400				871,847
INDUSTRIAL SURGE				19,200		-2,000		17,200		-19,200		0		-17,200		-19,200		0
INDUSTRIAL PREPAREDNESS		2,497		2,071				2,071				2,071						2,071
MISC EQUIPMENT		6,266		19,589		-2,000		17,589		-13,200		6,389		-11,200		-7,589		12,000
MODIFICATIONS		5,869		8,416		-1,000		7,416		-3,400		5,016		-2,400		-1,000		7,416
NON-CENTRALLY MANAGED ITEMS																		
NON-CENTRALLY MANAGED ITEMS		54,700																
SUBTOTAL, OTHER BASE MAINTENANCE & SUPPORT EQUIP		4,569,477		5,839,201		-108,526		5,730,675		-353,015		5,486,186		-244,489		-250,662		5,588,539

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
AEROSTAT RADAR SYSTEMS		0		0	3	49,500	3	49,500				0	-3	-49,500				0
UNDISTRIBUTED REDUCTION		—		—		-335,900		-335,900				—		335,900				—
PRIOR YEAR PROGRAM SAVINGS (FY 85 & 86)		—		—				—		-98,800		-98,800		-98,800		-77,900		-77,900
PRIOR YEAR INFLATION SAVINGS (FY 85)		—		—		-10,900		-10,900				—		10,900				—
PRIOR YEAR INFLATION SAVINGS (FY 86)		—		—		-103,500		-103,500				—		103,500				—
INFLATION REESTIMATE (FY 87)		—		—		-192,100		-192,100				—		192,100		-192,100		-192,100
OBLIGATION LIMITATION (FY 85 AND 86)		—		—				—		(-200,200)		(-200,200)		(-200,200)		(-200,200)		(-200,200)
ROUNDING ADJUSTMENT		—		—				—		-93		-93		-93				—
TOTAL, AIR FORCE OTHER PROCUREMENT		8,568,083		10,900,300		-782,452		10,117,848		-2,260,200		8,640,100		-1,477,748		-1,719,377		9,180,923

OTHER PROCUREMENT, AIR FORCE

Overview

The fiscal year 1987 budget request contained authorization of $10,900.3 million for other procurement.

The Senate bill woud authorize 10,117.8 million for other procurement. The House amendment would provide $8,640.1 million in authorization.

The conferees recommend authorization of $9,180.9 million for other procurement in the following manner:

	Millions
Munitions and associated equipment	$1,101.0
Vehicular equipment	300.2
Electronics and telecommunications equipment	2,461.2
Other base maintenance and support equipment	5,588.5

Specific program authorizations are detailed in the foregoing table.

Tactical and suppport vehicles

The budget request contained $331.8 million for procurement of tactical and support vehicles.

The House amendment would authorize $300.2 million for tactical and support vehicles. The Senate bill would authorize $353.3 million for tactical and support vehicles.

The conferees agreed to authorize $300.2 million for tactical and support vehicles. Within the authorization, the conferees agreed to an undistributed reduction of $31.6 million. In applying this reduction, the conferees encourage the Department of the Air Force initially to consider categories such as administrative use vehicles or passenger cars and other noncritical items.

ITEMS OF SPECIAL INTEREST

Over the horizon backscatter radar

The budget request contained $188.2 million for the over-the-horizon-backscatter radar (OTH-B) program in fiscal year 1987. The Senate bill would provide the requested authorization. The House amendment would provide no authorization for the program.

The conferees recommend authorization of $110.0 million for one sector on the OTH-B radar program. Prior to the submission of the fiscal year 1988 budget request, the Secretary of the Air Force is directed to provide the Committees on Armed Services of the Senate and House of Representatives with a report detailing the performance of the OTH-B radar, the planned improvements to the system, the cost of the improvements and the schedule for implementing the improvements.

Base level data automation program

The budget request contained authorization of $99.2 million for the base level data automation program. The House amendment would authorize $47.2 million for the program. The Senate bill would authorize the requested amount.

The conferees recommend authorization of $49.2 million in fiscal year 1987.

The conferees recognize that, during a time of severe budgetary constraints, key programs that under more favorable conditions would be supported by the Congress must be reduced. The Air Force base level data automation program, unfortunately, falls into this category. The conferees are fully aware the funding reductions have direct impact on military mobility and readiness support programs. In light of the importance of this particular program, the conferees recommend that the Air Force, if necessary, make funds available for current or past fiscal years, as sources to support this program.

PROCUREMENT, DEFENSE AGENCIES

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL QTY	FY 86 FINAL AMOUNT	FY 87 REQUEST QTY	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED CHANGE FROM REQUEST QTY	SENATE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED RECOMMENDATION QTY	SENATE BILL AS PASSED RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED CHANGE FROM REQUEST QTY	HOUSE BILL AS PASSED CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED RECOMMENDATION QTY	HOUSE BILL AS PASSED RECOMMENDATION AMOUNT	DIFFERENCE (HOUSE +/- TO SENATE) QTY	DIFFERENCE (HOUSE +/- TO SENATE) AMOUNT	CONFERENCE BILL CHANGE FROM REQUEST QTY	CONFERENCE BILL CHANGE FROM REQUEST AMOUNT	CONFERENCE BILL RECOMMENDATION QTY	CONFERENCE BILL RECOMMENDATION AMOUNT
MAJOR EQUIPMENT, OSD																		
MAJOR EQUIPMENT, OSD/WHS		62,651		111,289		-6,000		105,289				111,289		6,000		-6,000		105,289
MAJOR EQUIPMENT, NSA																		
CLASSIFIED EQUIPMENT	[ ]		[ ]			61,000		61,000		-59,500		-59,500		-120,500		-2,767		-2,767
MAJOR EQUIPMENT, DNA																		
VEHICLES		237		232				232				232						232
OTHER CAPITAL EQUIPMENT		5,663		4,298				4,298				4,298						4,298
MAJOR EQUIPMENT, DCA																		
WANCCS ADP SYSTEMS		14,978		14,887				14,887				14,887						14,887
DEFENSE SWITCHING NETWORK		10,831																
ITEMS LESS THAN $900,000 EACH		43,476		40,169				40,169				40,169						40,169
MAJOR EQUIPMENT, DIA																		
INTELLIGENCE & COMMUNICATIONS	[ ]		[ ]			-4,100		-4,100		-6,000		-6,000		-1,900		-4,773		-4,773
MAJOR EQUIPMENT, DLA																		
MATERIALS HANDLING EQUIPMENT		9,666		8,642				8,642				8,642						8,642
VEHICLES		1,869		1,387				1,387				1,387						1,387
MECHANIZED MATERIALS HANDLING SYS		14,620		24,723				24,723				24,723						24,723
ADP EQUIPMENT		26,449		60,026				60,026				60,026						60,026
TELECOMMUNICATIONS EQUIPMENT		10,982		17,289				17,289				17,289						17,289
OTHER MAJOR EQUIPMENT		10,605		10,023				10,023				10,023						10,023
ITEMS LESS THAN $900,000 EACH		5,950		2,900				2,900				2,900						2,900
AUTOMATED MARKING/READING SYSTEM(LOGMARS)		220		500				500				500						500
MAJOR EQUIPMENT, DMA																		
ADP EQUIPMENT		19,967																
VEHICLES		342		368				368				368						368
OTHER CAPITAL EQUIPMENT		29,278		30,120				30,120				30,120						30,120
AF PHASE IV COMPUTER		1,800																
2-COLOR OFFSET PRINTING PRESS																		
DIRECT PRINTING SYSTEM																		
RASTER SCAN EDIT STATION				1,746				1,746				1,746						1,746
PASS REPLACEMENT		2,558																
MAJOR EQUIPMENT, DIS																		
VEHICLES		5,686		1,789		932		2,721				1,789		-932				1,789
OTHER CAPITAL EQUIPMENT		1,380		1,849		168		2,017				1,849		-168				1,849
MAJOR EQUIPMENT, USUHS																		
ITEMS LESS THAN $900,000 EACH		743		1,295				1,295				1,295						1,295
MAJOR EQUIPMENT, DCAA																		
ITEMS LESS THAN $900,000 EACH		7,588		8,064				8,064				8,064						8,064
MAJOR EQUIPMENT, DMA																		
ITEMS LESS THAN $900,000 EACH																		
MAJOR EQUIPMENT, DISP																		
ITEMS LESS THAN $900,000 EACH		338,200		402,800				402,800		-57,700		345,100		-57,700		-30,000		372,800
MAJOR EQUIPMENT, DIB																		
ITEMS LESS THAN $900,000 EACH		2,145		1,700				1,700				1,700						1,700
CLASSIFIED PROGRAMS		659,856		742,304				742,304				742,304						742,304
UNDISTRIBUTED REDUCTION		---		---		-62,900		-62,900				---		62,900				---
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-2,300		-2,300				---		2,300				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-17,700		-17,700				---		17,700				---
INFLATION REESTIMATE (FY 87)		---		---		-26,200		-26,200				---		26,200		-26,200		-26,200
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-35,000)		(-35,000)		(-35,000)		(-35,000)		(-35,000)
TOTAL, DEFENSE AGENCIES PROCUREMENT		1,287,740		1,488,400		-57,100		1,431,300		-123,200		1,365,200		-66,100		-69,740		1,418,660

PROCUREMENT, DEFENSE AGENCIES

Overview

The budget request contained $1,488.4 million for procurement, defense agencies, for fiscal year 1987. The House amendment would authorize $1,365.2 million for procurement, defense agencies. The Senate bill would authorize $1,431.3 million.

The conferees recommend authorization of $1,418.7 million for procurement, defense agencies for fiscal year 1987. Specific details are presented in the foregoing table.

DOD CHEMICAL DEMILITARIZATION PROGRAM

(DOLLARS IN THOUSANDS)

PROGRAM	FY 86 FINAL		FY 87 REQUEST		SENATE BILL AS PASSED				HOUSE BILL AS PASSED				DIFFERENCE		CONFERENCE BILL			
					CHANGE FROM REQUEST		RECOMMENDATION		CHANGE FROM REQUEST		RECOMMENDATION		(HOUSE +/- TO SENATE)		CHANGE FROM REQUEST		RECOMMENDATION	
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT
CHEM DEMILITARIZATION - RDT&E		0		9,800				9,800				9,800						9,800
CHEM DEMILITARIZATION - PROCUREMENT		0		49,800				49,800				49,800						49,800
CHEM DEMILITARIZATION - O&M		0		60,500				60,500				60,500						60,500
TOTAL, DOD CHEMICAL DEMILITARIZATION		0		120,100		0		120,100		0		120,100		0		0		120,100
RESERVE EQUIPMENT																		
RESERVE, ARMY		365,000		0		90,000		90,000		100,000		100,000		10,000		90,000		90,000
MISCELLANEOUS EQUIPMENT				0		90,000		90,000		100,000		100,000		10,000		90,000		90,000
RESERVE, NAVY		100,000		0		45,000		45,000		66,000		66,000		21,000		61,000		61,000
HCS (HH-60) MODIFICATIONS				0		30,000		30,000				0		-30,000				0
SEABEES				0		15,000		15,000				0		-15,000		15,000		15,000
CSAR HELICOPTERS				0				0		38,000		38,000		38,000		38,000		38,000
AIRCRAFT SUPPORT EQUIPMENT				0				0		20,000		20,000		20,000				0
AIRBORNE MINE COUNTERMEASURES				0				0		8,000		8,000		8,000		8,000		8,000
RESERVE, MARINE CORPS		70,000		0		20,000		20,000		74,000		74,000		54,000		65,000		65,000
MISCELLANEOUS EQUIPMENT				0		20,000		20,000				0		-20,000		20,000		20,000
MDH SYSTEM TRAINING DEVICES				0				0		3,600		3,600		3,600		5,000		5,000
MISCELLANEOUS ENGINEERING EQUIPMENT				0				0		29,300		29,300		29,300				0
ANALYZER SET ENGINE (STE/ICE)				0				0		1,100		1,100		1,100				0
KC-130 T AIRCRAFT				0				0		40,000		40,000		40,000		40,000		40,000
RESERVE, AIR FORCE		180,000		0		150,000		150,000		150,000		150,000		0		150,000		150,000
C-130 AIRCRAFT				0	8	150,000	8	150,000	8	150,000		150,000		0	8	150,000	8	150,000
SUBTOTAL, RESERVE EQUIPMENT		715,000		0		305,000		305,000		390,000		390,000		85,000		366,000		366,000
NATIONAL GUARD EQUIPMENT																		
NATIONAL GUARD, ARMY		531,800		0		140,000		140,000		69,100		69,100		-70,900		147,500		147,500
UH-60 BLACKHAWK				0	5	30,000	5	30,000				0	-5	-30,000	2	10,000	2	10,000
5-TON TRUCK				0	250	22,500	250	22,500		20,600		20,600	-250	-1,900	225	20,000	225	20,000
M-113				0	76	20,000	76	20,000				0	-76	-20,000				0
AN/PRC-104A				0	754	10,200	754	10,200				0	-754	-10,200	754	10,200	754	10,200
AN/GRC-193A				0	310	9,900	310	9,900				0	-310	-9,900	310	9,900	310	9,900
AN/GRC-213				0	184	3,400	184	3,400				0	-184	-3,400	184	3,400	184	3,400
NON-SYSTEM TRAINING				0				0		25,000		25,000		25,000		50,000		50,000
COMMUNICATIONS EQUIPMENT				0				0		23,500		23,500		23,500				0
MISCELLANEOUS EQUIPMENT				0		44,000		44,000				0		-44,000		44,000		44,000
NATIONAL GUARD, AIR		255,000		0		20,000		20,000		50,000		50,000		30,000		50,000		50,000
MISCELLANEOUS EQUIPMENT				0		20,000		20,000		50,000		50,000		30,000		50,000		50,000
SUBTOTAL, NATIONAL GUARD EQUIPMENT		786,800		0		160,000		160,000		119,100		119,100		-40,900		197,500		197,500
PRIOR YEAR INFLATION SAVINGS (FY 85)		---		---		-500		-500				---		500				---
PRIOR YEAR INFLATION SAVINGS (FY 86)		---		---		-10,200		-10,200				---		10,200				---
OBLIGATION LIMITATION (FY 85 AND 86)		---		---				---		(-18,800)		(-18,800)		(-18,800)		(-18,800)		(-18,800)
TOTAL, NATIONAL GUARD AND RESERVE EQUIPMENT		1,501,800		0		454,300		454,300		509,100		509,100		54,800		563,500		563,500

PROCUREMENT, NATIONAL GUARD AND RESERVE

National Guard and Reserve Forces

The House amendment provided $509.1 million in additional authorizations to the requested amount for procurement of Guard and Reserve Forces equipment in fiscal year 1987. The Senate bill authorized an additional $454.3 million for such purposes.

The House amendment contained a provision (sec. 105) that would require, beginning in fiscal year 1988, the secretary of Defense to budget separately for the National Guard and Reserve components. Another provision (sec. 106) in the House amendment would establish an obligation ceiling for Guard and Reserve funds.

The Senate bill contained no similar provisions.

The Senate recedes.

The conferees recommend authorization of $563.5 million in additional procurement for the Guard and Reserve Forces. Also, the conferees agreed to earmark 18 AH-64 Apache helicopters, 3 UH-60 Blackhawk helicopters, and 6 CH-47 Chinook helicopters for the Guard and Reserve Forces.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Multiyear procurement (sec. 107)

For fiscal year 1987, the Department of Defense requested multiyear procurement authority for eight candidate systems.

The House amendment recommends approval of authority to enter into multiyear contracts for the Patriot missile system and the Stinger missile. The House amendment would deny the authorization for multiyear contracts for the following systems: UH-60A Blackhawk and EH-60A aircraft Quickfix airframes; F/A-18 aircraft; HARM missile; Defense Support Program; and Complementary Expendable Launch Vehicle.

Further, the House amendment contained a provision (sec. 110) that would provide the authority for the service Secretaries to enter a multiyear contract only if (1) the contract contains negotiated and priced options for quantities that vary by 30 percent up or down in each year; and (2) the Secretary certifies that the multiyear contract provides no less than 12 percent savings as compared to the same program executed with annual contracts.

The Senate bill recommends approval of authority to enter into multiyear contract for the UH-60A Blackhawk and EH-60A, Patriot Missile System, HARM weapon system, Defense Support Program. The Senate bill would deny authorization for MK-45 gun mounts, MK-6 ammunition hoists, and F/A-18 aircraft.

The conferees agreed to approve the following multiyear programs: UH-60 Blackhawk airframe, EH-60 Quickfix airframe, Patriot Missile System, Defense Support Program, HARM missile, MK-45 gun mounts, and MK-6 ammunition hoists. The conferees agreed to a provision that provides the authority to enter a multiyear contract only if the Secretary certifies that the multiyear contract provides not less than 12 percent savings as compared to the same program executed with annual contracts. With respect to the Defense Support Program, the conferees agreed to approve a multiyear contract only if that contract provides not less than 20 percent savings as compared to annual contracts.

Concerning the Stinger missile, the Senate bill contained a provision that would direct the Secretary of the Army to solicit bids to establish a competitive second source for the Stinger missile and to determine which contracting method, multiyear or contracting, is more cost-effective. In order to enter into a multiyear contract, the Secretary would need to certify in a report, validated by the Government Accounting Office (GAO), that the multiyear method is less costly.

The conferees agreed to the Senate provision concerning acquisition of the Stinger missile.

Finally, the conferees denied the requested multiyear procurement authority for the F/A-18 aircraft.

Air-to-air Stinger modification (sec. 122(c))

The budget request contained $28.8 million for modification of Army aircraft for incorporation of air-to-air Stinger missiles. Both the Senate bill and the House amendment contained the requested authorization.

The House amendment contained a provision (sec. 122(d)) that would restrict obligation of funds for the air-to-air Stinger missile aircraft modification program until a comprehensive acquisition plan is developed and integrated into the Army's forward area air defense plan. The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conference agreement includes a provision (see. 112(c)) that would require the following condition to be met before funds could be obligated for the program:

(1) a comprehensive acquisition plan for air-to-air Stinger missile, for Army aircraft is established; and

(2) a report on the plan is submitted to the Committees on Armed Services of the Senate and House of Representatives.

The conferees expect the air-to-air Stinger missile program to be integrated into the overall Army aviation master plan.

DDG-51 destroyer program—racer (sec. 131)

The Senate bill contained a provision (sec. 102(d)(2)) that would repeal section 102(h) of the Department of Defense Authorization Act, 1985 (Public Law 98-525) that limits obligation or expenditure of funds for the DDG-51 program until the Secretary of the Navy certifies that the lead ship of that class is capable of being equipped with the Rankine Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification of the ship.

Section 124 of the House amendment would also repeal section 102(h) of the Department of Defense Authorization Act, 1985. The House amendment would further require the Secretary of the Navy to plan for the installation of RACER on the second flight of DDG-51 ships, including preparation of a ship design that includes the RACER system.

The conferees agreed to recommend the repeal of section 102(h) of the Department of Defense Authorization Act, 1985.

The House recedes.

Basic point defense missile system on amphibious vessels (sec. 132)

The House amendment contained a provision (sec. 125) that would require the Secretary of the Navy to maintain in an operational status the Basic Point Defense Missile System on any commissioned amphibious vessel equipped with the system on the date of enactment until a follow-on system of comparable capability is available for immediate replacement.

The Senate bill contained no similar provision.

The Senate recedes.

Rolling airframe missile (sec. 133))

The Administration requested $24.2 million for continuing research and development of the 5-inch Rolling Airframe Missile (RAM), $63.2 million in Weapons Procurement, Navy and $36.0 million in Other Procurement, Navy, for initial production of the missile and associated hardware.

The Senate bill would authorize the development request $40 million of the Weapons Procurement, Navy request and the Other Procurement, Navy request. However, the Senate bill also contained an amendment (sec. 102(g)) that restricted the obligation of those funds pending a certification from the Secretary of Defense.

The House amendment would authorize no funds for either development or procurement of the missile program and contained a provision (sec. 204(j)) that would impose restrictions on the obligation of any funds appropriated in fiscal year 1987 for purposes of further development or procurement of the RAM missile.

The RAM missile program has experienced serious development problems. Cost have risen substantially over initial estimates. Initial flight tests uncovered serious reliability problems. The program has been extensively restructured during the past year. Were this solely a U.S. Navy program, the conferees would likely support its termination.

The RAM missile program is exceptional, however, in that it involves close collaboration with the Federal Republic of Germany. The FRG Navy has a critical need for the RAM program and has borne 50 percent of the development cost to date. The Navy has developed an acquisition strategy that will pit the American and German contractors in competition for annual production orders. In many ways the RAM missile program represents a model for alliance cooperative acquisition strategies.

The conferees believe the joint development aspect of the RAM missile justifies continued development of the program, despite its serious past flaws. Further, while the Navy has taken constructive steps during the past nine months to give the program sound footing, the conferees remain concerned that the RAM missile is still unproven. Consequently, the conferees approve further development of the program and sufficient procurement funds to initiate production capability, contingent upon a certification by the Secretary of Defense as to the cost and performance of the RAM missile program. If that certification is not made by March 30, 1987, the RAM program is to be terminated.

Strategic bombers (secs. 141-142)

No authorization was requested for a strategic bomber contingency fund. Section 107 of the House amendment would authorize a $200.0 million strategic bomber contingency fund using amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 that remain available for obligation.

Section 108 of the House amendment would restrict fiscal year 1987 funds for the Advanced Technology Bomber to the level appropriated in fiscal year 1986 unless the Secretary of Defense submits acquisition plans to the Congress providing for dual sourcing. A waiver could be provided if the Secretary prepares an acquisition strategy for the ATB and submits a report describing that strategy. Any revision could not be implemented until 60 days after the date on

which the revision report is received by both committees.

Further, the Secretary would be directed to submit a detailed financial analysis on the projected cost of procurement of 132 advanced technology bomber aircraft. The analysis would be the basis on which the President could certify the cost of the ATB program in fiscal year 1988, it would be reviewed by the General Accounting Office, and it would provide the required information base for imposing a cost cap on the program.

Section 1237 of the Senate bill would express the Sense of Congress that the advanced technology bomber (ATB) program and the advanced cruise missile (ACM) program should be supported. The provision would restrict the use of funds authorized for the ATB and ACM programs to those programs exclusively. Also, section 1237 would prohibit the use of any funds for additional B-1B bomber aircraft beyond the 100 B-1B's previously authorized.

The House recedes on section 107. The Senate recedes on section 108 with an amendment. The House recedes on section 1237.

The conferees remain supportive of the Administration's strategic bomber modernization program and note the considerable success of the B-1B program in meeting performance, cost and schedule objectives. This success is attributed, in part, to the two bomber program, which has created a competitive environment, and to the cap on total B-1B program costs.

Notwithstanding this success, however, the conferees agree that the B-1B program be limited to the 100 aircraft for which funds have already been authorized and appropriated and that no funds be authorized for the purpose of preserving a B-1B production option, either by procurement of "long lead" items or in any other manner.

As the B-1B line closes down, the conferees are concerned that the competitive environment that marked the B-1B acquisition will not be present to keep Advanced Technology Bomber (ATB) costs down. Also, although the benefits of a cost cap on the B-1B program have been widely acclaimed, the conferees believe that insufficient information exists at this time to establish a comparable funding cap on the ATB program. For these reasons, the conferees believe that an acquisition strategy for the ATB that provides the greatest possible assurance of delivering an effective force on time and within cost is necessary and important.

To this end, the conferees have included a provision that would require the Secretary of Defense to prepare an acquisition strategy for the Advanced Technology Bomber. This strategy should examine alternatives and make recommendations with respect to methods of maintaining cost constraints on the ATB program, including competitive procurement of major systems or subsystems, competition in integration and assembly, and the appropriate timing of and level for a total program cost cap in the ATB program. The section also would require a detailed financial analysis of the procurement program and a review of the completed analysis by the Comptroller General.

CHEMICAL DETERRENT PROGRAMS

Overview

The administration requested a total of $1,135.2 million for the U.S. chemical deterrent program in fiscal year 1987. Of the total amount requested, $814.4 million or 72 percent is for protective measures; $200.7 million or 18 percent is for retaliatory programs; and $120.1 million or 10 percent is for the demilitarization of existing unitary munitions.

Demilitarization (sec. 151)

The Senate bill contained a provision (sec. 106) that provided $120.1 million for the chemical demilitarization program. The House amendment contained a similar provision (sec. 106) authorizing $120.1 million for this purpose.

The Senate recedes.

Binary chemical munitions (sec. 152)

The fiscal year 1987 budget request contained authorization of $158.5 million for the binary chemical weapons program. The House amendment authorized $68.3 million for the program. The Senate bill authorized the requested amount.

The House amendment contained a provision (sec. 123) that would prohibit the obligation of fiscal year 1986 and 1987 funds before October 1, 1987 for the binary chemical weapons program. Section 123 would further require the Secretary of Defense to submit a report to the Congress on the military requirements for long-range stand-off chemical weapons and the comparative advantages and disadvantages of the Bigeye bomb vis-a-vis substitutes for it.

Section 128 of the House amendment would prohibit the withdrawal of currently stored chemical munitions in Europe unless they are replaced with binary chemical munitions stationed in at least one European member nation of the North Atlantic Treaty Organization.

The Senate bill contained a provision (sec. 109) that is a technical amendment to section 1411(b)(1) of the fiscal year 1986 Department of Defense Authorization Act (Public Law 99-145). The amendment would clarify the intended reference to the appropriate NATO decision-making body that approves military force goals.

The conferees recommend authorization of $121.3 million for the binary chemical weapons program in fiscal year 1987. The conferees agreed to provide full funding for the 155mm (GB-2) binary artillery shell, both for production facilities and for the procurement of munition components. However, subject to section 1411 of the Department of Defense Authorization Act of 1986 (Public Law 99-145), final assembly of binary chemical munitions, including the GB-2, may not occur before October 1, 1987.

The conferees agreed to provide $35.0 million for the production of the Bigeye binary chemical bomb in fiscal year 1987. However, the conferees adopted bill language in section 152 that provided that these funds may not be obligated or expended before October 1, 1987 for the procurement, including components, or assembly of the Bigeye bomb. Section 152 of the bill also directs the Secretary of Defense to involve the Comptroller General in monitoring Bigeye testing, and directs the General Accounting Office to submit an evaluation of these tests to the Committees on Armed Services of the Senate and House of Representatives not later than June 1, 1987.

In a related action, the conferees agreed to deny funds to develop a second source for the Bigeye bomb. In view of the technical issues that need to be resolved before full scale production of Bigeye can be justified, the conferees believe that the development of a second source at this time is premature. The conferees further agreed that of the fiscal year 1986 funding for Bigeye production facilities, only $90 million shall be available for obligation. Furthermore, these funds may be obligated or expended only upon certification by the President that: (1) production of the Bigeye is in the national security interests of the United States; and (2) all design, planning and environmental requirements for such facilities have been met.

Additionally, the conferees agreed that no final assembly of the Bigeye bomb may occur before October 1, 1988. The bill also requires the Secretary of Defense to submit a report to the Congress not later than March 15, 1987, on the requirements for a long-range stand-off chemical weapon system. The conferees agreed to provide $5.0 million under Defense Agencies for research and development of a long-range chemical stand-off weapon.

In other provisions related to the chemical deterrent program, the House recedes on section 109 of the Senate bill. The House also recedes on section 128 of the House amendment, and on section 1221 of the Senate bill. The Senate recedes on section 1021 of the House amendment. The Senate recedes with an amendment to section 123 of the House amendment.

The following table summarizes the conferees' recommendations with respect to the Binary Munitions Production Program.

BINARY MUNITIONS PROCUREMENT SUMMARY

[In millions of dollars]

Item	Fiscal year 1987 request	H.R. 4428 as passed	S. 2638 as passed	Conference
155mm artillery:				
Production facilities	60.6	32.6	60.6	60.6
Metal parts	4.6	4.6	4.6	4.6
DC facility	18.6	18.6	18.6	18.6
Prove out DC	2.5	2.5	2.5	2.5
Total	86.3	58.3	86.3	86.3
Bigeye bomb:				
Production	56.8	10.0	56.8	35.0
Facilities	15.4	0	15.4	0
Total	72.2	10.0	72.2	35.0
Grand total	158.5	68.3	158.5	121.3

Protective equipment

The conferees continue to strongly support both research and development, and procurement of chemical protective equipment for U.S. military personnel. Specific funding for each of these programs is contained in the funding charts for each of the services. Any funding reductions recommended for these programs are without prejudice.

Chemical protective mask.—As part of the binary chemical modernization program, the Army has been developing a new protective mask to replace the M17. The report on the Senate bill (S.Rept. 99-331) encouraged the Army to terminate development work on a new mask, to select a design on a competitive basis among the several candidates, and to begin procurement of the new mask with 1987 procurement funds. In addition, no procurement funds were to be used to procure additional M17 masks.

The report accompanying the House amendment (H.Rept. 99-718) contained no similar direction.

The conferees support the Army's stated requirement on the need for a new generation chemical protective masks. The Army has been developing a new mask for over a decade, and the conferees believe that the Army has completed sufficient testing—

both developmental and operational—to enable it to make a source selection for the production of a new mask. Therefore, the conferees direct the Army to select a new mask from among the competitive developers as soon as possible, but not later than March 1, 1987. Upon completion of this competitive selection, and prior to the obligation of fiscal year 1987 production funds, the Army shall report to the Committee on Armed Services of the Senate and House of Representatives on the results of this competition.

The conferees direct that this selection be made on the basis of a full open competition. However, in making this selection, the conferees encourage the Secretary of the Army to give full consideration to the agent resistance, protection factor, producibility, use acceptance, comfort and durability of the competitive designs, as well as the ability of the competitors to rapidly validate their technical data packages and enter production. In addition, in determining the relative costs and merits of the competitive designs, consideration should be given to those masks that have already incorporated any pre-planned product improvements identified by the Army.

Lexington—Blue Grass Depot (sec. 153)

The Senate bill contained a provision (sec. 1221) that would prohibit the shipment of chemical weapons into the Lexington—Blue Grass Depot in Richmond, Kentucky. Following disposal of existing munitions at the depot, the facility could not be used for further chemical weapons-related activities. The Secretary of Defense could waive the provision if he determines that it is in the national security interest.

The House amendment contains no similar provision.

The House recedes.

Report of chemical weapons demilitarization (sec. 154)

The House amendment contained a provision (sec. 1021) that would require the Secretary of Defense to submit a report by February 1, 1987 to the Committees on Armed Services of the Senate and House of Representatives on the chemical weapons demilitarization program. The report is to describe the methods for carrying out such programs that optimize safety and cost effectiveness considerations. This report will complement the Army's report to Congress on an accelerated chemical destruction plan, and thus help the Congress reach a decision on the most prudent destruction plan to pursue.

The Senate bill contained no similar provisions although the Senate asked for a similar report in the report language accompanying its bill.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

DDG-51 destroyer program—helicopter facilities

The Senate bill contained a provision (sec. 102(d)(1)) that would require the Secretary of the Navy to incorporate helicopter support facilities into each DDG-51 class destroyer constructed with funds authorized to be appropriated by this Act.

The House amendment contained no similar provision.

The Senate recedes.

The conferees reaffirm their desire that the Navy develop and produce the most cost-effective design for the DDG-51 class detroyer. The Secretary of the Navy's recent report on options for expanding DDG-51 class helicopter support facilities indiciates that options may exist of upgrading the helicopter capability of these ships in a prudent and relatively inexpensive manner.

The conferees encourage the Navy to explore and move forward with such helicopter support capability for the DDG-51 class as may be accommodated within available resources.

MSH-X minesweeper hunter

The Senate bill contained a provision (sec. 102(e)) that would authorize the Secretary of the Navy to procure from one or more allied foreign countries a lead minesweeper hunter ship and a partially outfitted hull of a minesweeper hunter ship. The provision would require that follow-on MSH-X ships be constructed in U.S. shipyards and that funds not be obligated or expended for procurement of an MSH-X ship or a partially outfitted hull until the Secretary of the Navy certifies the inability of U.S. shipyards to build a minesweeper hunter ship in a timely manner.

The House amendment contained no similar provision.

The conferees remain concerned about the serious shortcomings in U.S. mine countermeasures capability. Despite good faith efforts over the years to redress these deficiencies, the results have been disappointing, and corrective actions are clearly needed.

The conferees are aware that the Navy has contracted to acquire a European minesweeper hunter design—now designated as coastal minehunter (MHC)—in an effort to speed up the acquisition process. In accordance with current law, the Navy plans to construct any ships employing this design in U.S. shipyards.

The conferees expect the Navy to acquire a U.S.-built minesweeper hunter of a design that meets all applicable requirements and specifications, using funds that remain available for that purpose ($115 million).

The Senate recedes.

Consolidation of Navy munitions funds

The Senate bill contained a provision (sec. 102(f)) that would require the President to include within a single account all budget requests for Navy munitions for fiscal year 1988 and subsequent years.

The House amendment contained no similar provision.

The Senate recedes.

30mm GAU-8 ammunition

The Senate bill contained a provision (sec. 103(b)) that would restrict the obligation of funds for the 30 millimeter GAU-8 ammunition program until such time as the requirement for depleted uranium penetrators is broken out as a separate procurement items.

The House amendment contained a provision (sec. 111) that directs the Secretary of Defense to procure depleted uranium penetrators on a government-furnished material basis from at least two sources in the existing production base for such penetrators.

In addition, the House report (H. Rept. 99-718) directed the General Accounting Office (GAO) to evaluate the cost/benefit tradeoffs to the government of separately providing the depleted uranium penetrator as compared to acquiring a complete munition round from a contractor. Also, the evaluation is to assess the advantages and disadvantages of the government, rather than a contractor, functioning as the integrator of the round.

The conferees agreed to delete both provisions.

The conferees understand and expect the Department of the Army, acting in its capacity as single manager of ammunition, to procure, competitively, the fiscal year 1986 and the fiscal year 1987 30mm API ammunition on a procurement breakout basis.

The conferees also expect that depleted uranium (DU) components for the 30mm API ammunition will be competitively procured from the production base.

The conferees do not intend to reopen competition that may already have occurred with the fiscal year 1986 and fiscal year 1987 30mm API ammunition program.

The conferees also endorse the GAO report requested by the House.

Flight inspection aircraft

The House amendment included section 112 which directed the Secretary of the Air Force to obligate within 180 days of the enactment of the fiscal year 1987 Defense Authorization Act previously authorized and appropriated funds for the procurement of a new flight inspection aircraft.

Such aircraft should be procured competitively and should meet the performance specifications established in paragraph 2C(2) of the Department of the Air Force Program Management Directive for Flight Inspection Aircraft dated July 11, 1984.

The Senate bill contained no similar provision.

The House recedes.

Contingent authorization

The House amendment contained a provision (sec. 114) that would make available $30 million for Missile Procurement, Army; $57.3 million for Other Procurement, Army (to be derived from other support equipment); and $490.4 million for Aircraft Procurement, Air Force from amounts authorized for procurement only to the extent that amounts are made available through reductions elsewhere in the Act.

The Senate bill contained no similar provision.

The House recedes.

Upgrade of A-10 weapons delivery system

The House amendment contained a provision (sec. 115) that would authorize the Secretary of the Air Force to upgrade the A-10 weapons delivery system. Such upgrades should include flight control modifications to improve gun firing stability, enhancement of target strafing accuracy, tactical training against moving targets, accurate lateral toss-capable bombing and effective self-defense against likely air threats.

The Senate bill contained no similar provision.

The House recedes.

The conferees support the A-10 upgrade program but are reluctant to proceed with the weapons delivery system improvement program without detailed cost and schedule information.

The conferees encourage the Department of the Air Force to evaluate the proposed upgrade program and, if a decision is made to undertake the program, to provide to the respective Committees on Armed Services of the Senate and House of Representatives a report in support of the decision.

A/F 32T-9 noise suppressor system

The House amendment contained a provision (sec. 127(g)) that would restrict the obligation of any funds made available to the Department of the Air Force for the procurement of the A/F 32T-9 Noise Suppressor System unless competitive procurement is utilized.

The Senate bill contained no similar provision.

The House recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

General

The Administration requested a total authorization of $41,929.9 million for fiscal year 1987 Research, Development, Test, and Evaluation (RDT&E) appropriations. The conferees agreed on a total authorization of $36,215.6 million for the RDT&E program, a reduction of $5,714.3 million from the Administration's request. The following table summarizes the conference actions:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (RDT&E)—SUMMARY

[In thousands of dollars]

Department	Fiscal year request	Senate bill	House amendment	Conference
Army	5,550,300	4,815,669	4,763,664	4,712,729
Navy	10,586,800	9,289,678	8,640,989	9,294,106
Air Force	17,275,400	14,941,773	13,724,958	15,019,084
Defense agencies	8,517,400	7,310,974	6,671,682	7,189,633
Total, RDT&E	41,929,900	36,358,094	33,801,293	36,215,552

CONFERENCE SUMMARY—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (RDT&E)

[IN THOUSANDS OF DOLLARS]

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

(DOLLARS IN THOUSANDS)

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
61101A	IN-HOUSE LAB INDEPENDENT RESEARCH	25,105	19,020		19,020		19,020			19,020
61102A	DEFENSE RESEARCH SCIENCES	233,544	212,594		212,594		212,594		-2,594	210,000
61103A	UNIVERSITY RESEARCH INITIATIVES	6,052	12,380		12,380		12,380			12,380
62105A	MATERIALS	12,481	16,346		16,346		16,346			16,346
62111A	ATMOSPHERIC INVESTIGATIONS	5,498	11,563	-5,000	6,563	-1,000	10,563	4,000	-5,000	6,563
62120A	NUCLEAR WEAPONS EFFECTS/FLUIDICS	22,488	47,797		47,797	-4,000	43,797	-4,000	-10,000	37,797
62122A	SURVIVABILITY ENHANCEMENTS	[ ]	[ ]		[ ]		[ ]			[ ]
62201A	AIRCRAFT WEAPONS TECHNOLOGY	3,307	1,416		1,416		1,416			1,416
62202A	AIRCRAFT AVIONICS TECHNOLOGY	9,083	11,102		11,102		11,102			11,102
62209A	AERONAUTICAL TECHNOLOGY	27,451	34,814		34,814		34,814			34,814
62210A	AIRDROP TECHNOLOGY	2,053	2,900		2,900		2,900			2,900
62303A	MISSILE TECHNOLOGY	28,649	24,587		24,587		24,587			24,587
62307A	LASER WEAPON TECHNOLOGY	11,133	11,228		11,228		11,228			11,228
62601A	TANK AND AUTOMOTIVE TECHNOLOGY	22,128	25,711		25,711		25,711			25,711
62603A	LARGE CALIBER AND NUCLEAR TECHNOLOGY	22,442	0		0		0			0
62617A	SMALL CAL AND FIRE CNTRL TECHNOLOGY	11,561	0		0		0			0
62618A	BALLISTICS TECHNOLOGY	43,413	46,155		46,155		46,155			46,155
62622A	CHEMICAL AND SMOKE MUNITIONS	14,083	23,228		23,228		23,228		-1,166	22,062
62623A	JOINT SERVICE SMALL ARMS PROGRAM	5,493	11,119		11,119		11,119			11,119
62624A	WEAPONS & MUNITIONS TECHNOLOGY	0	28,663	-10,000	18,663	-5,000	23,663	5,000	-10,000	18,663
62701A	TACTICAL TELEPROCESSING TECHNOLOGY	17,213	26,894		26,894		26,894			26,894
62703A	COMBAT SURVEILL TARGET ACQUIS & IDENT	4,516	7,766		7,766		7,766			7,766
62704A	MIL ENVIRONMENTAL CRITERIA DEV	3,067	3,413		3,413		3,413			3,413
62705A	ELECTRONICS AND ELECTRONIC DEVICES	21,558	24,039		24,039		24,039		-1,539	22,500
62706A	CHEM BIOLOGICAL DEF / GEN INVEST	39,568	39,656		39,656		39,656			39,656
62707A	MAPPING - GEODESY	9,000	9,678		9,678		9,678			9,678
62709A	NIGHT VISION INVESTIGATIONS	20,840	28,056		28,056		28,056			28,056
62715A	TACTICAL ELECTRONIC WARFARE TECHNOLOGY	[ ]	[ ]		[ ]		[ ]			[ ]
62716A	HUMAN FACTORS ENG SYS DEV	13,993	17,811		17,811		17,811			17,811
62717A	HUMAN PERFORMANCE EFFECT/SIMULATION	5,228	13,113		13,113		13,113			13,113
62719A	MOBILITY AND WEAPONS EFFECTS TECH	12,265	14,879		14,879		14,879			14,879
62720A	ENVIRONMENTAL QUALITY TECH	8,930	8,760		8,760		8,760			8,760
62722A	MANPOWER/PERSONNEL/TRAINING	7,533	4,730		4,730		4,730			4,730
62723A	CLOTHING EQUIP AND SHELTER TECH	8,996	18,012	-7,000	11,012	-3,000	15,012	4,000	-5,000	13,012
62724A	JT SVC FOOD SYS TECH	5,960	5,162		5,162	-1,500	3,662	-1,500	-662	4,500
62725A	COMPUTER AND INFORMATION SCIENCE	2,198	2,574		2,574		2,574			2,574
62727A	NON-SYSTEM TRAINING DEVICES	5,042	4,397		4,397		4,397			4,397
62730A	COLD REGIONS ENGINEERING TECHNOLOGY	6,990	4,308		4,308		4,308			4,308
62731A	MILITARY FACILITIES ENGINEERING TECHNOLO	5,345	5,764		5,764		5,764			5,764
62733A	MOBILITY EQUIPMENT TECHNOLOGY	13,708	15,914		15,914		15,914		-414	15,500
62734A	MED DEFENSE AGAINST CHEM AGENTS	31,101	34,613		34,613		34,613			34,613
62746A	TACTICAL SOFTWARE TECHNOLOGY	6,433	10,794		10,794	-2,000	8,794	-2,000	-2,000	8,794
62770A	MILITARY DISEASE HAZARDS TECH	27,372	48,677	-16,000	32,677	-2,000	46,677	14,000	-11,000	37,677
62772A	COMBAT CASUALTY CARE TECH	8,913	10,376		10,376		10,376			10,376
62775A	COMBAT MAXILLOFACIAL INJURY	2,166	2,813		2,813		2,813			2,813
62777A	SYSTEMS HEALTH HAZARD PREVENT TECH	19,428	22,223		22,223		22,223			22,223

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
62781A	ENERGY TECH APPL FOR MILITARY FACIL	2,259	2,035		2,035		2,035			2,035
	CLASSIFIED PROGRAMS	15,611	18,837		18,837		18,837			18,837
	SUBTOTAL, TECHNOLOGY BASE	831,197	945,917	-38,000	907,917	-18,500	927,417	19,500	-49,375	896,542
63102A	MATERIELS AND STRUCTURES	14,289	20,154		20,154	-2,100	18,054	-2,100	-2,100	18,054
63104A	FUELS AND LUBRICANTS	3,358	3,527		3,527		3,527			3,527
63105A	ACQUIRED IMMUNE DEFICIENCY SYNDROME RESE	39,516	0		0		0			0
63201A	AIRCRAFT POWER PLANTS AND PROPULSION	19,602	20,365		20,365		20,365		-1,000	19,365
63206A	AIRCRAFT WEAPONS	6,877	10,349		10,349		10,349			10,349
63207A	AIRCRAFT AVIONICS EQUIPMENT	10,838	4,408		4,408		4,408			4,408
63209A	AIR MOBILITY SUPPORT	0	0		0		0			0
63211A	ROTARY WING CONTROLS/ROTORS/STRUCTURES	16,979	23,560		23,560		23,560			23,560
63216A	SYNTHETIC FLIGHT SIMULATOR DEVELOPMENT	12,462	11,126		11,126		11,126			11,126
63218A	AIRDROP ADVANCEMENT	3,819	4,547		4,547		4,547		-547	4,000
63221A	NOE AVIATION AND NAVIGATION EQUIPMENT	3,052	2,370		2,370		2,370			2,370
63255A	OPERATIONAL ENHANCEMENTS	0	2,637	-2,637	0	-2,637	0		-2,637	0
63306A	TERMINALLY GUIDED PROJECTILES	14,394	27,939		27,939	-26,102	1,837	-26,102	-12,939	15,000
63313A	MSL/ROCKET COMPONENTS	18,685	37,881		37,881		37,881		-2,000	35,881
63322A	BATTLEFIELD ENVIRONMENT SIMULATION	988	7,083	-3,000	4,083	-3,000	4,083		-3,000	4,083
63324A	ARMY DEVELOPMENT AND EMPLOYMENT ACTIVITY	9,588	11,411		11,411		11,411			11,411
63602A	ADVANCED LAND MOB SYSTEMS CONCEPTS	16,286	10,890		10,890		10,890			10,890
63606A	LANDMINE WARFARE/BARRIER DEV	11,184	11,344		11,344	10,000	21,344	10,000	10,000	21,344
63607A	JOINT SERVICE SMALL ARMS PROGRAM	3,474	9,480		9,480	-2,000	7,480	-2,000	-2,000	7,480
63621A	COMBAT VEHICLE PROPULSION SYS	11,864	9,766		9,766		9,766			9,766
63631A	CMBT VEH TURRET AND CHASSIS SUBSYS	16,912	18,895		18,895		18,895			18,895
63636A	COMBAT VEHICLE ARMOR/ANTI-ARMOR	11,241	9,411		9,411		9,411			9,411
63637A	ADV PROPULSION/LAUNCH SYS FOR MUN	8,134	5,887		5,887		5,887			5,887
63638A	NUCLEAR VULNERABILITY ADV TECHNOLOGY	0	6,614	-6,614	0	-6,614	0		-6,614	0
63640A	AMMUNITION LOGISTICS	1,482	2,170		2,170		2,170			2,170
63710A	NIGHT VISION ADVANCED DEVELOPMENT	31,495	29,080		29,080		29,080			29,080
63719A	SPECIAL PURPOSE DETECTORS	0	2,961	-2,961	0	-1,400	1,561	1,561	-2,961	0
63723A	TACTICAL C4 TECHNOLOGY INTEGRATION	24,357	13,335		13,335		13,335			13,335
63725A	REMOTELY PILOTED VEHICLES/DRONES	0	0		0		0			0
63727A	SPACE TECHNOLOGY INTEGRATION	0	987		987	-987	0	-987	-987	0
63731A	MANPOWER AND PERSONNEL	13,882	14,204		14,204		14,204		-884	13,320
63734A	ENGINEERING SYSTEMS	1,927	5,393		5,393		5,393			5,393
63736A	HUMAN FACTORS ENGINEERING APPLICATIONS	0	2,458	-2,458	0	-2,458	0		-2,458	0
63737A	ANTI-RADIATION MISSILE COUNTERMEASURES	4,890	[ ]		[ ]		[ ]			[ ]
63739A	HUMAN FACTORS IN TNG/OPER EFFECT	8,974	9,191		9,191		9,191			9,191
63742A	ADV ELECTRONIC DEVICES DEV	9,635	5,537		5,537	-5,537	0	-5,537	-1,537	4,000
63743A	EDUCATION AND TRAINING	11,787	7,033		7,033		7,033			7,033
63744A	TRAINING SIMULATION	5,459	6,618		6,618		6,618			6,618
63748A	TEST MEASUREMENT & DIAGNOSTIC EQUIPMENT	5,159	7,174		7,174		7,174			7,174
63749A	TECHNICAL VULNERABILITY REDUCTION	4,299	3,300		3,300		3,300			3,300
63752A	DEMILITARIZATION CONCEPTS	9,463	0		0		0			0
63756A	DOD SOFTWARE INITIATIVES (STARS)	41,492	0		0		0			0
63758A	ARMY BATTLEFIELD TECHNOLOGY INTEGRATION	11,856	12,385		12,385		12,385			12,385
63759A	CB DEF/SHK ADV TECHNOLOGY DEMONSTRATIONS	3,009	7,484		7,484	-2,000	5,484	-2,000	-3,057	4,427
63761A	ELECTRONIC WARFARE VULN/SUSCEP TECH SUPP	14,612	[ ]		[ ]		[ ]			[ ]
63762A	EW FEASIBILITY DEVELOPMENT	7,157	[ ]		[ ]	-17,918	-17,918	-17,918	-17,918	-17,918
63763A	NONSYSTEMS MEDICAL MATERIAL DEVELOPMENT	16,026	19,492		19,492		19,492			19,492
63764A	MEDICAL CHEMICAL DEFENSE LIFE SUPPORT	22,353	17,390		17,390		17,390			17,390
63771A	ADVANCED TACTICAL COMMUNICATIONS TECHNOL	0	1,461	-1,461	0	-1,461	0		-1,461	0
63772A	ADV TACTICAL COMPUTER SCIENCE & TECHNOLO	0	13,674	-13,674	0	-3,000	10,674	10,674	-13,674	0
63773A	BATTLEFIELD SUSTAINMENT	0	3,342	-3,342	0	-3,342	0		-3,342	0
	CLASSIFIED PROGRAMS		33,721		33,721		33,721			33,721
	SUBTOTAL, ADVANCED TECH DEVELOPMENT	502,856	488,034	-36,147	451,887	-70,556	417,478	-34,409	-71,116	416,918
12814A	SPECIAL PROGRAMS	[ ]	[ ]		[ ]		[ ]			[ ]
12821A	CLASSIFIED PROGRAM	[ ]	[ ]		[ ]	-39,500	-39,500	-39,500	-15,000	-15,000
33152A	WORLDWIDE MILITARY CMDACNT SYS INF SYS	30,540	29,557		29,557		29,557			29,557
	CLASSIFIED PROGRAMS	196,337	249,430		249,430		249,430			249,430
	SUBTOTAL, STRATEGIC PROGRAMS	226,877	278,987	0	278,987	-39,500	239,487	-39,500	-15,000	263,987

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
63209A	AIR MOBILITY SUPPORT	8,281	10,848		10,848		10,848			10,848
63215A	JOINT SURVIVABILITY INVESTIGATIONS	890	735		735		735			735
63217A	GREATER SLOPE	0	0		0		0			0
63220A	ADVANCED ROTOCRAFT TECHNOLOGY INTEGRATIO	44,311	44,420		44,420	-4,420	40,000	-4,420	-3,420	41,000
63225A	AIRDROP EQUIPMENT SYSTEMS	988	1,256		1,256		1,256			1,256
63302A	ANTI-TACTICAL MISSILE SYSTEM	61,315	38,635		38,635	-38,635	0	-38,635	-8,635	30,000
63303A	SURF-TO-SURF MSL ROCKET SYS	30,253	42,681		42,681		42,681			42,681
63323A	LIGHT WEIGHT AIR DEFENSE SYSTEM	0	21,717	-7,000	14,717	-21,717	0	-14,717	-7,000	14,717
63604A	NUCLEAR MUNITIONS AND RADIACS	7,833	[ ]		[ ]		[ ]			[ ]
63608A	WEAPONS AND AMMUNITION	789	173		173	20,000	20,173	20,000	11,827	12,000
63612A	ADVANCED ANTI-TANK WEAPON SYSTEM (MEDIUM	60,338	48,735		48,735		48,735			48,735
63615A	LETHAL CHEMICAL MUNITIONS CONCEPTS	20,141	25,307		25,307		25,307			25,307
63619A	LANDMINE/BARRIER SYS	22,777	10,477		10,477		10,477			10,477
63627A	SMOKE MUNITIONS AND MATERIEL CONCEPTS	8,497	3,189		3,189	-600	2,589	-600	-289	2,900
63628A	ARTILLERY/MORTAR AMMO DEVELOPMENT	10,151	17,210		17,210	-7,403	9,807	-7,403	-3,210	14,000
63633A	TANK/FIGHTING VEHICLE AMMO DEVELOPMENT	5,665	0		0		0			0
63635A	MOBILE PROTECTED GUN	0	0		0		0			0
63639A	ARMAMENT ENHANCEMENT INITIATIVE (AEI)	[ ]	[ ]	-20,000	-20,000	-20,000	-20,000		-20,000	-20,000
63614A	PROGRAM 292	[ ]	[ ]	-10,000	-10,000	-9,871	-9,871	129	-9,871	-9,871
63702A	ELECTRIC POWER SOURCES	11,154	8,017		8,017	-3,000	5,017	-3,000	-1,517	6,500
63705A	PHYSICAL SECURITY	4,397	2,339		2,339		2,339			2,339
63706A	IDENTIFICATION-FRIEND OR FOE DEVELOPMENT	18,479	20,373		20,373		20,373			20,373
63707A	COMMUNICATIONS DEVELOPMENT	2,905	2,673		2,673		2,673			2,673
63711A	AIRCRAFT SURVIVABILITY EQUIPMENT	8,128	4,588		4,588	-4,588	0	-4,588	-4,588	0
63713A	ARMY DATA DISTRIBUTION SYSTEM	37,266	42,122		42,122	-5,000	37,122	-5,000	-5,000	37,122
63718A	ELECT WRFR VULNERABILITY/SUCEPTIBILITY	22,633	16,912		16,912	-16,912	0	-16,912	-16,912	0
63720A	CHEMICAL/BIO DETECTION WARN/SAMP MAT CON	15,008	0		0		0			0
63721A	CML BIO PROTECTIVE MATERIEL CONCEPTS	9,378	8,045		8,045		8,045			8,045
63723A	MISSION CRITICAL SOFTWARE	0	0		0		0			0
63725A	REMOTELY PILOTED VEHICLES/DRONES	259	4,917		4,917		4,917			4,917
63726A	COMBAT SUPPORT EQUIPMENT	25,148	24,285		24,285	-2,000	22,285	-2,000	-1,000	23,285
63730A	TACTICAL SURVEILLANCE SYSTEM	21,441	[ ]		[ ]	-15,300	-15,300	-15,300	-15,300	-15,300
63732A	COMBAT MEDICAL MATERIAL	9,271	8,189		8,189		8,189			8,189
63740A	SHORT RANGE AIR DEFENSE COMMAND AND CONT	10,000	16,189	-6,000	10,189	-16,189	0	-10,189	-8,000	8,189
63741A	METEOROLOGIC EQUIPMENT DEVELOPMENT	0	0		0		0			0
63745A	TAC ELECTRONIC SUPPORT MEASURE SYSTEMS	4,807	[ ]		[ ]		[ ]			[ ]
63746A	SINGLE CHAN GND & ABN RADIO SYS (SINCGAR	2,240	0		0		0			0
63747A	SOLDIER SUPPORT/SURVIVABILITY	4,992	4,722		4,722		4,722			4,722
63750A	DRUG AND VACCINE DEVELOPMENT	16,745	17,077		17,077		17,077			17,077
63751A	MEDICAL DEFENSE AGAINST CHEM WARFARE	30,652	26,449		26,449		26,449			26,449
63754A	CLASSIFIED PROGRAM (ADV)	[ ]	[ ]		[ ]		[ ]			[ ]
63755A	TACTICAL ELECTRONIC COUNTERMEASURES SYST	78,091	[ ]		[ ]	-31,319	-31,319	-31,319	-31,319	-31,319
63757A	AIR DEFENSE ALTERNATIVES	30,504	103,944		103,944	-103,944	0	-103,944	-83,944	20,000
63766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM	6,735	[ ]		[ ]		[ ]			[ ]
63767A	COMBAT SERVICE SUPPORT CONTROL SYS	969	4,608		4,608	-3,608	1,000	-3,608	-1,000	3,608
63774A	NIGHT VISION SYSTEMS ADVANCED DEVELOPMEN	0	3,307		3,307		3,307			3,307
64202A	AIRCRAFT WEAPONS	12,527	0		0		0			0
64204A	AIR MOBILITY SUPPORT EQUIPMENT	2,583	4,418		4,418		4,418		-1,000	3,418
64206A	UH-60 BLACKHAWK	16,795	0		0		0			0
64207A	ADVANCED ATTACK HELICOPTER	9,921	12,931		12,931		12,931			12,931
64216A	AIRCRAFT PROPULSION SYSTEMS	69,934	111,301		111,301	-15,000	96,301	-15,000	-5,000	106,301
64217A	SYNTHETIC FLIGHT TRAINING SYSTEMS	7,673	10,680		10,680		10,680			10,680
64218A	AIRDROP EQUIP DEVELOPMENT	3,113	3,281		3,281		3,281			3,281
64220A	ARMY HELICOPTER IMPROVEMENT PROG	6,720	0		0		0			0
64223A	ADVANCED TECHNOLOGY LIGHT HELICOPTER SER	0	0		0		0			0
64268A	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PR	15,963	0		0		0			0
64306A	STINGER	23,298	6,252		6,252		6,252			6,252
64307A	PATRIOT AIR DEFENSE MISSILE SYSTEM	50,832	0		0		0			0
64310A	HELIBORNE MISSILE-HELLFIRE	4,945	0		0		0			0
64313A	GRASS BLADE	10,747	6,698		6,698	-6,698	0	-6,698		6,698
64314A	MULTIPLE LAUNCH ROCKET SYSTEM	0	0		0		0			0
64321A	JOINT TACTICAL FUSION PROGRAM	155,209	[ ]		[ ]	-7,600	-7,600	-7,600	-3,500	-3,500
64324A	JOINT TACTICAL MISSILE SYSTEM-ARMY (JTAC	128,426	88,197		88,197		88,197			88,197
64601A	INFANTRY SUPPORT WEAPONS	29,113	26,044		26,044	-5,000	21,044	-5,000	-2,044	24,000
64603A	NUCLEAR MUNITIONS	18,074	[ ]		[ ]	-2,000	-2,000	-2,000		[ ]

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
64604A	MOBILITY	988	47,828	-15,000	32,828	-42,828	5,000	-27,828	-22,828	25,000
64608A	INFANTRY WEAPONS AND AMMUNITION	0	0		0		0			0
64609A	SMOKE MUNITIONS & MATERIEL	5,879	7,892		7,892		7,892			7,892
64610A	LETHAL CHEMICAL MUNITIONS	0	0		0		0			0
64612A	COUNTERMINE AND BARRIERS	7,929	9,728		9,728		9,728		-2,000	7,728
64616A	FIGHTING VEHICLE SYS	0	0		0		0			0
64619A	LANDMINE WARFARE	7,818	16,755		16,755	-6,879	9,876	-6,879	-3,206	13,549
64630A	M1A1 DEVELOPMENT PROGRAM	18,717	3,798		3,798		3,798			3,798
64631A	FIELD ARTILLERY AMMUNITION	27,442	107,275	-40,000	67,275		107,275	40,000	-18,000	89,275
64632A	105MM TANK AMMUNITION	1,574	0		0		0			0
64633A	CACTUS PLANT	[ ]	[ ]		[ ]	-5,997	-5,997	-5,997		[ ]
64701A	COMM ENGINEERING DEV	10,602	6,473		6,473	-1,000	5,473	-1,000	-473	6,000
64702A	JT TACTICAL INFORMATION DISTRIBUTION SYS	12,105	0		0		0			0
64704A	UNATTENDED GROUND SENSORS	494	0		0		0			0
64705A	MODULAR INTEGRATED COMM AND NAVIGATION S	4,957	8,224		8,224	-8,224	0	-8,224	-2,508	5,716
64706A	RADIOLOGICAL DEFENSE EQUIPMENT	656	0		0		0			0
64709A	IDENTIFICATION FRIEND/FOE EQUIPMENT DEV	0	9,871		9,871	-9,871	0	-9,871		9,871
64710A	NIGHT VISION DEVICES	14,456	21,944		21,944		21,944		-5,639	16,305
64711A	AIRCRAFT SURVIVABILITY EQUIPMENT	21,662	19,934		19,934		19,934			19,934
64712A	ARMY COMMAND AND CONTROL SYSTEMS ENGINEE	9,247	6,113		6,113		6,113			6,113
64713A	COMBAT FEEDING, CLOTHING AND EQUIPMENT	3,986	4,363		4,363		4,363			4,363
64714A	TACTICAL ELECTRICAL POWER SOURCES	10,043	6,449		6,449		6,449			6,449
64717A	GENERAL COMBAT SUPPORT	14,225	11,538		11,538		11,538			11,538
64718A	PHYSICAL SECURITY	6,450	1,216		1,216	6,000	7,216	6,000	3,000	4,216
64722A	EDUCATION AND TRAINING	6,531	4,378		4,378		4,378			4,378
64723A	SPECIAL PURPOSE DETECTORS	3,217	1,181		1,181		1,181			1,181
64724A	CML/BIO DETECTION WARNING & TRAINING MAT	22,845	31,427		31,427		31,427			31,427
64725A	CHEM BIO PROTECTIVE MATERIEL	15,524	10,550		10,550	-7,550	3,000	-7,550	-1,800	8,750
64727A	COMMAND AND CONTROL	5,757	548		548		548			548
64730A	REMOTELY PILOTED VEHICLES	73,868	91,880		91,880	-91,880	0	-91,880	-31,880	60,000
64735A	INFRARED TERMINALLY GUIDED SUBMUNITION	0	27,114		27,114	-14,000	13,114	-14,000	-7,114	20,000
64740A	TACTICAL SURVEILLANCE SYSTEM	17,703	[ ]		[ ]		[ ]			[ ]
64741A	DIVISION AIR DEFENSE COMMAND AND CONTROL	32,640	82,065	-30,000	52,065	-52,065	30,000	-22,065	-35,000	47,065
64746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	17,915	12,325		12,325		12,325			12,325
64750A	TAC ELECTRONIC COUNTERMEASURES SYSTEMS	34,706	[ ]		[ ]	-15,130	-15,130	-15,130	-15,130	-15,130
64751A	SINGLE CHAN GND & ABN RADIO SYS (SINCGAR	12,735	13,922		13,922		13,922			13,922
64754A	CLASSIFIED PROGRAM (ADV)	[ ]	[ ]		[ ]	-20,000	-20,000	-20,000	-2,000	-2,000
64757A	MEDICAL CHEMICAL DEFENSE LIFE SPT MAT	7,587	9,204		9,204		9,204			9,204
64758A	DRUG AND VACCINE DEVELOPMENT	10,371	10,563		10,563		10,563			10,563
64766A	TAC ELECTRONIC SURVEILLANCE SYSTEM	11,134	[ ]		[ ]	-5,000	-5,000	-5,000	-5,000	-5,000
64770A	JOINT SURVEILLANCE/TARGET ATTACK RADAR S	43,288	27,882		27,882	-7,882	20,000	-7,882		27,882
64779A	JT INTEROP OF TAC CND & CONT SYS (JINTAC	6,337	7,719		7,719		7,719			7,719
65710A	JT CB POINT OF CONTACT, TEST AND ASSESSM	2,373	6,249		6,249		6,249			6,249
23724A	HV ANTI-TANK ASSAULT WPN SYS (TOW)	11,693	12,468		12,468	-7,468	5,000	-7,468	-7,468	5,000
23726A	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	19,765	40,444	-10,444	30,000	-10,444	30,000		-10,444	30,000
23727A	MED ANTI-TANK ASSAULT WEAPON - DRAGON	2,470	0		0		0			0
23730A	CHAPARRAL	17,452	5,627		5,627		5,627			5,627
23731A	SAM HAWK/HAWK IMP PROG	5,149	10,633		10,633		10,633			10,633
23735A	COMBAT VEHICLE IMPROVEMENT PROGRAM	72,234	79,203		79,203	-29,203	50,000	-29,203	-13,203	66,000
23739A	AN/TSQ-73 MODIFICATIONS	0	9,671		9,671		9,671			9,671
23740A	MANEUVER CONTROL SYSTEM	8,565	9,401		9,401		9,401			9,401
23741A	PROD IMPR VULCAN AIR DEF SYS	0	0		0		0			0
23743A	155MM	25,474	35,726		35,726		35,726			35,726
23744A	AIRCRAFT MODIFICATIONS	0	0		0		0			0
23745A	EQUIPMENT UPGRADE	25,036	23,343		23,343		23,343		10,000	33,343
23746A	PATRIOT PRODUCT IMPROVEMENT PROGRAM	0	40,221		40,221	-40,221	0	-40,221		40,221
23747A	HELLFIRE PRODUCT IMPROVEMENT PROGRAM	0	11,947		11,947	-11,947	0	-11,947	-2,000	9,947
23749A	MLRS PRODUCT IMPROVEMENT PROGRAM	0	0		0		0			0
23751A	SPECIAL OPERATIONS FORCES (SOF) EQUIPMEN	0	31,242	15,700	46,942	-6,000	25,242	-21,700		31,242
23752A	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PR	0	14,592	-3,000	11,592	-1,000	13,592	2,000	-2,000	12,592
28010A	JOINT TACTICAL COMMO PROGRAM (TRITAC)	30,233	17,401		17,401	-2,000	15,401	-2,000	-1,000	16,401
33145A	EUCOM C3 SYSTEMS	1,938	1,078		1,078		1,078			1,078
	CLASSIFIED PROGRAMS	140,548	616,824		616,824		616,824			616,824
	CONSOLIDATED EW PROGRAMS	0	0		0		0		66,800	66,800

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
	UNDISTRIBUTED REDUCTION	—	—		—	-48,735	-48,735	-48,735		—
	SUBTOTAL, TACTICAL PROGRAMS	2,083,622	2,440,170	-125,744	2,314,426	-760,128	1,680,042	-634,384	-329,615	2,110,555
63712A	MAPPING AND GEODESY	3,186	0		0		0			0
64201A	AIRCRAFT AVIONICS	2,212	2,493		2,493		2,493			2,493
64716A	MAPPING AND GEODESY	2,227	11,473		11,473		11,473		-2,000	9,473
64778A	NAVSTAR GLOBAL POS SYS (USER EQ)	11,146	4,719		4,719		4,719			4,719
31307A	FOREIGN SCIENCE AND TECHNOLOGY CENTER	[ ]	[ ]		[ ]		[ ]			[ ]
31318A	HUMINT (CONTROLLED)	[ ]	[ ]		[ ]		[ ]			[ ]
31327A	TECHNICAL RECONNAISSANCE AND SURVEILLANC	[ ]	[ ]		[ ]		[ ]			[ ]
31329A	EUCOM C3 DESIGN	[ ]	[ ]		[ ]		[ ]			[ ]
31359A	SPECIAL ARMY PROGRAMS	[ ]	[ ]		[ ]		[ ]			[ ]
33111A	STRATEGIC ARMY COMMUNICATIONS (STARCOM)	0	0		0		0			0
33126A	LONG-HAUL COMMUNICATIONS (DCS)	4,260	2,684		2,684		2,684			2,684
33142A	SATCOM GROUND ENVIRONMENT	58,932	94,478	-10,000	84,478	-15,000	79,478	-5,000	-15,000	79,478
33401A	COMMUNICATIONS SECURITY (COMSEC)	8,993	7,280		7,280		7,280			7,280
	CLASSIFIED PROGRAMS	6,814	7,293		7,293		7,293			7,293
	SUBTOTAL, INTELLIGENCE & COMMUNICATIONS	97,770	130,420	-10,000	120,420	-15,000	115,420	-5,000	-17,000	113,420
63315A	TARGET MISSILES	3,952	9,731		9,731	-2,000	7,731	-2,000	-1,000	8,731
63738A	NONSYSTEMS TRAINING DEVICES (NSTD) DEV	4,842	3,869		3,869		3,869			3,869
63796A	NATO RESEARCH AND DEVELOPMENT	24,698	49,356		49,356	-49,356	0	-49,356	-9,356	40,000
64715A	NON-SYSTEM TNG DEVICES ENGR	47,122	46,260		46,260	-3,000	43,260	-3,000	-3,000	43,260
64726A	METEOROLOGICAL EQUIPMENT AND SYSTEMS	4,967	1,207		1,207		1,207			1,207
65201A	AVIATION ENGINEERING FLIGHT ACTIVITY	9,708	13,217		13,217	-1,000	12,217	-1,000	-1,000	12,217
65301A	KWAJALEIN MISSILE RANGE	152,300	163,470	-8,470	155,000	-8,000	155,470	470	-8,470	155,000
65502A	SML BUSINESS INNOVATIVE RESEARCH	0	0		0		0			0
65702A	SUPPORT OF DEVELOPMENT TESTING	56,404	50,444		50,444		50,444			50,444
657[illegible]	MATERIEL SYSTEMS ANALYSIS	16,043	16,966		16,966	-1,000	15,966	-1,000	-466	16,500
65709A	EXPLOITATION OF FOREIGN ITEMS	3,535	3,984		3,984		3,984			3,984
65712A	SUPPORT OF OPERATIONAL TESTING	51,937	55,745		55,745		55,745			55,745
65716A	THREAT SIMULATORS FOR TESTING	32,601	34,279		34,279		34,279			34,279
65717A	NUCLEAR SURVIVABILITY TESTING & ANALYSIS	0	3,950	-3,950	0	-3,950	0		-3,950	0
65801A	PROGRAM-WIDE ACTIVITIES	171,766	85,484		85,484		85,484		-3,999	81,485
65802A	INTL COOPERATIVE RESEARCH AND DEV	936	977		977	-977	0	-977		977
65803A	TECHNICAL INFO ACTIVITIES	6,196	6,772		6,772		6,772			6,772
65804A	AMC MAJOR RANGES AND TEST FACILITIES	357,120	207,799		207,799		207,799		-4,000	203,799
65805A	MUNITIONS STANDARDZION EFFECTIVENESS & S	11,367	11,610		11,610	-1,000	10,610	-1,000	-500	11,110
65806A	DOD HIGH ENERGY LASER SYSTEMS TEST FAC	19,940	20,729		20,729		20,729			20,729
65810A	RDTE SUPPORT FOR NON-DEVELOPMENTAL ITEMS	0	9,194		9,194		9,194			9,194
65872A	PRODUCTIVITY INVESTMENTS	20,747	53,893	-25,000	28,893	-10,000	43,893	15,000	-17,893	36,000
65894A	REAL PROPERTY MAINTENANCE (RDT&E)	0	174,536	-6,600	167,936	-17,000	157,536	-10,400	-33,825	140,711
65896A	BASE OPERATIONS (RDT&E)	0	202,951	-7,500	195,451	-20,000	182,951	-12,500	-38,969	163,982
	MULTIPURPOSE 20MM AMMUNITION	0	0	2,000	2,000		0	-2,000	2,000	2,000
65898A	MGT HQ (RESEARCH/DEVELOPMENT)	12,018	11,244		11,244		11,244			11,244
78011A	INDUSTRIAL PREPAREDNESS	90,951	29,105		29,105		29,105			29,105
	SUBTOTAL, DEFENSEWIDE MISSION SUPPORT	1,099,150	1,266,772	-49,520	1,217,252	-117,283	1,149,489	-67,763	-124,428	1,142,344
	COMBAT VEHICLE DIESEL ENGINE	0	0		0	9,000	9,000	9,000	9,000	9,000
	TANK BREAKER	0	0		0	20,000	20,000	20,000		0
	GUARD/RESERVE UNIQUE R&D	0	0		0	5,000	5,000	5,000	5,000	5,000
	LIGHT ARMORED VEHICLE/WEASEL EVALUATION	0	0		0	10,000	10,000	10,000	10,000	10,000
	MINE FLAIL WHEELED VEHICLE	0	0		0	10,000	10,000	10,000	10,000	10,000
	ACTIVATED METALS	0	0		0	1,000	1,000	1,000	1,000	1,000
	GROUND LAUNCHED HELLFIRE	0	0	15,000	15,000	2,000	2,000	-13,000	2,000	2,000
	STINGER SYSTEM SAFEGUARD	0	0		0	1,000	1,000	1,000	1,000	1,000
	NATO COOPERATIVE R&D	0	0		0	31,000	31,000	31,000		0
	INFANTRY ANTI-ARMOR WEAPON	0	0		0	25,000	25,000	25,000		0
	TACTICAL RPV EVALUATION	0	0		0	10,000	10,000	10,000		0
	GE T GENERATORS	0	0		0	5,000	5,000	5,000	5,000	5,000
	FIBER OPTICS GUIDED MISSILES	0	0		0	83,313	83,313	83,313	83,313	83,313
	HELICOPTER AIR-TO-AIR MISSILE	0	0		0	10,000	10,000	10,000	5,000	5,000
	CLOSE-IN AIR DEFENSE	0	0		0	10,000	10,000	10,000	10,000	10,000
	US-10 EVALUATION	0	0		0	2,000	2,000	2,000		0
	MILAN II EVALUATION	0	0		0	20,000	20,000	20,000	5,000	5,000

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
	MULTIPURPOSE ASSAULT WEAPON EVALUATION	0	0		0		0		15,000	15,000
	SUBTOTAL, CONVENTIONAL DEFENSE INITIATIV	0	0	15,000	15,000	254,313	254,313	239,313	161,313	161,313
	CLASSIFIED EQUIPMENT UPGRADE	0	0		0	10,000	10,000	10,000		0
	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	0		0	10,000	10,000	10,000		0
	ARAPAHO	0	0		0	5,000	5,000	5,000	5,000	5,000
	PRIOR YEAR PROGRAM SAVINGS	---	---		---	-5,000	-5,000	-5,000	-5,000	-5,000
	UNDISTRIBUTED REDUCTION	---	---	-366,420	-366,420	-30,052	-30,052	336,368	-300,420	-300,420
	PRIOR YEAR FUEL SAVINGS	---	---		---	-830	-830	-830	-830	-830
	FY 87 FUEL SAVINGS	---	---		---	-9,100	-9,100	-9,100	-9,100	-9,100
	PRIOR YEAR INFLATION SAVINGS (FY 85)	---	---	-1,100	-1,100		---	1,100		---
	PRIOR YEAR INFLATION SAVINGS (FY 86)	---	---	-40,700	-40,700		---	40,700		---
	INFLATION REESTIMATE (FY 87)	---	---	-82,000	-82,000		---	82,000	-82,000	-82,000
	OBLIGATION LIMITATION (FY 85 AND 86)	---	---		---	(-73,100)	(-73,100)	(-73,100)	(-73,100)	(-73,100)
	TOTAL, ARMY RDT&E	4,841,472	5,550,300	-734,631	4,815,669	-786,636	4,763,664	-52,005	-837,571	4,712,729

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

(DOLLARS IN THOUSANDS)

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
61103N	UNIVERSITY RESEARCH	6,245	12,068		12,068		12,068			12,068
61152N	INHOUSE IND LAB RSRCH	26,221	26,918		26,918		26,918			26,918
61153N	DEF RESRCH SCIENCES	332,932	349,853		349,853		349,853		-9,612	340,241
62111N	AAW/ASUW TECHNOLOGY	77,416	75,244		75,244	-15,244	60,000	-15,244	-10,244	65,000
62113N	ELECTRONIC WARFARE TECHNOLOGY	15,360	13,946		13,946	-13,946	0	-13,946	-13,946	0
62121N	SURFACE SHIP TECHNOLOGY	13,047	13,515		13,515	-13,515	0	-13,515		13,515
62122N	AIRCRAFT TECHNOLOGY	23,621	21,111		21,111	-1,111	20,000	-1,111		21,111
62131M	MARINE CORPS AIR-GROUND TECHNOLOGY	14,461	17,628		17,628		17,628		-2,000	15,628
62232N	COMMAND,CONTROL & COMMUNICATIONS TECHNOL	18,843	20,242		20,242		20,242			20,242
62233N	MISSION SUPPORT TECHNOLOGY	37,671	34,238		34,238		34,238			34,238
62234N	SYSTEMS SUPPORT TECHNOLOGY	67,668	65,799		65,799		65,799			65,799
62314N	ASW TECHNOLOGY	84,763	90,060		90,060	-10,060	80,000	-10,060		90,060
62315N	MINE & SPECIAL WARFARE	12,179	14,038		14,038		14,038			14,038
62323N	SUBMARINE TECHNOLOGY	14,549	12,441		12,441		12,441			12,441
62324N	NUCLEAR PROPULSION	52,026	43,876		43,876	-10,876	33,000	-10,876		43,876
62435N	OCEAN & ATMOSPHERIC SUPPORT TECHNOLOGY	24,412	25,354		25,354		25,354			25,354
62936N	INDEPENDENT EXPLORATORY DEVELOPMENT	14,173	14,717		14,717		14,717			14,717
	SUBTOTAL, TECHNOLOGY BASE	835,587	851,048	0	851,048	-64,752	786,296	-64,752	-35,802	815,246
63202N	AVIONICS	1,735	3,858		3,858		3,858			3,858
63210N	ADV AIRCRAFT PROPULSION SYS	2,995	6,638		6,638		6,638			6,638
63217N	ADV A/C SUB SYSTEMS	8,464	7,944		7,944	-1,966	5,978	-1,966	-1,696	6,248
63269N	NATIONAL AEROSPACE PLANE	0	25,527		25,527		25,527		-25,527	0
63303N	ERASE SYS TECH	9,901	6,486		6,486	2,500	8,986	2,500	1,514	8,000
63308N	A/S-A/A MSL TECH	0	0		0		0			0
63508N	SHIP PROPULSION SYSTEM	30,302	22,474	-7,474	15,000	-22,474	0	-15,000	-7,474	15,000
63526N	ADV COMP TECH	10,536	0		0		0			0
63560N	SUBMARINE HULL ARRAY DEV (ADV)	7,623	8,891		8,891		8,891			8,891
63573N	ELECTRIC DRIVE	9,641	9,816		9,816		9,816			9,816
63701N	HUMAN FACTORS ENG (HFE)	2,088	3,964		3,964		3,964		-1,000	2,964
63706N	MEDICAL DEVELOPMENT	12,442	16,700		16,700		16,700			16,700
63707N	MANPWR & PERSONNEL SYS	3,569	6,658		6,658		6,658		-3,059	3,599
63712N	GENERIC LOGISTICS R&D TECH DEMO	5,000	21,236		21,236	-11,236	10,000	-11,236	-1,236	20,000

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
63720N	EDUCATION AND TRAINING	2,955	6,536		6,536		6,536			6,536
63732N	ADV MANPWR TRNG SYS	2,933	1,837		1,837		1,837			1,837
63733N	SIMU & TRAINING DEVICES	7,826	8,218		8,218		8,218			8,218
63739N	NAVY LOGISTICS PRODUCTIVITY	754	934		934	-934	0	-934	-934	0
63747N	ADV ASW TECH	0	25,063		25,063	10,000	35,063	10,000		25,063
63792N	ADV TECH TRANSITION	0	13,492		13,492		13,492			13,492
	UNDISTRIBUTED REDUCTION	—	—		—	-13,492	-13,492	-13,492		—
	SUBTOTAL, ADVANCED TECH DEVELOPMENT	118,764	196,272	-7,474	188,798	-37,602	158,670	-30,128	-39,412	156,860
63451N	TACT SPACE OPERATIONS	14,002	22,506		22,506		22,506		-2,506	20,000
63588N	SSBN SURVIVABILITY	0	2,703	-2,703	0		2,703	2,703	-1,703	1,000
63735N	WWMCCS ARCHITECTURE SUPPT	0	0		0		0			0
63741N	SATELLITE LASER COMM	0	5,875		5,875	30,000	35,875	30,000	30,000	35,875
64363N	TRIDENT II	2,104,376	1,632,866		1,632,866	-132,866	1,500,000	-132,866	-37,866	1,595,000
65856N	STRAT TECH SUPPORT	3,212	3,914		3,914		3,914			3,914
11221N	FLT BALLSTC MIS SYS	20,778	40,222		40,222	-15,222	25,000	-15,222	-15,222	25,000
11224N	SSBN SEC TECH PROG	38,588	54,739		54,739		54,739			54,739
11228N	TRIDENT	38,195	51,783		51,783	-10,783	41,000	-10,783	-10,783	41,000
11401N	EXTRME LOW FREQ COMM	28,256	18,296		18,296	-10,296	8,000	-10,296	-5,296	13,000
11402N	NAVY STRATEGIC COMM	121,162	143,282		143,282	-93,282	50,000	-93,282	-30,000	113,282
12427N	NAV SPASUR	952	1,563		1,563		1,563			1,563
33131N	MEECN	1,615	1,687		1,687		1,687			1,687
33152N	WIS MODERNIZATION	14,932	21,610		21,610	-14,433	7,177	-14,433	-6,610	15,000
	SUBTOTAL, STRATEGIC PROGRAMS	2,386,068	2,001,046	-2,703	1,998,343	-246,882	1,754,164	-244,179	-79,986	1,921,060
63109N	INTEGRATED A/C AVIONICS	0	22,484		22,484		22,484			22,484
63206N	ELECT W/F ADV. DEV.	54,039	39,294		39,294	-39,294	0	-39,294	-39,294	0
63207N	AIR/OCEAN TACT. APPLIC.	6,730	7,522		7,522		7,522			7,522
63208N	T-45/TS	115,986	134,163		134,163		134,163			134,163
63216N	AIRBRNE LIFE SUPT SYS	1,371	4,377		4,377		4,377		-277	4,100
63219N	ADV AIRCFT ARMAMENT SYS	3,999	0		0		0			0
63228N	CV ASW MODULE	3,977	4,255		4,255		4,255			4,255
63251N	AIRCRAFT SYSTEMS	9,891	5,547		5,547	-5,547	0	-5,547		5,547
63254N	AIR ASW	4,625	9,131		9,131	-3,500	5,631	-3,500	-2,000	7,131
63256N	JVX	557,326	0		0		0			0
63257N	A-6F	236,051	143,256		143,256	-13,256	130,000	-13,256		143,256
63259N	ACOUSTIC SEARCH SENSORS	0	0		0		0			0
63260N	ASW MINE CNTRMEASURES	12,575	11,565		11,565		11,565			11,565
63261N	TAC AIR RECONN	2,207	18,042		18,042	-4,000	14,042	-4,000	-2,000	16,042
63262N	ACFT SURVIV/VULNERABLTY	13,622	19,054		19,054		19,054		-3,000	16,054
63268N	NAVAL AIRSHIP	0	9,834		9,834	-9,834	0	-9,834	-4,834	5,000
63306N	ADV. AIR-TO-SURF MSL.	21,692	42,409		42,409	-4,909	37,500	-4,909		42,409
	UNDISTRIBUTED REDUCTION	---	---		---	-37,500	-37,500	-37,500		---
63313N	IIR MAVERICK	0	245		245	-245	0	-245		245
63315N	RETRACT YELLOW	0	0		0		0			0
63318N	ADV AIR-AIR SURF-AIR MSL	25,000	79,728		79,728	-79,728	0	-79,728	-32,228	47,500
63320N	LOW COST ANTI-RADIATION SEEKER	17,452	14,704		14,704	25,000	39,704	25,000	25,000	39,704
63367N	SUB ASW STANDOFF WPN	74,828	0		0		0			0
63382N	BGAAMC	7,720	13,746		13,746	-6,746	7,000	-6,746	-6,746	7,000
63502N	SURFACE NCM	22,415	22,678	-8,000	14,678	-5,000	17,678	3,000	-8,000	14,678
63504N	SUB SONAR DEV	11,010	11,109		11,109		11,109			11,109
63506N	SURF-SHIP TORPEDO DEFNS	36,207	36,908		36,908		36,908		-17,100	19,808
63509N	SHPBD INFO TRANSFER SYS	0	0		0		0			0
63512N	CATAPULTS	0	0		0		0			0
63513N	SHIPBRD SYS COMPNT DEV	15,145	14,917		14,917	-14,917	0	-14,917		14,917
63514N	SHIPBRD DAMAGE CONTROL	23,400	41,861		41,861		41,861		-10,000	31,861
63519N	ADV COMMAND DATA SYS	0	0		0		0			0
63522N	SUB ARCTIC WF/SPT EQUIP PROG	9,445	2,946		2,946		2,946			2,946
63525N	PILOT FISH	93,964	75,248		75,248		75,248			75,248
63527N	RETRACT LARCH	0	0		0		0			0
63528N	NONACOUSTIC ASW	21,604	26,139		26,139		26,139			26,139
63529N	ADV ASW TARGET	9,142	10,282		10,282		10,282			10,282
63532N	SHIP SYS ENGR STDS	2,700	0		0		0			0

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
63536N	RETRACT JUNIPER	21,159	28,935		28,935		28,935			28,935
63542N	RADIOLOGICAL CONTROL	2,140	2,592		2,592		2,592			2,592
63550N	LINK DOGWOOD	25,247	3,931		3,931	-2,931	1,000	-2,931		3,931
63553N	SURFACE ASW	16,728	23,168		23,168	-11,584	11,584	-11,584	-3,000	20,168
63561N	ADV SUB SYS DEVELOPMENT	169,318	0		0		0			0
63562N	SUB TAC WARFARE SYS	23,118	10,689		10,689		10,689			10,689
63564N	SHIP DEVELOPMENT	13,562	21,606		21,606	-7,606	14,000	-7,606	-10,300	11,306
63565N	SURFACE SHIP NAVSYS	999	6,675		6,675	-6,675	0	-6,675	-2,675	4,000
63569N	ATTACK SUBMARINE DEV	31,502	3,931		3,931	-3,931	0	-3,931	-3,931	0
63570N	ADV NUC REACTOR COMP SYS DEV	120,175	96,037		96,037		96,037			96,037
63571N	PHYSICAL SECURITY	3,690	7,686		7,686		7,686		-1,300	6,386
63576N	CHALK EAGLE	68,783	79,351		79,351		79,351			79,351
63578N	A4W/A1G NUC PROP PLANT	3,327	3,410		3,410		3,410			3,410
63582N	COMBAT SYS INTEGRATION	21,962	24,051		24,051	-24,051	0	-24,051	-11,000	13,051
63589N	DDG-51	0	0		0		0			0
63591N	JOINT ADVANCED SYSTEMS	0	78,680		78,680	-78,680	0	-78,680		78,680
63592N	SEA STAR	0	0		0		0			0
63601N	MINE DEVELOPMENT	4,436	14,836		14,836		14,836			14,836
63602N	CHALK PINE	0	43,711		43,711		43,711			43,711
63609N	CONVENTIONAL MUNITIONS	21,924	40,882		40,882		40,882		-5,882	35,000
63610N	ALWT (ADV)	0	7,434	-7,434	0	-7,434	0		-7,434	0
63611N	MC ASSAULT VEHICLES	10,407	11,005		11,005		11,005			11,005
63634N	TAC NUCLEAR WEAPON DEV	7,760	15,151	-7,151	8,000		15,151	7,151	-7,151	8,000
63635N	MC GRD COMBAT/SPT SYS	13,126	18,249		18,249	-3,000	15,249	-3,000	-2,749	15,500
63654N	JT SERV EXPL ORDN DEV	12,577	14,791		14,791		14,791			14,791
63702N	OCEAN ENG SYS DEV	1,349	1,417		1,417		1,417			1,417
63704N	ASW OCEANOGRAPHY	11,875	7,065		7,065		7,065			7,065
	NAVAL OCEANOGRAPHY	0	0	3,000	3,000		0	-3,000	3,000	3,000
63705N	LOGISTICS	0	0		0		0			0
63708N	ASW SIGNAL PROCESSING	13,951	17,988		17,988		17,988			17,988
63709N	ADV MARINE BIO SYSTEM	5,409	5,385		5,385		5,385			5,385
63711N	FLEET TAC D&E PROGRAM	1,999	4,649		4,649		4,649			4,649
63713N	OCEAN ENG TECH DEV	13,086	16,373		16,373		16,373			16,373
63717N	COMMAND AND CONTROL SYS	30,093	36,525		36,525	-5,000	31,525	-5,000	-5,000	31,525
63719N	CONTAINER OFFLD/TRNSFR SYS	1,512	5,602		5,602		5,602			5,602
63722N	NAVAL SPECIAL WARFARE	6,716	15,637		15,637		15,637			15,637
63724N	NAVY ENERGY PROGRAM	18,310	16,833		16,833		16,833			16,833
63725N	FACILITIES IMPROVEMENT	7,258	9,476		9,476		9,476			9,476
63726N	MERSHIP NAV AUX PROG	5,737	6,014	-6,014	0	-3,000	3,014	3,014	-3,000	3,014
63729N	COMBAT SERVICES SUP (ADV)	9,341	15,857		15,857		15,857			15,857
63730N	MC INTEL/ELC WAR SYS	70	0		0		0			0
63734N	CHALK CORAL	6,139	14,694		14,694		14,694			14,694
63736N	STRIKE WARFARE TECH	0	0		0		0			0
63737N	LINK HAZEL	23,064	37,566		37,566		37,566			37,566
63740N	LINK LAUREL	35,345	47,088		47,088	-41,600	5,488	-41,600	-5,000	42,088
63743N	ARIADNE	2,185	11,240		11,240		11,240		-2,000	9,240
63744N	LINK SPRUCE	35,000	94,272		94,272	-94,272	0	-94,272	-24,272	70,000
63746N	RETRACT MAPLE	9,747	20,782		20,782		20,782			20,782
63763N	NCCS SE&I	7,172	12,599		12,599		12,599		-2,000	10,599
63784N	ASW SURVEILLANCE	17,393	25,982		25,982		25,982			25,982
63785N	ASW ENVIRONMENTAL ACOUSTIC SPT	15,680	12,764		12,764		12,764			12,764
63787N	SPECIAL PROCESSES	49,532	41,466		41,466		41,466			41,466
63788N	RDSS	0	0		0		0			0
64203N	STANDARD AVIONICS DEVELOPMENT	14,668	19,432		19,432	-16,692	2,740	-16,692		19,432
64211N	IFF SYS DEV	17,141	23,449		23,449		23,449			23,449
64212N	LAMPS	14,045	19,712	-15,718	3,994		19,712	15,718	-2,000	17,712
64213N	HELO DEV	5,766	11,084		11,084		11,084			11,084
64214N	AV-8B AIRCRAFT (ENG)	65,300	48,639		48,639	16,000	64,639	16,000	8,000	56,639
64215N	SUPPORT EQUIP	20,105	32,492		32,492		32,492			32,492
64217N	S-3 WEAPONS SYS IMPRVMNT	15,583	15,644		15,644		15,644			15,644
64218N	AIR OCEAN EQUIP ENG	2,460	3,294		3,294		3,294			3,294
64219N	AIRBORNE ASW DEV	5,601	2,266		2,266		2,266			2,266
64220N	ACFT IR SIGNATURE SUPPR	1,500	0		0		0			0

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
64221N	P-3 MODERNIZATION PROG	33,110	96,877	-19,677	77,200	-19,667	77,210	10	-19,677	77,200
64224N	ABN EW ENG.	56,096	55,973		55,973	-55,973	0	-55,973	-55,973	0
64226N	ASPJ	20,796	19,947		19,947	-19,947	0	-19,947	-19,947	0
64229N	CV IZ ASW HELO	12,389	8,062		8,062		8,062			8,062
64252N	A/C PROPULSION (ENG)	44,546	27,500		27,500		27,500			27,500
64255N	EW SIMULATOR DEVELOPMENT	35,260	51,896		51,896	-51,896	0	-51,896	-51,896	0
64260N	C/MH-53E	1,177	3,464		3,464	-1,853	1,611	-1,853		3,464
64261N	ACOUSTIC SRCH SENSORS (ENG)	30,146	56,761		56,761		56,761		-19,942	36,819
64262N	V-22	0	386,871		386,871	-46,871	340,000	-46,871		386,871
64264N	AVIATION LIFE SPT SYS	27,418	29,705		29,705		29,705			29,705
64268N	ACFT ENGINE COMPNT IMP	61,534	65,183		65,183	-5,183	60,000	-5,183	-5,183	60,000
64301N	MK-92 FCS UPGRADE	13,154	7,808	-7,808	0		7,808	7,808		7,808
64303N	AEGIS AREA AIR DEF	10,654	4,312		4,312		4,312			4,312
64307N	AEGIS WPN SYS IMP	121,742	134,939		134,939	-34,939	100,000	-34,939	-5,000	129,939
64308N	LINK ASH	10,307	8,846		8,846		8,846			8,846
64309N	SEA LANCE	0	118,416		118,416	-18,416	100,000	-18,416	-3,416	115,000
64314N	AMRAAM	4,797	19,022		19,022	-19,022	0	-19,022		19,022
64352N	SUR LNCHD WEAPNRY SHIP SYS	0	0		0		0			0
64353N	VERTICAL LAUNCHING SYS	29,141	20,388		20,388		20,388			20,388
64354N	AIR/AIR MSL SYS ENGR	18,545	27,906		27,906	5,000	32,906	5,000		27,906
64355N	VLS ASROC	41,063	41,669		41,669		41,669			41,669
64358N	CLOSE-IN WPN (PHALANX)	4,758	7,493		7,493		7,493			7,493
64361N	NATO SEA SPARROW	2,469	7,745		7,745	-7,745	0	-7,745	-4,745	3,000
64365N	SH-2 (N)	2,795	9,229	-9,229	0	-9,229	0		-9,229	0
64366N	STNDRD MISSILE IMPRVMNTS	45,453	45,988		45,988		45,988			45,988
64367N	TOMAHAWK	61,987	68,368		68,368		68,368			68,368
64369N	5 IN. ROLLING AIR FRM MSLE	10,936	24,210		24,210	-24,210	0	-24,210		24,210
	POINT DEFENSE UPGRADE	0	0	2,000	2,000		0	-2,000		0
64370N	SSN-688 CLASS VLS	18,495	18,344		18,344		18,344			18,344
64371N	HELLFIRE	0	0		0		0			0
64372N	NEW THREAT UPGRADE	53,882	50,899		50,899		50,899			50,899
64502N	SUBMARINE COMMUNICATIONS	4,426	25,979		25,979	-18,602	7,377	-18,602	-16,000	9,979
64503N	SUBMARINE SONAR DEV	38,904	52,716		52,716		52,716			52,716
64504N	AIR CONTROL ENG	19,788	9,207		9,207		9,207			9,207
64506N	CW COUNTERMEASURES	6,079	7,799		7,799		7,799			7,799
64507N	EMSP	93,397	100,345		100,345	-4,000	96,345	-4,000	-4,000	96,345
64508N	RADAR SURVEILLANCE EQUIP	6,318	9,321		9,321		9,321			9,321
64510N	COMMUNICATION SYSTEMS	0	0		0		0			0
64511N	INTELLIGENCE SYSTEMS	900	0		0		0			0
64515N	SUB SPT EQUIP PROG	13,633	32,265		32,265	-15,000	17,265	-15,000	-15,000	17,265
64516N	SHIP SURVIVABILITY	5,883	9,194		9,194		9,194			9,194
64518N	CMBT INFO CNTR CONVERSN	29,198	36,727		36,727		36,727			36,727
64520N	SUBMARINE HULL ARRAY DEV	9,488	0		0		0			0
64524N	SUB COMBAT SYSTEMS	199,508	316,649		316,649		316,649		-31,700	284,949
64561N	SSN-21 DEVELOPMENT	0	256,668		256,668	-56,668	200,000	-56,668		256,668
64562N	SUB TACT WARFARE SYS	36,559	47,101		47,101	-7,101	40,000	-7,101	-7,101	40,000
64563N	PHYSICAL SECURITY (ENG)	3,601	9,015		9,015		9,015			9,015
64567N	SHIP SUBSYS DEV/LBTS	107,356	18,822		18,822		18,822			18,822
64569N	NATO SEA GNAT	2,284	0		0		0			0
64573N	SHIPBD ELEC WARFR IMPRV	61,925	51,932		51,932	-51,932	0	-51,932	-51,932	0
64574N	STD EMBEDDED COMPUTER RSRCS	9,160	32,469		32,469	-32,469	0	-32,469	-16,469	16,000
64575N	SQS-53C	36,269	26,514		26,514		26,514			26,514
64578N	LINK BIRCH	4,078	3,927		3,927		3,927			3,927
64601N	MINE DEVELOPMENT	9,048	13,740		13,740		13,740			13,740
64602N	NAVAL GUNNERY IMPROVEMENT	9,650	17,428		17,428	-5,428	12,000	-5,428	-5,428	12,000
64603N	UNGUID CONVL AIRLNCH WEP	4,619	5,626		5,626		5,626		-1,626	4,000
64604N	CHEM WARFARE WEAPONS	6,000	4,000		4,000		4,000			4,000
64608N	SAL GP/EO SENS DEV	38,933	21,156	-4,924	16,232	-21,156	0	-16,232	-4,924	16,232
64609N	BOMB-FUZE IMPR	5,617	14,711		14,711		14,711			14,711
64610N	MK-50 TORP (ALWT)	157,626	148,825		148,825		148,825			148,825
64654N	JT SERV EOD DEV (ENG)	4,405	5,420		5,420		5,420			5,420
64656N	MC ASSAULT VEHICLE	16,801	0		0		0			0
64657N	MC GRND CMBT/SPT ARMS	7,183	12,541		12,541		12,541			12,541
64675N	MK 48 ADCAP (ENG)	62,605	37,895		37,895		37,895			37,895

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
64704N	ASW OCEANOGRAPHIC EQUIP	506	1,162		1,162		1,162			1,162
64705N	CHALK BANYAN	5,826	16,600		16,600		16,600			16,600
64707N	THEATER MISSION PLAN CTR	0	22,275		22,275	-12,275	10,000	-12,275	-5,000	17,275
64708N	INITIAL TRAINERS ACQUISITION	0	84,621		84,621	-84,621	0	-84,621	-14,621	70,000
64710N	NAVY ENERGY PROGRAM	9,788	9,044		9,044		9,044			9,044
64711N	NCCS ASHORE NODES	48,783	53,029		53,029		53,029			53,029
64713N	SURF ASW SYS IMP	7,956	36,860		36,860	-18,430	18,430	-18,430		36,860
64714N	AIR W/F TRNG DEV	0	1,964		1,964		1,964			1,964
64715N	SURFACE W/F TRNG DEV	23,273	28,631		28,631		28,631			28,631
64716N	SUB W/F TRNG DEV	0	0		0		0			0
64717N	COMBAT SERVICES SPT	3,638	5,465		5,465		5,465			5,465
64718N	MC INTEL/ELEC WAR SYS	14,140	9,546		9,546		9,546			9,546
64719N	MC CND/CNTRL/COMM SYS	13,361	16,005		16,005	-8,000	8,005	-8,000		16,005
64720N	TACAIR OPER CENT 85	0	0		0		0			0
64725N	REGIONAL TAC SURV	56,216	40,971		40,971		40,971			40,971
64761N	INTELLIGENCE (ENG)	8,040	6,460		6,460		6,460			6,460
64771N	MEDICAL DEV (ENG)	1,382	2,997		2,997		2,997			2,997
64779N	JT INTEROP TAC CND/CNTRL	6,056	3,586		3,586		3,586			3,586
64780N	JT INTEROP TAC CND/CNTRL MC	1,668	3,471		3,471		3,471			3,471
65155N	FLEET TAC DEV/EVAL	16,085	16,590		16,590		16,590			16,590
65803N	ELECTROMAGN SPECTRUM MGT	2,572	5,873		5,873		5,873			5,873
65853N	MANPWR AND TECH SPT	7,858	14,296		14,296		14,296		-1,000	13,296
65867N	C2 SURV RECON SUP	3,979	5,342		5,342		5,342			5,342
65871N	MC TAC EXPLOIT NAT CAP	415	849		849		849			849
24134N	A-6 SQUADRONS	22,382	13,820		13,820	-5,820	8,000	-5,820	-3,820	10,000
24136N	F/A-18 SQUADRONS	58,274	59,093		59,093	-24,093	35,000	-24,093		59,093
24152N	ERLY WRNG ACFT SQDRNS	23,569	34,454		34,454		34,454			34,454
24161N	AVIATION SPT CVW	1,757	2,221		2,221		2,221			2,221
24163N	FLEET TCC (TAC)	38,561	63,733		63,733	-18,835	44,898	-18,835	-10,000	53,733
24281N	SUBMARINES	0	0		0		0			0
24311N	UNDERSEA SURVEIL SYS	48,232	34,198		34,198		34,198			34,198
24313N	SURTASS	1,993	5,833		5,833		5,833			5,833
24571N	SPECIAL PROJECTS	16,982	10,500		10,500		10,500			10,500
24573N	COVER AND DECEPTION PROG	23,787	15,066		15,066		15,066			15,066
24575N	EW READINESS SUPPORT	7,067	4,421		4,421	-4,421	0	-4,421	-4,421	0
24576N	COUNTER C3 DEV	22,320	23,952		23,952	-23,952	0	-23,952	-23,952	0
25601N	HARM IMPROVEMENTS	2,633	3,931		3,931	-3,931	0	-3,931		3,931
25604N	TACTICAL INFO SYS	0	48,071		48,071	-33,071	15,000	-33,071		48,071
25620N	ASW CMBT SYS INTEGRATION	10,391	17,409		17,409	-7,409	10,000	-7,409		17,409
25633N	ACFT EQ RELIABLTY/MAINT PROG	7,557	8,846		8,846	-6,789	2,057	-6,789	-846	8,000
25634N	SUB SILENCING	31,533	0		0		0			0
25658N	LAB FLEET SUPPORT	6,146	6,056		6,056		6,056			6,056
25667N	F-14 UPGRADE	347,865	268,421		268,421	-28,421	240,000	-28,421	-8,421	260,000
25670N	TAC INTELL PROCESSING	1,454	2,160		2,160		2,160			2,160
25674N	EW COUNTER RESPONSE	78,186	69,708		69,708	-69,708	0	-69,708	-69,708	0
25675N	OPERATIONAL REACTOR DEV	12,719	18,872		18,872		18,872			18,872
26313N	MAR CORPS TELECOM	3,587	11,644		11,644	-2,949	8,695	-2,949	-2,644	9,000
26623N	MC GRD COMBAT/SUP ARMS SYS	41,800	67,934		67,934		67,934			67,934
26624N	MC COMBAT SERVICES SPT	1,449	2,548		2,548		2,548			2,548
26625N	MC INTEL/ELEC WAR SYS	1,163	24,822		24,822	-6,000	18,822	-6,000		24,822
26626N	MC CND/CNTL/COMM SYS	39,064	39,925		39,925	-13,756	26,169	-13,756	-4,725	35,200
26627N	MC TECH SUPP C/C SYS	4,094	7,471		7,471		7,471			7,471
28010N	TRI TAC MC	9,000	6,959		6,959		6,959			6,959
28010N	TRI TAC NAVY	0	0		0		0			0
	SYNTHETIC APERTURE RADAR TECHNOLOGY	0	0		0	5,000	5,000	5,000	1,000	1,000
	CONSOLIDATED EW PROGRAMS	0	0		0		0		252,200	252,200
	UNDISTRIBUTED REDUCTION	---	---		---	-352,808	-352,808	-352,808		---
	SUBTOTAL, TACTICAL PROGRAMS	5,375,213	6,035,049	-80,955	5,954,094	-1,732,528	4,302,521	-1,651,573	-433,319	5,601,730
63518N	AOV NAVIGATION DEVEL	1,541	0		0		0			0
64514N	NAVIGATION SYSTEMS	918	641		641		641			641
64577N	EHF SATCOM	39,197	53,141	-10,000	43,141		53,141	10,000	-10,000	43,141
64777N	NAVSTAR GPS	61,525	76,513		76,513		76,513			76,513

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
65866N	C2 SYS PLANNING/ENGR SPT	5,314	0		0		0			0
31303N	FIELD OP INTEL OFFICE	[ ]	[ ]		[ ]		[ ]			[ ]
31326N	PRAIRIE SCHOONER	[ ]	[ ]		[ ]	-3,988	-3,988	-3,988		[ ]
31327N	TECH RECONNAISSIANCE AND SURVEILLANCE	[ ]	[ ]		[ ]	-1,750	-1,750	-1,750	-1,750	-1,750
33109N	SATELLITE COMM	17,623	11,753	-3,000	8,753		11,753	3,000	-3,000	8,753
33401N	COMMUNICATIONS SECURITY	[ ]	[ ]		[ ]		[ ]			[ ]
33603N	MILSTAR JOINT PROJ OFC TERMINAL	4,095	4,198		4,198		4,198			4,198
34111N	SPECIAL ACTIVITIES	[ ]	[ ]	-40,000	-40,000	-50,000	-50,000	-10,000	-60,000	-60,000
	CLASSIFIED PROGRAMS	450,343	548,784		548,784		548,784			548,784
	SUBTOTAL, INTELLIGENCE PROGRAMS	580,556	695,030	-53,000	642,030	-55,738	639,292	-2,738	-74,750	620,280
63721N	ENVIRONMENTAL PROTECT	8,225	8,720		8,720		8,720			8,720
63790N	NATO COOPERATIVE	25,000	49,091		49,091	-49,091	0	-49,091	-19,091	30,000
64208N	RANGE INSTRUMENTATION SYS DEV	11,967	11,347		11,347		11,347			11,347
64258N	TARGET SYS DEV	96,934	111,690		111,690	-21,690	90,000	-21,690	-11,690	100,000
64703N	PERS TRNG, SIMULATION & HUMAN FACTORS	5,800	6,823		6,823		6,823		-1,000	5,823
65151N	STUDIES ANALYSIS SPT--MC	1,785	1,811		1,811		1,811			1,811
65152N	STUDIES ANALYS SPT--NAVY	6,433	8,031		8,031		8,031		-500	7,531
65153N	MC OPS ANALYS GP-CNA	3,714	4,068		4,068		4,068			4,068
65154N	CNTR FOR NAV ANALYSIS	17,500	18,603		18,603		18,603			18,603
65156N	MC OPERATNL TEST/EVAL	2,317	1,751		1,751		1,751			1,751
65502N	SBIR	0	0		0		0			0
65804N	TECH INFO SERVICES	2,244	2,543		2,543		2,543			2,543
65852N	AUTEC	43,197	0		0		0			0
65854N	DEVEL CENTER SUPPORT	3,958	5,300		5,300		5,300			5,300
65857N	INTERNATIONAL RDT/E	2,820	3,687		3,687	-3,687	0	-3,687	-2,687	1,000
65859N	MOBILE SEA RANGE	4,709	0		0		0			0
65861N	RDTE LAB/FAC MGT SPT	61,575	54,974		54,974	-4,974	50,000	-4,974	-4,974	50,000
65862N	RDTE INSTRUMNTN/MAT SPT	18,895	19,789		19,789		19,789			19,789
65863N	RDTE SHIP/AIRCFT SPT	73,596	81,335		81,335		81,335		-4,000	77,335
65864N	TEST/EVAL SPT	285,639	330,580		330,580		330,580		-13,000	317,580
65865N	OPER TEST/EVAL CAPABLTY	6,281	6,853		6,853		6,853			6,853
35111N	WEATHER SERVICE	1,146	1,000		1,000		1,000			1,000
35160N	DEF METEOR SATEL PROG	45,839	49,040		49,040	-10,000	39,040	-10,000	-7,500	41,540
78011N	MANUFACTURING TECHNOLOGY	51,177	31,319		31,319		31,319			31,319
	SUBTOTAL, DEFENSEWIDE MISSION SUPPORT	780,751	808,355	0	808,355	-89,442	718,913	-89,442	-64,442	743,913
	NATO COOPERATIVE	0	0		0	30,000	30,000	30,000		0
	SENSOR UPGRADES	0	0		0	30,000	30,000	30,000		0
	ENGAGEMENT IMPROVEMENTS	0	0		0	35,000	35,000	35,000		0
	ADVANCED AAW WEAPONS SYSTEM	0	0		0	25,000	25,000	25,000		0
	ELECTRO/OPTICAL SYSTEMS	0	0		0	15,000	15,000	15,000		0
	SMALL ROTARY ENGINE, RPV	0	0		0	1,000	1,000	1,000	1,000	1,000
	MARINE CORPS LIGHT WEIGHT AIR DEFENSE GU	0	0		0	7,000	7,000	7,000		0
	SUBTOTAL, CONVENTIONAL DEFENSE INITIATIV	0	0	0	0	143,000	143,000	143,000	1,000	1,000
	TAIL CONTROL SPARROW	0	0		0		0		14,179	14,179
	INTEGRATED PLATFORM COMM DEVEL	0	0		0	69,021	69,021	69,021		0
	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	0		0	10,000	10,000	10,000		0
	V-22 ENGINE TECHNOLOGY	0	0		0	40,000	40,000	40,000		0
	FLOATING BEAM AVIONICS RACK	0	0		0	10,000	10,000	10,000		0
	RACER	0	0		0	20,000	20,000	20,000	20,000	20,000
	LIBYAN LESSONS LEARNED	0	0		0	50,000	50,000	50,000	50,000	50,000
	UNDISTRIBUTED REDUCTION	---	---		---	-50,000	-50,000	-50,000	-50,000	-50,000
	UNDISTRIBUTED REDUCTION--USMC RDT&E	---	---	-11,000	-11,000		---	11,000		---
	UNDISTRIBUTED REDUCTION	---	---	-916,390	-916,390	-10,016	-10,016	906,374	-416,390	-416,390

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
	PRIOR YEAR FUEL SAVINGS	—	—		—	-72	-72	-72	-72	-72
	FY 87 FUEL SAVINGS	—	—		—	-800	-800	-800	-800	-800
	PRIOR YEAR INFLATION SAVINGS (FY 85)	—	—	-1,600	-1,600		—	1,600		—
	PRIOR YEAR INFLATION SAVINGS (FY 86)	—	—	-41,100	-41,100		—	41,100		—
	INFLATION REESTIMATE (FY 87)	—	—	-182,900	-182,900		—	182,900	-182,900	-182,900
	OBLIGATION LIMITATION (FY 85 AND 86)	—	—		—	(-74,700)	(-74,700)	(-74,700)	(-74,700)	(-74,700)
	TOTAL, NAVY RDT&E	10,076,939	10,586,800	-1,297,122	9,289,678	-1,945,811	8,640,989	-648,689	-1,292,694	9,294,106

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(DOLLARS IN THOUSANDS)

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
61101F	IN-HOUSE LAB INDEPENDENT RESEARCH	16,000	17,465		17,465		17,465		-1,974	15,491
61102F	DEFENSE RESEARCH SCIENCES	206,143	212,587		212,587		212,587		-13,003	199,584
61103F	UNIVERSITY RESEARCH INITIATIVES	6,250	12,530		12,530		12,530			12,530
62101F	GEOPHYSICS	39,429	40,625		40,625		40,625		-2,451	38,174
62102F	MATERIALS	53,235	57,478		57,478	-1,500	55,978	-1,500	-5,937	51,541
62201F	AEROSPACE FLIGHT DYNAMICS	68,749	70,281		70,281	-900	69,381	-900	-3,719	66,562
62202F	AEROSPACE BIOTECHNOLOGY	48,136	53,371		53,371	-3,500	49,871	-3,500	-6,767	46,604
62203F	AEROSPACE PROPULSION	63,297	65,552		65,552	-1,700	63,852	-1,700	-4,269	61,283
62204F	AEROSPACE AVIONICS	71,204	67,826		67,826	-7,826	60,000	-7,826	-7,826	60,000
62205F	TRAINING/SIMULATION TECH	25,435	26,802		26,802		26,802		-2,176	24,626
62206F	CIVIL ENGINEERING & ENVIRONMENTAL QA	9,225	5,425		5,425		5,425			5,425
62302F	ROCKET PROPULSION	40,966	41,890		41,890		41,890		-3,099	38,791
62601F	ADVANCED WEAPONS	36,202	37,070		37,070	-600	36,470	-600	-2,020	35,050
62602F	CONVENTIONAL MUNITIONS	41,230	49,884		49,884	-7,884	42,000	-7,884	-9,965	39,919
62702F	COMMAND/CONTROL/COMMUNICATION	78,330	79,678		79,678	-600	79,078	-600	-3,840	75,838
62703F	PERS UTILIZATION TECH	8,556	9,806		9,806	-1,300	8,506	-1,300	-1,522	8,284
	UNDISTRIBUTED REDUCTION	—	—	-78,585	-78,585		—	78,585	—	—
	SUBTOTAL, TECHNOLOGY BASE	811,487	848,270	-78,585	769,685	-25,810	822,460	52,775	-68,568	779,702
63106F	LOGISTICS RESEARCH & DEV RQMTS	9,488	19,061		19,061	-7,061	12,000	-7,061	-5,061	14,000
63109F	INTEGRATED EW SYSTEM ADV DEVELOPMENT	43,853	60,107		60,107	-60,107	0	-60,107		60,107
63202F	ACFT PROPULSION SUBSYS INTEGRATION	26,693	30,180		30,180		30,180			30,180
63203F	ADV AVIONICS FOR ACFT	21,028	49,835		49,835	-27,835	22,000	-27,835	-2,000	47,835
63205F	FLT VEHICLE TECHNOLOGY	19,441	27,557		27,557		27,557		-2,000	25,557
63208F	RECON SENSORS/PROCESSING TECHNOLOGY	5,821	6,064		6,064		6,064			6,064
63211F	AEROSPACE STRUCTURES/MATERIALS	18,084	31,512		31,512	-13,512	18,000	-13,512	-1,512	30,000
63215F	AVIATION TURBINE FUEL TECHNOLOGY	7,952	10,432		10,432		10,432		-3,757	6,675
63216F	ADV TURBINE ENGINE GAS GENERATOR	26,933	27,838		27,838	-2,000	25,838	-2,000	-1,000	26,838
63217F	WEAPON SYSTEM POWER	1,235	3,544		3,544		3,544		-1,000	2,544
63226F	DOD COMMON PROG LANGUAGE(ADA)ADV DEV	7,270	6,890		6,890		6,890			6,890
63227F	ADVANCED SIMULATOR TECHNOLOGY	4,297	5,054		5,054		5,054			5,054
63231F	CREW SYSTEMS TECHNOLOGY	11,207	15,905		15,905		15,905			15,905
63244F	ACFT NON-NUCLEAR SURVIVABILITY	3,191	2,470		2,470		2,470			2,470
63245F	ADV FIGHTER TECH INTEGRATION	19,203	30,679		30,679	-5,679	25,000	-5,679	-4,000	26,679
63250F	LINCOLN LABORATORY	23,000	26,524		26,524	-1,524	25,000	-1,524	-1,000	25,524
63253F	ADVANCED SYSTEM INTEGRATION DEMO	0	9,369		9,369	-9,369	0	-9,369		9,369
63259F	CARTOG APPLICATIONS-TAC & STRAT SYS	1,373	1,706		1,706		1,706			1,706
63269F	NATIONAL AEROSPACE PLANE TECHNOLOGY	0	33,490		33,490		33,490		70,510	104,000

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
63302F	SPACE & MSL ROCKET PROPULSION	3,295	12,911		12,911	-6,911	6,000	-6,911	-5,000	7,911
63319F	ADVANCED TECHNOLOGY CRUISE MISSILE	7,482	0		0		0			0
63363F	HYPERVELOCITY MISSILE	10,456	9,609		9,609		9,609			9,609
63401F	ADVANCED SPACECRAFT TECH	6,821	14,373		14,373	-7,373	7,000	-7,373	-4,373	10,000
63410F	SPACE SYS ENVIRON INTERACTIONS TECH	3,854	8,529		8,529	-5,000	3,529	-5,000	-2,500	6,029
63424F	CRUISE MISSILE SURVEILLANCE TECH	11,255	16,850		16,850	-3,000	13,850	-3,000	-16,850	0
63452F	VERY HIGH SPEED INTEGRATED CIRCUITS	201,994	132,897	-5,000	127,897	25,000	157,897	30,000		132,897
63601F	CONVENTIONAL WEAPONS	24,856	30,903		30,903	-4,000	26,903	-4,000	-3,000	27,903
63605F	ADVANCED RADIATION TECH	23,449	23,641		23,641		23,641			23,641
63704F	MANPOWER & PERSONNEL SYS TECH	2,143	2,370		2,370	-2,370	0	-2,370	-670	1,700
63707F	WEATHER SYSTEMS	3,375	3,697		3,697	-300	3,397	-300	-300	3,397
63718F	ELECTRONIC WARFARE TECHNOLOGY	25,540	0		0		0			0
63723F	CIVIL/ENVIRONMENTAL ENGR TECH	13,692	13,703		13,703	-500	13,203	-500	-500	13,203
63726F	FIBER OPTICS DEVLOPMENT	3,373	2,841		2,841		2,841			2,841
63727F	ADVANCED COMMUNICATIONS TECHNOLOGY	4,770	1,926		1,926	-1,926	0	-1,926	-526	1,400
63728F	ADVANCED COMPUTER TECHNOLOGY	7,309	10,491		10,491	-10,491	0	-10,491	-10,491	0
63743F	ELECTRO-OPTICAL WARFARE	13,915	53,363		53,363	-53,363	0	-53,363	-53,363	0
63745F	CHEMICAL WARFARE DEFENSE	4,873	5,149		5,149	-200	4,949	-200		5,149
63750F	COUNTER/COUNTERMEASURES -ADV DEV	13,057	7,612		7,612	-1,000	6,612	-1,000		7,612
63751F	TRAINING SYSTEMS TECHNOLOGY	2,264	2,411		2,411	-1,000	1,411	-1,000	-500	1,911
63752F	DOD SOFTWARE ENGINEERING INSTITUTE	11,443	9,541	5,000	14,541	2,500	12,041	-2,500	2,500	12,041
63789F	COMD/CNTRL/COMM ADV DEV	15,858	22,963		22,963	-16,047	6,916	-16,047	-7,000	15,963
	UNDISTRIBUTED REDUCTION	---	---	-31,620	-31,620		---	31,620	---	---
	SUBTOTAL, ADVANCED TECH DEVELOPMENT	665,143	783,997	-31,620	752,377	-213,068	570,929	-181,448	-53,393	730,604
63258F	COMMON STRATEGIC ROTARY LAUNCHER	0	0		0		0			0
63311F	ADVANCED STRATEGIC MISSILE SYSTEMS	159,756	176,915		176,915	-76,915	100,000	-76,915	-11,915	165,000
63312F	ADVANCED CONCEPTS	[ ]	[ ]		[ ]	-120,000	-120,000	-120,000		[ ]
63364F	SHORT RANGE ATTACK MISSILE II	34,108	164,702	-45,000	119,702	-164,702	0	-119,702	-94,702	70,000
63367F	STRATEGIC RELOCATABLE TARGET CAPABIL	0	985		985	-985	0	-985	-485	500
63368F	AIR DEFENSE BATTLE MGT TECH	0	2,500		2,500	-2,500	0	-2,500	-2,500	0
63369F	CRUISE MISSILE ENGAG SYS TECH	0	2,100		2,100	-2,100	0	-2,100	-2,100	0
63716F	ATMOSPHERIC SURVEILANCE TECH	4,851	32,024		32,024	-28,024	4,000	-28,024	-32,024	0
63735F	WWMCCS ARCHITECTURE	7,831	2,224		2,224		2,224			2,224
64221F	SPECIAL IMPROVEMENT PROJECTS	0	0		0		0			0
64226F	B-1B	271,640	118,652		118,652	-68,652	50,000	-68,652	-20,652	98,000
64234F	COMMON STRATEGIC ROTARY LAUNCHER	70,778	14,591		14,591	-1,000	13,591	-1,000	-1,000	13,591
64312F	ICBM MODERNIZATION	1,442,271	2,116,798	-918,000	1,198,798	-541,300	1,575,498	376,700	-506,800	1,609,998
	MX		(352,300)	(-30,000)	(322,300)	(-152,300)	(200,000)	(-122,300)	(-62,300)	(290,000)
	SICBM		(1,375,500)	(-700,000)	(675,500)	(0)	(1,375,500)	(700,000)	(-175,500)	(1,200,000)
	BASING		(389,000)	(-188,000)	(201,000)	(-389,000)	(0)	(-201,000)	(-269,000)	(120,000)
64326F	STRAT CONV STANDOFF CAPA(SCSC)	35,083	7,464		7,464		7,464			7,464
64361F	AIR LAUNCHED CRUISE MISSILE	10,894	6,065		6,065	-2,000	4,065	-2,000	-2,000	4,065
64406F	SPACE DEFENSE SYS	199,500	277,957	-61,800	216,157	-137,957	140,000	-76,157	-77,957	200,000
64711F	SYSTEMS SURVIVABILITY (NUC AFFECTS)	7,725	13,515		13,515		13,515			13,515
11113F	B-52 SQUADRONS	12,829	0		0		0			0
11120F	ADVANCED CRUISE MISSILE	[ ]	[ ]		[ ]	-149,871	-149,871	-149,871		[ ]
11135F	AIRCRAFT SURVIVABILITY ENHANCEMENTS	[ ]	[ ]		[ ]		[ ]			[ ]
11142F	KC-135 SQUADRONS	944	3,941		3,941	-41	3,900	-41	-41	3,900
11213F	MINUTEMAN SQUADRONS	5,511	67,526	-13,000	54,526	-20,000	47,526	-7,000	-13,300	54,226
11312F	PACCS/WWABNCP SYS EC-135 CL V MODS	3,993	14,798		14,798	-5,000	9,798	-5,000	-5,000	9,798
11316F	SAC COMMUNICATIONS	7,396	610		610		610			610
12310F	NCMC - TW/AA SYSTEMS	51,108	32,935		32,935		32,935			32,935
	AIR DEFENSE TECHNOLOGY	0	0		0		0		30,000	30,000
12311F	NCMC - SPACE DEFENSE SYSTEMS	56,518	41,284		41,284		41,284			41,284
12313F	BALLISTIC MSL TAC WNG/ATK ASSES SYS	2,100	3,084		3,084		3,084			3,084
12323F	TW/AA INTERFACE NETWORK	1,430	0		0		0			0
12325F	JOINT SURVEILLANCE SYSTEM	2,017	3,509		3,509		3,509			3,509
12411F	SURVEILL RADAR STATIONS/SITES	19,700	25,004		25,004	-6,200	18,804	-6,200	-3,000	22,004
12412F	DEW RADAR STATIONS	39,871	14,430		14,430		14,430			14,430
12417F	OVER-THE-HORIZON RADAR	65,738	33,877		33,877		33,877			33,877
12423F	BALLISTIC MSL EARLY WNG SYSTEM	12,636	16,225		16,225		16,225			16,225
12424F	SPACETRACK	9,368	16,461		16,461		16,461			16,461

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
12431F	DEFENSE SUPPORT PROGRAM	77,540	138,178	-13,178	125,000	-40,000	98,178	-26,822	-20,000	118,178
12432F	SLBM RADAR WARNING SYSTEMS	8,025	19,752		19,752	-2,000	17,752	-2,000	-1,000	18,752
12433F	INTEGRATED OPER NUDETS DETECT SYS	20,015	31,346		31,346		31,346			31,346
12436F	COMD CTR PROCESS/DISPLAY SYS	14,430	27,027		27,027		27,027			27,027
12822F	LEO	[ ]	[ ]		[ ]		[ ]			[ ]
32015F	NEACP/E-4B CL V MODS	0	0		0		0			0
33131F	MINIMUM ESSENTIAL EMER COMM NETWORK	99,526	92,527		92,527	-35,000	57,527	-35,000	-20,000	72,527
33152F	WWMCCS INFORMATION SYSTEM	4,873	8,510		8,510		8,510			8,510
33154F	WWMCCS INFORMATION SYSTEM - JPMO	62,097	111,374	-11,374	100,000		111,374	11,374	-11,374	100,000
33601F	MILSTAR SAT COMM SYS (AF TERMINALS)	124,254	298,527	-8,527	290,000	-20,527	278,000	-12,000	-8,527	290,000
33603F	MILSTAR COMM SAT SYSTEM	336,886	493,357	-25,000	468,357	-16,100	477,257	8,900	-25,000	468,357
35155F	THEATER NUC WPN STORAGE&SEC SYS	1,018	0		0		0			0
35172F	BERNIE	[ ]	[ ]	-9,500	-9,500		[ ]	9,500	-9,500	-9,500
35892F	SPECIAL ANALYSIS ACTIVITIES	[ ]	[ ]		[ ]		[ ]			[ ]
41123F	MILITARY AIRLIFT GROUP (IF)	19,490	8,963		8,963	-8,963	0	-8,963		8,963
	ADVANCED STRATEGIC WEAPON	0	0		0	100,000	100,000	100,000		0
	UNDISTRIBUTED REDUCTION	—	—		—	-140,000	-140,000	-140,000		—
	CLASSIFIED PROGRAMS	2,053,856	2,636,868		2,636,868		2,636,868			2,636,868
	SUBTOTAL, STRATEGIC PROGRAMS	5,357,606	7,076,605	-1,105,379	5,971,226	-1,489,837	5,586,768	-384,458	-838,877	6,237,728
63230F	ADVANCED TACTICAL FIGHTER	164,628	294,099		294,099	-294,099	0	-294,099	-19,099	275,000
63239F	UNMANNED AIR RECONNAISSANCE VEHICLE	9,745	3,940		3,940		3,940			3,940
63256F	CV-22A	2,429	4,920		4,920	-4,920	0	-4,920	-2,420	2,500
63307F	AIR BASE SURVIVABILITY & RECOVERY	4,863	7,078		7,078		7,078			7,078
63320F	LOW COST SEEKER	17,109	14,775		14,775	2,600	17,375	2,600	2,600	17,375
63437F	HAVE DJINN	[ ]	[ ]		[ ]	-1,000	-1,000	-1,000		[ ]
63607F	F-4 MODERNIZATION DEMOSTRATION	14,618	0		0		0			0
63609F	MILLIMETER WAVE SEEKERS	18,567	14,179		14,179	-14,179	0	-14,179		14,179
63714F	DOD PHYSICAL SECURITY EQ-EXTERIOR	985	984		984		984			984
63717F	TECHNICAL ON-SITE INSPECTION (TOSI)	0	9,850		9,850		9,850			9,850
63742F	COMBAT IDENTIFICATION TECHNOLOGY	8,528	6,314		6,314		6,314			6,314
63749F	C3CM ADVANCED SYSTEMS	1,949	4,512		4,512	-4,512	0	-4,512	-4,512	0
63770F	JT SURV.TGT ATK RADAR SYS(JSTARS)	3,118	0		0		0			0
63801F	SPECIAL PROGRAMS	[ ]	[ ]	20,000	20,000	-46,600	-46,600	-66,600	3,600	3,600
64201F	ACFT AVIONICS EQUIPMENT DEVELOPMENT	28,383	25,092		25,092	-4,000	21,092	-4,000		25,092
64209F	F-100 DURABILITY	2,825	0		0		0			0
64212F	AIRCRAFT EQUIPMENT DEV	8,516	4,862		4,862		4,862			4,862
64218F	ENGINE MODEL DERIVATIVE PROG	60,606	68,132		68,132	-6,000	62,132	-6,000	-3,000	65,132
64219F	INTEGRATED DIGITAL AVIONICS	8,000	13,394		13,394	-13,394	0	-13,394	-6,100	7,294
64220F	EW COUNTER RESPONSE	29,202	34,068		34,068	-34,068	0	-34,068	-34,068	0
64222F	NUCLEAR WEAPONS SUPPORT	1,983	4,341	-2,000	2,341		4,341	2,000	-2,000	2,341
64223F	ALTERNATE FIGHTER ENGINE	32,482	109,376		109,376	-9,376	100,000	-9,376		109,376
64231F	C-17 PROGRAM	372,759	612,262	-65,000	547,262	-25,000	587,262	40,000	-65,000	547,262
64232F	PAVE RUNNER	[ ]	[ ]		[ ]	160,000	160,000	160,000		[ ]
64236F	INFRARED SEARCH & TRACK SYS	23,054	34,846		34,846	-4,000	30,846	-4,000	-4,000	30,846
64247F	MODULAR AUTOMATIC TEST EQUIPMENT	9,683	23,682		23,682		23,682			23,682
64249F	NIGHT PRECISION ATTACK	39,793	40,103		40,103	-30,103	10,000	-30,103		40,103
64250F	INTEGRATED EW/CNI DEVELOPMENT	0	0		0		0			0
64268F	ACFT ENGINE COMPONENT IMPROVE PROG	121,728	141,776		141,776	-10,776	131,000	-10,776	-27,400	114,376
64302F	DEF SUPPRESSION WPNS ENG DEV	0	0		0		0			0
64313F	T-46A	52,812	10,756	-10,756	0	-10,756	0		-10,756	0
64314F	ADV MED RANGE AIR-TO-AIR MSL	101,291	39,080		39,080	-80	39,000	-80		39,080
64315F	ADV SHORT RANGE AIR-TO-AIR MISSILE	0	386		386	-386	0	-386		386
64321F	JOINT TACTICAL FUSION PROGRAM	23,720	24,661		24,661		24,661			24,661
64327F	HARDENED TARGET MUNITIONS	0	15,115		15,115	-15,115	0	-15,115	-15,115	0
64362F	GRD LAUNCHED CRUISE MSL	667	7,377		7,377	-7,377	0	-7,377	-7,377	0
64601F	C/B DEFENSE EQUIPMENT	21,915	27,187		27,187	-2,000	25,187	-2,000	-3,000	24,187
64602F	ARMAMENT ORDNANCE DEVELOPMENT	17,116	29,773		29,773	-15,435	14,338	-15,435		29,773
64604F	SUBMUNITIONS	37,919	4,921		4,921		4,921			4,921
64607F	WIDE-AREA ANTI-ARMOR MUNITION	12,238	15,102		15,102	24,000	39,102	24,000	24,000	39,102
64617F	AIR BASE SURVIVABILITY & RECOVERY	19,393	21,330		21,330	-1,000	20,330	-1,000		21,330
64703F	AEROMEDICAL SYSTEMS DEVELOPMENT	7,844	9,341		9,341		9,341			9,341
64706F	LIFE SUPPORT SYSTEM	15,272	12,396		12,396	3,000	15,396	3,000	2,000	14,396
64708F	OTHER OPERATIONAL EQUIPMENT	17,507	14,469		14,469	-3,900	10,569	-3,900	-1,900	12,569

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
64710F	RECONNAISSANCE EQUIPMENT	7,621	9,540		9,540		9,540			9,540
64715F	DOD PHYSICAL SECURITY EQ-EXTERIOR	15,332	18,511		18,511		18,511			18,511
64724F	TAC C3 COUNTER-MEASURES	29,661	24,636		24,636	-24,636	0	-24,636	-24,636	0
64725F	COMBAT IDENTIFICATION SYSTEMS	12,828	12,012		12,012	-12,012	0	-12,012		12,012
64733F	SURFACE DEF SUPRESSION	29,235	44,119		44,119	-44,119	0	-44,119		44,119
64737F	AIRBORNE SELF-PROTECTION JAMMER	5,000	10,071		10,071	-10,071	0	-10,071	-10,071	0
64738F	PROTECTIVE SYSTEMS	50,115	92,705		92,705	-92,705	0	-92,705	-92,705	0
64739F	TACTICAL PROTECTIVE SYSTEMS	43,789	94,910		94,910	-94,910	0	-94,910	-94,910	0
64740F	COMPUTER RESOURCES MGT TECH	11,705	12,957		12,957	-3,000	9,957	-3,000	-1,457	11,500
64742F	PRECISION LOCATION STRIKE SYSTEM	61,474	26,601	-26,601	0	-6,601	20,000	20,000	-6,601	20,000
64750F	INTELLIGENCE EQUIPMENT	13,138	10,417		10,417		10,417			10,417
64753F	COMBAT HELICOPTER MODERNIZATION	9,745	0		0		0			0
64754F	JT TAC INFO DIST SYS	0	0		0		0			0
64756F	SIDE LOOKING AIRBORNE RADAR (SLAR)	23,440	19,691		19,691		19,691		20,000	39,691
64770F	JSTARS	0	355,692		355,692	-355,692	0	-355,692	-55,692	300,000
64779F	JT INTEROPERABILITY TAC COMD/CNTRL	8,908	9,866		9,866		9,866			9,866
11133F	SR-71 SQUADRONS	[ ]	[ ]		[ ]	-18,800	-18,800	-18,800	-18,800	-18,800
21131F	US READINESS COMD - COMM	0	0		0		0			0
27129F	F-111 SQUADRONS	47,253	35,236		35,236	-35,236	0	-35,236		35,236
27130F	F-15 SQUADRONS	229,993	208,988		208,988	-208,988	0	-208,988	-30,000	178,988
27131F	A-10 SQUADRONS	3,014	0		0		0			0
27133F	F-16 SQUADRONS	66,270	81,323		81,323	-81,323	0	-81,323	-15,900	65,423
27136F	F-4G WILD WEASEL SQUADRONS	35,740	38,698		38,698	-38,698	0	-38,698		38,698
27137F	CONSTANT HELP	[ ]	[ ]		[ ]		[ ]			[ ]
27139F	COMPETITIVE FIGHTER PROCUREMENT	0	0		0		0			0
27162F	TACTICAL AGM MISSILES	1,943	2,377		2,377	-2,377	0	-2,377		2,377
27168F	F-111 SELF PROTECTION SYSTEMS	0	0		0		0			0
27215F	TR-1 SQUADRONS	0	23,509		23,509	-2,000	21,509	-2,000	-1,000	22,509
27217F	FOLLOW-ON TAC RECCE SYS	0	30,583		30,583	-12,000	18,583	-12,000	-10,000	20,583
27247F	AIR FORCE TEMCAP	244	105		105		105			105
27411F	OVERSEAS AIR WEAPON CONT SYS	3,014	8,534		8,534	-4,000	4,534	-4,000	-2,000	6,534
27412F	TACTICAL AIR CONTROL SYSTEM	14,566	19,261		19,261	-19,261	0	-19,261		19,261
27417F	AIR BORNE WARNING & CONTROL SYS	118,762	137,190		137,190	-60,000	77,190	-60,000	-30,190	107,000
27419F	TACTICAL AIRBORNE CMD & CONTROL SYS	7,943	0		0		0			0
27423F	ADV COMM SYS	100,786	33,335		33,335	-33,335	0	-33,335	-335	33,000
27431F	TAC AIR INTELL SYS ACTYS	2,135	492		492		492			492
27435F	TACTICAL RECON IMAGERY EXPLOITATION	7,495	831		831		831			831
27584F	SEEK AXLE	[ ]	[ ]		[ ]	-22,954	-22,954	-22,954	-22,954	-22,954
27585F	SEEK SPINNER	[ ]	[ ]		[ ]	25,000	25,000	25,000	80,000	80,000
27591F	OMEGA	[ ]	[ ]		[ ]		[ ]			[ ]
27595F	BASE COMM - TACTICAL AIR FORCES	862	3,207		3,207	-2,000	1,207	-2,000		3,207
28010F	JT TACTICAL COMM PROG (TRI-TAC)	4,776	11,425		11,425	-3,000	8,425	-3,000	-3,000	8,425
28042F	HAVE FLAG	[ ]	[ ]		[ ]		[ ]			[ ]
33605F	SATELLITE COMMUNICATIONS TERMINALS	4,814	4,615		4,615		4,615			4,615
35887F	ELECTRONIC COMBAT INTEL SPT	1,552	1,784		1,784		1,784			1,784
41115F	C-130 AIRLIFT SQUADRONS (IF)	0	0		0		0			0
41129F	HAVE FLAG	[ ]	[ ]		[ ]		[ ]			[ ]
41314F	OPERATIONAL SUPPORT AIRLIFT	0	0		0		0			0
41840F	MAC COMMAND/CONTROL SYS	7,741	22,712	-10,000	12,712	-12,000	10,712	-2,000	-12,000	10,712
44011F	SPECIAL OPERATIONS FORCES	9,745	66,539		66,539		66,539			66,539
52610F	A-7 SQUADRONS	0	4,531	35,000	39,531	-4,531	0	-39,531		4,531
	A-7 STRIKEFIGHTER	0	0		0	450,000	450,000	450,000	35,000	35,000
	UNDISTRIBUTED REDUCTION	---	---		---	-39,000	-39,000	-39,000		---
	CLASSIFIED PROGRAMS	419,138	723,023		723,023		723,023			723,023
	SUBTOTAL, TACTICAL PROGRAMS	2,723,024	3,904,505	-59,357	3,845,148	-1,136,725	2,767,780	-1,077,368	-470,798	3,433,707
63260F	INTELLIGENCE ADVANCED DEVELOPMENT	0	6,081	-2,081	4,000		6,081	2,081	-1,000	5,081
63261F	PAVE RUNNER ADVANCED DEVELOPMENT	[ ]	[ ]		[ ]		[ ]			[ ]
63431F	SPACE COMMUNICATIONS	41,916	35,805	-10,000	25,805	-2,000	33,805	8,000	-6,000	29,805
64238F	CONSTANT PISCES	[ ]	[ ]		[ ]	-78,798	-78,798	-78,798	-78,798	-78,798
64778F	NAVSTAR GPS USER EQUIPMENT	0	0		0		0			0
27169F	SEEK CLOCK	[ ]	[ ]		[ ]		[ ]			[ ]
27582F	HAVE TRUMP	[ ]	[ ]		[ ]	-51,129	-51,129	-51,129	-51,129	-51,129

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
31305F	INTELLIGENCE PRODUCTION ACTIVITIES	[ ]	[ ]		[ ]	-462	-462	-462		[ ]
31310F	FOREIGN TECHNOLOGY DIVISION	[ ]	[ ]		[ ]		[ ]			[ ]
31314F	INFRARED PROCESSING AND EXPLOITATION	[ ]	[ ]		[ ]		[ ]			[ ]
31315F	MISSILE AND SPACE TECH COLLECTION	[ ]	[ ]		[ ]	-1,000	-1,000	-1,000		[ ]
31317F	SENIOR YEAR OPERATIONS	[ ]	[ ]		[ ]		[ ]			[ ]
31324F	FOREST GREEN	[ ]	[ ]	-335	-335	-2,000	-2,000	-1,665	-335	-335
31357F	INTEG OPERATIONAL NUDETS DETECTION SYSTE	[ ]	[ ]		[ ]		[ ]			[ ]
32053F	NMCS-WIDE SUPPORT-COMMUNICATIONS	0	1,970	-1,970	0		1,970	1,970	-1,970	0
33110F	DEF SATELLITE COMM SYS	6,753	14,001		14,001	-6,000	8,001	-6,000	-3,001	11,000
33126F	LONG-HAUL COMMUNICATIONS (DCS)	11,249	5,630		5,630		5,630			5,630
33128F	I-S/A ANPE SYSTEM	30,600	54,567		54,567	-19,567	35,000	-19,567	-14,567	40,000
33144F	ELECTROMAG COMPATIBILITY ANAL CTR	7,256	7,670		7,670		7,670			7,670
33401F	COMMUNICATIONS SECURITY	[ ]	[ ]		[ ]		[ ]			[ ]
34111F	SPECIAL ACTIVITIES	1,738,619	1,793,491		1,793,491	-52,400	1,741,091	-52,400	-30,000	1,763,491
35114F	TRAFFIC CNTRL/APPROACH/LANDING SYS	23,913	18,575		18,575	-12,536	6,039	-12,536		18,575
35159F	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIE	[ ]	[ ]	-5,800	-5,800	20,000	20,000	25,800	14,200	14,200
35164F	NAVSTAR GLOBAL POS SYS (USER EQ)	27,960	45,024		45,024	-22,024	23,000	-22,024	-10,000	35,024
35165F	NAVSTAR GPS (SPACE/GRD SEGMENTS)	44,365	44,362		44,362	-20,000	24,362	-20,000	-10,000	34,362
84733F	GEN INTELLIGENCE SKILL TNG	5,165	4,788		4,788		4,788			4,788
	CLASSIFIED PROGRAMS	305,912	508,777		508,777		508,777			508,777
	SUBTOTAL, INTELLIGENCE & COMMUNICATIONS	2,243,708	2,540,741	-20,186	2,520,555	-247,916	2,292,825	-227,730	-192,600	2,348,141
63248F	CONCEPT DEVELOPMENT	2,000	3,214		3,214	-3,214	0	-3,214	-214	3,000
63402F	SPACE TEST PROGRAM	66,690	73,692	-30,000	43,692	-56,500	17,192	-26,500	-30,000	43,692
63438F	SATELLITE SYS SURVIVABILITY	4,164	5,405		5,405	-5,405	0	-5,405	-2,000	3,405
63790F	NATO COOPERATIVE R&D	25,000	49,249		49,249	-49,249	0	-49,249	-9,200	40,049
64211F	ADV AERIAL TARGETS DEV	13,119	11,149		11,149		11,149			11,149
64227F	FLIGHT SIMULATOR DEVELOPMENT	128,436	102,736		102,736	-28,137	74,599	-28,137	-3,000	99,736
64237F	VARIABLE IN-FLT TEST ACFT (VISTA)	381	8,680		8,680		8,680			8,680
64411F	SPACE SHUTTLE	128,642	0		0		0			0
64609F	R&M MATURATION/TECH INSERTION	6,578	18,031		18,031	-5,000	13,031	-5,000	-3,000	15,031
64707F	WEATHER SYSTEMS	7,872	8,444		8,444		8,444			8,444
64735F	RANGE IMPROVEMENT	52,624	64,616		64,616	-3,000	61,616	-3,000	-3,000	61,616
64747F	ELECTROMAG RADIATION TEST FACIL	3,290	5,686		5,686		5,686			5,686
64755F	IMPROVED CAPABILITY FOR RDT+E	45,234	89,518		89,518	-20,000	69,518	-20,000	-10,000	79,518
65101F	PROJECT AIR FORCE	18,245	18,295	2,705	21,000	-500	17,795	-3,205	2,705	21,000
65304F	ACQ/COMD SPT - TELECOM	6,550	10,987		10,987		10,987			10,987
65306F	RANCH HAND II EPIDEMIOLOGY STUDY	4,699	7,384		7,384	-4,000	3,384	-4,000		7,384
65502F	SMALL BUSINESS INNOVATION DEV	0	0		0		0			0
65708F	NAV/RADAR/SLED TRACK TEST SPT	20,671	25,889		25,889	-5,000	20,889	-5,000	-5,000	20,889
65806F	ACQUISITION AND COMMAND SUPPORT	356,520	285,063		285,063		285,063		-5,000	280,063
65807F	TEST AND EVALUATION SPT	426,686	304,151		304,151	-35,000	269,151	-35,000	-4,151	300,000
65808F	ADV SYS ENGINEERING/PLAN	17,000	23,144		23,144	-13,144	10,000	-13,144	-10,000	13,144
65863F	RDT&E AIRCRAFT SUPPORT	55,547	62,404		62,404	-5,000	57,404	-5,000	-1,404	61,000
65872F	PRODUCTIVITY INVESTMENTS	2,932	5,106		5,106	-2,106	3,000	-2,106	-2,106	3,000
65874F	PRODUCT PERFORMANCE AGMT CNTR(PPAC)	0	1,157		1,157	-1,157	0	-1,157	-357	800
65894F	REAL PROPERTY MAINT -RDT+E	0	140,310	-4,500	135,810		140,310	4,500	-7,444	132,866
65896F	BASE OPERATIONS (RDT+E)	0	110,268	-3,400	106,868		110,268	3,400	-5,850	104,418
35110F	SATELLITE CONTROL FACILITY	71,259	91,714		91,714	-15,000	76,714	-15,000	-5,000	86,714
35119F	SPACE BOOSTERS	215,751	138,690		138,690	60,000	198,690	60,000		138,690
35130F	CONSOLIDATED SPACE OPERATIONS CENTER	85,187	93,664	-19,000	74,664	-20,000	73,664	-1,000	-19,000	74,664
35160F	DEF METEOROLOGICAL SATELLITE PROG	54,874	63,772		63,772		63,772			63,772
35171F	SPACE SHUTTLE OPERATIONS	75,432	175,867	-17,100	158,767	-60,000	115,867	-42,900	-67,867	108,000
38610F	INFORMATION MGMT AUTOMATION PROG	0	0		0		0			0
71112F	INVENTORY CONTROL POINT OPERATIONS	2,924	4,788		4,788		4,788			4,788
72207F	DEPOT MAINTENANCE (NON-IF)	0	487		487	-487	0	-487	-487	0
78011F	INDUSTRIAL PREPAREDNESS	62,895	83,573		83,573	-20,000	63,573	-20,000	-5,000	78,573
78026F	PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	13,999	31,405		31,405	-16,405	15,000	-16,405	-14,405	17,000

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
78031F	LOGISTICS C3I SYSTEM	8,283	0		0		0			0
91215F	PRODUCTIVITY INVESTMENTS	0	0		0		0			0
92998F	MANAGEMENT HDS-ADP SUPPORT (AF)	0	0		0		0			0
01004F	INTERNATIONAL ACTIVITIES	2,956	2,744		2,744		2,744			2,744
	TAIL CONTROL SPARROW	0	0		0	30,000	30,000	30,000		0
	CONSOLIDATED EW PROGRAMS	0	0		0		0		296,500	296,500
	UNDISTRIBUTED REDUCTION	---	---	-57,295	-57,295		---	57,295		---
	SUBTOTAL, DEFENSEWIDE MISSION SUPPORT	1,986,440	2,121,282	-128,590	1,992,692	-278,304	1,842,978	-149,714	85,720	2,207,002
	NATO COOPERATIVE R&D	0	0		0	30,000	30,000	30,000		0
	MINE FLAIL WHEELED VEHICLE	0	0		0	5,000	5,000	5,000		0
	CONVENTIONAL ATTACK STANDOFF WEAPON	0	0		0	5,000	5,000	5,000		0
	SUBTOTAL, CONVENTIONAL DEFENSE INITIATIV	0	0	0	0	40,000	40,000	40,000	0	0
	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	0	0	0	15,000	15,000	15,000		0
	GENERAL REDUCTION (PRIOR YEAR CARRYOVER)	---	---		---	-160,000	-160,000	-160,000		---
	UNDISTRIBUTED REDUCTION	---	---	-517,110	-517,110	-24,582	-24,582	492,528	-400,000	-400,000
	PRIOR YEAR FUEL SAVINGS	---	---		---	-2,400	-2,400	-2,400	-2,400	-2,400
	FY 87 FUEL SAVINGS	---	---		---	-26,800	-26,800	-26,800	-26,800	-26,800
	PRIOR YEAR INFLATION SAVINGS (FY 85)	---	---	-3,400	-3,400		---	3,400		---
	PRIOR YEAR INFLATION SAVINGS (FY 86)	---	---	-100,800	-100,800		---	100,800		---
	INFLATION REESTIMATE (FY 87)	---	---	-288,600	-288,600		---	288,600	-288,600	-288,600
	OBLIGATION LIMITATION (FY 85 AND 86)	---	---		---	(-182,400)	(-182,400)	(-182,400)	(-182,400)	(-182,400)
	TOTAL, AIR FORCE RDT&E	13,787,408	17,275,400	-2,333,627	14,941,773	-3,550,442	13,724,958	-1,216,815	-2,256,316	15,019,084

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

(DOLLARS IN THOUSANDS)

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
61101E	DEFENSE RESEARCH SCIENCES	87,500	95,900		95,900		95,900			95,900
61101W	IN-HOUSE LAB INDEPENDENT RESEARCH	1,748	2,021		2,021		2,021			2,021
61103D	UNIVERSITY RESEARCH INITIATIVES	70,473	0		0		0			0
61103E	UNIVERSITY RESEARCH	5,980	12,500		12,500		12,500			12,500
62101E	TECHNICAL STUDIES	1,500	0		0		0			0
62301E	STRATEGIC TECHNOLOGY	239,370	240,620		240,620	-10,000	230,620	-10,000		240,620
62702E	TACTICAL TECHNOLOGY	94,250	114,000		114,000		114,000			114,000
62707E	PARTICLE BEAM TECHOLOGY	20,000	15,500		15,500		15,500			15,500
62708E	INTEGRATED COMD/CONTROL TECH	49,000	56,500		56,500	-7,500	49,000	-7,500	-7,500	49,000
62712E	MATERIALS PROCESSING TECH	29,490	34,660		34,660		34,660			34,660
62714E	NUCLEAR MONITORING	19,500	19,400		19,400	3,000	22,400	3,000		19,400
62715H	DEFENSE NUCLEAR AGENCY	350,988	347,013		347,013		347,013			347,013
62716B	TECHNOLOGY BASE	975	1,930		1,930		1,930			1,930
	UNDISTRIBUTED REDUCTION	---	---	-82,604	-82,604		---	82,604		---
	SUBTOTAL, TECHNOLOGY BASE	970,774	940,044	-82,604	857,440	-14,500	925,544	68,104	-7,500	932,544

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE BILL: CHANGE FROM REQUEST	CONFERENCE BILL: RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
	STRATEGIC DEFENSE INITIATIVE:	(2,746,100)	(4,785,155)	(-1,188,155)	(3,597,000)	(-1,955,566)	(2,829,589)	(-767,411)	(-1,572,155)	(3,213,000)
63220C	SURVEILLANCE,ACQSN,TRACK & KILL ASSESS	856,956	1,262,413		1,262,413	-418,000	844,413	-418,000		1,262,413
63221C	DIRECTED ENERGY WEAPONS	844,401	1,614,955		1,614,955	-558,000	1,056,955	-558,000		1,614,955
63222C	KINETIC ENERGY WEAPONS	595,802	991,214		991,214	-371,000	620,214	-371,000		991,214
63223C	SYSTEMS CONCEPTS AND BATTLE MANAGEMENT	227,339	462,206		462,206	-194,000	268,206	-194,000		462,206
63224C	SURVIVABILITY,LETHALITY & KEY SPT TECH	221,602	454,367		454,367	-159,000	295,367	-159,000		454,367
	UNDISTRIBUTED REDUCTION	—	—	-1,188,155	-1,188,155	-255,566	-255,566	932,589	-1,572,155	-1,572,155
63225D	JOIN DOD-DOE MUNITIONS TECH DEV	7,787	8,803		8,803	-1,000	7,803	-1,000		8,803
63226E	EXP EVAL OF MAJOR INNOVATIVE TECH	177,179	172,600		172,600	5,000	177,600	5,000		172,600
63269E	NATIONAL AERO SPACE PLANE TECHNOLOGY PRO	0	60,000		60,000		60,000		-60,000	0
63702D	SPECIAL OPERATIONS SPECIAL TECHNOLOGY DE	3,925	4,365		4,365		4,365			4,365
63703D	COUNTER INSURGENCY & SPECIAL TECHNOLOGY	10,732	12,180		12,180		12,180			12,180
63706D	MICROWAVE/MILLIMETER WAVE MONOLITHIC INT	0	11,172		11,172	-11,172	0	-11,172		11,172
63736D	COMPUTER AIDED LOGISTICS SUPPORT	0	14,831		14,831		14,831		-1,000	13,831
63756D	DOD SOFTWARE INITIATIVES (STARS)	0	35,220		35,220		35,220			35,220
35108K	COMMAND AND CONTROL RESEARCH	1,813	2,062		2,062	-249	1,813	-249	-249	1,813
	UNDISTRIBUTED REDUCTION	---	---	-29,351	-29,351	-14,831	-14,831	14,520	-28,102	-28,102
	SUBTOTAL, ADVANCED TECH DEVELOPMENT	2,947,536	5,106,388	-1,217,506	3,888,882	-1,977,818	3,128,570	-760,312	-1,661,506	3,444,882
63734K	ISLAND SUN	14,131	31,853		31,853		31,853			31,853
32016K	NMCS-WIDE SUPPORT	36,872	10,485		10,485		10,485			10,485
32017K	WWMCCS ADP-JTSA	0	0		0		0			0
32019K	WWMCCS SYSTEM ENGINEER	21,033	19,279		19,279		19,279			19,279
33131K	MINIMUM ESSENTIAL EMER COMM NETWORK	11,816	11,301		11,301		11,301			11,301
	SUBTOTAL, STRATEGIC PROGRAMS	83,852	72,918	0	72,918	0	72,918	0	0	72,918
64770D	JT SURVIVABILITY & TARGET ATTACK RADAR S	188,138	0		0		0			0
64771D	COMMON JT TACTICAL INFO DISTRIBUTION SYS	187,931	211,930		211,930		211,930			211,930
64772D	JOINT ADVANCED SYSTEMS	281,896	0		0		0			0
21135K	CINC C2 INITIATIVES	2,083	2,158		2,158		2,158			2,158
28045Q	C3 INTEROPERABILITY (JOINT TACTICAL C3 A	57,271	68,835		68,835	-7,000	61,835	-7,000		68,835
28298Q	MANAGEMENT HEADQUARTERS (JTC3A)	1,858	8,816		8,816	-816	8,000	-816	-816	8,000
	SUBTOTAL, TACTICAL PROGRAMS	719,177	291,739	0	291,739	-7,816	283,923	-7,816	-816	290,923
63701B	MAP/CHART/GEODESY INV/PROTOTYPE DEV	13,197	15,584		15,584		15,584			15,584
64701B	MAP/CHART/GEODESY ENGR DEV/TEST	3,092	2,337		2,337		2,337			2,337
31011G	CRYPTOLOGIC ACTIVITIES	[ ]	[ ]	-7,500	-7,500	-114,840	-114,840	-107,340	-43,995	-43,995
31301L	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	[ ]	-4,150	-4,150	-10,756	-10,756	-6,606	-4,389	-4,389
33126K	LONG-HAUL COMMUNICATIONS (DCS)	16,256	39,113		39,113	-2,000	37,113	-2,000	-8,000	31,113
33127K	SUPPORT OF THE NCS	2,803	3,041		3,041		3,041			3,041
33401G	COMMUNICATIONS SECURITY	[ ]	[ ]	8,000	8,000		[ ]	-8,000	8,000	8,000
35139B	DMA EXPLOITATION PROGRAM	233,771	243,629		243,629		243,629			243,629
35159B	DEF RECONNAISSANCE SUPPORT ACTIVITIES	7,250	10,129		10,129		10,129			10,129
35159G	DEF RECONNAISSANCE ACTIVITIES	[ ]	[ ]		[ ]		[ ]			[ ]
35159I	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIE	252,607	147,055		147,055	128,798	275,853	128,798	128,798	275,853
35167G	COMPUTER SECURITY	[ ]	[ ]		[ ]	-5,000	-5,000	-5,000	-5,000	-5,000
35884L	INTEL PLAN AND REVIEW ACTIVITIES	[ ]	[ ]		[ ]		[ ]			[ ]
35885G	TACTICAL CRYPTOLOGIC ACTIVITIES	[ ]	[ ]		[ ]	-11,800	-11,800	-11,800	-5,700	-5,700
	ASDC3I	0	0		0	488,857	488,857	488,857		0
	UNDISTRIBUTED REDUCTION	---	---	-42,177	-42,177		---	42,177		---
	CONSOLIDATED EW PROGRAMS	0	0		0		0		100,000	100,000
	CLASSIFIED PROGRAMS	1,252,379	1,275,813		1,275,813		1,275,813			1,275,813
	SUBTOTAL, INTELLIGENCE & COMMUNICATIONS	1,781,355	1,736,701	-45,827	1,690,874	473,259	2,209,960	519,086	169,714	1,906,415
63739D	NATO RESEARCH AND DEVELOPMENT	23,491	49,436		49,436	-5,000	44,436	-5,000	-5,000	44,436
65104D	TECHNICAL SUPPORT TO USDR/E	18,317	20,617		20,617	-2,000	18,617	-2,000	-2,000	18,617
65106D	GENERAL SUPPORT FOR PA/E	2,339	3,912		3,912	-1,500	2,412	-1,500	-1,500	2,412
65107D	SUPPORT TO POLICY	6,192	6,931		6,931	-700	6,231	-700	-700	6,231
65108D	GENERAL SUPPORT FOR NET ASSESSMENT	3,789	4,415		4,415	-600	3,815	-600	-600	3,815
65109D	GENERAL SUPPORT FOR FM&P	1,691	2,049		2,049	-300	1,749	-300	-300	1,749

PROGRAM ELEMENT	PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE BILL	
				CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
651100	CRITICAL TECHNOLOGY	2,623	3,474		3,474	-600	2,874	-600	-600	2,874
651120	RAND RESEARCH CENTER FOR OSD & OJCS	14,096	16,717		16,717	-2,600	14,117	-2,600	-2,600	14,117
65112E	TECHNICAL ANALYTICAL SUPPORT	0	0		0		0			0
651130	TAPESTRY	0	2,801		2,801		2,801			2,801
65114E	BLACKLITE	4,000	4,000		4,000		4,000			4,000
65115J	CINC CONTRACT STUDIES SUPPORT	0	5,000		5,000	-5,000	0	-5,000	-5,000	0
651160	GENERAL SUPPORT TO C3I	2,161	3,164		3,164	-1,000	2,164	-1,000	-1,000	2,164
651170	FOREIGN MATERIALS ACQUISITION & EXPLOITAT	0	14,831		14,831	-10,000	4,831	-10,000	-4,831	10,000
651190	GENERAL SUPPORT FOR A&L	2,349	3,263		3,263	-900	2,363	-900	-263	3,000
65502E	SMALL BUSINESS INNOVATIVE RESEARCH	0	0		0		0			0
65711S	CRITICAL TECHNOLOGY ANALYSIS	0	3,000		3,000	-700	2,300	-700	-700	2,300
65801S	DEFENSE TECHNICAL INFO CENTER	20,328	22,500		22,500	-2,000	20,500	-2,000	-1,500	21,000
65802S	INFORMATION ANALYSIS CENTERS	6,500	7,550		7,550	-1,000	6,550	-1,000	-550	7,000
65898C	MANAGEMENT HEADQUARTERS SDI	13,122	17,411		17,411	-1,000	16,411	-1,000	-411	17,000
65898E	MGT HQ (RESEARCH/DEVELOPMENT)	12,148	12,200		12,200		12,200			12,200
78011S	INDUSTRIAL PREPAREDNESS	5,000	11,500		11,500	-4,000	7,500	-4,000	-5,000	6,500
010150	TECHNOLOGY TRANSFER FUNCTIONS	1,546	1,739		1,739		1,739			1,739
	UNDISTRIBUTED REDUCTION	---	---	-9,389	-9,389		---	9,389		---
	SUBTOTAL, DEFENSEWIDE MISSION SUPPORT	139,692	216,510	-9,389	207,121	-38,900	177,610	-29,511	-32,555	183,955
	CONVENTIONAL DEFENSE INITIATIVE	---	---	453,000	453,000		0	-453,000	453,000	453,000
	PROJECT HORIZON	0	0		0	10,000	10,000	10,000	5,000	5,000
	LONG RANGE CHEMICAL WEAPONS	0	0		0	5,000	5,000	5,000	5,000	5,000
	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	0		0		0		20,000	20,000
	NUCLEAR WINTER RESEARCH	0	0		0	8,500	8,500	8,500		0
	UNDISTRIBUTED REDUCTION	---	---	-108,000	-108,000	-298,443	-298,443	-190,443	-124,604	-124,604
	PRIOR YEAR INFLATION SAVINGS (FY 85)	---	---	-800	-800		---	800		---
	PRIOR YEAR INFLATION SAVINGS (FY 86)	---	---	-48,400	-48,400		---	48,400		---
	INFLATION REESTIMATE (FY 87)	---	---	-145,500	-145,500		---	145,500	-145,500	-145,500
	OBLIGATION LIMITATION (FY 85 AND 86)	---	---		---	(86,100)	(86,100)	(86,100)	(86,100)	(86,100)
	SUBTOTAL, DEFENSE AGENCIES RDT&E	6,642,386	8,364,300	-1,205,026	7,159,274	-1,840,718	6,523,582	-635,692	-1,319,767	7,044,533
	DIRECTOR OF TEST & EVALUATION, DEFENSE									
637900	NATO RESEARCH AND DEVELOPMENT	25,000	47,991		47,991	-5,000	42,991	-5,000	-5,000	42,991
651110	FOREIGN WEAPONS EVALUATION	17,010	18,010		18,010		18,010			18,010
65804D	DEVELOPMENT TEST AND EVALUATION DEFENSE	76,490	75,799		75,799		75,799		-2,000	73,799
	PRIOR YEAR INFLATION SAVINGS (FY 86)	---	---	-400	-400		---	400		---
	INFLATION REESTIMATE (FY 87)	---	---	-1,000	-1,000		---	1,000	-1,000	-1,000
	OBLIGATION LIMITATION (FY 85 AND 86)	---	---		---	(-700)	(-700)	(-700)	(-700)	(-700)
	SUBTOTAL, DIRECTOR OF TEST & EVALUATION	118,500	141,800	-1,400	140,400	-5,000	136,800	-3,600	-8,000	133,800
	DIRECTOR OF OPERATIONAL TEST + EVALUATION									
651180	OPERATIONAL TEST AND EVALUATION DEFENSE	0	11,300		11,300		11,300			11,300
	SUBTOTAL, DIRECTOR OF OPERATIONAL TEST & EVALUATION	0	11,300	0	11,300	0	11,300	0	0	11,300
	TOTAL, DEFENSE AGENCIES RDT&E	6,760,886	8,517,400	-1,206,426	7,310,974	-1,845,718	6,671,682	-639,292	-1,327,767	7,189,633

ITEMS OF SPECIAL INTEREST

Advanced medium range air-to-air missile

The Advanced Medium Range Air-to-Air Missile (AMRAAM) full scale development contract was certified to Congress by the Secretary of Defense as having a fixed-price type contract for an amount not more than $556,580,480 with the development contractor. The amount of $556,580,480 is for the work content specified within the contract at the time of certification. The conferees understand that a need now exists to activate a third test site and to procure an additional captive carry vehicle. Several other actions need to be taken to assure Congress that adequate test results will be available at key decision points. The conferees agree that these activities may be funded by adding the required scope of work to the existing contract provided they are accomplished at no overall increase in cost of the total development program. The conferees intend to provide the Air Force with the maximum management flexibility required to carry out a successful development program while continuing to constrain the overall cost of the program.

Advanced technology transition

The Administration requested $13.492 million for the Navy's advanced technology transition program. This program's purpose is to facilitate the transition of promising new ideas from the technology base into advanced development.

Both the Senate bill and the House amendment full supported the request. The conferees encourage the Navy to reprogram additional funds into this important program.

Air defense technology program

The Administration requested a total of $53.5 million in two existing and two new line items for the purpose of investigating technologies relevant to strategic defense against air breathing threats. The House bill would authorize $17.85 million.

These programs, when taken together, are analogous to the Strategic Defense Initiative (SDI) which is investigating technologies relevant to defense against ballistic missiles. The conferees strongly endorse this initiative but believe that the effort should be consolidated under a single line item. Accordingly, the conferees provided $30 million for an Air Defense Technology Program. The conferees agree that the early emphasis of this program should be on surveillance, acquisition and tracking technologies and that there should be the greatest possible cooperation and interaction with the SDI Organization to take advantage of relevant technologies developed in the SDI program and to avoid duplication of effort.

All source imagery processor

The conferees agreed to authorize the full request for the All Source Imagery Processor with the understanding that the Marine Corps will pursue the tactical system with a complementary secondary dissemination system for other products.

Applied optics university research

The conferees believe that the number of university centers (currently just two) conducting research in applied optics for the Department of Defense should be increased. Any newly designated center should have broad spectrum optics capabilities and be located so as to meet Department of Defense needs. To overcome the shortage of trained personnel in infrared detector fabrication, any newly designated center should also have the capability to train researchers as well as to develop new optics materials.

The conferees recommend that the directors of Department of Defense supported university optics centers be constituted as an informal committee to assess the current and future optics needs of the individual services and of the Department of Defense, as a whole, and that they be tasked to provide assistance and guidance to the Department in that regard.

A-7 strikefighter

Both the Air Force and Air National Guard have expressed strong interest in the evaluation of the A-7 Strikefighter. The A-7 Strikefighter would be a modified version of the existing A-7D and A-7E aircraft. It would consist of upgraded avionics, a new or modified engine, and a stretched fuselage to accommodate the larger engine.

If developed, the A-7 Strikefighter would be procured for the Air National Guard by modifying existing Guard A-7D and Navy A-7E aircraft. It would be procured in lieu of F-16's, at one half the cost of the F-16. The Air Force estimates the total A-7 Strikefighter inventory objective at approximately 350 aircraft.

The conferees support this effort to make maximum use of existing assets. By upgrading the inventory of A-7 aircraft (which have considerable service life remaining) these aircraft will remain operational beyond the year 2010.

The conferees recommend an authorization of $35.0 million for Air Force evaluation of the A-7 Strikefighter. Following the inital evaluation of prototype aircraft, the conferees expect this program to be fully competed. Approval to proceed with overall modification program will be contingent upon the performance of the prototype aircraft and the overall affordability of the program.

Ballistic missile research and development

The conferees agreed that the United States must pursue a vigorous research and development program for penetration aids and for earth penetrating warheads in order to ensure the continued effectiveness of the U.S. ballistic missile deterrent in the face of Soviet active and passive defensive measures. These measures threaten to erode the effectiveness of the U.S. strategic deterrent.

The conferees share a desire that cooperation be enhanced between the Air Force and Navy in pursuing penetration and advance re-entry vehicle programs and that specific plans be developed for the application of systems emerging from these research programs to Trident II, Peacekeeper, and the Small ICBM. Accordingly, at the time of the submission of the fiscal year 1988 budget request, the conferees request that the Secretary of Defense submit: (1) a report on the status of cooperative efforts between the two services and with the nuclear weapons laboratories pertaining to penetration aids and earth penetrating warheads, and (2) specific recommendations regarding the introduction of these capabilities into U.S. modern ballistics missile forces.

Battle group passive horizon extension system

The Senate bill would authorize the amount requested by the Administration for the Battle Group Passive Horizon Extension System (BGPHES). The House amendment would reduce the request by $11.8 million.

The conferees agreed to authorize the requested amount for the BGPHES. The conferees have learned that the Navy is considering a new platform for the BGPHES mission. The conferees have authorized the funds exclusively for the program presented and justified in the budget request. The BGPHES program should be considered an item of Congressional interest.

Follow-on tactical reconnaissance system

The Senate would authorize $30.583 million for the Air Force tactical air reconnaissance system, the amount requested by the Administration. The House amendment would reduce the request to $18.583 million.

The conferees agreed to authorize $20.583 million for the tactical air reconnaissance system. Within the program line is the Advance Deployable Digital Imagery Support System (ADDISS). The conferees do not intend that this reduction be applied against the ADDISS effort.

Ground launched hellfire missile

The Hellfire is a helicopter-fired, laser guided missile intended for deployment as the primary anti-armor weapon system on the Army's AH-64 Apache helicopter.

A need exists for a longer range, more lethal anti-armor weapon system than that currently available to Army divisions. The conferees have been advised that the 9th Infantry Division (Motorized) has been evaluating ground launched Hellfire since 1982. This evaluation has included live firings from two prototype HMMWV surrogate platforms.

The conferees believe the ground launched Hellfire may satisfy the urgent, near-term, anti-armor requirements of the Army's Motorized Division while increasing our overall anti-armor capability. The conferees therefore recommend $2.0 million be authorized for the evaluation and qualification of the ground launched derivative of the Hellfire missile.

Integrated platform communications

The House amendment added $69.021 million for a new line item call Integrated Platform Communications Development. As a related matter, the House recommended reductions in Fleet Telecommunications (24163), Submarine Communications (64502), and Navy Strategic Communications (11402). The Fleet Telecommunications program includes a project to develop a communications data bus for the radio room on DDG-51 class destroyers.

The conferees agreed not to authorize funds for Integrated Platform Communications Development. However, the conferees direct the Secretary of the Navy to conduct a definitive study of data bus technologies and their applicability to surface ships, submarines and aircraft, and to report the results of this study to the Committees on Armed Services of the Senate and House of Representatives.

Furthermore, the conferees direct that all communications data bus development shall be managed within a single program element. Consolidation of communications data bus development using the data bus for the radio room on DDG-51 class destroyers is mandated where that data bus applicability is found appropriate and cost effective.

Minimum essential emergency communications network

The Senate bill would authorize $92.527 million for research and development associated with the Minimum Essential Emergency Communication Network (MEECN), the full amount requested by the Administration. The House amendment would authorize $57.527 million.

Due to budgetary considerations, $72.527 million is authorized for this purpose. The

conferees direct the Air Force to maintain the current pace of the Miniature Receive Terminal (MRT) program in allocating the reduction of $20 million.

M-1 diesel alternative

The M-1 Abrams Main Battle Tank is currently powered by a 1,500 horsepower turbine engine (AGT-1500) which is being procured on a sole source, multi-year basis.

While the performance of the AGT-1500 engine has been excellent, the conferees nevertheless believe that substantial benefits could be derived from introducing competition into the engine procurement program. Such competition could come either in the form of a competitive procurement (or second source) for the AGT-1500 or from evaluation of a diesel alternative to the AGT-1500. The conferees believe both approaches should be considered.

The conferees believe particular attention should be paid to the evaluation of suitable diesel alternative power plants for future production M-1's and possible follow-on applications. This effort should focus on existing engines (particularly where increased commonality with NATO systems might be achieved) and should be conducted at minimal cost to the government.

The conferees encourage the conduct of "side by side" testing of diesel aternatives and the AGT-1500 to evaluate such characteristics as acceleration, maximum speed, fuel economy, etc. To perform these tests the Army is expected to make available at least two vehicles to any engine manufacturer offering a suitable engine for competition.

The conferees authorized $9.0 million for the M-1 Diesel Alternative.

National aerospace plane

The Administration requested $149.0 million for research and development in the Navy, Air Force and Defense agencies accounts for the National Aerospace Plane (NASP) program. The conferees support a vigorous research effort on the critical technical issues pertaining to the feasibility of this vehicle, and agreed to authorize up to $130 million for this purpose in the Department of Defense.

During the authorization conference, the Department of Defense requested that NASP funding to transferred from Navy and Defense Agencies accounts into the Air Force RDT&E account. Accordingly, the conferees agreed that $104 million be included in Air Force RDT&E for this purpose with the understanding that the Director, Strategic Defense Initiative Office will transfer up to $26 million to the Air Force for NASP research.

Navy strategic communications

The Senate bill would authorize $143.282 million for the Navy strategic communications research and development program, the amount requested by the Administration. The House amendment would authorize $50.0 million.

The conferees recognize the importance of survivable communications to the effectiveness of the U.S. submarine launched ballistic missile force and agreed to provide $113.282 million for Navy strategic communications research and development, primarily to support the E-6A aircraft program. On a related issue, the conferees, although supportive of efforts to deploy systems with a common communications architecture, agreed that existing plans for the E-6A should not be changed at this time because of cost, schedule and configuration (weight and space) considerations.

The conferees see considerable potential in the ability of space-based laser communications, if they prove feasible and affordable, to satisfy a broad range of tactical submarine and other communications requirements, and to complement the Take Charge and Move Out (TACAMO) aircraft program in ensuring strategic connectivity. Accordingly, the conferees provided $35.875 million to accelerate research and development that would be required to support a full scale development decision for a laser communications satellite.

Penguin integration/LAMPS MK-III

The conferees believe the cost to develop, integrate and procure the Penguin missile may exceed its military value to the Battle Force. Therefore, the conferees have established two cost ceilings. First, total RDT&E costs for Penguin-unique development should not exceed $66.7 million, with a ten percent allowable adjustment for exchange rate fluctuation. Second, recurring fly-away unit price should not exceed $550,000 for 193 missiles. Both amounts are measured in fiscal year 1986 dollars.

The conferees agreed to specify that the Penguin program be terminated if either of these cost thresholds is exceeded.

Shuttle recovery

The conferees have long recognized the critical need for ensured access to space and strongly support the recovery of our space launch posture at the earliest possible time. Accordingly, the conferees have supported a number of adjustments in space related programs that have been requested since the submission of the fiscal year 1987 budget. The conferees are aware, however, that these recovery efforts are dynamic and that additional changes in the allocation of fiscal year 1987 resources to space needs may be required. The conferees, therefore, invite the submission of reprogramming requests for these purposes, if required and will give such requests priority attention.

Stinger air defense missile

The House recommended an addition of $1.0 million to develop an electronic safety device for the Stinger air defense missile. This safety device would make it more difficult for unauthorized individuals (such as terrorists) to fire a Stinger missile.

The conferees agreed to provide $1.0 million to conduct a study evaluating the cost and programmatic impacts of such a safety device. The study shall address in detail the operational implications of such a modification to the Stinger. The conferees direct that this study be submitted to the Committees on Armed Services of the Senate and the House of Representatives by April 30, 1987.

Submarine technology

In the Navy's budget for technology base programs, projects are normally developed to support single effects, or one-dimensional improvements. Some technologies, however, are polyfunctional, changing more than one characteristic of a weapon system. For example, in submarines a new development might increase propulsion efficiency while simultaneously reducing noise. Sometimes these polyfunctional technologies also reduce cost. Despite potential benefits, however, the budget review process does not specifically promote the development of polyfunctional technologies.

The Navy is encouraged to pursue such polyfunctional technologies for the purpose of improving submarine performance characteristics.

Surface ASW systems

The conferees note that the Surface ASW (63553) and Surface ASW Systems Improvement programs (64713) are managed by two separate offices within the Navy.

To improve coordination and avoid unnecessary duplication, the conferees direct the Navy to bring these programs under a single manager.

Theater mission planning centers

The Administration requested $22.275 million for Theater Mission Planning Centers, including over the horizon targeting. The Senate bill would authorize the Administration request. The House amendment would authorize $10 million. The conferees agreed to authorize $17.275 million.

The conferees urge the Administration to have a significantly improved operational system for flexible targeting of the nuclear variant of the Tomahawk missile on line at the earliest possible date and funded out of the Tomahawk program (PE 64367). Further, the conferees urge the Administration to improve significantly the operational system for rapid reprogramming of the conventional variant of the Tomahawk missile by the end of fiscal year 1987. The conferees note the lack of timely progress in this area and will oppose any further funding of this program beyond fiscal year 1987 if such improvements to the program are not evident by the end of that year.

The conferees note that a considerable amount of money and effort has been expended in supporting the Defense Mapping Agency in gathering and processing appropriate data to support worldwide targeting missions. The conferees urge the Department of Defense to better utilize the Defense Mapping Agency and its assets in implementing a system for flexible targeting of the nuclear variant of the Tomahawk missile, and a rapidly reprogrammable targeting capability for the conventional variant of the Tomahawk missile. The conferees further urge the Department of Defense to complete the full system upgrade for rapid re-targeting capabilities of all variants of the missile by the end of fiscal year 1991.

PROGRAM LIMITATIONS

LEGISLATIVE PROVISIONS ADOPTED

Copperhead guided projectile (sec. 202)

The House amendment contained a provision (sec. 203) that would require the Army to provide commonality on guided projectiles and to select a second source for the Cooperhead.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

V-22 Osprey aircraft (sec. 203(a))

The House amendment contained a provision (sec. 204(a)) that would limit authorization of funds for the V-22 Osprey aircraft until the Secretary of the Navy makes certain certifications to the Committees on Armed Services of the Senate and the House of Representatives.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Marine Corps pegasus engine (sec. 203(b))

The House amendment contained a provision (sec. 204(e)) that would provide authorization of $16 million for certain improvements to the Marine Corps AV-8B aircraft Pegasus engine program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment to reduce the authorization to $8.0 million.

Floating beam avionics rack (sec. 203(c))

The House amendment contained a provision (sec. 204(f)) that would add $10.0 million for the floating beam avionics rack program. This authorization was not requested in the budget and was not included in the Senate bill.

The conferees take no position on whether deficiencies which may exist in the current avionics rack in S-3A aircraft should be corrected by modifying the existing rack or by procuring new ones.

The conferees agreed to direct the Secretary of the Navy to report to the Armed Services Committees of the Senate and the House of Representatives not later than November 1, 1986 on how the Navy intends to correct whatever deficiencies exist within S-3 avionics rack.

Rankine cycle energy recovery (Racer) system (sec. 203(d))

The Administration requested $22.474 million for the Ship Propulsion System program, which included $7.474 for development of the Rankine Cycle Energy Recovery (Racer) system. For a variety of operational and economic reasons, the Navy subsequently terminated this program. The Senate bill did not include funds for Racer. The House amendment contained a provision (sec. 204(g)) which provided $20.0 million for testing of the Racer system.

The conferees agreed to transfer $20.0 million from Navy research and development to the Office of the Secretary of Defense. The Secretary is to use up to $20.0 million to evaluate and test the Racer system, if the Secretary determines such testing is necessary.

The conferees take no position on the merits of Racer and agree to abide by the program decisions made by the Secretary of Defense.

The Senate recedes with an amendment.

Harm block IV/low-cost seeker (LCS) (sec. 203(e) and 204(b))

The Administration requested $14.7 million for Navy research and development of the Low-Cost Seeker (LCS) and $3.9 million for research and development of the High Speed Anti-Radiation Missile (HARM). In addition, the Administration requested $14.8 million for Air Force development of the LCS and $2.4 million for Air Force research and development of the HARM missile. The Senate bill would approve the Administration's request for these programs. The House amendment (sec. 212) would provide no authorization for either Navy or Air Force research and development of the HARM missile, and would provide an additional authorization of $27.6 million for research and development of the LCS (sec. 204(h) and 205(d)).

The conferees agreed to provide $39.2 million for Navy research and development of the LCS (sec. 203(e)) and $17.4 million for Air Force LCS (sec. 204(b)) research and development. The conferees also agreed to approve the Administration's request in both services for HARM research and development.

The conferees recognize the need to improve the capabilities of the HARM missile in order to counter advanced threat systems. Both LCS and the Block IV upgrade to the current HARM seeker appear to offer substantial enhancements in the missile's performance. The conferees expect the Navy to conduct a competitive evaluation between the HARM Block IV seeker and the LCS and to select the most cost-effective alternative.

Trident II (sec. 203(f))

The Senate bill contained a provision (sec. 202(c)) that would fence the funds for the Trident missile development program from undistributed reductions in Navy programs.

The House amendment contained no similar provision.

The House recedes.

Libyan lessons learned equipment modification (sec. 203(g))

The House amendment contained a provision (sec. 204(i)) to authorize $50.0 million to the Navy for equipment modification identified from the Libyan lessons learned study.

The Senate bill contained no similar provision.

The conferees agreed to provide the Navy with authorization of up to $50.0 million for the equipment modifications.

Short range attack missile (sec. 204(a))

The House amendment contained a provision (sec. 205(a)) that would limit the Air Force to one of two new systems—either the Advanced Cruise Missile or the Short Range Attack Missile (SRAM II).

The Senate bill contained no similar provision.

The conferees agreed that there exists a requirement for a short range standoff capability for the penetrating bomber force in addition to the requirement for longer range cruise missiles. The conferees were also in agreement that the existing Short Range Attack Missile (SRAM A) has limitations. The conferees do not believe, however, that the Department of Defense has provided sufficient justification for the development of a new SRAM versus modifying the existing SRAM.

In view of likely budgetary constraints, and the funding demands of a very robust bomber modernization program over the next several years, the conferees are reluctant to commit to a new missile development program without the benefit of clear justification. Accordingly, the conferees agreed to provide $70 million to initiate full scale development of a SRAM A modification or SRAM II replacement and stipulated in the bill that none of these funds can be obligated or expended for full scale development activities until the Secretary of Defense provides to the Committee on Armed Services of the Senate and House of Representatives a report containing analyses of the comparative total program cost and effectiveness of SRAM missile and warhead alternatives.

The Senate recedes with an amendment.

Space defense system (sec. 204(c))

The House amendment contained a provision (sec. 205(c)) that would limit authorization for the Space Defense System to $140.0 million and deny authorization for production verification of the Miniature Homing Vehicle.

The Senate bill contained no similar provision.

The conferees agreed to authorize $200.0 million for the Space Defense System research and dvelopment and to deny funding for production verification.

The Senate recedes with an amendment.

Pave tiger/seek spinner (sec. 204(d))

The Senate bill would authorize the Administration's report for the Seek Spinner program. The House amendment would increase the request by $185 million.

The conferees agreed to increase the Seek Spinner program by $80.0 million. The $80.0 million is for facilitization for production of the Pave Tiger/Seek Spinner system.

Medical application of free-electron laser (sec. 205(a))

The House amendment contained a provision (sec. 206(a)) to authorize $15.0 million to the Defense Agencies only for the application of Free-Election Lasers for medical research and material.

The Senate bill contained no similar provision.

The Senate recedes.

Laser Pantography (sec. 205(b))

The House amendment contained a provision (sec. 206(c)) that would authorize $4.0 million to the Defense Agencies only for the Laser Pantography project.

The Senate bill contained no similar provision.

The Senate recedes.

Strategic technology (sec. 205(c))

The Senate bill would authorize the Administration's request of $240.62 million for the Strategic Technology program in the Defense Agencies. The House amendment would reduce the request by $10.0 million.

The conferees agreed to authorize the request and to make $10.0 million of this request available only for independent research in ocean science and related areas to provide assessment of non-acoustic submarine detection possibilities.

Advanced field artillery tactical data system (AFATADS) marine integrated fire and air support systems (MIFASS) (sec. 206(a)

The Senate bill contained a provision (sec. 202(a)) that would limit funds for the Army AFATADS and the Navy MIFASS programs until the Secretary of Defense certifies to the Congress that both systems are necessary.

The House amendment contained a provision (sec. 204(d)) that would deny funds for MIFASS.

The House recedes with an amendment.

Advanced tactical aircraft, Navy (sec. 206(b))

The Senate bill contained a provision (sec. 202(b)) that would deny funds for the full-scale development of the Navy Advanced Tactical Aircraft (ATA) until the Secretary of Defense certifies to the Congress that the ATA design will accommodate essential Air Force peculiar requirements for such aircraft.

The House amendment contained no similar provision.

The House recedes with an amendment Secretary of Defense certification to Congress that both the ATA and Advanced Tactical Fighter (ATF) requirements have been finalized and agreed to by Air Force, Navy and the Office of Secretary of Defense.

Advanced tactical fighter, Air Force (sec. 206(b))

The Senate bill contained a provision (sec. 202(d)) that would require a Secretary of Defense certification on the design of the Air Force Advanced Tactical Fighter (ATF) and the ability of that design to accommodate essential Navy-peculiar requirements for such aircraft.

The House amendment contained no similar provision.

The House recedes.

Advanced anti-armor weapon system (AAWS) (sec. 207)

The House amendment contained a provision (sec. 216) that would authorize $48.735 million to the Army for the AAWS medium following certification to the Congress by the Secretary of the Army on certain aspects of the development program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Consolidation of electronic warfare programs (sec. 208)

The House bill deleted funding for 25 individual program dealing with electronic warfare in each of the service's research and development accounts and consolidated those programs into a single electronics warfare program under the direction of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence. Section 206(b) of the House bill provided that $488.8 million would be available only for research, development test and evaluation of electronic warfare systems. Section 206(b) also provided that not less than $125 million of the $488.8 million be available solely for development and demonstration of the Integrated Communication Navigation Identification Avionics and the Integrated Electronic Warfare System and the associated Very High-Speed Integrated Circuit based modular architecture programs. The Senate bill contained no similar provision. The Senate recedes with an amendment.

The conferees note the continuing difficulty the Department of Defense is having in developing a coordinated and integrated electronic warfare masterplan. The plans that have been developed to date illustrate the lack of coordination among the services. Although some progress has been made during the past year, the actions fall short of the serious tasks facing the services.

The conferees directed the services last year to prepare an electronic warfare masterplan. The masterplan represents modest progress but falls short of the serious challenge facing the department in this crucial area. More concrete and far reaching steps are justified. Therefore, the conferees direct that the Under Secretary of Defense for Acquisition establish a coordinating council, which he shall head, to develop a Department of Defense Electronic Warfare Masterplan that shall guide the services in developing and executing individual electronic warfare projects.

The conferees decided to remove funding from the following individual electronic warfare programs in each of the services and to institute in their place a single consolidated electronic warfare program element within each of the Services' research accounts.

Army	Navy	Air Force
63711A	24575N	63743F
63718A	24576N	63749F
63755A	25674N	64220F
63762A	62113N	64724F
64750A	63206N	64737F
	64224N	64738F
	64226N	64739F
	64255N	27584F
	64573N	27582F

A single account will finance designated electronic warfare activities within each of the individual services. During fiscal year 1987 the Service's may not obligate more than 80 percent of the funds in those consolidated accounts until the Under Secretary of Defense for Acquisition has issued an Electronic Warfare Masterplan.

Further, the conferees direct that $100 million be made available to the Under Secretary of Defense for Acquisition for purposes of funding electronic warfare programs. The Under Secretary is expected to use that $100 million to strengthen or broaden programs within individual services that offer significant promise. The funds may also be used to initiate projects or activities that lack sufficient attention within Service electronic warfare programs.

One electronic warfare program not consolidated was the Integrated Electronic Warfare System. This system is scheduled to be the common electronic warfare suite in both the Air Force's Advanced Technology Fighter and the Navy's Advanced Tactical Aircraft. The Air Force is responsible for advanced development of this system. The conferees understand that additional funding may be required for the Integrated Electronic Warfare System so that it will be available in time to be integrated into the Navy's Advanced Tactical Aircraft. The conferees encourage the Air Force to submit a reprogramming to accelerate development of that program if necessary.

Limitation of testing electromagnetic pulse (sec. 209)

The House amendment contained a provision (sec. 219) that would deny certain types of testing in the Chesapeake Bay during fiscal year 1987.

The Senate bill contained no similar provisions.

The Senate recedes.

STRATEGIC DEFENSE INITIATIVE

LEGISLATIVE PROVISIONS ADOPTED

Strategic defense initiative (SDI) funding (sec. 211)

The Senate bill contained a provision (sec. 205(a)) that would authorize $3,597.0 million for the SDI program.

The House amendment contained a provision (sec. 208) that would authorize $2,846.0 million for the SDI program.

The Senate recedes with an amendment to authorize SDI at $3,213.0 million.

Anti-tactical ballistic missile (ATBM) system (sec. 212)

The Senate bill contained a provision (sec. 205(a)(2)) that would authorize $50 million within the SDI program for the development of an anti-tactical ballistic missile (ATBM) system on a cooperative basis with our allies. The House amendment contained a similar provision (sec. 209), that would also direct the Secretary of Defense to establish a separate ATBM office within the SDI organization.

The House recedes.

SDI institute (sec. 213)

The Senate bill contained a provision (sec. 1212) that would deny the expenditure of funds for a Federally Funded Research and Development Center (FFRDC) for SDI until the Secretary of Defense and Comptroller General submitted a report on such a center and 30 legislative days had passed.

The House amendment contained a similar provision (sec. 218). The House version, however, would only require the Secretary of Defense to submit a report. It also specified that an FFRDC could not be established unless funds for that purpose are specifically authorized to be appropriated in an Act other than an appropriation Act or continuing resolution.

The conferees recognize the need for technical support to carry out the system tradeoffs and system integration efforts required to manage a program as complex as the Strategic Defense Initiative (SDI). The conferees agreed, however, that the Congress should specifically authorize the establishment of a new FFRDC for this purpose. In assessing the most appropriate means to provide technical support to the SDIO, the conferees agreed to require a report from the Comptroller General, in addition to a report from the Secretary of Defense.

The Senate recedes with an amendment.

SDI cost report (sec. 214)

The Senate bill contained a provision (sec. 207) that would amend the SDI cost report requirement contained in the fiscal year 1986 Defense Authorization Act to require the Secretary of Defense to provide certain additional SDI cost related information to the Congress.

The House amendment contained no similar provision.

The House recedes.

Report on SDI deployment schedule (sec. 215)

The Senate bill contained a provision (sec. 1226) that would require the Department of Defense to provide a report to Congress detailing what SDI technologies can be developed and deployed within the next 10 years.

The House amendment contained no similar provision.

The House recedes.

Report on Soviet ABM Treaty compliance (sec. 217)

The Senate bill contained a provision (sec. 1228) that would request a report on the implications for the Strategic Defense Initiative of the application of the restrictive and the less restrictive interpretations of the 1972 Anti-Ballistic Missile treaty.

The House amendment contained a provision (sec. 1024) that would request an annual report on Soviet compliance with the anti-ballistic missile treaty.

The House recedes on section 1228.

The House recedes on section 1024, noting that the information requested is covered by the reporting requirement levied last year in section 1002 of the Defense Authorization Act for fiscal year 1986, mandating an annual report on Soviet compliance with all arms control commitments.

LEGISLATIVE PROVISIONS NOT ADOPTED

Limitation on SDI contracts to foreign countries

The Senate bill contained a provision (sec. 208) that would prohibit funds for any SDI related contracts to foreign countries or companies unless the Secretary of Defense certifies that this work could not reasonably be done in the U.S. This provision would not apply to projects associated with tactical ballistic missile defense nor to existing contracts.

The House amendment contained no similar provision.

The Senate recedes.

Transfer of SDI technology to the Soviet Union

The House amendment contained a provision (sec. 1047) that would specify the military technology developed with SDI funds from fiscal years 1987 and 1988 could not be made available to the Soviet Union unless the President determine such a transfer to be in the interests of maintaining peace and national security.

The Senate bill contained no similar provision.

The House recedes.

BALANCE TECHNOLOGY INITIATIVE

LEGISLATIVE PROVISIONS ADOPTED

SDI, the Balanced Technology Initiative and the Conventional Defense Initiative (secs. 221 and 222)

The Senate bill contained a provision (sec. 205) that would authorize funding for the Strategic Defense Initiative (SDI), and would establish within the Department of Defense under the research and development appropriation for the Defense Agencies a Balanced Technology Initiative (BTI), with funding to be allocated by the Director of Defense Research and Engineering to finance promising new technologies that could substantially advance our conventional defense capabilities or that offered the promise of "leapfrogging" areas of Soviet and Warsaw Pact advantages in conventional forces. Additional funds would be authorized for the project in the conventional defense technology base, to be allocated to promising technologies that offer the prospect, when developed, of significant new conventional defense capabilities.

The House amendment contained a provision (Sec. 207) that would establish a Conventional Defense Initiative (CDI) program and designated in the House Report (H. Rept. 99-718) projects amounting to $462.3 million authorized within the various Research, Development Test and Evaluation accounts.

The House recedes to the Senate on section 205 with an amendment, and the Senate recedes to the House on section 207 with an amendment and accepts many of the CDI projects proposed in the House report.

The Balanced Technology Initiative and the Conventional Defense Initiative share a common purpose which is to improve the capabilities of U.S. conventional forces. Beyond this commitment to a common purpose, however, the two proposals have complementary objectives. The BTI developed from the conviction of the Senate that the creative energy and initiative currently being applied to technologies for the SDI should be directed as well to improving conventional forces.

The CDI emerged from a conviction by the House that other countries have developed capable weapons and systems that could be used by U.S. military forces. The House intends the CDI to constitute the start of a dedicated comparative evaluation program in which systems developed in other countries or for other applications might be evaluated for use by U.S. defense forces. The conferees characterized the differences by stating that the CDI was designed to take advantage of conventional systems that are available today, whereas the BTI is designed to take advantage of technologies that hold great promise for the weapons systems of tomorrow.

The conferees endorse both approaches. They accepted the Senate provision establishing and authorizing funding for the Balanced Technology Initiative, and designated for funding a set of specific programs with special promise that were proposed in the Conventional Defense Initiative. The conferees believe the Department should expand its efforts to improve conventional defense capabilities by utilizing both approaches.

The Administration requested $4.78 billion in DoD accounts for the President's Strategic Defense Initiative (SDI) program in fiscal year 1987. The Administration also requested $534 million for SDI in Department of Energy (DOE) accounts. The SDI program is intended to determine the feasibility of comprehensive strategic defenses against ballistic missiles that are survivable and cost effective at the margin. The program is also tasked with developing defensive deployment options as a possible response should the Soviet Union break out of the ABM Treaty.

SDI Funding

The Administration requested a significant funding increase for SDI in fiscal year 1987, reflecting the high priority it attaches to this program. Compared to last year's SDI appropriation of $3.018 billion, this year's request for $5.319 billion represents a 73% real increase. The funding request in the five major DOD program elements was as follows:

Strategic Defense Initiative Funding

[In millions of dollars]

Surveillance, Acquisition, Tracking and Kill Assessment	1,262.4
Directed Energy Weapons	1,614.9
Kinetic Energy Weapons	991.2
Systems Concepts and Battle Management	462.2
Survivability, Lethality, and Key Support Technologies	454.4
Total	4,785.1

The conferees continue to support a robust SDI research program because they believe the program serves a number of valid U.S. national security purposes. However, they believe that SDI should be but one part—albeit an important part—of a broad-based and balanced U.S. technology initiative that addresses the entire range of nuclear and conventional deficiencies in our defense posture.

The conferees are concerned that the current and projected funding levels for SDI, as reflected in the Administration's fiscal year 1987 request and the Five Year Defense Plan, threaten to absorb an inordinate proportion of defense dollars allocated to research and development. The conferees also believe that the Administration's fiscal year 87-91 funding profile for the SDI is excessive in light of the absence of basic architectures for this program and continuing indications of basic disagreements within the administration as to the program's goals.

Accordingly, the conferees decided to provide a 13% real increase in SDI funding for fiscal year 1987 in lieu of the 71% real growth requested by the administration. The conferees authorize $3,213.0 million of SDI in DOD accounts and $317.0 million in DOE accounts, for a total of $3,530.0 million. The allocation of these funds among the five line-items within the SDI is left to the discretion of the Director of the SDI Office, bearing in mind the Congressional guidance herein. In making this decision, the conferees endorsed a concept for a Balanced Technology Initiative proposed in the Senate bill, and directed that $453 million in funds be applied to, but not limited to, specified conventional defense enhancement purposes consistent with this concept. No portion of these funds may be applied to any project or activity in support of the SDI. The conferees also accepted a number of near-term demonstration projects totalling $162.3 million under the Conventional Defense Initiative in the House amendment. These programs are described in House Report (H. Rept. 99-718).

The conferees intend to support the Balanced Technology and Conventional Defense Initiatives in the years ahead. As part of this broad technological thrust, the conferees also urge support for SDI at a robust but measured level consistent with the Administration's policy of a restrictive interpretation of the ABM Treaty until such time as progress in defining appropriate and realistic architectures, and determining the technical feasibility, survivability and cost effectiveness at the margin of potential SDI systems warrants further growth in funding.

Refocusing the SDI

The conferees further accept the Senate's view that SDI should be structured to promote a number of realistic goals consistent with our national security interests. First, SDI continues to represent an important response to the threat to U.S. national security posed by the Soviet Union's activities in the areas of strategic defense research, development, and deployment. Since the signing of the ABM Treaty in 1972, the Soviet Union has continued to spend as much on its strategic defense forces—including air and civil defense—as it has on its strategic offensive forces. This indicates that since the signing of the ABM Treaty, the Soviet Union has continued to maintain the high priority that it has historically attached to strategic defense of its homeland. SDI research is necessary in order to understand better the nature and pace of Soviet research on strategic defenses, especially research on "exotic" technologies.

Second, the conferees believe that a portion of the SDI research program should emphasize options for near-term deployment as a hedge against the possibility of a Soviet ABM "breakout" in the near-term. The committee continues to believe that the SDI Organization (SDIO) is paying inadequate attention to such issues.

Third, the Administration has continued to place primary emphasis within the SDI program on comprehensive strategic defenses that would be highly effective in the face of a determined adversary utilizing responsive countermeasures. Defenses of this type would be very complex, and the ability of defensive technologies to support these goals is as yet uncertain. Issues such as effective mid-course discrimination and the ability of computer software to perform the necessary battle management functions remain to be resolved.

Accordingly, while the conferees believe that the potential ability of ballistic missile defenses to provide comprehensive nationwide population protection should continue to be explored, the major emphasis within the SDI should be dedicated to developing survivable and cost effective defensive options for enhancing the survivability of U.S. retaliatory forces and command, control and communications systems.

Fourth, the conferees also support a robust SDI research program for the leverage it provides to our negotiators in Geneva. The conferees, however, believe that it is not necessary to fund the President's entire request for SDI to maintain our negotiating leverage in Geneva. It is their belief that leverage for arms control negotiations comes only from real defense programs which are aimed at realistic objectives, adequately funded, and broadly supported by a bipartisan consensus. The conferees believe our negotiators in Geneva are well-served by a robust and well-managed SDI research program.

In this regard, the conferees would note that negotiating leverage is sometimes a perishable commodity. If we are to capitalize on the historic opportunities in arms

control created in part by SDI, we should be prepared to consider adjustments to the pace and scope of SDI if the Soviet Union agrees to significant, stabilizing and verifiable reductions in strategic offensive forces.

The Question of Priorities

The conferees had to deal with broad policy issues, including the addressing of priorities. The conferees note that if SDI research were successful in rendering nuclear weapons "impotent and obsolete," the United States would still require a second research and development effort to negate bomber-delivered and cruise-missile-carried weapons. In the judgment of the conferees, the advent of low observables technology may well make this effort quite as challenging as the President's vision of SDI.

And even if technology succeeds in eliminating the threat of both missile and bomber delivered nuclear weapons, the world's citizens may still not be freed from the threat of mass destruction, whether from clandestinely delivered nuclear weapons or from other forms of warfare. Moreover, our European allies would surely have reason to pause at the prospect of the elimination of nuclear weapons, in light of the enormous disparity in conventional weapons between NATO and the Warsaw Pact.

Therefore, NATO needs to vigorously pursue its technological capabilities in dealing with the threat of tank armies as well as the threat of ballistic missiles. NATO must find ways in which its collective technological capabilities can be made to counter the masses of Soviet weapons systems that we are not prepared to match numerically but which we must deter.

Exploiting Technology at the Conventional Level

Research and development on basic new technology and on technology for conventional warfare has suffered greatly in recent years: in 1981 over 16% of RDT&E funds were invested in the defense technology base, but in the fiscal year 1987 budget request, only 8.7% was allocated to the technology base. In real terms, the technology based funding has declined every year since fiscal year 1983. The sharpest decrease coincides precisely with the buildup of the SDI program. Indeed, the funding level proposed for SDI next year will be larger than the entire research and development budget for the Department of the Army.

The conferees have decided to expand the role of technology and innovative weapons concepts while reducing the growth rate of the SDI research program. This involves measures to strengthen the defense technology base, research on advanced conventional warfare technologies (with the goal of "leapfrogging" current quantitative imbalances and the narrowing qualitative advantages of current fielded equipment) and careful evaluation of available weapons and systems developed by our allies. Therefore, the conferees accepted the Senate action in redirecting a portion of SDI funding to meet these other high-priority objectives, and have provided appropriate bill language establishing the BTI; they also have accepted many of the items proposed in the House's CDI with corresponding statutory provisions.

The conferees intend to encourage balanced technology development efforts across-the-board, in areas such as armor/anti-armor initiatives; defenses against armed helicopters; hypervelocity missiles for ground combat use; defense against anti-ship missiles, including those with "stealth" characteristics; "smart" mines for both land and ocean warfare; lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas; improved conventional anti-submarine warfare munitions; and "smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges. They also intend to pursue vigorously opportunities to exploit weapons and systems developed by other friendly countries.

The conferees recognize that technology alone cannot constitute a solution to conventional force imbalances. Continued investment in major end items of equipment is also an important contribution to redressing force imbalances. The conferees have, in many cases, acted to preserve production rates of major end-items from reductions taken in lower-priority accounts. They have also supported the evaluation of a number of equipment items of foreign manufacture that were included in the House's CDI. The conferees are convinced that, unless our technology development efforts for conventional forces are enhanced, a serious imbalance between NATO and the Warsaw Pact will continue for the foreseeable future. The solution to this requires greater balance in our defense technology efforts.

Programmatic Recommendations for the Balanced Technology Initiative and the Conventional Defense Initiative

A Balanced Technology Initiative fund for enhancing technology research in selected areas of importance to conventional defenses is established. Fiscal year 1987 funding is authorized at not less than $300 million, and the Director of Defense Research and Engineering shall be responsible for the apportioning of the funds to the military services and defense agencies, in accordance with the priorities expressed herein and in the bill language. In addition to these funds, not less than $153 million is authorized for enhancing the defense technology base; the Director of Defense Research and Engineering shall be responsible for apportioning these funds among the services and defense agencies. Finally, an additional $162.3 million is authorized for specific projects proposed in the House's Conventional Defense Initiative, as enumerated in the Army and Navy RDT&E tables accompanying this report.

The Director of Defense Research and Engineering will have a critical role to play in the establishment of the BTI program, both in apportioning funds authorized in this bill and in identifying ongoing research efforts that should be augmented, consolidated, or otherwise included in a broad-based conventional defense technology development effort aimed at "leapfrogging" current deficiencies. Therefore, the committees on Armed Services and Appropriations of the Senate and House of Representatives expect to receive a detailed report on the programs he selects, their prior and enhanced funding levels for fiscal year 1987, their prior and enhanced funding profiles for the current FYDP, and a set of major milestones and dates against which the Congress will be able to measure progress under this initiative.

Miscellaneous Provisions

Legislative provisions adopted

Testing of the anti-satellite weapons (sec. 231)

The Senate bill contained a provision (sec. 203) that would repeal section 8097 of the Department of Defense Appropriation Act, 1986.

The House amendment contained a provision (sec. 215) that would direct the Secretary of Defense not to carry out tests of the Space Defense System (F-15/miniature homing vehicle anti-satellite system) against an object in space until the President certifies that the Soviets, after enactment of this act, had tested a dedicated anti-satellite system against an object in space. The House provision would expire on October 1, 1987.

The conferees agreed to accept the House provision with the understanding that tests of the Space Defense System against "points" in space using celestial bodies, such as were conducted during fiscal year 1986, would be permitted during fical year 1987 without restriction.

The Senate recedes.

MX missile and development of small mobile missile (sec. 232)

The Senate bill contained a provision (sec. 204) that would require the Secretary of Defense to report on ICBM modernization to include the configuration for the small mobile missile and to specify options for follow-on basing of the MX. The section would also limit authorization on the small mobile missile to $675.0 million and $200.0 million for the follow-on basing development effort.

The House amendment contained a provision (sec. 210) that would deny deployment of more than 10 MX missiles until certain milestones were achieved in the small mobile missile program.

The conferees remain strongly committed to a modern triad of strategic forces and to the unique attributes that a modern ICBM element brings to the triad. Moreover, there is strong commitment to continued investment in ICBM modernization in order to provide survivability, and continued effectiveness in the face of Soviet active and passive defenses. In this regard, the conferees agreed with the Senate request that the recommendations and decisions pertaining to the Small ICBM and follow-up basing research, which are addressed below, be presented to the Congress in the form of an ICBM modernization "roadmap" encompassing Small ICBM, MX, and MX survivable basing options, including the role of strategic defenses.

The conferees applaud the success of the Peacekeeper missile development program and agree to provide $290 million in research and development, recognizing that the program is now at the critical juncture of transitioning to a deployed system.

The conferees also agreed to provide $120 million for follow-on basing research. The conferees do not intend approval of funding for follow-on basing research to imply any change in the existing limitation on the deployment of Peacekeeper missiles. Moreover, the conferees believe that any basing options for Peacekeeper involving superhard silos are unlikely to provide the desired degree of long term survivability in the absence of defense options.

The conferees are in complete agreement that the configuration of the Small ICBM must assure sufficient mobility to secure the benefits of high survivability and the resulting enhancement of crisis stability. There is also agreement that a commitment to develop and deploy a small ICBM be based on a realistic assessment of its affordability. The conferees are confident that the research and testing conducted in support of the upcoming decision on the Small ICBM will have a very positive bearing on the resolu-

tion of important issues pertaining to mobility and cost, and will enhance support for whatever missile configuration emerges from that decision process.

The conferees agree to provide $1,200.0 million for Small ICBM research and development, and encourage the Administration to pursue as a goal, a 1992 initial operational capability for the missile configuration selected.

In addition to the reporting requirement addressed above, the conferees agree to a provision in law that would repeal the provisions of the fiscal year 1984 Defense Authorization Act pertaining to the linkage of MX deployment and the Small ICBM when full scale engineering development of the Small ICBM begins.

Restrictions on use of research and development funds of the Department of Defense (sec. 233)

The Senate bill contained a provision (sec. 206) that would prohibit the use of funds authorized in this Act for the purpose of making any grant or contribution to any educational institution unless the Secretary of Defense determines that the purpose of the grant or contribution has a potential relationship to a military function or operation and the grant is based on the technical merit of the proposed research.

The House amendment contained no similar provision.

The House recedes.

Coordination of research activities (sec. 234)

The House amendment contained a provision (sec. 217) that would require the Secretary of Defense to strengthen coordination among Department of Defense (DOD) research facilities and other organizations in DOD.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Department of Defense Veterans' Administration medical research (sec. 235)

The House amendment contained a provision (sec. 211) that would establish a cooperative medical research program with the Veterans' Administration. The Senate bill did not contain a similar provision.

The conferees agreed that an authorization of $20.0 million should be available only for cooperative medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

In addition to this $20 million authorization, the Secretary of Defense is directed to conduct a study of assess the feasibility and potential benefits of establishing a continuing, joint medical research program between the Defense Department and the Veterans' Administration. In determing the feasibility of such a program, the Secretary shall consider all appropriate programmatic, organizational and budgetary issues. Upon completion of this evaluation, the Secretary is requested to make a recommendation regarding establishing such a program. This study and recommendation shall be submitted to the Committees on Armed Services of the Senate and House of Representatives by April 1, 1987.

The conferees agree to abide by the decision of the Secretary of Defense.

The Senate recedes with an amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Software Engineering Institute (SEI) and Very High Speed Integrated Circutis (VHSIC)

The Senate bill contained a provision (sec. 202(f)) that would authorize $14.54 million for the SEI and $127.897 for VHSIC programs.

The House amendment contained no similar provision.

The conferees agreed to authorize funds for the SEI and VHSIC with no legislative language.

Standoff land attack missile

The House amendment contained a provision (sec. 204(b)) that would limit funds for the Navy Standoff Land Attack Missile.

The Senate bill contained no similar provision.

The House recedes.

Inter-cooled recuperated cycle (ICRC) gas turbine propulsion system

The House amendment contained a provision (sec. 204(c)) that would deny authorization for the ICRC gas turbine system.

The Senate bill contained no similar provision.

The House recedes.

Synthetic aperture radar (SAR) technology

The House amendment contained a provision (sec. 204(k)) that would authorize $5.0 million for SAR technology efforts. The Senate bill contained no similar provision.

The conferees agreed to authorize $1.0 million for this effort with no legislative language.

Advanced medium range air-to-air missile (AMRAAM)

The House amendment contained a provision (sec. 205(b)) that would require the Secretary of Defense to validate to the Congress the AMRAAM cost certification required by Public Law 99-145.

The Senate bill contained no similar provision.

The House recedes.

Technical on-site inspection

The House amendment contained a provision (sec. 205(e)) that would authorize $9.85 million to the Air Force for technical on-site inspection.

The Senate Bill contained no similar provision.

The conferees agreed to authorize $9.85 million for this project with no legislative language.

Transfer of funds

The House amendment contained a provision (sec. 202) that would authorize $90.0 million to the Director of Central Intelligence for certain specified activities.

The Senate bill contained no similar provision.

The House recedes.

Ballistic missile defensive system

The House amendment contained a provision (sec. 1045) that would provide for a Congressional declaration on the development of an anti-tactical ballistic missle (ATBM) system comparable to the Soviet SA-12.

The Senate bill contained no similar provision.

The conferees agreed to drop the provision given that there were provisions in other sections of the Senate and House bills (sec. 205(b) and sec. 207, respectively) that provided funding and direction for the development of an ATBM system.

TITLE III—OPERATION AND MAINTENANCE AND WORKING CAPITAL FUNDS

OVERVIEW

The Senate bill would authorize $80,707,274,000 for Department of Defense Operations and Maintenance and $1,097,300,000 for Working Capital Fund accounts, a reduction from the President's request of $5,065,726,000 and $100,000,000, respectively.

The House would authorize $81,351,600,000 for Department of Defense Operations and Maintenance and $1,155,800,000 for Working Capital Fund accounts, a reduction from the President's request of $4,421,400,000 and 41,500,000, respectively.

The conferees agreed to authorize $78,597,260,000 for Department of Defense Operation and Maintenance and $908,300,000 for Working Capital Fund accounts, a reduction from the President's request of $7,175,740,000 and $289,000,000 respectively. This level of authorization is $2,299,014,000 below the Senate bill and $3,008,840,000 below the House amendment.

The conferees only agreed to these lower authorization levels for Operation and Maintenance and Working Capital Fund accounts after extensive discussion revealed the virtual inevitability of substantially greater reductions recommended by the House and Senate Appropriations committees. Faced with this prospect, the conferees agreed to authorize a level of funding for the Operation and Maintanence and Working Capital Fund accounts that equalled the higher of the two levels recommended by House and Senate Appropriations committee. In reaching these levels, the conferees increased reductions contained in the Senate bill and House amendment and made additional reductions from among those contained in the House and Senate Defense Appropriations bills. Every effort was made to limit the impact on readiness and quality of life programs. The conferees also agreed to a provision authorizing higher levels of spending for readiness programs in these accounts, if appropriated.

Despite these efforts to protect readiness and quality of life programs, the conferees remain seriously concerned about the potential adverse impact of substantially lower funding levels and reductions to specific programs.

Looking at the situation from a macro point of view, the recommended authorization for Operation and Maintenance accounts essentially represents zero real growth over fiscal year 1986 actual obligations of $76.8 billion. In the case of Working Capital Funds it represents 47.2 percent negative program growth. What must be kept in mind is that the Operation and Maintenance accounts are "level of effort" programs that respond to existing and emerging requirements. Unless force structure is pared back, or new weapon systems deliveries decline—neither of which has happened—the operation and maintenance accounts are being asked to do more with less. What makes this problem even more difficult is that about 80 percent of the operation and maintenance budget is fixed to support existing operations, honor existing contracts, and provide minimum quality of life requirements. The discretionary part of the operation and maintenance budget is largely composed of programs that contribute to readiness and have been strongly supported by Congress, such as training, depot

maintenance, and quality of life improvement programs. Nevertheless, if operation and maintenance funding is not sufficient to maintain existing and emerging requirements, these essential programs will have to be cut back with an adverse impact on readiness, morale, and job satisfaction. Unless quick action is taken to bring operation and maintenance resources in line with mission requirements, the conferees fear that the military services may be on the fast track to "unreadiness" and serious quality of life problems.

The conferees are also concerned about the impact of emerging requirements that have not been adequately addressed in the budget request or during congressional deliberations. For example, the President's request very likely understated military medical care requirements by as much as $500 million. In addition, congressional reductions in the operation and maintenance request associated with fuel savings were based on the assumption that a barrel of crude oil would cost between $13–$14 dollars a barrel in fiscal year 1987. Recent developments raise serious questions about the validity of such projections and could result in a substantial funding shortage. Because medical care costs will have been paid and anticipated stock fund fuel refunds may not be forthcoming, offsetting reductions would have to be made in discretionary areas of the operation and maintenance budget at the expense of readiness and quality of life programs.

Finally, the necessity to achieve such large reductions in the Operation and Maintenance and the Working Capital Fund accounts required the acceptance of virtually all reductions recommended by the House and Senate Armed Services committees. And in cases where such program reductions were reflected in the House and Senate Appropriations bills, the level of reduction was increased beyond that recommended by the Armed Services Committees. In many instances, the conferees believe these reductions to be excessive and fear that they may seriously degrade readiness and military capabilities.

Recognizing the potentially serious problems associated with the recommended funding levels and specific program reductions, the conferees direct that during fiscal year 1987, the Secretary of Defense shall give priority in reprogramming funds that become available through lower than anticipated inflation, contract savings, or other sources into the operation and maintenance accounts to redress the impact on force readiness of the reductions imposed on these accounts during the fiscal year 1987 budget process.

PROGRAM	FY 86 FINAL AMOUNT	FY 87 REQUEST AMOUNT	SENATE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	SENATE BILL AS PASSED: RECOMMENDATION AMOUNT	HOUSE BILL AS PASSED: CHANGE FROM REQUEST AMOUNT	HOUSE BILL AS PASSED: RECOMMENDATION AMOUNT	DIFFERENCE: HOUSE +/- TO SENATE AMOUNT	CONFERENCE: CHANGE FROM REQUEST AMOUNT	CONFERENCE: RECOMMENDATION AMOUNT
OPERATION AND MAINTENANCE, ARMY:	19,097,557	21,341,870							
Base Operation Support (BOS)			-43,000		0		43,000	-43,000	
C 3			-8,000		0		8,000	-8,000	
Contract Stud. & Tech Supt			0		0		0	-10,000	
Commissary Automation			0		0		0	-7,000	
Engineer Support			0		0		0	-2,178	
Enhanced Skill Training			0		0		0	-2,424	
Specialized Skill Training			0		0		0	-3,000	
Efficiency Review/Contracting Out Savings			0		0		0	-25,000	
Travel			0		0		0	-25,000	
RDT&E Base Operations			0		0		0	-4,987	
Industrial Preparedness Ops			0		0		0	-7,055	
Personnel Administration			0		0		0	-2,409	
Professional Development Education			0		0		0	-3,000	
One Station Unit Training			0		0		0	-1,290	
Supply Operations			-28,000		-5,000		23,000	-28,000	
Recruiting, Advertising & Examination			-1,000		-1,000		0	-18,700	
Medical			-2,000		0		2,000	-2,000	
Administration			-2,000		0		2,000	-4,000	
Other O&M			-7,000		0		7,000	-7,000	
Studies Programs			-25,000		-15,000		10,000	-25,000	
Stockfund, Nonfuel Repricing			-59,800		0		59,800	0	
Industrial Fund Refund			-100,000		-60,000		40,000	-155,100	
Stockfund, Fuel Refund			-237,800		-185,700		52,100	-185,700	
Civilian Personnel, Productivity			-91,000		0		91,000	-75,500	
Military Personnel, FY87 Increase			-200		-100		100	-200	
Inflation Adjustment (FY 87)			-135,100		0		135,100	-246,200	
Hazardous Waste Cleanup			-6,800		0		6,800	-6,800	
Deployable Medical Hospitals			0		-62,000		-62,000	-33,000	
Minor Construction			0		-10,000		-10,000	-10,000	
Approp Fund Support of MWR			0		-10,000		-10,000	-10,000	
Cap on USTF Funding			0		-19,400		-19,400	-19,400	
Coordination of Benefits			0		-5,300		-5,300	-5,300	
Health Care Enrollment			0		-2,700		-2,700	-2,700	
6th Division Support			0		-28,600		-28,600	-14,300	
Flight Training			0		-4,700		-4,700	-4,700	
Flying Hours			0		-6,000		-6,000	-16,000	
ADP Program			0		-40,000		-40,000	-60,000	
Army Civ Training Educ & Dev System			0		-1,000		-1,000	-1,000	
Civilian Personnel Offices			0		-1,000		-1,000	-1,000	
Commercial Activities			0		-9,800		-9,800	-9,800	
Force Modernization			0		-60,000		-60,000	-100,000	
Other Depot Storage			0		-3,000		-3,000	-3,000	
Remote Multimedia Mode Educ Network			0		-1,000		-1,000	-1,000	
Care of Supplies in Storage			0		-4,000		-4,000	-4,000	
Family Action Programs			0		-6,000		-6,000	-6,000	
Civilian Substitution			0		-10,000		-10,000	-10,000	
CONUS Base Telephone Modernization Program			0		-1,000		-1,000	-1,000	
Conventional Ammuni[illegible] Demilitarization			0		-6,000		-6,000	-6,000	
Civilian Training Educ & Dev Intern Programs			0		-1,000		-1,000	-1,000	
Local Area Networks			0		-1,000		-1,000	-1,000	
Manpower Requirements & Documentation Agency			0		-1,000		-1,000	-1,000	
Other Force Structure			0		-4,000		-4,000	-4,000	
Rail Prog[illegible]			0		-1,000		-1,000	-1,000	
Transfer of Personal Property			0		-1,000		-1,000	-1,000	
Leased Communications			0		-3,000		-3,000	-3,000	
Maintenance Support Activities			0		-2,000		-2,000	-2,000	
Real Property Maintenance			0		-20,000		-20,000	-80,000	
Classified Programs			900		-7,500		-8,400	-5,236	
TOTAL CHANGE:			-745,800		-599,800		146,000	-1,315,979	
ARMY SUBTOTAL:				20,596,070		20,742,070			20,025,891

PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED: CHANGE FROM REQUEST	SENATE BILL AS PASSED: RECOMMENDATION	HOUSE BILL AS PASSED: CHANGE FROM REQUEST	HOUSE BILL AS PASSED: RECOMMENDATION	DIFFERENCE: HOUSE +/- TO SENATE	CONFERENCE: CHANGE FROM REQUEST	CONFERENCE: RECOMMENDATION
	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
OPERATION AND MAINTENANCE, NAVY:	24,514,719	25,688,500							
Base Operations Support (BOS)			-45,000		-10,000		35,000	-40,000	
C 3			-15,000		-2,000		13,000	-15,000	
Real Property Maintenance			0		0		0	-25,000	
Contract Studies			0		0		0	-25,000	
Supply Operations			-12,000		-3,000		9,000	-12,000	
Other Logistics			-13,000		0		13,000	-13,000	
Recruiting, Advertising & Examination			-2,000		0		2,000	-14,900	
Medical			-2,000		0		2,000	0	
Administration			-6,000		-800		5,200	-6,000	
Other O&M			-30,000		0		30,000	-30,000	
Stockfund, Nonfuel Repricing			-71,200		0		71,200	0	
Industrial Fund Refund			-100,000		-70,000		30,000	-386,900	
Stockfund, Fuel Refund			-1,007,600		-889,700		117,900	-889,700	
Civilian Personnel, Productivity			-126,100		0		126,100	-63,050	
Military Personnel, FY 1987 Increase			-8,000		-11,300		-3,300	-11,300	
Inflation Adjustment (FY 87)			-230,600		0		230,600	-420,000	
Hazardous Waste Cleanup			-6,800		0		6,800	-6,800	
Morale, Welfare & Rec-Related BOS			0		-5,000		-5,000	-5,000	
Morale, Welfare & Rec-Related Minor Construction			0		-4,000		-4,000	-4,000	
Depot Maintenance			0		-265,000		-265,000	-481,000	
Average Flying Hours			0		0		0	-25,000	
Medical Legislative Contingencies			0		-3,100		-3,100	-3,100	
Modernization			0		-18,000		-18,000	-18,000	
Cap on USTF Funding			0		-15,500		-15,500	-15,500	
Deployable Medical Hospitals			0		-3,000		-3,000	-3,000	
Classified Programs			-3,240		-11,100		-7,860	-10,466	
TOTAL CHANGE:			-1,678,540		-1,311,500		367,040	-2,523,716	
NAVY SUBTOTAL:				24,009,960		24,377,000			23,164,784
OPERATION AND MAINTENANCE, MARINE CORPS:	1,612,050	1,864,100							
Stockfund, Nonfuel Repricing			-4,800		0		4,800	0	
Stockfund, Fuel Refund			-14,800		-12,600		2,200	-12,600	
Real Property Maintenance			0		0		0	-13,000	
Recruiting & Advertising			0		0		0	-3,500	
Maritime Prepositioning Program			0		0		0	-9,000	
Supply Operations			0		0		0	-1,000	
Military Personnel, FY 1987 Increase			-1,000		-1,800		-800	-1,800	
Inflation Adjustment (FY 87)			-13,200		0		13,200	-24,000	
Base Operations Support			0		-2,000		-2,000	-3,000	
Approp Fund Support of MWR			0		-2,000		-2,000	-2,000	
TOTAL CHANGE:			-33,800		-18,400		15,400	-69,900	
MARINE CORPS SUBTOTAL:				1,830,300		1,845,700			1,794,200

PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE	
			CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
OPERATION AND MAINTENANCE, AIR FORCE:	19,620,538	21,214,500							
Base Operation Support (BOS)			-31,000		0		31,000	-31,000	
C 3			-27,000		0		27,000	-27,000	
Medical			-2,000		0		2,000	0	
Administration			-2,000		0		2,000	-2,000	
Other O&M			-60,000		0		60,000	-160,000	
Stockfund, Nonfuel Repricing			-39,000		0		39,000	0	
Industrial Fund Refund			-100,000		-70,000		30,000	-100,000	
Stockfund, Fuel Refund			-1,485,900		-1,254,300		231,600	-1,271,400	
Civilian Personnel, Productivity			-1,600		0		1,600	-1,600	
Military Personnel, FY 1987 Increase			-1,300		-900		400	-1,300	
Inflation Adjustment (FY 87)			-153,700		0		153,700	-280,000	
Shuttle Launches			0		-268,800		-268,800	0	
Space Shuttle Operations			0		-244,200		-244,200	-144,200	
Hazardous Waste Cleanup			-6,700		0		6,700	-6,700	
Transfer of Drug Interdiction Helicopters			12,615		0		-12,615	12,615	
Morale, Welfare & Rec-Related BOS			0		-10,000		-10,000	-10,000	
Morale, Welfare & Rec-Related Minor Construction			0		-7,000		-7,000	-7,000	
Classified Programs			-6,129		-9,700		-3,571	-10,829	
Medical Legislative Contingencies			0		-3,900		-3,900	-3,900	
Modernization			0		-32,800		-32,800	-32,800	
TR-1 Program			0		0		0	-10,000	
KC-135 Hours			0		0		0	-6,300	
Recruiting & Advertising			0		0		0	-3,100	
Recruit/Special Training			0		0		0	-25,000	
Surveillance Radar			0		0		0	-15,000	
Travel			0		0		0	-39,400	
Titan Missile			0		0		0	-2,000	
Historian			0		0		0	-3,300	
REDCOM Command Post			0		0		0	-2,000	
6594th Test Program			0		0		0	-7,000	
C-21A Lease			0		0		0	-16,000	
Contract Services			0		0		0	-15,000	
Real Property Maintenance			0		0		0	-80,000	
Cap On USTF Funding			0		-15,100		-15,100	-15,100	
Deployable Medical Hospitals			0		-4,000		-4,000	-4,000	
TOTAL CHANGE:			-1,903,714		-1,920,700		-16,986	-2,320,314	
AIR FORCE SUBTOTAL:				19,310,786		19,293,800			18,894,186

PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE	
			CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
OPERATION AND MAINTENANCE, DEFENSE AGENCIES:	7,600,894	8,573,700							
C 3			-21,000		0		21,000	-21,000	
Medical			-5,000		0		5,000	-5,000	
Administration			-21,000		0		21,000	-21,000	
Travel			0		0		0	-10,400	
Office of the JCS			0		0		0	-26,900	
Joint Recruiting and Advertising			0		0		0	-4,900	
Industrial Fund Refund			0		0		0	-20,000	
Stock Fund Fuel Refund			0		0		0	-1,500	
Uniformed Services University of the Health Sciences			0		0		0	-3,176	
Defense Nuclear Agency			0		0		0	-7,592	
Defense Communications Agency			0		0		0	-27,695	
Stockfund, Nonfuel Repricing			-2,200		0		2,200	0	
Civilian Personnel, Productivity			-166,200		0		166,200	-52,600	
Inflation Adjustment (FY 87)			-47,300		0		47,300	-86,000	
Intelligence Collection			12,000		0		-12,000	0	
DNA General Reduction			0		-4,000		-4,000	-15,000	
AFIS General Reduction			0		-1,000		-1,000	-3,918	
Defense Medical Support Agency			0		-1,500		-1,500	-1,500	
OSD General Reduction			0		-1,000		-1,000	-8,125	
WHS General Reduction			0		-2,000		-2,000	-15,728	
DLA General Reduction			0		-10,000		-10,000	-20,000	
DOD Dependents Education			0		-2,000		-2,000	-15,000	
NWR:									
Approp Fund Support			0		-2,000		-2,000	-2,000	
Minor Construction			0		-2,000		-2,000	-2,000	
Food and Hospitality Services			0		1,000		1,000	1,000	
Special Ops Unified Command/Control			0		20,000		20,000	0	
Military Health Care (CHAMPUS)			0		-171,000		-171,000	-171,000	
Classified Programs			21,928		-131,900		-153,828	-53,286	
TOTAL CHANGE:			-228,772		-307,400		-78,628	-594,320	
DEFENSE AGENCIES SUBTOTAL:				8,344,928		8,266,300			7,979,380
OPERATION AND MAINTENANCE, ARMY RESERVE:	780,100	793,100							
Stockfund, Nonfuel Repricing			-2,200		0		2,200	0	
Stockfund, Fuel Refund			-8,400		-7,500		900	-7,500	
Travel			0		0		0	-4,700	
Recruiting & Advertising			0		0		0	-3,700	
Military Personnel, FY 1987 Increase			-8,000		-1,800		6,200	-4,900	
Inflation Adjustment (FY 87)			-4,400		0		4,400	-8,900	
Realignment of IRR Annual Screening Funds			6,000		6,000		0	6,000	
TOTAL CHANGE:			-17,000		-3,300		13,700	-22,800	
ARMY RESERVE SUBTOTAL:				776,100		789,800			770,300
OPERATION AND MAINTENANCE, NAVY RESERVE:	894,950	975,900							
Stockfund, Nonfuel Repricing			-4,800		0		4,800	0	
Stockfund, Fuel Refund			-72,400		-63,900		8,500	-66,000	
Civilian Personnel, Productivity			-1,100		0		1,100	0	
Military Personnel, FY 1987 Increase			-4,100		-5,000		-900	-5,000	
Recruiting & Advertising			0		0		0	-6,000	
Inflation Adjustment (FY 87)			-6,600		0		6,600	-12,000	
Realignment of IRR Annual Screening Funds			500		500		0	500	
TOTAL CHANGE:			-88,500		-68,400		20,100	-88,500	
NAVY RESERVE SUBTOTAL:				887,400		907,500			887,400

PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE	
			CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE:	57,200	65,300							
Stockfund, Fuel Refund			-900		-700		200	-700	
Civilian Personnel, Productivity			-2,100		0		2,100	0	
Military Personnel, FY 87 Increase			0		-300		-300	-300	
Recruiting & Advertising			0		0		0	-100	
Inflation Adjustment (FY 87)			0		0		0	-500	
Realignment of IRR Annual Screening Funds			500		500		0	500	
TOTAL CHANGE:			-2,500		-500		2,000	-1,100	
MARINE CORPS RESERVE SUBTOTAL:				62,800		64,800			64,200
OPERATION AND MAINTENANCE, AIR FORCE RESERVE:	902,700	975,600							
Stockfund, Nonfuel Repricing			-2,200		0		2,200	0	
Stockfund, Fuel Refund			-68,800		-60,500		8,300	-63,300	
Civilian Personnel, Productivity			-16,300		0		16,300	0	
Inflation Adjustment (FY 87)			-2,200		0		2,200	-2,200	
Installation of GFE Drug Interdiction Radar Mods			0		10,000		10,000	10,000	
Installation of GFE Drug Interdiction Tanker Mods			0		1,000		1,000	1,000	
Realignment of IRR Annual Screening Funds			1,000		1,000		0	1,000	
TOTAL CHANGE:			-88,500		-48,500		40,000	-53,500	
AIR FORCE RESERVE SUBTOTAL:				887,100		927,100			922,100
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD:	1,652,800	1,786,900							
Stockfund, Nonfuel Repricing			-9,200		0		9,200	0	
Stockfund, Fuel Refund			-31,200		-27,800		3,400	-27,800	
Travel			0		0		0	-1,300	
STAMMIS			0		0		0	-11,597	
Recruiting & Advertising			0		0		0	-1,600	
Civilian Personnel, Productivity			-17,100		0		17,100	0	
Military Personnel, FY 1987 Increase			-5,800		-6,000		-200	-6,000	
Federal Support for Armories			0		25,000		25,000	0	
Drug Interdiction Support			0		12,000		12,000	12,000	
Inflation Adjustment (FY 87)			-8,800		0		8,800	-16,000	
TOTAL CHANGE:			-72,100		3,200		75,300	-52,297	
ARMY NATIONAL GUARD SUBTOTAL:				1,714,800		1,790,100			1,734,603
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD:	1,806,200	1,932,700							
Stockfund, Nonfuel Repricing			-4,600		0		4,600	0	
Stockfund, Fuel Refund			-181,800		-160,900		20,900	-149,400	
Civilian Personnel, Productivity			-10,300		0		10,300	0	
Military Personnel, FY 1987 Increase			-2,600		-1,300		1,300	0	
Drug Interdiction Support			0		9,000		9,000	9,000	
Aircraft Mods			0		3,600		3,600	3,600	
Inflation Adjustment (FY 87)			-5,500		0		5,500	-5,500	
TOTAL CHANGE:			-204,800		-149,600		55,200	-142,300	
AIR NATIONAL GUARD SUBTOTAL:				1,727,900		1,783,100			1,790,400

PROGRAM	FY 86 FINAL	FY 87 REQUEST	SENATE BILL AS PASSED		HOUSE BILL AS PASSED		DIFFERENCE	CONFERENCE	
			CHANGE FROM REQUEST	RECOMMENDATION	CHANGE FROM REQUEST	RECOMMENDATION	HOUSE +/- TO SENATE	CHANGE FROM REQUEST	RECOMMENDATION
	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
RIFLE PRACTICE, ARMY	920	930							
Support to National Rifle Competitions			0		0		0	3,386	
TOTAL CHANGE:			0		0		0	3,386	
RIFLE PRACTICE SUBTOTAL:				930		930			4,316
CLAIMS, DEFENSE	143,300	155,600							
General Reduction			-10,400		-2,500		7,900	-10,100	
Inflation Adjustment			-1,100		0		1,100	-1,100	
TOTAL CHANGE:			-11,500		-2,500		9,000	-11,200	
CLAIMS SUBTOTAL:				144,100		153,100			144,400
COURT OF MILITARY APPEALS, DEFENSE:	3,200	3,400							
General Reduction			-200		0		200	-200	
TOTAL CHANGE:			-200		0		200	-200	
COURT SUBTOTAL:				3,200		3,400			3,200
ENVIRONMENTAL RESTORATION FUND, DEFENSE:	(379,100)	385,900							
TOTAL CHANGE:			0		0		0	0	
ENVIRONMENTAL RESTORATION SUBTOTAL:				385,900		385,900			385,900
PAN AMERICAN GAMES:	10,000	15,000							
TOTAL CHANGE:			0		0		0	0	
PAN AMERICAN GAMES SUBTOTAL:				15,000		15,000			15,000
AFGHANISTAN AID	(10,000)	0							
Continuation of Program			10,000		6,000		-4,000	17,000	
TOTAL CHANGE:			10,000		6,000		-4,000	17,000	
AFGHANISTAN AID SUBTOTAL:				10,000		6,000			17,000
REVOLVING AND MANAGEMENT FUNDS									
Army Stock Fund	393,000	296,700	-25,000	271,700	-10,000	286,700	15000	-66,562	230,138
Navy Stock Fund	638,500	478,500	-40,000	438,500	-20,000	458,500	20,000	-98,930	379,570
Marine Corps Stock Fund	37,700	45,900	-4,000	41,900	-1,500	44,400	2,500	-14,667	31,233
Air Force Stock Fund	415,900	239,400	-20,000	219,400	0	239,400	20,000	-38,990	200,410
Defense Stock Fund	91,700	136,800	-11,000	125,800	-10,000	126,800	1,000	-69,851	66,949
TOTAL - REVOLVING AND MANAGEMENT FUNDS	1,576,800	1,197,300	-100,000	1,097,300	-41,500	1,155,800	58,500	-289,000	908,300

Additional authorization for the Army National Guard

The House amendment included $25 million in additional authorization for increased Federal support for the operation, maintenance, modification, and repair of Army National Guard armories.

The Senate bill contained no similar authorization.

Due to the extraordinary funding constraints on the operation and maintenance accounts, the conferees deleted the $25 million in specific authorization but agreed to a provision that would authorize such additional funds as necessary to support increased Federal support to Army National Guard Armories, If subsequently appropriated by Congress.

The House recedes with amendment.

LEGISLATIVE PROVISIONS

LEGISTLATIVE PROVISIONS ADOPTED

Assistance for the Tenth International Pan American Games (sec. 303)

Section 303 of the Senate bill would authorize $15 million for Department of Defense support of the Tenth International Pan American Games.

The House amendment contained a similar provision (sec. 303).

The Senate recedes.

Transportation of livestock feed (sec. 304)

Section 316 of the House amendment would authorize the Secretary of Defense to use National Guard equipment and personnel to transport livestock feed to drought stricken areas of the United States during 1986.

The Senate bill contained no similar provision.

The Senate recedes.

Authority for payment to NASA (sec. 305)

The Senate bill contained a provision (sec. 1229) that would authorize the use of $556.3 million of funds authorized for the Air Force for payments to NASA for space shuttle launch services.

The House amendment contained a provision (sec. 1050) that would authorize the Secretary of Defense to make payments to NASA for space shuttle services in advance of receipt of such services subject to certain conditions and an overall limitation of $531 million.

The conferees agreed to include a provision that would authorize the Secretary of Defense to make payments to NASA from funds authorized to be appropriated for Operations and Maintenance, Air Force for 1987 subject to certain conditions and an overall limitation of $268.8 million.

The Senate recedes with an amendment.

PROGRAM CHANGES AND PERMANENT LAW CHANGES

LEGISLATIVE PROVISIONS ADOPTED

Management of civilian personnel (secs. 311, 531-533)

The Senate bill contained a provision (sec. 421) that would authorize fiscal year 1987 end strength for the Department of Defense civilian personnel of 1,084,836 and limit funding obligations for civilian personnel at $31,811,640,000.

Section 304(c) of the House amendment would eliminate the requirement for the authorization of civilian personnel appropriations by end strength and section 304(a) would prohibit the Department of Defense from using end strength or any related methodology to manage civilian personnel.

The conferees agreed to extend for one more year the lifting of congressional end strength ceilings, not to impose a limitation on funding obligations for civilian personnel and to continue the prohibition on Department of Defense management of civilian personnel or related methodology through fiscal year 1987.

The conferees directs the Secretary of Defense to report to the Committee on Armed Services of the Senate and House of Representatives by February 1, 1987 on the experiences of the Department of Defense concerning the management of civilian personnel without a congressionally imposed end strength. In submitting this report, the conferees expect the Secretary of Defense to address in detail claimed efficiencies and cost savings achieved through the increased use of part time and temporary civilian employees in a ceiling free management environment.

The conferees also agreed to modify the existing quarterly reporting requirements on the number and dollar obligations associated with Department of Defense civilians to reflect the number of civilians and dollar obligations for each month within the quarter.

The Senate recedes with amendments.

The conferees agreed to reduce the operation and maintenance accounts by $192.8 million with the understanding that such a reduction is not to be associated with civilian end strength but a general productivity target reduction to encourage better management of civilian personnel and other resources within the Department of Defense.

Section 304(b) of the House amendment would exclude from any internal Department of Defense management controls civilian employees who are being paid from non-Government funds.

The Senate bill contained no similar provision.

The Senate recedes.

The House amendment contained a provision (sec. 305) that would amend section 2203 of title 10, United States Code, to require the Secretary of Defense to capture and reflect, in budget justification materials provided to Congress, data regarding the numbers and costs of contract civilian employees in the same fashion as is done for Federal employees.

The Senate bill contained no similar provision.

The Senate recedes.

Procurement of certain bakery and dairy products outside the United States (sec. 312)

The House amendment contained a provision (sec. 306) that would allow the Secretary of Defense to authorize Department of Defense elements outside the United States to procure through other than competitive procedures bakery and dairy products produced by the Army and Air Force Exchange Service in a facility outside the United States.

The Senate bill contained no similar provision.

The Senate recedes.

Functions of military commissaries; purchase of alcoholic beverages by nonappropriated fund instrumentalities (sec. 313)

The House amendment contained a provision (sec. 307) that would specify the categories of merchandise that may be sold in commissaries, would apply the surcharge on sales prices in commissary stores as a uniform percentage of the sales price of all merchandise sold in commissary stores, and would limit the release of commissary sales information. The provision would also provide that alcoholic beverages purchased for resale on a military installation located in the United States shall be purchased from the most competitive source, except that military installations in the contiguous United States would purchase and accept delivery for wine and beer products from a source within the state in which the military installation is located.

The Senate bill contained no similar provision.

The Senate recedes.

Authority for the Secretary of Defense to accept gifts for the Defense Dependents' Education System (sec. 314)

The House amendment contained a provision (sec. 308) that would authorize the Secretary of Defense to accept gifts to be used in connection with the operation or administration of the Department of Defense Dependents Schools.

The Senate bill contained no similar provision

The Senate recedes.

Prohibition of purchase of petroleum products from companies producing oil in Angola (sec. 316)

The House amendment contained a provision (sec. 310) that would prohibit the Secretary of Defense from entering into a contract for the purchase of petroleum products from a company, if the company (1) is engaged in the production of petroleum in Angola, or (2) during the preceding 12-month period has purchased petroleum products, directly or indirectly, from Angola.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would (1) limit the prohibition to petroleum products which originated in Angola from a company engaged in the production of petroleum products in Angola, (2) permit the Secretary to waive the prohibition when he determines that it is in the best interest of the United States, and (3) delete the prohibition as it applies to a company which has purchased Angolan products during the preceding 12-month period.

The conferees agreed that the goal of the prohibition is to prevent the Department of Defense from furnishing financial support to the Marxist Government of Angola. They were concerned, however, that the outright prohibition on the procurement of petroleum products from a company engaged in the production of petroleum in Angola could have a detrimental effect on the readiness of U.S. armed forces, particularly in the Middle East and in parts of Africa. The waiver authority is intended to grant the Secretary the flexibility necessary to procure petroleum products and ensure the readiness of U.S. armed forces.

The conferees intend that the Secretary will exercise the waiver authority on a specific procurement-by-procurement basis. The conferees do not intend to grant a standing authority which would permit the Secretary to grant a waiver without a review of the circumstances of the specific procurement. It is the intent of the Congress that Department of Defense procurement of Angolan petroleum products be eliminated, if possible, or at least reduced to the absolute minimum consistent with the readiness of U.S. armed forces.

Prohibition of contracts for the performance of certain Army ammunition activities (sec. 317)

The Senate bill contained a provision (sec. 305) that would prohibit the use of funds authorized to be appropriated by this Act for continuing or completing any study relating to the conversion to contract of McAlester Army Ammunition Plant, at McAlester, Oklahoma, or Crane Ammunition Activity, at Crane, Indiana until:

(1) detailed reports have been submitted to Congress by the General Accounting Office or Department of Defense concerning the cost effectiveness of such a conversion and its impact on readiness and mobilization base requirements, or

(2) March 31, 1987.

The House amendment contained a provision (sec. 311) that would prohibit the Secretary of Defense and the Secretary of the Army from contracting out functions currently performed by Department of Defense employees at McAlester Ammunition Plant and Crane Ammunition Activity.

The Senate recedes.

National Board for the Promotion of Rifle Practice (sec. 318)

Section 313 of the House amendment would amend section 4308 of title 10, United States Code, to provide the Secretary of the Army with the authority to support national and regional rifle matches sponsored by the National Board for the Promotion of Rifle Practice by providing necessary personnel services and allowances for competitors.

The Senate bill contained no similar provision.

The Senate recedes.

Prohibition on joint use of Gray Army Airfield with civilian aviation (sec. 319)

The House amendment contained a provision (sec. 314) that would prohibit joint use with civilian aviation of Robert Gray Army Airfield at Fort Hood, Texas.

The Senate bill contained no similar provision.

The Senate recedes.

Report on proposed regulations relating to movement of household goods and cargoes (sec. 320)

The House amendment contained a provision (sec. 1040) that would preclude the implementation of certain regulations until such time as the Military Traffic Management Command submits a report discussing the effect of the regulations on cost and quality of service.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISION NOT ADOPTED

Preference for United States agricultural products in commissary food purchases

The House amendment contained a provision (sec. 315) that would require the Secretary of Defense when acquiring food products through the use of competitive procedures for resale in commissary stores located in the United States to give preference to United States companies that use United States agricltural commodities in their products.

The Senate bill contained no similar provision.

The House recedes.

HUMANITARIAN AND OTHER ASSISTANCE

LEGISLATIVE PROVISIONS ADOPTED

Extension of authorization for humanitarian assistance (sec. 331)

The Senate bill contained a provision (sec. 1214) that would extend the authority of the Secretary of Defense to transport humanitarian relief supplies abroad for fiscal year 1987.

The House amendment contained no similar provision.

The House recedes. The conferees note that the reports on applications for shipments under this provision of law do not contain detailed information about the sponsoring organization. The conferees direct the Secretary of State to have available more detailed information on each future applicant, to include the applicant's address, telephone numbers, and principal officers. Future reports should also be filed with the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs as well as with the Committees on Armed Services.

Humanitarian assistance (sec. 332)

Both the House and Senate Bills contained sections on the transportation of humanitarian relief supplies to Afghanistan refugees. The House provisions were contained in section 312. The Senate provisions were reflected in section 304.

The House recedes with amendment.

The conferees recommend that a total of $17.0 million be authorized for appropriation in fiscal year 1987 and that all funds remain available until expended. Of this total, $10.0 million represents new authorization; and $7.0 million represents fiscal year 1986 funding whose availability has been extended.

Of the total available, the conferees agree that $3.0 will be for the purpose of administrative costs for managing the transportation program and for transportation costs outside the United States. The charges for transportation outside the United States may include both acquisition and lease/rent of local transportation assets.

The House bill included a worldwide distribution provision for $3.0 million. The funds were to provide worldwide transportation of excess materials as defined in section 2547(b) of title 10, United States Code. Because the destination of these excess materials was not defined, the House provision was not accepted by the conferees. However, the conferees did agree that they would look favorably upon a Department of Defense reprogramming request, within the total amount authorized, for the refugee problems in the region of the Thailand and Cambodia border subject to the following guidelines:

(a) The Department of Defense shall provide a prediction of unobligated balances within this account as of September 30, 1987.

(b) The maximum amount of funds available for reprogramming for other than Afghanistan refugees is limited to $3.0 million.

(c) The status reports required in the bill language will include unobligated balance estimates and plans for Thailand-Cambodian humanitarian relief.

The reports required by this section are to satisfy conferee concerns about prior-year unobligated balances and efficient obligation of fiscal year 1987 funding amounts.

Humanitarian and civic assistance provided in conjunction with a military operation (sec. 333)

The Senate bill contained a provision (sec. 1215) authorizing the Secretary of Defense to conduct humanitarian and civic assistance in countries where U.S. Armed Forces were conducting authorized military operations, provided (a) prior approval was granted by the Secretary of State, (b) all expenses incurred were paid for with funds appropriated specifically for humanitarian and civic assistance, and (c) that an annual report describing such activities was filed with Congress after the fact.

The House amendment contained no similar provision.

The House recedes with several amendments. The conferees were concerned with potential problems at both the low end and the high end of the civic action scale. On the high end, to avoid the possibility of the legislation being interpreted as a major new foreign aid program, the conferees imposed an expenditure cap of $3 million for fiscal year 1987 and $16.4 million for the period of fiscal years 1987 through 1991. The conferees also tightened the definitions of acceptable activities under this legislation, for example, clarifying that no funds could be spent on airstrips. On the low end of the scale, the conferees were concerned that modest activities could generate burdensome paperwork because of the requirements for prior approval, separate financing, and annual reporting. The conferees, therefore, exempted diminimus activities from this section. The conferees did not put a specific dollar ceiling on the definition of diminimus but wish to make clear they had in mind activities that have been commonplace on foreign exercises for decades. These would include a unit doctor's examination of villagers for a few hours with the administration of several shots and the issuance of some medicines—but would not include the dispatch of a medical team for mass innoculations. Diminimus would also include the opening of an access road through trees and underbrush for severla hundred yards—but would not include the asphalting of any roadway.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

END STRENGTHS FOR ACTIVE FORCES

Active duty military strengths for the Navy, Marine Corps and Air Force in the Senate bill and the House amendment differed by a total of 4,850. The House recedes to the strengths in the Senate bill and the conference agreement, 6,850 below the Administration's request, is summarized in the following table:

Active forces	Administration request	House	Senate	Conference
Army	780,900	780,800	780,800	780,800
Navy	592,700	583,300	587,000	587,000
Marine Corps	200,300	198,800	199,600	199,600
Air Force	607,200	606,470	606,850	606,850
Total	2,181,100	2,169,370	2,174,250	2,174,250

Extension of control on enlistments into the Army (sec. 402)

The Senate bill contained a provision (section 402) that would extend for another year the requirement that at least 65 percent of male non-prior-service Army recruits be high school graduates. The House

amendment included no similar provision. The House recedes with an amendment making the requirement permanent law.

Strength of active duty officer corps (sec. 403)

The House amendment contained a provision (section 651(d)) that would require officer personnel strengths to be managed to attain a ratio within the armed forces (other than the Coast Guard) of enlisted members to officers of not less than 6.12 to 1 by September 30, 1987, with the goal of achieving a ratio of 6.5 to 1 by September 30, 1990.

The Senate bill included a provision (section 403) that would reduce the size of the total commissioned officer corps in the Department of Defense by 2 percent per year for each of the next three fiscal years from the fiscal year 1986 active commissioned officer end strength. This total reduction would be allocated among the military services by the Secretary of Defense based on his assessment of the relative priorities of the military services. In addition, the Senate bill included a provision that would require annual authorization of the size of the active commissioned officer corps in each of the military services beginning in fiscal year 1988.

The conferees are concerned about the overall size of the officer corps in each of the military services and about the disproportionate growth in the officer corps in the last five years. The House recedes with an amendment providing for a reduction of 6 percent in the size of the total active commissioned officer corps (including commissioned warrant officers) in the Department of Defense by the end of fiscal year 1989 from the fiscal year 1986 active commissioned officer end strength. In order to enable the military services prudently to plan and execute these reductions, the provision calls for a 1 percent reduction by the end of fiscal year 1987, an additional 2 percent reduction by the end of fiscal year 1988, and the final 3 percent reduction by the end of fiscal year 1989. The total reduction is to be allocated among the military services by the Secretary of Defense based on his assessment of the relative priorities of the military services. The provision requires the Secretary of Defense to report to the Congress no later than February 1, 1987, on the allocation and impact of the reductions in commissioned officer strength among the military services for fiscal years 1987 and 1988, and no later than February 1, 1988, on the allocation and impact of the reductions for fiscal year 1989.

Representatives of the military services have expressed concern that they might not be able to execute a 2 percent reduction in the active commissioned officer corps in fiscal year 1987 under existing officer personnel management statutes. The conferees, however, believe that existing laws—including, for example, sections 632 and 638 of title 10, United States Code—are adequate to enable prudent execution of any portion of the 1 percent reduction in fiscal year 1987 that might not be achieved by other means.

The conferees intend to review the implementation of these reductions in the size of active commissioned officer corps during the fiscal year 1988 Defense authorization process. This review will also consider whether Congress should establish an annual authorization for the end strength of the active commissioned officer corps. To assist in this review, the conferees direct the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives by February 1, 1987 a report identifying any temporary or permanent changes in current officer personnel management law he deems necessary to carry out the full 6 percent reduction in the size of the active commissioned officer corps by the end of fiscal year 1989.

PART B—RESERVE FORCES

RESERVE FORCES END STRENGTH

End strengths for selected reserve (sec. 411)

The Senate bill froze the average strengths of the selected reserve components at the fiscal year 1986 authorized levels. The House amendment reduced the Administration's minimum end strength request by 10,845—a 61,759 increase over the fiscal year 1986 levels.

The conference agreement, which establishes selected reserve end strengths with a two percent management flexibility, is summarized in the following table:

Reserve forces	Administration request (minimum end strength)	House (minimum end strength)	Senate (average strength)	Conference (end strength)
Army National Guard	462,800	456,596	440,025	452,681
Army Reserve	327,600	326,600	290,639	318,011
Naval Reserve	155,700	152,994	134,212	149,486
Marine Corps Reserve	44,400	43,663	41,900	43,470
Air National Guard	115,200	115,013	108,700	113,767
Air Force Reserve	80,500	80,489	75,600	79,562
Coast Guard Reserve	13,000	13,000	12,500	12,850
Total	1,192,200	1,188,355	1,103,576	1,169,827

The House amendment also contained a provision (sec. 403) that would prescribe drill strength levels for the reserve components as of the end of a fiscal year (end strengths) and allow the Secretary of Defense to increase the total end strength by 2 percent on a determination that such action is in the national interest.

The House recedes with an amendment prescribing drill strength levels as end strengths, giving the Secretary of Defense flexibility to vary the total strength by up to 2 percent.

End strength for reserves on active duty in support of the reserve components (sec. 412(a))

The Senate bill froze full-time manning for the reserve components at the fiscal year 1986 authorized levels, reducing the Administration's request for full-time support by 12,112. The House amendment reduced the Administration's request for full-time strength levels by a total of 5,946.

The conference agreement is summarized in the following table:

Full-time support	Administration request	House	Senate	Conference
Army National Guard	28,721	25,731	23,731	24,731
Army Reserve	13,657	12,657	12,157	12,407
Naval Reserve	23,197	21,476	19,010	21,476
Marine Corps Reserve	1,782	1,745	1,475	1,745
Air National Guard	8,356	8,169	7,269	8,169
Air Force Reserve	676	665	635	665
Total	76,389	70,443	64,277	69,193

Counting of personnel in certain reserves call-up situations (sec. 412(b))

The Senate bill contained a provision (section 412(b)) that would exclude certain personnel from the number of reserves counted as ordered to active duty under section 673 or section 673b of title 10, United States Code. Excluded would be members of reserve components who perform duties in connection with call-ups under those sections but who would be on active duty in support of the reserve components in any event.

The House amendment included no similar provision.

The House recedes with an amendment making clear that members on active duty in support of the reserve components may perform duties in connection with call-ups.

Accounting for certain authorized reserve component members (sec. 413)

The Senate bill contained a provision (sec. 413) that would revise the manner in which reserve strength levels are prescribed to improve accounting and to accommodate reserve component training requirements. The provision would: (1) clarify that levels of military personnel on full-time duty in support of the reserve components must be authorized by law; (2) clarify that the authority of the Secretary of Defense to increase the authorized end strengths by up to 0.5 percent applies only to the active forces; (3) provide to the Secretary of Defense authority to increase the end strength for reserves on active duty or full-time National Guard duty in support of the reserve components by up to 2 percent; (4) exclude members of reserve components on active duty for training and members on full-time National Guard duty for 180 days or less from the active duty and full-time support personnel strengths; and (5) require additional information to be included in the annual manpower requirements report to permit Congressional review of the incidence of long-term training for members of the reserve components. The Senate bill also contained a provision (sec. 411) that would prescribe drill strength levels for the reserve components on the basis of man-years (average strengths).

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

LEGISLATIVE PROVISIONS ADOPTED

Assignment of active-duty members outside the United States (sec. 501)

The House amendment contained a provision (sec. 501) that would modify the requirement that a recruit have 12 weeks of basic training or its equivalent before being posted overseas. The House provision would simply require basic training or its equivalent.

The Senate bill included a similar provision (sec. 501) but would retain the 12-week aspect of current law for times of war or national emergency.

The House recedes with a technical amendment.

Service of members on state and local juries (sec. 502)

The House amendment contained a provision (sec. 503) that would authorize the Secretary concerned to exempt active military personnel from state jury duty.

The Senate bill included no similar provision.

The Senate recedes.

Extension of expiring authority for spot promotions of Navy lieutenants (sec. 503)

The Senate bill contained a provision (sec. 503) that would extend for two years the authority to promote certain Navy lieutenants to lieutenant commander outside the normal promotion process.

The House amendment included a similar provision (sec. 504) but would extend the

authority for only one year on the reasoning that spot promotion may not be an appropriate long-term solution to a shortage of field grade engineering officers.

The Senate recedes.

Repeal of requirements regarding enlistment of women in the Air Force during fiscal year 1987 (sec. 504)

The House amendment contained a provision (sec. 505) that would remove the 19 percent statutory female enlisted accession goal for the Air Force for fiscal year 1987.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to exempt physicians at Uniformed Services University of the Health Sciences from reductions in retired pay (sec. 505)

The House amendment contained a provision (sec. 506) that would exempt from the dual compensation restrictions of section 5532 of title 5, United States Code, retired military physicians who are members of the faculty of the Uniformed Services University of the Health Sciences.

The Senate bill contained no similar provision.

The Senate recedes with an amendment limiting the number of physicans who may be exempted under the authority provided by this section to no more than two at any one time.

Treatment of excess leave upon reenlistment (sec. 506)

The Senate bill contained a provision (sec. 502) that would permit a member who has taken leave in excess of that authorized and who is being discharged or released from active duty for the purpose of immediate reenlistment or commissioning to count the negative leave against leave that will accrue on the new term of service.

The House bill contained no similar provision.

The House recedes.

Termination of gender-based distinctions in promotions of officers of the Naval Reserve and Marine Corps Reserve (sec. 507)

The Senate bill contained a provision (sec. 508) that would remove end sex-based distinctions in the promotion process by eliminating a requirement that women compete separately from their male contemporaries in the promotion process and allowing both men and women in the reserve components of the naval services to compete for promotion through the grades of rear admiral and major general without restriction.

The House amendment included no similar provision.

The House recedes.

Senate confirmation of certain flag and general officer positions (sec. 508)

The Senate bill contained a provision (sec. 509) that would require Presidential appointment, by and with the advice and consent of the Senate, for a small number of miltary positions currently authorized in law to entitle their incumbents to specified flag or general officer grades.

The House amendment included no similar provision.

The House recedes with a technical amendment.

Position of staff judge advocate to the commandant of the Marine Corps (sec. 509)

The Senate bill contained a provision (sec. 510) that would establish in statute the position of staff judge advocate to the Commandant of the Marine Corps, to be filled by Presidential appointment by and with the advice and consent of the Senate.

The House amendment included no similar provision.

The House recedes with a technical amendment. The conferees note their belief that the exception of this particular position from the general rule governing retired grade is entirely consistent with both the language and the intent of section 1370 of title 10, United States Code.

Technical correction relating to personnel administration at Air Force Institute of Technology (sec. 510)

The Senate bill contained a provision (sec. 507) that would make a technical change to the statute concerning the classification and pay of civilian employees of the Air Force Institute of Technology.

The House amendment contained no similar provision.

The House recedes.

Temporary increase in the number of general and flag officers authorized to be on active duty in three and four-star grades (sec. 511)

The Senate bill included a provision (sec. 511) that would extend through fiscal year 1987 temporary authorities for the military services to have on active duty a greater number of three-star and four-star flag and general officers than would be permitted under existing statutory formulas. Specifically, the Army could have an additional lieutenant general to serve as the Director of the Department of Defense Task Force on Drug Enforcement; the Marine Corps could have an additional lieutenant general, plus an additional general to serve as the Commander-in-Chief of the United States Central Command; the Air Force could have an additional general to serve as the Director of the Strategic Defense Initiative Organization; and the Navy could have three additional vice admirals.

The House amendment included no similar provision.

The House recedes with an amendment deleting the authority for an additional Army lieutenant general and deleting the provisions in the Senate bill restricting the authorities for additional Air Force and Marine Corps generals to particular positions.

Extension of mandatory retirement age for medical officers (sec. 512)

The House amendment contained a provision (sec. 508) that would extend the mandatory retirement age of active duty medical officers from 62 to 67.

The Senate bill contained no similar provision.

The Senate recedes with an amendment requiring the Secretary of Defense to report not later than March 1, 1987, on initiatives designed to improve the staffing of critical wartime medical specialities (including physician, nurse and enlisted specialties) in the active and reserve components. Among other initiatives, the report should address the desirability of extending the mandatory retirement age of active and reserve medical personnel, extending the age limitations on enlistments and on officer accessions into the active and reserve components, improving Department of Defense marketing techniques for attracting critical medical personnel into the active and reserve components and relaxing participation requirements for medical personnel in the reserve components.

Study of representation of religious faiths in the armed forces (sec. 513)

The House amendment contained a provision (sec. 507) finding that the Department of Defense has taken insufficient steps to alleviate an imbalance in the proportion of chaplains serving from the various faiths and calling for a study of ways to bring the distribution of chaplains more in line with the distribution of faiths among members of the Armed Forces.

The Senate bill contained no similar provision.

The Senate conferees objected to the finding in the House provision but agreed to a study of the faith balance issue. The Senate, therefore, recedes with an amendment deleting any congressional findings and calling for a study to determine whether a faith balance problem exists within the Corps of Chaplains of the Armed Forces.

LEGISLATIVE PROVISIONS NOT ADOPTED

Wearing of religious apparel by members of the Armed Forces while in uniform.

The House amendment contained a provision (sec. 502) permitting members of the Armed Forces to wear religious apparel so long as it was "neat and conservative" and did not interfere with the performance of the member's duties.

The Senate bil contained no similar provision.

The House recedes.

PART B—RESERVE FORCES

LEGISLATIVE PROVISIONS ADOPTED

Increased Presidential authority to augment active forces with the Selected Reserve (sec. 521)

The Senate bill contained a provision (sec. 505) that would: 1) increase from 100,000 to 250,000 the number of Selected Reservists the President may order to active duty involuntarily pursuant to section 673b of title 10, United States Code, and 2) permit the President to extend the current 90 day period outlined in section 673b and to require that he notify the Congress immediately of any decision to extend the 90 day period.

The House amendment contained a similar provision (sec. 511) that would increase the number of Selected Reservists the President may order to active duty involuntarily to 200,000.

The Senate recedes with amendments that would: 1) authorize the President to extend the current 90 day limit for an additional 90 days provided that he immediately notify the Congress of his decision to extend the period and provide the Congress with a rationale for his decision; and 2) make various technical changes to the existing statute.

The conferees emphasize that this provision does not affect the President's responsibilities under the War Powers Resolution or Congress' ability to terminate the status of all personnel on active duty under section 673b.

Active duty of national guard (sec. 522)

The House amendment contained a provision (sec. 513) that would limit the statutory power of a governor of a state to withhold his consent to active duty training of his national guard as part of a reserve component of the armed forces on the basis of the loaction, purpose, type, or schedule of the active duty training.

The Senate bill included no similar provision.

The Senate recedes with a technical amendment placing the provision in title 10, United States Code (relating to Armed Forces). The conferees reiterate that under this provision, the governor still will have the authority to block the training if he or she thinks the guardsmen are needed at home for local emergencies. The conferees intend that nothing about the words "location, purpose, type, and schedule" should constrain a governor in according appropriate priority to a state or local emergency, such as a flood or other natural disaster.

Treatment of single parents enlisting in reserve components of the armed forces (sec. 523)

The House amendment contained a provision (sec. 514) that would prohibit the service Secretaries from disqualifying a person applying to enlist in a reserve component upon discharge or release from active duty because the person is a single parent if the person became a single parent while serving on active duty. The House amendment also authorized the Secretary concerned to require such a person to execute a written agreement with respect to child care.

The Senate bill contained no similar provision.

The Senate recedes with amendments that would: 1) require that the single parent be otherwise eligible for enlistment; 2) stipulate that the single parent status must not have been a factor in the person's discharge or release from active duty; 3) authorize the Service Secretaries to require an acceptable child care agreement as a prerequisite to enlistment; and 4) provide the authority for fiscal years 1987 and 1988 only.

The conferees intend to ensure that members who were successful single parents while on active duty are not held to a higher standard by the reserve components. The conferees intend to revisit this issue in two years in order to review the impact of the provision.

Active duty status of reserve component members in a captive status (sec. 524)

The Senate bill contained a provision (sec. 506) that would permit the involuntary order to active duty of a member of a reserve component who, as a result of his status as a member of the armed forces, is taken captive in a hostile action directed at the United States.

The House amendment included no similar provision.

The House recedes with a technical amendment.

CIVILIAN PERSONNEL

LEGISLATIVE PROVISIONS ADOPTED

Eligibility for appointment as Secretary of a military department (sec. 534)

The House amendment contained provisions (Division D) that would provide for reorganization of the Department of Defense. The Senate bill contained no similar provisions.

The House recedes with an amendment. The provisions of Division D have been overtaken by the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, (Public Law 99-433) and are therefore unnecessary. However, the conferees agreed that Act required an excessive time period (ten years) following an individual's military service before that individual could be eligible for appointment as a service secretary. The House amendment reduces that ten-year period to five years.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

LEGISLATIVE PROVISIONS ADOPTED

Military pay raise for fiscal year 1987 (sec. 601)

The Senate bill contained a provision (sec. 601) that would increase the rate of basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services by four percent effective on October 1, 1986. This provision also included a four percent increase in monthly cadet and midshipman pay.

The House amendment contained no legislative provision authorizing a pay raise but recommended sufficient budget authority to ensure funding for a three percent pay raise effective on January 1, 1987.

The House recedes with an amendment providing a three percent pay raise for all members of the uniformed services, (including cadets and midshipmen) effective on January 1, 1987.

Authority to pay ROTC members in advance for field training (sec. 602)

The Senate bill contained a provision (sec. 603) that would authorize the service Secretaries to pay in advance up to one month's pay to ROTC participants who are ordered to participate in field training or a practice cruise.

The House amendment contained a similar provision (sec. 602).

The Senate recedes.

Reimbursement for accommodations in place of quarters (sec. 603)

The Senate bill contained a provision (sec. 602) that would extend through fiscal year 1991 the existing authority to pay basic allowance for quarters to members for housing expenses incurred when shipboard quarters are uninhabitable during overhaul and government quarters are unavailable. Reimbursement under this authority would not exceed $1,657,000 per year through fiscal year 1991.

The House amendment contained no similar provision.

The House recedes.

Pay, allowances, and benefits for members of Reserve components (sec. 604)

The House amendment contained a provision (sec. 512) that would restructure compensation payable to a member of the reserve component incapacitated in the line of duty.

In addition, section 512 would consolidate the legislative authority for medical care, incapacitation pay, disability retirement, and death benefits dispersed throughout title 10, 32, and 37, United States Code, and would repeal outdated or duplicative sections of law.

The Senate amendment contained a similar provision (sec. 636).

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Report on variable housing allowance recapture provision.

The House amendment contained a provision (sec. 603) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives on the operation of the variable housing allowance program under the recapture provision enacted in section 602(c)(2) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 636).

The Senate bill included no similar provision.

The House recedes. The conferees agree that a statutory report requirement is unnecessary. The conferees fully expect that the military services and the Department of Defense will want to inform the Committees on Armed Services concerning their experiences with the recapture provision, especially if the developing evidence suggests that the provision should be repealed.

Termination of pay inequity between officers and enlisted personnel in certain health professions training

The Senate bill contained a provision (sec. 604) that would prescribe the rate of pay for pay grade 0-1 for all students attending the Uniformed Services University of the Health Sciences (USUHS) and for all students enrolled in the Armed Forces Health Professions Scholarship (AFHPS) program when they are serving on active duty.

The House amendment contained no similar provision

The Senate recedes.

The conferees believe that students participating in the USUHS and AFHPS programs who have more than four years of prior enlisted service should continue to be paid at the 0-1E rate and note that Congress created the enhanced company grade rates to eliminate pay disincentives to enlisted personnel pursuing officer status. The conferees, emphasize, however, that if officials at the Uniformed Services University of the Health Services continue to assert that the 1-1E pay rate creates an inequity, the conferees would intend to resolve the matter in accord with the approach taken in the Senate provision.

PART B—TRAVEL AND TRANSPORTATION

LEGISLATIVE PROVISIONS ADOPTED

Transportation of motor vehicles for members making permanent changes of station (sec. 611)

The House amendment contained a provision (sec. 611) that would revise existing statutory authority for the shipment of privately owned vehicles (POVs) at government expense by (1) eliminating the requirement that the major portion of a POV shipment be by ship; (2) eliminating the requirement that surface transportation be between customary ports of embarkation and debarkation; and (3) defining "change of permanent station," for purposes of POV moves, as moves to and from areas outside the continental United States, and moves attending homeport changes.

The Senate bill contained provisions (sec. 612 and sec. 613) that would authorize the overland shipment of POVs (1) for COHORT overseas moves, (2) in adverse conditions, and (3) from ports in northern Europe to one or more inland processing points in southern Germany.

The Senate recedes with a technical amendment preserving the existing authority for overland transportation of POVs in certain circumstances within the continental United States.

Coordination of permanent change of station moves with school year (sec. 612)

The House amendment contained a provision (sec. 617) that would require the service Secretaries to establish procedures to ensure that, to the maximum extent practicable, permanent change of station (PCS) moves of members with dependents in elementary or secondary schools occur between normal school years.

The Senate bill contained no similar provision.

The Senate recedes with an amendment requiring that coordination of PCS moves of appropriate members occur at times designed to avoid disruption of school schedules to the maximum extent practicable within operational and other military requirements.

Authorization limit on funds for PCS travel (sec. 613)

The Senate bill contained a provision (sec. 617) that would limit the amount authorized to be appropriated for fiscal year 1987 to not more than $2,657,553,000 for permanent change of station (PCS) travel.

The House amendment contained a similar provision (sec. 651(a)) that would limit the total amount expended during fiscal year 1987 for PCS moves to $2,533,760,000.

The Senate recedes with an amendment limiting the amount authorized to be appropriated for fiscal year 1987 for PCS travel to not more than $2,533,760,000.

Reimbursement or actual lodging expenses plus per diem for members entitled to travel allowances (sec. 614)

The Senate bill contained a provision (sec. 615) that would convert the military system of reimbursement for expenses incident to temporary duty to the "lodgings plus" system established for Federal civilian employees in Public Law 99-234. The conversion would only be effective in fiscal years for which the Secretary of Defense were to certify that lodgings plus would cost no more than the existing system.

The House amendment contained a similar provision (sec. 612).

The House recedes with a technical amendment resolving drafting differences between the two provisions.

Transportation and travel allowances for escorts for certain dependents (sec. 615)

The House amendment contained an amendment (sec. 615) that would authorize the service Secretaries to provide space-required travel on military aircraft or to pay transportation and travel allowances to a member who can not reasonably bring an underage or incapacitated dependent to a new duty location when that member first reports to a new duty location.

The Senate bill contained no similar provision.

The Senate recedes.

Travel expenses for overseas dependents requiring medical care in certain circumstances (sec. 616)

The Senate bill contained a provision (sec. 616) that would authorize government reimbursement for travel expenses of dependents accompanying members stationed outside the continental United States who require medical care not available at the duty location and who travel to another location for such medical treatment.

The House amendment contained no similar provision.

The House recedes.

Per diem for dependents receiving transportation allowance (sec. 617)

The House amendment contained a provision (sec. 613) that would authorize the payment of per diem to military dependents who must change their permanent duty station due to reasons of separation or retirement of the member or because of unusual or emergency circumstances like the evacuation of dependents, death of the service member, early return of dependents for personal reasons and the cancellation of military orders while dependents are enroute to the new duty station.

The Senate bill contained no similar provision.

The Senate recedes.

Modification of family separation allowance (sec. 618)

The House amendment contained a provision (sec. 614) that would prohibit the payment of family separation allowance type II to members who elect unaccompanied overseas tours in accompanied tour areas. In addition, section 614 would grandfather those members receiving family separation allowance on September 30, 1986 for the remainder of their unaccompanied overseas tours.

The Senate bill contained no similar provision.

The Senate recedes.

Improved dislocation allowance (sec. 619)

The Senate bill contain a provision (sec. 611) that would authorize the payment of a dislocation allowance under the following six new circumstances:

(1) when the member's dependents actually move pursuant to section 406(e) of title 37, United States Code, under unusual or emergency circumstances and no permanent change of station (PCS) orders providing authority for such movement have been issued; (2) when the member's dependents actually move, pursuant to section 406(h) of title 37, when the secretary concerned determines it is in the best interests of the member or the dependents and the United States; (3) when the member's dependents actually move after the member is reported dead, injured, ill, or absent in a missing status for more than 29 days; (4) when the member's dependents, or (5) a member without dependents, actually begin some travel pursuant to PCS orders before the order's effective date and the orders are then cancelled, modified or revoked requiring the dependents, or the member without dependents, to return to the original duty station or to another duty station; and (6) when a member performs consecutive overseas tours at the same location but one of these tours is with dependents and one of the tours is without dependents.

The House amendment contained no similar provision.

The House recedes.

Transportation and storage of household goods (sec. 620)

The Senate bill contained a provision (sec. 614) that would authorize the services Secretaries to pay the cost of members' excess household goods storage and to recoup these payments from the members involved. Section 614 also would permit the immediate return shipment from overseas of household goods and a motor vehicle that had been shipped in advance of dependents when unexpected and uncontrollable circumstances (e.g., sickness) prevent the dependents from actually moving overseas.

The House amendment contained no similar provision.

The House recedes with amendments that would: 1) permit the service member to pay or arrange for disposition of the excess household goods if he so chooses; and 2) make a technical change.

LEGISLATIVE PROVISIONS NOT ADOPTED

Foreign currency exchange for movement of household goods

The House amendment contained a provision (sec. 1039) that would require the reinstitution of the foreign currency rate adjustment program of the Army's Military Traffic Management Command effective April 1, 1987 if the Comptroller General certified to Congress no later than September 30, 1986 that cost savings to the government could reasonably be expected by the reinstitution of the program.

The Senate bill contained no similar provision.

The House recedes.

The conferees note that the Comptroller General certified on September 30, 1986 that cost savings to the government could not reasonably be expected by the reinstitution of the foreign currency rate adjustment program.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

LEGISLATIVE PROVISIONS ADOPTED

Enhanced aviation officer continuation pay (sec. 631)

The Senate bill contained a provision (sec. 621) that would permit certain aviators to enter 6-year retention agreements in exchange for the highest level of aviation officer continuation pay as late as their eighth year of aviation service and would terminate the existing limitation on aviation career incentive pay for officers receiving aviation officer continuation pay.

The House amendment included a provision (sec. 601) that would terminate the existing restriction against hazardous duty incentive pay for officers receiving aviation officer continuation pay.

The Senate recedes with an amendment adding to the House provision the Senate provision lengthening the period during which 6-year retention agreements may be entered into.

Aviation career incentive pay is career-directed; aviation officer continuation pay is continuaton period-directed. The statutory coordination of the two recognizes that aviation officer continuation periods constitute segments of aviation officer careers. It seeks to optimize the relationship between the cumulative costs and benefits of the two compensations. The conferees are well aware that the existing statutory limitation on aviation career incentive pay for officers serving under retention bonus agreements has the effect of making the real value of the bonus something less than its "face" value. The conferees are confident, however, that military aviators are able to take that effect into account evaluating the bonus. The conferees, therefore, reject the suggestion that the limitation on aviation career incentive pay is a surreptitious taking with one hand what is offered with the other.

Inclusion of aviation cadets under aviation career incentive pay (sec. 632)

The Senate bill contained a provision (sec. 622) that would include aviation cadets in the definition of officer for all purposes related to aviation career incentive pay.

The House amendment included no similar provision.

The House recedes.

Special authority relating to the payment of Selected Reserve enlistment bonus (sec. 633)

The Senate bill contained a provision (sec. 623) that would authorize the payment of a selected reserve enlistment bonus for an enlistment during the period of October 1, 1985, through November 8, 1985. The House amendment contained no similar provision.

The House recedes.

The conferees note that there was no statutory authority to pay a selective reserve

enlistment bonus to persons entering the reserve components between October 1, 1985, and November 8, 1985, because of the delay in final Congressional approval of the conference report accompanying the Department of Defense Authorization Act, 1986.

Despite advance Department of Defense notification to all the reserve components that no authority existed for payment of these bonuses after September 30, 1985, pending enactment of new legislation, the Army National Guard did not comply with Department of Defense instructions. As a result, some individuals were led to believe that they would receive an enlistment bonus, notwithstanding the lack of legislative authority to pay such bonuses. The conferess have agreed to the Senate provision in order to keep faith with the individuals involved. The conferees are very distressed that corrective action is required in this case and want to make clear that they do not expect to this situation to occur again.

Special pay for members proficient in foreign languages (sec. 634)

The Senate bill contained a provision (sec. 624) that would authorize a new special pay for foreign language proficiency. This stipend, not to exceed $100 a month, would be paid to members certified as being proficient or receiving training in a foreign language identified by the Secretary of Defense as necessary for national defense. The Senate provision would limit the total obligational authority for this special pay to no more than $7,300,000 during fiscal year 1987.

The House amendment contained no similar provision.

The House recedes with an amendment limiting obligational authority for the program to $9,000,000 in fiscal year 1988.

The conferees intend that this program be designed to—

(1) pay a stipend to those members who develop a proficiency in critical foreign language communication skills that test at or above a utility level established by the Department of Defense; and

(2) encourage the development of critical foreign language skills by judiciously limiting the specialty pay to members who obtain reading, speaking, and listening skills as a second language.

In addition, the conferees plan to review the critical foreign language program next year and, if warranted, institute a graduated pay scale to encourage members to further increase their foreign language proficiency.

LEGISLATIVE PROVISIONS NOT ADOPTED

Special pay for board certified psychologists

The Senate bill contained a provision (sec. 625) that would authorize special pay for psychologists who have been awarded a diploma as a Diplomat in Psychology by the American Board of Professional Psychology. The special pay would range from $2,000 per year for officers with less than ten years of service to $5,000 per year for officers with 18 or more years of service.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note their displeasure with the continued failure of the Department of Defense to expand the use of non-physician providers. The conferees believe that non-physician providers like psychologists are a cost-effective way to significantly extend the capability of the Department of Defense to provide care to its beneficiary population. The conferees serve notice that, if the Department of Defense does not implement a plan for expanded use of non-physician providers, they intend to mandate such an expansion in the future.

Although the conferees are very sympathetic to the intent of the Senate special pay provision and believe that tying such special pay to a board certification requirement is an innovative way to encourage non-physician providers to enhance their professional credentials, they believe that the issue requires further study and have, therefore, deferred acceptance of the Senate provision.

PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

LEGISLATIVE PROVISIONS ADOPTED

Court-ordered survivor annuities for former spouses (sec. 641)

The House amendment contained a provision (sec. 631) that would provide state courts with the option of ordering military service members to participate in the Survivor Benefit Plan and to designate a former spouse as beneficiary as part of a divorce agreement.

The Senate bill contained no similar provision.

The Senate recedes.

Miscellaneous survivor benefit and former spouse amendments (sec. 642-644)

The House amendment contained a provision (sec. 632) that would: 1) authorize the payment of survivor benefits to the surviving dependent children of a retirement-eligible active duty member who dies if no surviving spouse exists or if the surviving spouse subsequent dies; 2) provide 55 percent of retired pay for life to eligible incapacitated dependent children; 3) lower from 60 to 55 the age as which a surviving spouse may remarry without losing the entitlement to survivor benefits; and (4) revise the statutory definition of disposable military retired pay for purposes of court orders addressing military retired pay as divisible marital property or for awarding alimony or child support that could be collected directly from military retired pay.

The Senate bill contained no similar provision.

The Senate recedes with an amendment making the effective date of the incapacitated dependent children provision March 1, 1986.

Revision of open period to elect former spouse and child coverage (sec. 645)

The House amendment contained a provision (sec. 633) that would authorize members who elected former spouse coverage under the Survivor Benefit Plan during the period November 8, 1985 through February 28, 1986 to convert to former spouse—child coverage within one year of the date of enactment.

The Senate bill contained no similar provision.

The Senate recedes.

Extension of medical benefits for certain former spouses (sec. 646)

The House amendment contained a provision (sec. 634) that would provide care in the military medical care system followed by the right to convert to a private health insurance plan to certain long-term former spouses whose divorces were finalized after April 1, 1985 until the end of the two-year period following the final decree of divorce or April 1, 1988, whichever is later. Section 634 would also require the Secretary of Defense to report on the development of a medical conversion plan and any legislative authority that may be required to ensure its prompt implementation.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Improved death gratuity

Currently, the death gratuity is equal to six months of basic pay with a minimum payment of $800 and a maximum payment of $3000.

The Senate bill contained a provision (sec. 631) that would change the death gratuity computation to three months of basic pay, basic allowance for subsistence, and basic allowance for quarters with a minimum payment of $3,000 and a maximum payment of $9,000.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that, although the death gratuity was established in 1908, the military estate program has been expanded to include social security benefits, dependency and indemnity compensation, and Serviceman's Group Life Insurance (SGLI). The maximum SGLI payment was recently increased to $50,000.

PART E—MISCELLANEOUS BENEFITS

LEGISLATIVE PROVISIONS ADOPTED

Tuition assistance for Army reserve components officers (sec. 651)

The House amendment contained a provision (sec. 641) that would authorize the use of the tuition assistance program by reserve components officers in order to complete baccalaureate degree requirements. The House provision would limit eligibility to members of the Army reserve components for undergraduate courses only and would limit funding in fiscal year 1987 to $4.2 million.

The Senate bill contained no similar provision.

The Senate recedes with an amendment limiting the authority for this program to fiscal year 1987 only and restricting funding to $3 million. As outlined in the report of the House Committee on Armed Services (H. Rept. 99-718), the conferees intend that this program be used only by individuals unable to use the reserve G.I. Bill, i.e. those able to attend class at a less than half-time rate.

The conferees direct the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a report outlining current policy with respect to the educational requirements for both initial commissioning and promotion of officers in the reserve components. The conferees intend to review the policy to determine whether to provide authority for use of the tuition assistance program by reserve component officers in the future.

Benefits for dependents of certain sentenced, discharged or dismissed members (sec. 652)

The Senate bill contained a provision (sec. 633(a)) that would authorize the service Secretary to provide travel and transportation allowances as well as the movement of household goods for a military member with dependents who is discharged from the service for other than honorable conditions. Additionally, section 633(b) would authorize abused dependents of military members who were discharged from the service because of child or spouse abuse to receive

medical care that may be required as a result of the abuse for up to one year following the member's discharge.

The House amendment contained a similar provision on transportation (sec. 616). With regard to medical care, the House amendment contained a provision (sec. 1033) that would require a report on the desirability of establishing a program to provide one year of medical care to the dependents of military members who are discharged or who leave the service voluntarily, who abused their dependents while in the service and whose dependents require medical care as a result of the abuse.

The House recedes with an amendment substituting the House language on transportation for the Senate language on transportation.

Improved employment opportunities for military spouses (sec. 653)

The Senate bill contained a provision (sec. 634) that would lower from GS-8 and above to GS-5 and above the level at which a military spouse would be given hiring preference for Department of Defense jobs if the spouse is among those determined to be best qualified for the position and if the position is located in the same geographic area as the permanent duty station of the member.

The House amendment contained no similar provision.

The House recedes.

Retirement credit for certain National Guard technicians (sec. 654)

The Senate bill contained a provision (sec. 635) that would provide Federal retirement credit for National Guard civilian technicians who served as technicians prior to January 1, 1969, regardless of whether they were serving in a technician position on or after January 1, 1969.

The House amendment contained no similar provision.

The House recedes with an amendment prohibiting the provision of retirement credit for service prior to January 1, 1969 to former National Guard technicians who have already retired from Federal service.

Meal reimbursement for nonprofit youth groups residing at military installations (sec. 655)

Section 1038 of the House amendment would authorize meal reimbursement for nonprofit youth groups when residing at a military installation pursuant to an agreement in effect on June 30, 1986.

The Senate bill contained no similar provision.

The Senate recedes.

Authorization for members of the Selected Reserve to have limited use of commissary services (sec. 655).

The Senate bill contained a provision (sec. 637) that would authorize members of Selected Reserve components to use military commissary stores for a number of days each year equal to the number of days a member is on active duty.

The House amendment contained no similar provision.

The House recedes.

ADMINISTRATION OF PERSONNAL BENFITS

LEGISLATIVE PROVISIONS ADOPTED

Enhanced method of determining true costs of military retirements (sec. 661)

The Senate bill contained a provision (sec. 642) that would direct the Secretary of Defense to compute the contribution required to be made into the Military Retirement Fund based on two amounts—one for the active components and one for the reserve components. Current law requires contributions to be calculated as a single amount based on the combined force. Although the change would not affect the degree to which future benefits were funded, it would change the amount contributed to the fund in a particular year. As a result, less contributions would be required on an annual basis.

The House amendment contained no similar provision.

The conferees agree that the change would be an appropriate method of computing the contributions into the fund. However, they were concerned that the data centrally available on the members of the reserve components are less than adequate. Collecting the requisite data would be valuable for many purposes and essential for computing the contribution to the fund under the revised methodology.

The House recedes with an amendment that would direct the service Secretaries to submit data required pursuant to Department of Defense Instruction 7730.54 (dated May 7, 1986) to the Secretary of Defense by September 30, 1987—particularly data related to the following categories identified in the instruction:

(1) Date of initial entry into military service

(2) Total days of active Federal military service

(3) Years creditable for reserve retirement

(4) Reserve component accumulated total creditable retirement points earned during the most recently completed retirement year

(5) Reserve component accomulated paid points earned during the most recently completed retirement year

(6) Reserve component total accumlated creditable points toward retirement earned during career

Authority to pay bank charges in the event of government error in mandatory direct deposit of members' pay (sec. 662)

The Senate bill contained a provision (sec. 632) that would authorize government reimbursement of a service member who incurs overdraft charges as a result of a government error in depositing the member's pay if the member's participation in the direct deposit program is mandatory.

The House amendment included no similiar provision.

The House recedes.

Limit on reserve unit and individual training spending (sec. 663)

The House amendment contained a provision (sec. 651(e)) that would limit the amount spent in fiscal year 1987 for reserve unit and individual training to $5,084,500,000.

The Senate bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Taxation of military benefits

The Senate bill contained a provision (sec. 1225) that would express the sense of the Senate that military benefits are not subject to federal income taxation.

The House amendment included no similar provision.

The Senate recedes. The Conferees note the favorable treatment accorded military compensation and benefits in section 144 and 1168 of the Tax Reform Act of 1986.

Accounting for payments of claims for benefits

The Senate bill contained a provision (sec. 641) that would amend section 1552(c) of title 10, United States Code, to provide that when paying a claim for benefits arising from an error in a service member's record, payment may be made out of applicable current appropriations or from appropriations (if available from which the expense would have been paid if payment had been made when due under the corrected record.

The House amendment contained no similar provision.

The Senate recedes.

Enlistment bonus cost reduction

The House amendment contained a provision (sec. 651(c)) that would prohibit the payment of enlistment bonuses to new Navy, Marine Corps and Air Force recruits in fiscal year 1987.

The Senate bill contained no similar provision.

The House recedes.

TITLE VII—HEALTH-CARE REFORM MANAGEMENT REFORM

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Improvement in military health-care delivery system (sec. 701)

The House amendment contained a provision (sec. 811) that would make four changes in the operation of the military health care system.

First, section 811 would provide specific authority to the Secretary of Defense to contract for health care services with a variety of providers and insurers, including health maintenance organizations and preferred provider organizations, and would authorize the Secretary to prescribe a premium, deductible, copayment, or other charge for health care provided under this section.

Second, section 811 would establish a Military Health Care Account into which all funds currently appropriated to Operation and Maintenance, Defense Agencies, for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) would be transferred. The Secretary of Defense would transfer to each service on a quarterly basis the funds determined necessary by the Secretary to meet each service's CHAMPUS obligations for that quarter; using their operation and maintenance appropriation for the direct care system and their allotment from the transfer account, the services would then be responsible for providing all medical care to their beneficiary populations (including CHAMPUS costs).

Third, section 811 would direct the Secretary of Defense to establish a health care enrollment system in which beneficiaries would elect to enroll in a specific health plan, for example, the local military hospital, CHAMPUS, a civilian health maintenance organization, or the proposed Champus Reform Initiative; the plan selected would have responsibility for ensuring the availability of all covered services to its beneficiary population.

Fourth, section 811 would require the use of Diagnosis Related Groups (DRGs) as the primary budgetary tool for allocation of resources to military medical facilities, beginning October 1, 1987, for inpatient procedures and beginning October 1, 1988, for outpatient procedures.

The Senate bill contained no similar provision.

The Senate bill contained a provision (sec. 701) that would permit the Secretary of Defense to waive the copayment requirements and restrictions on covered services prescribed in sections 1079 and 1086 of Title 10, United States Code, for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), in the case of certain contracted health care services.

The House amendment contained no similar provision.

The Senate bill contained a provision (sec. 702) that would permit the sharing of staff, equipment, and resources between the civilian and military health care systems, in contracts entered into under sections 1079 and 1086 of title 10, United States Code, if such sharing would result in more effective, efficient, or economical health care for authorized beneficiaries.

The House amendment contained no similar provision.

The House recedes to the Senate provisions with amendments. The Senate recedes to the House provision with amendments.

As proposed by the House bill, health care enrollment is to be phased in over a three-year period beginning October 1, 1987. However, initial implementation is required only as part of the CHAMPUS Reform Initiative demonstration project contained in section 702. The conferees expect that enrollment can be achieved on a voluntary basis. Beneficiaries may be assigned to military hospitals, however, if necessary to ensure full utilization of those hospitals, but no involuntary enrollment may occur prior to October 1, 1990.

In the case of the Military Health Care Account, the conferees have clarified that the Secretary of Defense may obligate funds to the extent they are available in the account for medical care under CHAMPUS, the demonstration project authority contained in section 1092 of title 10, United States Code, and the new authority to contract for alternative delivery of health care provided in this section. The Secretary of Defense will then make available to the Secretary of each service the amount from the account that the Secretary of Defense determines necessary to meet that service's CHAMPUS expenditures. Using their operation and maintenance appropriation for the direct care system and their allotment from the transfer account, the services would be responsible for providing all medical care to their beneficiary population (including CHAMPUS costs) and would have to seek to reprogram funds appropriated for other programs to make up any shortfall.

The Military Health Care Account would become effective October 1, 1987. The conferees expect the account to be reflected in the President's budget request for fiscal year 1988.

Diagnosis Related Groups are to be used to replace the current Health Care Unit as the primary resource allocation tool for patient care provided in military hospitals. However, military hospitals would continue to receive additional budget resources for their wartime mobilization and training missions.

CHAMPUS Reform Initiative (sec. 702)

The House amendment contained a provision (sec. 815) that would affect the Department of Defense's proposed CHAMPUS Reform Initiative, commonly called Project Imprint, by requiring the Secretary of Defense, within 60 days after the date of enactment, to submit a report on (1) methods to guarantee competition, (2) the merits of using a voucher system or fee schedule, and (3) methods to guarantee participation of community hospitals. Section 815 would prohibit the obligation or expenditure of funds for the CHAMPUS Reform Initiative until a period of 30 days of continuous session of Congress elapses after the Secretary submits such report.

The Senate bill contained no similar provision.

The Senate recedes with amendments striking the prohibition on the obligation or expenditure of funds and directing a demonstration project on the phased implementation of the CHAMPUS Reform Initiative.

The Secretary of Defense is to conduct a demonstration project on the proposed CHAMPUS Reform Initiative to begin during fiscal year 1988, operate the project for at least one year, and apply the project to not more than one-third of the CHAMPUS program. A health care enrollment system is to be included in the demonstration. Based on the results of the demonstration project, the Secretary may proceed to phase in fully the CHAMPUS Reform Initiative over the next two years in remaining areas.

The Secretary is to report to Congress on the design, implementation, and operation of the demonstration project and the full reform initiative at specified points in the process. If the demonstration project is to be conducted in one continguous geographic area, the report must be submitted not later than 60 days before initiation of the project. If the Secretary of Defense opts instead to implement the demonstration project based on one-third of the CHAMPUS population, rather than one-third of the geographic area, the report must be submitted not later than 60 days before issuance of any Request for Proposals for that project.

CHAMPUS catchment areas (sec. 703)

The House amendment contained a provision (sec. 813) that would authorize the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to pay for the nonemergency inpatient hospital care of beneficiaries residing with a 40-mile radius of a military treatment facility if private insurance provides primary coverage.

The Senate bill contained no similar provision.

The Senate recedes.

Medical informatin systems acquisition (sec. 704)

The House amendment contained a provision (sec. 812) that would redirect the Department of Defense's proposed procurement of a medical information system, commonly known as the Composite Health Care System (CHCS).

Section 1203 of the Department of Defense Authorization Act, 1986 (Public Law 99-145) directed the Department of Defense to conduct a demonstration project at two military hospitals using the Veterans Administration's Decentralized Hospital Computer Program (DHCP). In the meantime, the Department of Defense was permitted to proceed with its plan for procurement of CHCS, including the extended benchmark test, but with certain prescribed milestones and reporting requirements on the part of the General Accounting Office and the Secretary of Defense.

Section 812 of the House bill would cancel the extended benchmark test and would instead direct the department to base its medical information system procurement on operational testing in military medical facilities. In the operational test, the department would be required to compare the functional capabilities and costs of at least three competing systems in a realistic testing environment in military hospitals. Vendors would be required to provide incremental price and delivery schedules for each function described in phases I, II, IID, and III of the Request for Proposals.

Section 812 of the House bill would also extend the test of the Veterans Administration's DHCP and would establish procedures for evaluating of the results of both test programs, such as the use of military evaluation teams.

The Senate bill contained a provision (sec. 705) that would repeal section 1203 of Public Law 99-145 and would require that the Department of Defense's procurement of a medical information system proceed in accordance with the existing Request for Proposals, namely utilization of an extended benchmark test.

The Senate recedes with amendments requiring an extended benchmark best, striking a number of the requirements included in the House amendment for the conduct and evaluation of the results of the operational test, and terminating the demonstration project of the Veterans Administration's DHCP effective October 1, 1987.

Confidentiality of medical quality assurance records (sec. 705)

The Senate bill contained a provision (sec. 703) that would protect military medical quality assurance records—for example, peer review proceedings—from release or disclosure, in order to foster the candor necessary to ensure the best possible quality of military medical care.

The House amendment included no similar provision.

The House recedes with an amendment restricting the use of information obtained during epidemiologic assessment interviews of military personnel identified as having been exposed to a virus associated with the acquired immune deficiency syndrome.

Use of Public Health Service hospitals as facilities of the uniformed services (sec. 706)

The House amendment contained a provision (sec. 814) that would extend from December 31, 1987 to December 31, 1988 the earliest date after which the Unformed Services Treatment Facility status of 10 former Public Health Service hospitals could be terminated.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on dental insurance program (sec. 707)

Section 651 of the Department of Defense Authorization Act, 1986 (Public Law 99-145) authorized the Secretary of Defense to establish a dental insurance program for spouses and children of active duty service members but provided that no contracts could be signed or funds obligated prior to September 30, 1986.

The Senate bill contained a provision (sec. 704) limiting authorization for initial implementation of a dental insurance program to $18,000,000 in fiscal year 1987. The President's budget requested $78 million.

The dental insurance program would provide on a voluntary enrollment basis 100 percent coverage for preventive, diagnostic, and emergency services and 80 percent coverage for composite and amalgam fillings and dental applicance repairs. Additionally, the program would be structured so that the cost of premiums would not exceed ten

dollars per month per family. The provision would restrict the government's share to no more than 60 percent of total program cost with an annual expenditure cap of $105,000,000 in fiscal year 1986 dollars.

The House amendment contained no similar provision.

The House recedes with an amendment deleting the requirement that the government cost may not excede 60 percent. However, the conferees expect that the cost to the government will very closely approximate the 60 percent level, as previously estimated by the Department of Defense. If this does not prove to be the case, the conferees intend to revisit the issue and will consider lowering the $105,000,00 annual expenditure cap.

LEGISLATIVE PROVISIONS NOT ADOPTED

Eligibility of philanthropic institutions to receive reimbursement under CHAMPUS

The House amendment contained a provision (sec. 816) that would prohibit the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) from denying payment for services to a hospital operated primarily for philanthropic purposes on the basis that such a hospital does not impose a legal obligation on patients to pay for such services.

The Senate bill contained no similar provision.

The House recedes.

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

LEGISLATIVE PROVISIONS ADOPTED

LEGISLATIVE PROVISIONS

Defense of lack of mental responsibility (sec. 802)

The House amendment contained a provision (sec. 702) that would conform the military defense of lack of mental responsibility under the Uniform Code of Military Justice to the civilian defense of insanity title 18, United States Code.

The Senate bill included a similar provision (sec. 802).

The House recedes with an amendment creating a verdict of not guilty only by reason of lack of mental responsibility.

Court-martial jurisdiction over reserve members (sec. 804)

The House amendment contained a provision (sec. 704) that would extend military criminal jurisdiction over reservists to conform with the modern total force.

The Senate bill included no similar provision.

The Senate recedes with an amendment ensuring the fair and prudent exercise of the new authority to call reservists involuntarily to duty for proceedings under the Uniform Code of Military Justice.

Statute of limitations (sec. 805)

The House amendment contained a provision (sec. 705) that would conform the statute of limitations in the Uniform Code of Military Justice to the civilian counterpart provisions of title 18, United States Code.

The Senate bill included a similar provision (sec. 805).

The House recedes.

Detail of judge advocates (sec. 807)

The House amendment contained a provision (sec. 707) that would clarify the circumstances under which judge advocates are detailed to assist, for example, the Department of Justice in litigation involving the Department of Defense.

The Senate bill included a similar provision (sec. 807).

The House recedes with a technical amendment clarifying that judge advocates may assist another agency without reimbursement to the Department of Defense by the other agency in cases of interest to the Department of Defense.

TITLE IX—PROCUREMENT POLICY REFORM

MANAGEMENT OF THE ACQUISITION PROCESS

LEGISLATIVE PROVISIONS ADOPTED

Senior civilian management of acquisition process (sec. 901-903)

The Senate bill contained five provisions (sec. 911, 912, 913, 914, and 915) that would (1) establish the position of Under Secretary of Defense for Acquisition, define the appointment process, powers, duties, and precedence of that office; (2) establish the position of Deputy Under Secretary of Defense for Acquisition; (3) establish the position of Director of Defense Research and Engineering; (4) require the Director of Operational Test and Evaluation to report to the Under Secretary of Defense for Acquisition, and (5) amend the Small Business Act to require the Director of the Office of Small and Disadvantaged Business of the Department of Defense to report to the Under Sercretary of Defense for Acquisition.

The House amendment contained two provisions (sec. 901 and 213) that would (1) define the duties of the Under Secretary of Defense for Acquisition, maintain existing supervision and policy for contract audit, and require the Director Operational Test and Evaluation to report personally to the Secretary of Defense and (2) convert the position of Director of Operational test and Evaluation to Assistant Secretary level.

The House recedes to the Senate with an amendment that would (1) define the duties and procedence of the Under Secretary of Defense for Acquisition; (2) establish the position of Deputy Under Secretary of Defense for Acquisition; and (3) modify the status of other senior civilian acquisition officials.

The conferees agreed to:

Clearly and specifically prescribe the duties and precedence of the Under Secretary of Defense for Acquisition (USD-A) so as to establish the authority and jurisdiction of the Level-II position;

Maintain existing law governing audit policy and the Inspector General. In conjunction with the Inspector General of the Department of Defense, the Under Secretary of Defense for Acquisition will coordinate audit and oversight of contractor activities to prevent duplication of effort on the part of the different elements within the Department of Defense;

Establish a Lever III position of Deputy Under Secretary of Defense for Acquisition. The position of Director, Defense Research and Engineering would be reestablished as an Executive Level IV position;

Maintain the current requirement that the Director of Operational Test and Evaluation report directly to the Secretary of Defense; but require, in addition, that any reports by such Director also be forwarded directly to the Under Secretary of Defense for Acquisition;

Require the Director of the Office of Small and Disadvantaged Business Utilization to report to the Under Secretary of Defense for Acquisition.

Enhanced program stability for major defense acquisition programs (sec. 904)

The Senate bill contained a provision (sec 921) that would require the Department of Defense to establish a cost, performance and schedule baseline for all programs designated as defense enterprise programs.

The House amendment contained a similar provision (sec. 903) that would require the department to establish a baseline for all major defense acquisition programs. The baseline would include cost, performance characteristics and specifications, scheduled milestones, testing parameters and initial provisioning plans. The House amendment would require that these baselines be transmitted to the Congress prior to approval of funding for either full-scale development or full-rate production.

The Senate recedes with technical amendments. Sec 907 directs the Department to prepare baselines for all major defense acquisition programs. The Department need transmit to the Congress only those baselines for programs designated as defense enterprise programs (sec. 909).

Defense enterprise programs (sec. 905)

The Senate bill contained a provision (sec. 921) that would require the Department of Defense to establish within each military service Defense Enterprise Programs with streamlined reporting procedures for program managers.

The House amendment contained a similar provision (sec. 902). The House provision, however, would preclude the Secretary from designating a program for streamlined management unless the program was a major defense acquisition program.

The House recedes with an amendment. The conferees intend that all major acquisition programs eventually become defense enterprise programs. The conferees, however, do not wish to preclude the services from designating as a defense enterprise program, programs which do not qualify as major defense acquisition programs.

Milestone authorization of defense enterprise programs (sec. 906)

The Senate bill contained a provision (sec. 921) that would establish procedures for authorizing defense enterprise programs on a milestone basis. Sec. 921 would require the Secretary of Defense to submit a cost, schedule and performance baseline for an entire acquisition phase, and would require the Secretary of Defense, in submitting the budget for the fiscal year in which a new acquisition phase (either full-scale development or full-rate production) is to begin, to request authority to obligate funds required to complete the phase. The Senate provision also contained procedures for reviewing defense enterprise programs which breached the baseline which was approved at the time the Congress authorized the Secretary to proceed with the program on a milestone basis.

The House amendment contained a similar provision (sec. 903), but would allow the Secretary to designate a program for milestone authorization even if such program has not been subject to streamlined program management.

The conferees decided that the management baseline for defense enterprise programs would be the same as the baseline required for all major defense acquisition programs as specified in sec. 904 of the conference report. Those baselines are not otherwise required to be submitted to the Congress if the programs are not designated as defense enterprise programs.

The conferees note that milestone authorization does not necessitate any specific contractual arrangement or type. The requirement to stay within the baseline under

which the program is authorized is a commitment by the Department of Defense to manage a program to the minimum requirements stated in the baseline in return for an agreement by Congress to commit to a stable funding profile. Accordingly, contractual requirements may be more stringent than the requirements stated in the baseline.

The House recedes with technical amendments.

Preference for nondevelopmental items (sec. 907)

The Senate bill contained a provision (sec. 945) that would establish a preference for the procurement, where appropriate, of nondevelopment, or off-the-shelf, items. The provision would establish a requirement that, to the maximum extent practicable, the services define requirements so that nondevelopment items could be used and fulfill those requirements using nondevelopment items. In addition, the Senate provision would require the Department of Defense to issue implementing regulations, designate a person responsible for overseeing the implementation, and submit a report to Congress within one year detailing the actions taken to implement these requirements.

The House amendment (sec. 905) would add a new section to chapter 137 of title 10, United States Code, that would establish a preference for the acquisition of nondevelopmental items. This new section would require the Department of Defense, to the maximum practicable extent, to state its requirements in the broadest functional description and in such a manner that nondevelopmental items may be offered to fulfill those needs. In addition, it would require an independent evaluation by the Comptroller General of the actions taken by the Secretary of Defense. It would also require the Secretary of Defense to identify impediments to the Defense Department's acquisition of nondevelopmental items, to remove those impediments within his jurisdiction, and to recommend to Congress any legislative changes the Secretary deems necessary.

The Senate recedes with an amendment that would: (1) direct that the Secretary of Defense appoint the Under Secretary of Defense for Acquisition to be the official responsible for implementation of this policy; (2) require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives identifying actions taken to implement the requirements of this provision; (3) provide that the Department of Defense fulfill its requirements through the procurement of nondevelopmental items; (4) clarify that the Department of Defense should state its requirements in the broadest possible terms, be it in terms of required functions, performance or essential physical characteristics; (5) delay the deadline for the General Accounting Office report on the progress made by the Department of Defense to two years; and (6) add to the definition of nondevelopmental items, items currently being produced, but not yet in use or not yet available in the commerical marketplace. The conferees agreed to the additional category of items to ensure that newly developed products would be able to compete on an equal basis with products already in the marketplace but to continue to distinguish between items already produced and those that require continuing development or testing prior to actual production.

Requirements related to undefinitized contractual actions (sec. 908)

The House amendment contained a provision (sec. 925) that would limit the use of funds for undefinitized contractual actions. For each quarter during fiscal years 1987 and 1988, the provision would require the Secretary of Defense, with respect to the Defense Logistics Agency, and the Secretary of each military service to report to the Committees on Armed Services of the Senate and the House of Representatives on the percentage of all funds placed on contract that were undefinitized. If the report showed that undefinitized contractual actions represented more than 10 percent of all contractual actions during a given quarter, the service Secretary would be prohibited from obligating additional funds using undefinitized contractual actions. The provision would also establish general restrictions and guidelines regarding the use of undefinitized contractual actions.

The Senate recedes with an amendment.

The conferees agreed to a provision that would require a service Secretary to report to the committees only if the service breached the 10 percent threshold. The quarterly reporting requirement was changed to a semi-annual review. In addition, the agreement would not prevent the service Secretary from obligating funds using undefinitized contractual actions during the first reporting period and extended the duration of the 10 percent ceiling into the first half of fiscal year 1989. These changes were made because the conferees agreed that the services should be allowed adequate time to implement this new requirement and to avoid unnecessary delay in the issuance of undefinitized contractual actions for valid purposes.

The conferees agreed to revise the method contained in the House amendment for determining the amount of funds represented by undefinitized contractual actions. Instead of basing the total on the "not to exceed" price, the conference agreement would only count obligations on undefinitized contracts. This change would allow the services to use existing contract reporting mechanisms for tracking the percentage of funds obligated on undefinitized contractual actions. It would also encourage the services to hold down the amount of funds obligated on undefinitized contractual actions.

Four categories of contracts would be exempted from the limitations under this provision: (1) foreign military sales, (2) purchases less than $25,000, (3) special access programs, and (4) Congressionally-mandated long-leadtime purchases. Undefinitized contractual actions for foreign military sales were excluded because the departments cannot prevent a foreign nation from requesting that an item be purchased by the most expeditious process. Purchases less than $25,000 were exempted because undefinitized contractual actions under this amount are not currently subject to regulations governing undefinitized contractual actions. Special access items are subject to special oversight procedures, and the conferees agreed that the services cannot control the definitization of long-leadtime items until a full procurement contract is negotiated.

The conferees also agreed on a waiver provision allowing the Secretary of Defense to breach the 10 percent threshold for urgent and compelling considerations relating to national security or public safety by notifying the Committees on Armed Services of the Senate and House of Representatives of such a waiver within 30 days of the issuance of the waiver. The conferees agreed that the services might, in an extreme emergency situation, need the flexibility to obligate funds using undefinitized contractual actions without being restricted by the 10 percent ceiling.

The conferees agreed to two changes in the general restrictions on the use of undefinitized contractual actions that were contained in the House amendment. First, the requirement that an undefinitized contract action provide for agreement on a definitization schedule within 180 days was changed to require definitization within 180 days of the submission of a qualifying proposal. This change reflects a recognition by the conferees that definitization of undefinitized contractual actions depend on the timely submission of contractor proposals.

Second, initial spares procurement was exempted from the requirement to definitze within 1870 days of the submission of a qualifying proposal or the expenditure of 50 percent of the "not to exceed" price because initial provisioning contracts must remain undefinitized until sufficient logistics experience is gained to determine the requirement and configuration for each spare part.

The conferees direct the Secretary of Defense to submit a report to the Committee on Armed Services of the Senate and House of Representative by July 1, 1987 detailing the actions taken by the Department of Defense and the Armed Forces to effectively manage the issuance and timely definitization of these contract actions. The report should include a determination by the Secretary on the feasibility of the 10% limitations effective on October 1, 1987 as well as a recommendation for any modification or repeal of the limitation. The conferees will consider any recommendations for the modification or repeal of the 10% limitation based on demonstrated ability to manage effectively undefinitized contracts. Should no Congressional action be taken, the 10% limitation will be effective on October 1, 1987.

The reports submitted under this section to the Committees on Armed Services will be made available for review by all interested Members of Congress.

Competitive prototype strategy requirement for major defense acquisition programs (sec. 909)

The House amendment contained a provision (sec. 934) that would require the use of a competitive prototype strategy in the development of a major weapon system or subsystem. The provision also required contractors to submit bids for full scale engineering development of the prototype, production estimates, and if possible, fixed price or not to exceed production price options on the prototypes. The provision provided Secretarial waiver authority if competitive prototyping is either impractical or too costly.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees endorse an expanded use of competitive prototype procedures in the acquisition process. The conferees believe that the Under Secretary of Defense for Acquisition should direct a thorough review of Department policies on prototyping generally and competitive prototyping specifically. The conferees invite the Under Secretary to present the results of that review to the Congress, and suggest revisions to sec. 909 if he judged that to be necessary.

The conferees amended provisions in the original House provision which required

71-059 O-87-40 (Pt. 21)

fixed price or not to exceed production price options on pre-tested prototypes. The conferees judge that this procedure, like an earlier concept of "total package procurement" is not a viable approach to major defense acquisition.

Survivability, lethality and operational testing (sec. 910)

Section 214 of the Houe amendment contained a provision that would require all new major conventional systems and weapons to be subjected to realistic, live-fire testing before entering production. A system would be tested for vulnerability and survivability by firing all the conventional threat munitions likely to be encountered in combat at the system configured for combat. A weapon would be tested for lethality by firing it at foreign targets configured for combat. The amendment would also require that independent operational testing be conducted for all new major conventional systems before entering production and that such test would include a side-by-side test of the system being acquired with equal-cost quantities of the system intended to be replaced or the nearest competitor of the system being acquired.

The Senate bill contained no similar provision.

The conferees agreed to a modified version of the House provision contained in section 214. The provision would require that a major conventional weapons system not proceed beyond low-rate initial production until (1) a realistic survivability or lethality test is completed; and (2) an initial operational test and evaluation is completed. Such survivability and lethality tests would be carried out early enough to allow design deficiencies to be corrected before production. Employees of the contractor for the system being tested would not be involved in the conduct of the initial operational test and evaluation.

The conferees direct that the Secretary of Defense conduct, as a matter of high priority, a comprehensive review of testing policy in the Department. The conferees believe that the Secretary's review should include the following issues:

(1) A review of the length of time currently required in the acquisition process and ways to reduce the time devoted to testing;

(2) A review of existing testing policies of the Department and the Military Departments, and a determination of inconsistencies in fundamental testing philosophies and approaches;

(3) A review of the relationship between development testing and initial operational testing, and what role each plays in the acquisition process.

The last issue merits special attention by the Secretary. The conferees believe that developmental testing and initial operational testing are separate, yet complementary, elements in the acquisition process. Developmental testing is designed to support the development of improved weapon systems. Initial operational testing is designed to prevent the production of flawed systems. Initial operational testing can never assume the functions of developmental testing, because the legislative history that established the Office of Operational Test and Evaluation inherently created an independent inspector general-type of function. Similarly, development testing (by definition) implies close collaboration with the developers of new systems, which prohibits such testing from performing the role the Congress intended for initial operational testing.

This situation suggests that fundamental review by the Secretary is in order. The conferees invite the Secretary to comment on section 910, as well as section 123 in Public Law 99-145 and other testing statutes. The Committees on Armed Services in both the U.S. Senate and the House of Representatives intend to conduct comprehensive hearings on testing policies and procedures next year and are prepared to amend section 910 and other statutory testing provisions after thorough consideration of the Secretary's review. The Secretary is invited to offer draft legislation if his review suggests such a course is warranted.

The Secretary shall transmit his report to the Committees on Armed Services of the Senate and the House of Representatives by March 15, 1987 to facilitate early hearings.

Goals for increased use of multiyear contracting authority (sec. 911)

The Senate bill contained a provision (sec. 954) that would ensure that the Department of Defense increase the use of multiyear contracting authority in fiscal year 1988. An amount not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the department during fiscal year 1988 would be established as the multiyear procurement goal. Further, not later than January 1, 1987, the Secretary of Defense would provide the Committees on Armed Services of the Senate and the House of Representatives with (1) a report on the procurement programs eligible for multiyear contracting; (2) an assessment of the feasibility and desirability of the multiyear procurement goal; and (3) an assessment of whether the Secretary of Defense expects to achieve the multiyear procurement goal or, if not, the reasons why the goal would not be achieved.

The House amendent contained no similar provision.

The House recedes.

Federally funded research and development centers (sec. 912)

The House amendment contained a provision (sec. 923) that would limit the work placed by the Secretary of Defense with a Federally Funded Research and Development Center (FFRDC) to work that was within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement. In addition, the House provision would require an extensive report by the General Accounting Office (GAO) on the role of FFRDCs and would prohibit the creation of new FFRDCs unless the sponsoring agency first provides to Congress a report on the planned purpose and mission of the proposed FFRDC.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify the focus of the GAO review and report.

REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

LEGISLATIVE PROVISIONS ADOPTED

Small business set-asides (sec. 921)

The House amendment contained a provision (sec. 911) that would require agencies to ensure that a fair proportion of contracts per industry category, rather than overall contracts, be awarded to small businesses. It would also require, that in order to be eligible for a contract under a set-aside or the 8(a) program, the contractor itself must agree to perform at least 50 percent of the work under the contract. Exceptions would be authorized when warranted to reflect industry practice. The amendment would also direct that the Small Business Administration reduce the size standard for any industry if over the past three years more than 30 percent of the dollar amount of all contracts in that industry category were awarded under a set-aside. Finally, it would provide that the cost of a set-aside contract to the awarding agency would not be allowed to exceed a "fair market price", a term already defined in the Federal Acquisition Regulations, and would provide that the public be given timely information regarding the decision to set-aside a contract.

The Senate bill contained no similar provision.

The House conferees agreed that allowing agencies to satisfy small business contract award goals through set-aside of a predominant number of contracts in virtually a handful of industries has been of marginal benefit to smaller firms, has prevented larger small businesses from growing past the size standard and diverted efforts from other industry segments in which little progress has been made.

The House conferees believe the requirement to reduce the size standards within certain industry categories must work hand in hand with a corresponding increase in the number of contracts open to unrestricted competition. Without this corresponding increase in the number of unrestricted bidding opportunities, those companies no longer considered small would be at an extreme disadvantage. The intent of the provision is to ensure that such companies would have every opportunity to compete for the approximately 70 percent of the government contracts which would be unrestricted. In short, the provision is intended to insure that there is an incentive to grow, modernize and achieve economies of scale by providing for market opportunities beyond the set-aside program.

The House conferees were also concerned that there was no adequate improvement mechanism requiring contractors to perform at least 50 percent of the work with their own work force. Although an agreement could not be reached on a provision to established specific remedial measures against contractors who agree to perform as required and then violates the provision, the conferees intend to monitor closely the Small Business Administration's efforts to enforce this section.

The Senate recedes with an amendment that would establish the right of a company affected by a size standard change required under this section to judicial review of the Small Business Administration's detemination of the appropriate size standard. In addition, the conferees agreed to increase the industry categories affected by the requirement to reassess the size standard to include refuse systems and related services and dredging, two additional categories in which the existing size standard is inappropriately high. The provision allows the Small Business Administration flexibility to evaluate the existing size standards and to craft actual size standards consistent with the objectives of the Act.

Finally, the amendment delays specifically the date for implementation of the provision to allow the Committees on Small Business of the Senate and the House of Representatives the opportunity to examine the information required to be provided by the Small Business Administration after the agency's review of existing size standards its promulgation of proposed new size stand-

ards pursuant to these provisions, and to reconsider the issues raised.

Thresholds for certain requirements relating to small purchases (sec. 922)

The House amendment contained a provision (sec. 936) that would increase the threshold for requiring publication of notice in the *Commerce Business Daily* of planned competitive purchases from $10,000 to $25,000. Although small purchases in the Department of Defense account for only eight percent of all dollars spent, they represent 98 percent of all contract actions. An increase of the threshold to $25,000 is projeced to result in considerable savings in administrative lead time.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would, in addition to the House provision, require that all agencies at the activity purchasing the item, a notice of proposed procurement actions expected to exceed $10,000 but no more than $25,000, except that the Department of Defense must post a notice of all solicitations for contract actions expected to exceed $5,000. This requirement is consistent with existing Federal Acquisition Regulations and the Defense Supplement to the Federal Acquisition Regulations.

Requirements relating to procedures other than competitive procedures (sec. 923)

The Senate bill contained a provision (sec. 946) that would amend section 2304 to clarify that a determination to award a contract for services using noncompetitive procedures should be based on the unique capabilities of the contractor rather than the uniqueness of the services to be provided. It would also provide, in statute, recognition that for purposes of allowing the award of a noncompetitive follow-on contract, some contracts for services require the contractor to develop an expertise that would be lost or extremely expensive to replace were the contract awarded to another company.

The House amendment contained no similar provision.

The House recedes with technical amendments and a provision that would add in section 2304(c)(1) an additional proviso to allow a noncompetitive award when a limited number of sources are available, rather than just one source. This addition was made in recognition of certain procurements, generally limited to procurements for critical items, where more than just one source may be available but where limitation of sources is warranted. The conferees expect this exception to be used infrequently and only when absolutely required.

Evaluation factors in award of contracts (sec. 924)

The Senate bill contained a provision (sec. 947) that would amend section 2305 of title 10, United States Code, to recognize that, particularly in the acquisition of services, the quality of the services provided is of paramount importance.

The House amendment contained no similar provision.

The conferees generally believe that the Department of Defense places too little emphasis on the quality of the product or service provided. Many reasons are postulated for the priority placed on price rather than quality, and without agreeing on the cause of such over reliance on price, the conferees have highlighted the procurement of services as one area in which clearly the quality of the service provided is at least as significant as price, if not more significant. The conferees also agreed that, if an agency determines that the quality of the services, rather than cost or price, is the highest priority, the agency should reflect that determination through appropriate weighting and evaluation factors.

The House recedes with technical amendments.

Computation of contract bid prices (sec. 925)

The House amendment contained a provision (sec. 1048) that would preclude the Department of Defense from awarding a contract based on the evaluation of option prices if the department was not reasonably certain that the options would be exercised.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Prices for products sold commercially (sec. 926)

The Senate bill contained a provision (sec. 941) that would amend section 2323 of title 10, United States Code, adopted in the Defense Procurement Improvement Act (Public Law 99-145). Section 2323 requires a contractor to certify that the price it is offering the Department of Defense is not greater than the lowest price given to its commercial customers if the offer is for a product that is sold to the public. The Senate bill would clarify that this provision applies only to spare or repair parts rather than all items of supply, and limit the types of sales that must be considered when determining the contractor's lowest commercial price. The types of sales to be excluded in this calculation were limited in one instance by providing that sales to the government be excluded but only for a one year period.

The House amendment contained a similar provision (sec. 914) that would exclude the following transactions when determining the company's lowest commercial price: (1) sales to the Federal government; (2) intracompany sales or transfers; (3) sales to dealers, distributors, or original equipment manufacturers, unless the government can demonstrate that the sale is under the same terms and conditions as a sale to a dealer, distributor or original equipment manufacturer; (4) sales to foreign purchasers; and (5) sales to educational institutions for educational purposes.

The conferees agreed that this provision was not intended as an overall requirement for the government to receive most favored customer status but, rather, to focus on the issue of noncompetitive sales to the Department of Defense of spare or repair parts at prices greatly in excess of the prices charged for the same item when sold in the commercial marketplace.

The conferees agreed to make permanent the exclusion of sales to the Federal government in the calculation of the contractor's lowest commercial price. In keeping with congressional efforts to allow the government to make small dollar purchases with a minimum amount of restraint and requirements, the conferees agreed also to exclude from the application of this provision purchases made utilizing simplified small purchase procedures.

The House recedes with an amendment.

Allocation of overhead to parts to which the contractor has added little value (sec. 927)

The Senate bill contained a provision (sec. 942) that would amend section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525) to eliminate from the application of that provision items of supply included in contracts or subcontracts for which the price is based on established catalog or market prices of items sold in substantial quantities to the general public.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete subsection 942(d). The conferees concluded that, because the section did not require the submission of cost or pricing data but, instead, relates to how the Department of Defense would require contractors to price items sold to the government, subsection (d) was unnecessary.

Clarification of requirements to mark supplies to identify suppliers and sources (sec. 928)

The Senate bill contained a provision (sec. 944) that would amend section 2384 of title 10, United States Code, to exclude from the requirments of that section items of supply for which the price is based on established catalog or market prices of commerical items sold in substantial quantities to the general public. Section 2384 requires the Secretary of Defense to prescribe regulations requiring that, whenever practicable, the contractor identify the actual manufacturer or producer of the item or of all sources of supply of the contractor for that item, the national stock number of the item and the identification number of the actual producer or manufacturer of the item or of each source of supply, and the source of any technical data delivered under the contract.

The House amendment contained no similar provision.

The conferees agreed that vendors of commercial products should not be required to provide to the government the identity of the actual manufacturer or producer of an item, its sources of supply for the item, the actual manufacturer or producer's identification number, or the source of any technical data provided under the contract, as long as the government purchased the item using competitive procedures or the contractor's price was based on established catalog or market prices. The purpose of this provision was to ensure that when the government purchased an item it could identify the actual manufacturer or producer of the item, if it was other than the company that provided the item to the government, so that it could determine whether to purchase the item directly from the manufacturer or producer. When items being provided are standard commercial products sold to the government under competitive procedures or at an established catalog or market price, the government is assured of the reasonableness of the price, and attempting to identify the actual manufacturer is not essential to ensuring the reasonableness of that price.

The House recedes with a technical amendment that would clarify that the exemption from the requirement to identify supplies applies only with respect to identification of the actual manufacturer or producer or sources of supply, the actual manufacturer's or producer's identification number, or the source of any technical data provided under the contract.

PROCUREMENT PERSONNEL POLICY

LEGISLATIVE PROVISIONS ADOPTED

Conflict of interest in defense procurement (sec. 931)

The Senate bill contained a provision (sec. 931) that would prohibit contacts between certain senior defense officials and a de-

fense contractor regarding future employment and would entitle a covered senior defense official to receive severance pay for a certain time period until that official obtains employment outside the federal government.

The House amendment contained a provision (sec. 924) that would prohibit the acceptance of compensation from a defense contractor by former Department of Defense officials for a period of two years after separation from government service if that official had personal and substantial responsibility for a procurement function involving contact with that contractor during the two-year period preceding separation. The restrictions would apply to officials in a civilian position of grade GS-13 or above or a military grade of O-4 and above.

The Secretary of Defense would have the authority to exempt certain senior civilian officials, except when those officials participated personally and substantially in the negotiation or settlement of a contract with a defense contractor. It would also require a contractor to submit annually a report to the Secretary of Defense on those persons in its employ who held positions in the Department of Defense in the previous two years. Violation of the prohibition would result in a fine and up to one year's imprisonment for a person knowingly accepting or providing such compensation; a fine of $100,000 or three times the compensation paid for a contractor knowingly violating the prohibition; and a fine of $10,000 for a company failing to file the required reports.

The Senate receded with an amendment that would modify the House provision by restricting coverage to certain former Department of Defense officials who, for a majority of the working days within the two years before separating from the Department of Defense (1) performed a procurement function at a site or plant that is owned or operated by a contractor and was the official's principal duty assignment or (2) personally and substantially participated in procurement functions relating to a major defense system involving contact with a contractor.

The prohibitions on accepting compensation would also apply to an official in a Senior Executive Service position or a military grade of 0-7 or above who acted as a primary representative of the United States in the negotiation or settlement of a Department of Defense contract in excess of $10,000,000. By the term "primary representative" the conferees intend to describe an official who was an actual decisionmaker, even though without official responsibility for the negotiations.

The amendment would also limit coverage to contractors who had contracts with the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000. The amendment would further substitute increased civil penalties for criminal penalties. The Senate amendment would provide that a current or former officer of employee, before accepting compensation, could obtain a written opinion from a designated agency ethics official and such opinion, if finding that this section is inapplicable to the acceptance of compensation by the current or former officer or employee, would serve as a conclusive presumption in favor of such officer or employee.

The conferees intend these measures to help dispel the appearance and deter any actual occurrence of conflicts of interest by procurement officials in the Department of Defense and to improve the post-employment reporting of former government procurement officials employed in the defense industry.

Plan for enhancement of professionalism of acquisition personnel (sec. 932)

The House amendment contained two provisions (sec. 906 and sec. 926) that would (1) require the Secretary of Defense to submit to Congress a report that describes methods to enhance career opportunities for program managers and other acquisition personnel and (2) establish a Defense Acquisition Corps within the Office of the Secretary of Defense, the military departments, and the various defense agencies.

The Senate bill contained no similar provisions.

The Senate recedes with an amendment that would combine the two provisions into a single provision that would require that the Secretary of Defense submit to the Committees on Armed Services of the Senate and House of Representatives a plan to enhance the professionalism and career opportunities for the acquisition personnel of the Department of Defense. The plan would (1) include criteria for the examination, selection, appointment, placement, classification, training, and assignment of acquisition personnel; (2) assess the feasibility and desirability of the designation of certain acquisition personnel as acquisition professionals and of the establishment of an alternative personnel system, and (3) include recommendations for appropriate legislative recommendations.

Educational requirements for acquisition personnel (sec. 933)

The House amendment contained a provision (sec. 916) that would modify section 1622(b) of title 10, United States Code, to require that, before a person is appointed a program manager in the Department of Defense, that person must not only have attended a program management course at the Defense Systems Management College, or a comparable course at another institution, but have actually completed the course.

The Senate bill contained no similar provision.

The Senate recedes.

Plan for coordination of defense acquisition educational programs (sec. 934)

The House amendment contained a provision (sec. 927) that would direct the Secretary of Defense to establish by regulation a Defense Acquisition University that included acquisition related defense schools already in existence.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of Defense, through the Under Secretary of Defense for Acquisition, to provide the Committees on Armed Services of the Senate and House of Representatives with a plan for the coordination of educational programs managed by the Department of Defense for its acquisition personnel. The plan should include provisions for the education of acquisition personnel:

(1) Through programs offered by the Department of Defense either through Department of Defense courses or programs offered in lieu of those courses;

(2) In various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) To ensure that duplication of functions and courses among defense department schools providing educational courses for acquisition personnel is avoided.

LEGISLATIVE PROVISION NOT ADOPTED

Safeguarding of military whistleblowers

The House amendment contained a provision (sec. 921) that would provide protection through administrative and judicial review for members of the military services who disclose to appropriate government officials information concerning government wrongdoing or waste of government funds.

The Senate bill contained no similar provision.

The House recedes.

REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

LEGISLATIVE PROVISIONS ADOPTED

Codification and extension of prohibition on employment of persons convicted of defense contract related felonies and related criminal penalty on defense contactors (sec. 941)

The Senate bill contained a provision (sec. 933) that would amend section 932 of the Department of Defense Authorization Act, 1986 (Public Law 99-145) to extend the prohibition on employment of persons convicted of a felony in relation to a government contract to prohibit the service of such persons on the board of directors. In addition, the Senate bill would also increase the minimum time in which such persons would be prohibited from being employed from one to three years.

The House amendment contained no similar provision.

The House recedes with an amendment that would strike the section of the Senate bill that would have increased the minimum time that such persons would be prohibited from working on any defense contract and clarifying that the provision would prohibit any person so convicted of serving on the board of directors of any company that contracts with the Department of Defense. The conferees agreed that the specified period is a minimum one and that establishing a minimum period greater than one year would not be in the best interest of the public. Accordingly, the conferees agreed that some flexibility should exist for the Secretary to consider the circumstances of the conviction, the penalty already imposed by the court, efforts to make restitution, and the interest to be served by the application of the prohibition.

The conferees also agreed to clarify that the fine established in Public Law 99-145 was a criminal penalty.

Protection of contractor employees from reprisal for disclosure of certain information (sec 942)

The House amendment contained a provision (sec. 922) that would provide certain protection for employees of Department of Defense contractors who disclose information on violations of law, regulation, mismanagement, and abuse of authority, or a substantial and specific danger to public health or safety.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would (1) provide that a contractor employee may not be discriminated against as a reprisal for disclosing substantial violations of statutory law to a Member of Congress or the Departments of Defense or Justice and (2) requires the Inspector General

to investigate and report on allegations of such reprisals.

Revision of work measurement provisions (sec. 943)

The Senate bill contained a provision (sec. 943) that would repeal section 917 of the Department of Defense Authorization Act for Fiscal Year 1986 (Public Law 99-145) relating to cost and price management. Section 917 required defense contractors to record and maintain certain types of cost and pricing data, including bills of material, and bills of labor expressed in standard hours of work content.

The House amendment contained no similar provision.

The House recedes with an amendment.

The amendment would require the heads of Department of Defense agencies to require contractors to make available (by providing access to) cost and pricing information in a timely manner with respect to covered contracts. The head of the agency or his authorized representative would have access to such information. The conferees intend that regulations governing access by authorized agency representatives under this section be consistent with the efforts of the Under Secretary of Defense for Acquisition to coordinate audit and oversight of contractor activities.

Such data to be made available would include work measurement system data, including standard hours of work content; various categories of proposed, negotiated and incurred costs; and bills of material. The conferees intend that cost data maintained by the contractor which reflects recurring as well as nonrecurring costs in the various categories should also be made available. The conferees further intend that revisions to the data be made available as the contractor records such revisions.

The requirements under this new section would apply to all manufacturing contracts for major weapon systems either pending or entered into on or after the date of enactment of this act. Further, the requirements of this section would only apply to contracts covered by the requirements of 10 U.S.C. 2306a.

The amendment would make clear that this section would not require a contractor to maintain additional data or data in a form or manner different from that in which the contractor otherwise maintains such data.

LEGISLATIVE PROVISION NOT ADOPTED

Certification of allowable indirect costs

The House amendment contained a provision (sec. 933) that would require a contractor submitting a proposal for interim or final settlement of indirect costs to certify that all indirect costs included in the proposal are allowable.

The Senate bill contained no similar provision.

The House recedes.

MISCELLANEOUS

LEGISLATIVE PROVISIONS ADOPTED

Contracting with firms owned or controlled by governments which support terrorism (sec. 951)

The Senate bill contained two provisions (sec. 951 and sec. 952) relating to Department of Defense contracts with companies owned or controlled by foreign governments or agents of those governments that support acts of international terrorism as determined by the Secretary of State under section 6(j) of the Export Administration Act.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical changes and limit the requirement for contractors to report foreign ownership to those with foreign ownership by countries listed under section 6(j). In additon, the conferees direct that the requirement to report be implemented in the least obtrusive means.

The conferees note that the Department of Defense has developed a strict policy with respect to the involvement of hostile foreign government ownership of contractors eligible for Department of Defense contracts. The conferees believe that the Department of Defense has been diligent in implementing such policy and expect that this provision will only serve to provide additional information and enhance the existing Department of Defense policy.

Truth in Negotiations Act amendments (sec. 952)

The Senate bill contained a provision (sec. 948) that would amend section 2306(f) of title 10, United States Code, to state that cost or pricing data include only data that are factual and verifiable and do not include judgmental data. It would further provide that no judgmental or intentional understatement of cost or pricing data may be used as an offset to an adjustment under this section.

The House amendment contained a similar provision (sec. 912) that would also define the term "cost and pricing" data to exclude information that is judgmental in nature, such as estimates of future productivity. Such data would, therefore, not be considered for purposes of determining whether defective pricing occurred or for purposes of determining whether a contractor may be entitled to an offset against an amount to be recovered for defective pricing.

The House amendment would also recognize for the first time in statute a contractor's right to offset against an amount that the government is entitled to recover, an amount that reflects cost or pricing data not revealed to the government that would have resulted in an increase in the agreed-to price. This provision parallels that which authorizes the government to recover when the failure to provide accurate, complete and current data resulted in an increase in price. As in the case of a recovery by the government, proof that information available to the contractor prior to the agreement on price establishes the right to recover that amount. The entitlement to recovery may be rebutted through proof by the government that, even if the required data had been provided, the government would not have agreed to a price increase. Finally, the section would restructure the existing Truth in Negotiations Act language to clarify its application.

The Senate recedes to the House with an amendment that would prohibit an offset, if the contractor intentionally withheld from the government information that would indicate a higher cost for an item or service and, thus, certified that the cost or pricing data it submitted was accurate, complete and current when, in fact, the contractor knew it to be false. The amendment would also clarify that a subcontractor may be required to provide cost or pricing data even though the requirement has been waived for the prime contractor or higher-tier subcontractor. The conferees acknowledge the practice of the Department of Defense to waive the requirement for certified cost or pricing data for universities under cost no-fee contracts but to require such data from subcontractors of the university.

The conferees were very concerned with clarifying the definition of cost or pricing data that a contractor is not required to provide and certify to data relating to judgments, business strategies, plans for the future or estimates. A contractor is required, on the other hand, to disclose any information relating to execution or implementation of any such strategies or plans. For example, a corporate decision to attempt to negotiate a new labor wage rate structure with its employee union, although verifiable, is not cost or pricing data for purposes of this section. If the company has made an offer to the union, the fact that an offer has been made, and the details and status of the offer, on the other hand, is information that should be conveyed to the government. Finally, this provision was amended to clarify that it applies to contracts and modifications to contracts entered into after the effective date of this Act.

Thus, the provisions of this Act apply only as to information provided to support a new contract or the exercise of an option or modification of an existing contract but not to the cost or pricing data provided to support an existing contract entered into prior to the effective date.

Rights in technical data (sec. 953)

The Senate bill contained a provision (sec. 953) that would require the Secretary of Defense to prescribe regulations defining the rights of the United States, its contractors and subcontractors, in technical data relating to items sold to the Department of Defense.

The House amendment contained a similar provision (sec. 913).

The Senate recedes with an amendment.

The conferees agreed to the House provision which would require the Department of Defense to publish regulations defining the terms "developed" and "at private expense". Efforts to define the terms have been ongoing since 1962 without resolution. Because of the lack of definitions in the Federal Acquisition Regulations and the Defense Supplement to those regulations, the military departments have differed in their approach on the issue. The conferees agreed that a uniform approach throughout the Department of Defense was desirable and necessary. In addition, the conferees believe that every effort should be made to make the policy and definitions similar in the Department of Defense and the civilian agencies to the extent the agencies are dealing with similar items.

Although agreeing that some flexibility in defining terms is necessary, the conferees believe that a statement of congressional intent is appropriate. The conferees believe that previously proposed Department of Defense regulations published for public comment September 10, 1985, defined the term "developed" in an excessively stringent manner by requiring an "actual reduction to practice"—a term of art used to establish an inventor's priority rights under the patent laws. The conferees agree that, for purposes of determining whether an item or process has been developed at private expense, an item should generally be considered "developed" if the item or process exists and reasonable persons skilled in the applicable art would conclude that a high probability exists that the item or process will work as intended. The conferees determined, however, that, because circumstances may exist in

which such a standard may be inappropriate, crafting of more exact parameters would be better accomplished through the regulatory process.

In addition, the conferees agree that as a matter of general policy "at private expense" development was accomplished without direct government payment. Payments by the government to reimburse a contractor for its indirect costs would not be considered in determining whether the government had funded the development of an item. Thus, reimbursement for Independent Research and Development expenses and other indirect costs (capital funds and profits), although such payments are in indirect support of a development effort, are treated for purposes of this Act as contractor funds.

The conferees also agreed that, although Congress has mandated increased competition in the Department of Defense's acquisition of goods and services, many alternatives exist to achieve that goal and do so more effectively, without coercing contractors and subcontractors into relinquishing legitimate rights in technical data. On the other hand, where the government is likely to purchase a substantial number of these items in the future, the government should attempt to acquire unlimited rights in data for items developed at private expense.

The Department of Defense should generally seek to acquire the same rights in data that a commercial customer would in acquiring the same product. For example, if a contractor were to purchase an item in the commercial sector, it would not receive unlimited rights to use, release or disclose technical data necessary to manufacture the item or perform the necessary processes to manufacture the item. If a contractor paid for a modification to an existing item, it may acquire rights in data to the modification but not the rights to use, release or disclose data to the underlying product. If, on the other hand, one contractor pays another contractor to develop a new item, the purchasing contractor, to some extent, is paying for the expertise of the developing contractor and, if so, is likely to acquire the rights to manufacture or release and disclose the data to someone else to manufacture. In the event funds are mixed in such a way that no clear allocation of funds from either party to the development of a segregable item can be determined, the parties should agree to the rights to be accorded each party. The same applies to the government in contracting with its suppliers.

When entering into a contract with a supplier for which the government will fund directly a portion of the development costs, the government must evaluate whether its contribution is substantial enough to warrant the government's unlimited rights to use, release or disclose technical data pertaining to that item. The Department of Defense should establish by policy negotiation objectives to be used as guidance in determining whether the government should acquire rights when the contractor would be entitled to retain them and the trade-off when paying for some portion of the development. Such guidance should factor into account the number of items to be purchased in the future, the amount of funding contributed by the government, if any, and other variables that would take into account the benefit to be achieved by the government acquiring unlimited rights to use, release or disclose such data. The conferees agree that such guidance should also provide that, with exception, the government should not require a contractor to provide technical data relating to commercial products, except that data necessary for maintenance, repair and training.

Notwithstanding the above, the government should continue to evaluate, in determining which contractor should receive a contract, whether the government will have the ability to compete the item in future acquisitions—either through the acquisition of data rights or a requirement to develop alternative sources.

The conferees agreed to make the provisions of this section applicable in 210 days. The Department of Defense is required to issue proposed regulations within 90 days and final regulations within 180 days. This will allow the public to comment on the proposed regulations, as well as review the final regulations 30 days prior to their effective date. The conferees hope that with the requirement to publish the final rules 30 days before they become effective the public will have the opportunity to review the regulations as they have been adjusted from the initial proposed regulations, prior to their becoming effective. Finally, the amendment would clarify that the validation procedures required under this section apply only as to technical data delivered under contracts entered into after the effective date of this Act. As to data required to be delivered under contracts entered into prior to the effective date, the standards in effect on the date the contract was entered into continue to apply.

The conferees also agreed to the Senate provision requiring notification to a contractor that technical data delivered with restricted rights was released or disclosed under section 2320(D). The conferees wish to make clear that the notification need not be made prior to the government's release, but should be made as soon as reasonably possible.

Recovery of costs to provide technical data (sec. 954)

The House amendment contained a provision (sec. 935) that would authorize the government to charge those who do not need the technical data to bid on a government contract an amount equal to the true administrative cost of searching for and reproducing the data. The provision would require the release of data at no additional cost to any requestor who is a U.S. citizen or U.S. corporation that will certify that it needs the data in order to bid on or perform a government contract. In addition, the provision would authorize the Defense Department organization that responds to the request to retain those amounts recovered under this section.

The Senate bill contained no similar provision.

The Senate recedes with an amendment deleting the provision in the House amendment specifying that the fees established under this section may not exceed those established under section 9701 of title 31. Because that section related to user fees, which are consistent with the cost recovery allowed under this section, the conferees concluded the reference was confusing and unnecessary. The amendment would also provide that the definition of technical data is the same as provided under section 2302 of title 10, United States Code, and would clarify that this provision is not intended to prevent the government from requiring contractors to provide a refundable bond in order to secure technical data.

This provision is not intended to require the agency to establish new procedures for release of technical data packages with bid sets, and the conferees strongly advocate the continuation of the existing procedures for releasing technical data to bidders at the time bid sets are provided. The conferees are aware of numerous instances, however, when extraordinary volumes of technical data have been requested when the requestor did not require the data to bid on a government contract or to determine whether it could bid on a future requirement. The conferees agreed that in such cases the government ought to be able to recover the full cost of dedicating personnel and equipment to provide such data.

This provision is also not intended to have an affect on the standards for releasing data. The Department of Defense shall continue to determine releasability based on existing law, and this provision relates only to the fees which the government may change once a determination as to releasability is made.

Comparable budgeting for similar systems (sec. 955)

The House amendment contained a provision (sec. 904) that would require the Secretary of Defense, in preparing the defense budget for any fiscal year, (1) to identify each common procurement weapon system included in the budget; (2) to take all feasible steps to minimize variations in procurement unit costs of such common procurement weapon systems; and (3) to identify and to justify in the budget any variations in procurement unit costs for common procurement weapon systems.

The Senate bill contained no similar provision.

The Senate recedes.

Funding of procurement technical assistance programs serving distressed areas (sec. 956)

The House amendment contained a provision (sec. 915) that would amend section 2411(2) of title 10, United States Code, to authorize the Department of Defense to pay up to 75 percent of the cost of running a technical assistance program sponsored by any state, local government or private, nonprofit organization, if the program serves an area with an unemployment rate one percent higher than the national average or per capita income of 80 percent or less of the state average.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify the term "area" to be served by the program to mean: any civil jurisdiction, group of civil jurisdictions, or civil jurisdiction or group of jurisdictions excluding any civil jurisdiction or jurisdictions, served by the procurement assistance program. In addition, the amendment would clarify that a procurement technical assistance program would be eligible for 75-percent funding by the Department of Defense, if it solely serves a distressed area (an area that, as a whole, meet the requirements established under the section). Thus, a state or local government or private nonprofit organization may operate more than one technical assistance program: one solely serving a distressed area that would qualify for 75-percent funding and another serving an area not considered distressed that would be eligible for 50-percent funding.

Subcontractor information to be provided to procurement technical assistance centers (sec. 957)

The House amendment contained a provision (sec. 937) that would require defense

contractors awarded a contract in excess of $100,000 in that year to provide to the procurement technical assistance centers a listing of the name, business address, telephone number, and area of responsibility of employees of the contractor responsible for issuing subcontracts.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would increase the threshold for requiring contractors to provide the information to $500,000. The conferees agreed that the $500,000 threshold, which is consistent with the threshold for requiring small business subcontracting plans, was a more appropriate level.

LEGISLATIVE PROVISION NOT ADOPTED

Priority for domestic firms

The House amendment contained a provision (sec. 938) that would require the Department of Defense to award a contract to a U.S. firm that would provide a product domestically produced if the price offered by the U.S. firm is not more than 5 percent higher than the price of the otherwise low foreign bid.

The Senate bill contained no similar provision.

The conferees agree that every effort is needed to be made to ensure that the U.S. industrial base is not eroded by imports of cheaper foreign goods. However, the conferees acknowledge that in the defense sector the United States continues to maintain an approximate two-to-one advantage of exports over imports. In addition, the conferees expressed concern that other countries might retaliate against U.S. defense exports if the provision was adopted.

Consequently, the conferees could not reach an agreement on this issue, but have committed to holding hearings on this subject in the next session of Congress. The House recedes.

MISCELLANEOUS REPORTS

LEGISLATIVE PROVISIONS ADOPTED

Amending section 139a concerning selected acquisition reports (sec. 961)

The Senate bill contained a provision (sec. 1203) that would amend various provisions in section 139a and section 139b of title 10, United States Code, concerning Selected Acquisition Reports (SAR). The fiscal year 1986 Defense Authorization Act (Public Law 99-145) contained a provision (sec. 1201) directing the Department of Defense, the General Accounting Office and the Congressional Budget Office to recommend revisions to the SAR reports to improve their utility. The changes incorporated in section 1203 of the Senate bill were recommended by the Department of Defense and have the effect of bringing SAR reporting criteria more in line with current systems. More fundamental changes were suggested by the Department, by GAO and by CBO but were not incorporated in this section.

The House conferees intend to conduct a thorough review of the Selected Acquisition Reports during the coming year, with a goal of incorporating more sweeping revisions. The conferees judged, however, that the changes incorporated in section 1203 were constructive and should not be delayed pending a more systematic review.

The House recedes with a technical amendment.

The conferees emphasize the importance of the Selected Acquisition Reports in the oversight process and commend the Department of Defense for its efforts to improve the reports.

Report on efforts to increase contract awards to Indian-owned businesses (sec. 962)

The House amendment contained a provision (sec. 1025) that would require a report on the efforts of the Department of Defense to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the report to cover fiscal years 1986 and 1987 and delaying the reporting requirement until 1988.

Report on geographic distribution of defense contracts (sec. 963)

The House amendment contained a provision (sec. 1026) that would require a report on the distribution of contracts within geographic regions in the United States and Department of Defense efforts to reduce the disparity in the distribution of contracts by dollar value and number.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide that the Secretary of Defense submit a report on the efforts of the department to increase competition and enhance the defense industrial base, including efforts such as the use of technical assistance centers and other programs to assist contractors in bidding on defense contracts.

LEGISLATIVE PROVISION NOT ADOPTED

Components manufactured outside the United States

The House amendment contained a provision (sec. 804) that would require that each comprehensive annual Selected Acquisition Report (SAR) for a major defense acquisition program include information detailing the use of components manufactured outside the United States, including the dollar value and country of origin of such components.

The Senate bill contained no similar provision.

The House recedes.

TITLE X—MATTERS RELATING TO ARMS CONTROL

LEGISLATIVE PROVISIONS ADOPTED

SALT II compliance (sec. 1001)

The Senate bill contained a provision (sec. 1210) that would express the sense of the Senate that the United States should continue voluntary compliance with the central numerical sublimits on delivery systems of the strategic offensive arms agreements with the Soviet Union, provided that the Soviet Union complies with those sublimits.

The House amendment contained a provision (sec. 1061) that would deny funds to deploy weapons in excess of the numerical sublimits in the SALT II agreement unless the President certified that the Soviets had exceeded these sublimits.

The conferees agreed to accept non-binding language that incorporated the sense of the Senate provision in the Senate bill, and the definitions of the numerical sublimits in the House amendment.

The House recedes with an amendment.

Nuclear testing (sec. 1002)

The Senate bill contained a provision (sec. 1230) stating it was the sense of the Congress that the President should request advice and consent of the Senate to ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosives Treaty, and that he should propose to the Soviet Union immediate negotiations on a comprehensive test ban treaty.

The House amendment contained a provision (sec. 3036) that would prohibit funds from being spent on nuclear tests above one kiloton yield for one year starting January 1, 1987 unless the President certified that the Soviets had conducted a nuclear test above one kiloton after January 1, 1987, or had refused to accept and implement verification measures.

The House recedes. The conferees took this position in light of the October 10, 1986 letter from the President giving his commitment to take two important steps limiting nuclear testing.

First, he pledged to inform General Secretary Gorbachev in Reykjavik that as a first order of business for the 100th Congress, if the Soviet Union will, prior to the initiation of ratification proceedings in the Senate next year, agree to essential TTBT/PNET verification procedures which could be submitted to the Senate for its consideration in the form of a protocol or other appropriate codicil, he will request the advice and consent of the Senate to ratification of the TTB and PNE treaties. However, if the Soviet Union fails to agree to the required package of essential procedures prior to the convening of the 100th Congress, he will still make ratification of these treaties a first order of business for the Congress, with an appropriate reservation to the treaties that would ensure they would not take effect until they are effectively verifiable. He will work with the Senate drafting this reservation.

Second, he pledged to inform the General Secretary in Reykjavik that, once our verification concerns have been satisfied and the treaties have been ratified, he will propose that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing.

Military impact statement by the joint chiefs of staff on United States non-compliance with existing strategic offensive arms agreements (sec. 1003)

The Senate bill contained a provision (sec. 1220) that would require the Chairman of the Joint Chiefs to submit to Congress by October 1, 1986, classified and unclassified versions of a report on matters related to a U.S. policy on non-compliance with existing strategic offensive arms agreements. It would also withhold funds for JCS studies and analyses pending receipt of the report on October 1, 1986.

The House bill contained no similar provision.

The conferees agreed to adopt a modified version of the Senate bill, changing the date the report is due to October 15, 1986 in order to accommodate to the date of enactment of the fiscal year 1987 Defense Authorization Act.

Sense of Congress expressing support for a central role for nuclear risk reduction centers (sec. 1004)

The House amendment contained a provision (sec. 1027) expressing support for the President's willingness to negotiate an agreement with the Soviet Union establishing Nuclear Risk Reduction Centers and recommending that the U.S. center be as-

signed a central role in the coordination of federal risk reduction activities.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees strongly support the Nuclear Risk Reduction Center initiative and agree that the U.S. center should be the locus of U.S. nuclear risk reduction activities specified in any agreement that may emerge from the on-going negotiations with the Soviet Union. The conferees amended the language of the House amendment to make clear that, if an agreement with the Soviet Union establishing the centers is reached, the responsibilities of the U.S. center should include making recommendations to the President's National Security Advisor regarding additional risk reduction arrangements that might be proposed to the Soviet Union in any future negotiations on this subject.

LEGISLATIVE PROVISIONS NOT ADOPTED

Strategic arms agreements

The Senate bill contained a provision (sec. 1211) that would express the Sense of the Senate that, consistent with international law, it is not in the U.S. national interest to continue to comply with any strategic arms agreements that the Soviet Union is violating

The House amendment contained no similar provision.

The Senate recedes.

TITLE XI—MATTERS RELATING TO NATO

LEGISLATION PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Modernization of NATO's southern flank (sec. 1101)

The Senate bill contained a provision (sec. 1205) that would authorize the President to transfer excess equipment from Department of Defense stocks, at no cost, to those member nations of NATO's southern flank which are eligible for U.S. security assistance and are integrated into NATO's military structure, for the purpose of helping to modernize the defense capabilities of these nations. Prior notification is required for each proposed transfer including a certification of need and an assessment of their impact of the transfer on the U.S. Armed Forces. It is the committee's intent that equipment be transferred which is dated by our standards, but which could still make a military contribution to the defense of NATO's southern flank.

The authorization would provide that:

(1) The equipment to be transferred be that which is excess to the requirements of U.S. active duty forces, or programmed to be excess;

(2) The security assistance eligibility in the legislation be limited to those countries which are eligible for Foreign Military Sales credit and/or participation in the Military Assistance Program; and

(3) (The President grant such equipment on the basis of the military requirements of the southern flank nations and the contribution such transfers will make to the defense of the southern flank of NATO.

The conferees understand that, at the present time, this provision would authorize the transfer of equipment to Greece, Portugal, and Turkey.

The House amendment contained no similar provision.

The House recedes with amendments.

The authority of this provision is placed under the framework of the Foreign Assistance Act of 1961, as amended, for fiscal years 1987 and 1988 only. The conferees, expect that the Administration will submit to the Foreign Relations Committee of the Senate and the Foreign Affairs Committee of the House of Representatives a proposal for permanent authority in the fiscal year 1988 budget request for foreign assistance.

For the purposes of this authority, the conferees intend that items such as F-4, A-7, and T-33 aircraft, M-48A1 tanks and M114A2 howitzers, or other equipment of comparable military utility are illustrative of the types of equipment that could be transferred.

In providing this authority, the conferees intend that transfers to recipient nations be consistent with the current policy framework for the Eastern Mediterranean region that is established in section 620C of the Foreign Assistance Act of 1981, and amended.

Cooperative logistics arrangements in NATO (sec. 1102)

The Senate bill contained a provision (sec. 1206) that would authorize the Secretary of Defense to enter into bilateral or multilateral NATO Weapon System Partnership Agreements with NATO member nations, under the aegis of the NATO Maintenance and Supply Organization (NAMSO), for the cooperative logistic support of weapon systems fielded in Europe by the United States and one or more NATO ally. Each partnership would be jointly managed by the participating nations, and administrative costs would be equitably shared among them. The transfer of defense acticles or defense services to NAMSO for the purposes of a Weapon System Partnership Agreement would be in accordance with the provisions of the Arms Export Control Act.

The House amendment contained no similar provisions.

The House recedes with an amendment specifying that defense articles or defense services transferred to NATO member nations, as well as NAMSO, would be in accordance with the provisions of the Arms Export Control Act.

NATO Cooperative Projects (sec. 1103)

The Senate bill contained a provision (sec. 1207) that would amend section 27 of the Arms Export Control Act to expand authority for NATO cooperative armaments projects to other friendly countries.

The House amendment contained no similar provision.

The House recedes with two amendments. The first amendment would provide that the reporting requirements of Section 36(b) of the Arms Export Control Act would continue to apply for all sales conducted under the authority of section 27 of the Arms Export Control Act for countries other than NATO member nations. The second amendment would specify that the existing reporting requirement in section 27 requires a cost estimate of revenue loss incurred by a waiver of various FMS surcharges under sections (21(e) (1)(d) and 43(b) of the Arms Export Control Act.

For fiscal year 1987, it is the intention of the conferees that, in addition to the NATO countries, the four countries eligible for cooperative projects under section 27 will be Australia, Israel, Japan, and the Republic of Korea.

In adopting the amendment to section 27, the conferees intend in no way to alter the exclusive legislative jurisdiction of the Foreign Relations Committee of the Senate and the Foreign Affairs Committee of the House of Representatives over the Arms Export Control Act.

Acquisition and cross servicing agreements (sec. 1104)

The Senate bill contained a provision (sec. 1208) that would extend the terms of the NATO Mutual Support Act to countries with which the United States has defense alliances or conducts joint exercises, or which allow the stationing or positioning of U.S. forces or materiel, by authorizing the Secretary of Defense to enter into agreements with such countries for the acquisition and reciprocal provisions of logistical support, supplies and services. The Secretary may designate a country, after consultation with the Secretary of State, if he determines that the designation is in the national security interest of the United States.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to notify the Committees on Armed Services in the Senate and the House of Representatives and the Senate Foreign Relations Committee and the House Foreign Affairs Committee 30 days prior to the designation of a non-NATO country for cross-servicing agreements. The conferees believe that the designation of such countries should be examined by the relevant committees on the Congress on a case-by-case basis. The conferees urge the Secretary of Defense to exercise caution in extending this authority outside of NATO. The conferees understand that for fiscal year 1987, this authority will be extended to acquisition and cross-servicing agreements with Egypt, Israel, Japan, and the Republic of Korea only.

Cooperative research and development with non-NATO allies and other friendly countries (sec. 1105)

The Senate bill contained a provision (sec. 1209) that would allot up to $40 million of funds authorized in section 201 of the Act for cooperative R&D projects with major non-NATO allies. The provision would define a "major non-NATO ally" as "a country with which the United States has a mutual security treaty or mutual security assistance treaty or a country which shares with the United States a mutual commitment to freedom and individual freedoms."

The House amendment contained no similar provision.

The House conferees felt the definition of non-NATO ally was too broad and vague. The House recedes with an amendment changing the definition to: "any country designated as an allied country by the Secretary of Defense with the concurrence of the Secretary of State," and with technical amendments.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Contracts for overhaul, repair, and maintenance of naval vessels (sec. 1201)

The House amendment contained a provision (sec. 801) that would amend section 7799a of title 10, United States Code, to require the Secretary of the Navy to consider all costs of performing overhaul, repair, or maintenance work on a combatant or escort naval vessel in an area outside the homeport of that vessel (including costs to the Navy that are subject to estimation before contract award) in the evaluation of bids or

proposals for a contract to perform such work.

The House amendment would also require the Secretary of the Navy to award contracts for overhaul, repair, or maintenance work on naval vessels of six months or less duration to a contractor able to perform the work in the vessel's homeport, provided that adequate competition is available among firms able to perform the work in the vessel's homeport.

The House amendment would also repeal section 8104 of the Department of Defense Appropriations Act, 1986 (section 101(b) of Public Law 99-190), which provides that none of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

The Senate bill contained no similar provision.

The conferees agreed to the House provision with an amendment. Before contract award the Secretary of the Navy would be required to consider the foreseeable costs of moving the ship and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract work in the evaluation of bids or proposals for a contract to perform overhaul, maintenance, or repair on a naval vessel outside the vessel's homeport.

The Senate recedes with an amendment.

Handling of hazardous waste generated during repair or maintenance of naval vessels (sec. 1202)

The House amendment contained a provision (sec. 802) that would require that the Secretary of the Navy ensure that contracts entered into for repair or maintenance of a naval vessel include the following provisions.

(1) That types and amounts of hazardous wastes that are expected to be generated during performance of repair or maintenance be identified in the contract;

(2) That the contractor be responsible for the removal, handling, storage, transportation, and disposal of hazardous wastes generated during performance of repair or maintenance; and

(3) That the contractor be compensated for the duties listed in paragraph (2).

The House amendment would further provide the Secretary of the Navy shall renegotiate the contract if the contractor, during the performance of repair or maintenance under the contract, discovers hazardous wastes different in type or amount from those identified in the contract and if such hazardous wastes originated on the naval vessel on which the repair or maintenance is being performed, including any waste materials rendered hazardous as a result of the performance of the work required by the contract.

The House provision would also require each naval vessel, or Supervisor of Shipbuilding in lieu of each vessel, at or upon which hazardous wastes are produced or from which hazardous wastes are removed, to obtain an identification number in accordance with regulations issued by the Environmental Protection Agency.

The Senate bill contained no similar provision.

The conferees agreed to the House provision with two amendments. First, the Secretary of the Navy would be required to renegotiate the contract if the contractor, during performance of the contract, discovers hazardous wastes different in type or amount from those identified in the contract and if such hazardous wastes originated on the naval vessel on which the repair or maintenance is being performed.

Second, the conferees agreed to delete the provisions that would require naval vessels or Supervisors of Shipbuilding to obtain hazardous waste identification numbers.

The Senate recedes with an amendment.

Limitation on transfer of certain technical data packages (sec. 1203)

The House amendment contained a provision (sec. 803) that would authorize, under certain conditions, the use of Department of Defense appropriations for the transfer of a technical data package from any U.S. government-owned and operated defense plant manufacturing large caliber cannons to a friendly foreign government. It would further authorize such funds to be used to assist a foreign government in producing a defense item currently being manufactured or developed in such plants.

The Senate bill contained no similar provision.

The Senate recedes.

Requirement concerning transportation of members of the armed forces by chartered aircraft (sec. 1204)

The House bill contained a provision (sec. 805) that would improve the procedures for ensuring the safety of passenger aircraft chartered by the Department of Defense for the transportation of military personnel. The provision would require airlines to meet certain safety requirements prior to contracting with the Department of Defense and would provide for a series of safety inspections after contract award and during the operation of chartered aircraft. The Secretary would also be required to establish a review board that would make recommendation on suspension and reinstatement of air carriers if involved in a fatal or serious accident or if found in violation of Federal Aviation Administration regulations.

The Senate bill contained no similar provision.

The Senate recedes to the House with an amendment.

The House provision contained a section that would require a preflight safety inspection of all aircraft subject to this provision be conducted not more than 72 hours before each flight to ensure a high degree of flying safety. The Senate amendment would require a preflight safety inspection anytime during the operation of but not more than 72 hours before each internationally scheduled charter mission departing the United States and would require these same inspections for domestic charter missions to the greatest extent practical.

Fuel sources for heating systems on military installations (sec. 1205)

The Senate bill contained a provision (sec. 2181(a)) that would restrict the Secretary of a military department from converting a heating facility at any United States military facility in Europe from coal-fired to any other energy source unless that conversion is required by the host government or is life cylce cost effective. If the Secretary of the military department makes such a determination, conversion could not begin until 30 days after notification of Congress.

The House bill contained a provision (sec. 806(c)) that would direct the Secretary of a military department to convert, where practical, from coal-fired heating plants to district heat utility systems at United States military facilities in the Federal Republic of Germany.

The House recedes.

The Senate bill contained a provision (sec. 2181(b)) that would require the Secretary of Defense, where he determines it to be cost effective, to use coal produced in the United States to operate heating facilities at military installations in the United States. In addition, the Secretary of Defense would be required to take such actions as may be necessary to implement the program for rehabilitation and conversion of current steam heating plants to coal burning facilities set forth in section 8110 of the Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190) and to make maximum use of private venture capital and long-term contracting. In achieving the coal consumption target of 1.6 million short tons coal a year over current levels set forth in section 8110, the Secretary of Defense is required to consume at least 300,000 short tons of anthracite coal. The Senate bill would also require the Department of Defense to purchase at least 300,000 tons of anthracite coal in fiscal year 1987. Finally, the Secretary of Defense would be required to make an annual report to Congress on his actions to implement the program set forth in section 8110.

Section 806(a) and (b) of the House amendment would amend section 2689 of title 10 United States Code to lift all restriction on the use of oil and gas for heating systems at military installations in the United States and repeals the mandatory coal consumption levels for new and replacement heating systems at military installations set forth in section 8110.

The conferees agreed to accept the House provision, but with the recognition of a continuing need to ensure secure sources of domestic energy, such as coal, in support of national security and defense readiness interests. Accordingly, the conferees direct the Department of Defense to pursue a vigorous program to increase the use of U.S. coal at its CONUS facilities wherever cost-effective. This program should make a maximum use of private venture capital, expertise and initiative through third party contracting to maximize benefits to both private and public interests.

The Senate recedes.

The Senate bill contained a related provision (sec. 2186B) that would amend section 2690 of title 10, United States Code, requiring that each new heating or cogeneration system that is installed or constructed at any military installation which requires 100 million British thermal units input per hour or more shall have multiple fuel capability unless the Secretary of the military department concerned waives this requirement for the following reasons:

(1) Local restrictions, or

(2) Costs make the installation or construction of solid or dual fuel equipment infeasible, and

(3) He notifies the appropriate committees of Congress in writing of the waiver and the reasons for exercising such waiver authority.

The Senate recedes.

Defense Investigative Service investigation of special access program contractors (sec. 1206)

The House bill contained a provision (sec. 808) that would require the Director of the Defense Investigative Service to conduct inspections of the classified documents control system at least every six months of

each special access program contractor. It would also require the Secretary of Defense to submit an annual unclassified report to Congress that would certify contractor compliance with established procedures, would describe failures to comply, and identify planned corrective action.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees agreed the protection of classified material should be considered among the Department of Defense's highest priorities. While oversight of the security of classified material at most defense contractors is the responsibility of the Defense Investigative Service, for programs designated as requiring special access, oversight is retained within the military department responsible for such programs.

The Senate amendment would require the Defense Investigative Service conduct a one-time review of security administration of Department of Defense special access programs at all Department of Defense contractors involved in such programs. The review would include the frequency and adequacy of security inspections conducted by the Department of Defense of these contractors.

The amendment would also require the Secretary of Defense to provide an unclassified report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1987.

Finally, the amendment authorizes the Director of the Defense Investigative Service, after consultation with the Secretary of Defense, to conduct inspections of such programs as he deems appropriate, unless otherwise directed by the Secretary.

Contract goal for minorities (sec. 1207)

The House amendment contained a provision (sec. 1032) that would provide for not less than ten percent of each of the amounts appropriated for the Department of Defense in procurement; research, development, test and evaluation; military contruction; and operations and maintenance to be set-aside for small business concerns owned and controlled by socially and economically disadvantaged individuals, historically Black colleges and universities; and minority institutions. It would provide for technical assistance to potential contractors, competitive procedures and advance payments. The Secretary of Defense would be required to submit a report to Congress by May 1 of each year on the compliance with this section. The program would terminate in five years.

The Senate bill contained no similar provision.

The Senate recedes to the House provision with amendments that would replace the mandated 10% set-aside with a goal of 5% of the total combined amount of contracts and subcontracts for the next three years. Further, the amendment would allow the Department of Defense to enter into contracts using less than full and open competitive procedures, but paying a price not to exceed the "fair market" value by more than 10%. The technical assistance program would be further defined to ensure that real strides would be made in assisting these firms.

Penalties would be imposed on any person found misrepresenting the status of a business under this section. They could receive a fine of not less than $10,000 or imprisonment of not less than one year, or both.

The Secretary would be directed to report to Congress twice a year on this program; once in May of each year on the progress made to date and again in October on the compliance with the goals for that fiscal year.

The conferees further agree that this program needs time to operate before a determination can be made as to its success or failure, and the conferees agree that the issue of mandating any specific amount of set aside or increasing the 5% goal from that agreed to in this act shall not be considered by them in the fiscal year 1987, 1988, 1989 Defense Authorization or Defense Appropriations bills or the Continuing Resolutions.

Manpower reports on major defense acquisition programs (sec. 1208)

The Senate bill contained a provision (sec. 441) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives, at least 90 days in advance of a decision to proceed with full-scale engineering development or with production and deployment of a major weapon system, on the manpower requirements of the system.

The House amendment included no similar provision.

The House recedes with an amendment making the provision applicable only to decisions taken after December 31, 1986.

ECONOMY AND EFFICIENCY

LEGISLATIVE PROVISIONS ADOPTED

Increase in threshold applicable to statutory contracting-out procedures (sec. 1221)

The Senate bill contained a provision (sec. 1003) that would amend section 502(d) of the Defense Authorization Act, 1981 (10 U.S.C. 2304 note) to raise the threshold for the performance of full cost studies from 40 to 50 or fewer Department of Defense civilian employees.

The House amendment contained no similar provision.

The conferees agreed to raise the threshold for the performance of full cost studies to 45 or fewer Department of Defense civilian employees.

The House recedes with amendment.

Prohibition on contracts for performance of firefighting and security functions (sec. 1222)

The Senate bill contained a provision (sec. 1004) that would extend through fiscal year 1987 the current prohibition on the contracting out of firefighting functions currently being performed by Department of Defense civilians. The Senate provision would also require a report to Congress from the Department of Defense and United States Fire Administration reviewing the performance standards, inherently governmental activities within the firefighting function, and an estimate of cost savings associated with the contracting out of such functions over a five year period.

Section 807 of the House amendment would amend chapter 159 of title 10, United States Code, to permanently prohibit the contracting out of firefighting and security guard functions currently being performed by Department of Defense civilians except for:

(1) Contracts at locations outside the United States;

(2) Contracts at Government-owned but privately operated installations; and

(3) Contracts (or the renewal or contracts) in effect on September 24, 1983.

The conferees agreed to the House provision for a permanent prohibition on firefighting functions currently being performed by Department of Defense civilians. The conferees also agreed to extend the current prohibition on security guard functions currently being performed by Department of Defense civilians for one additional year with the provision that the Secretary of Defense may contract out new security guard functions if he determines that it will not have an adverse effect upon installation security, safety, and readiness. The conferees agreed to strike section 1233 of the Defense Authorization Act, 1986 (Public Law 99-145) and adopted the following language providing general policy guidance:

Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, executive order, or regulation) than the cost at which the Department can provide the same supply or service.

The Senate recedes with amendments.

Realistic and fair cost comparisons in determinations relating to contracting out the performance of certain Department of Defense functions (sec. 1223)

The Senate bill contained a provision (sec. 1005) that would require the Secretary of Defense to ensure that all costs (including quality assurance, technical monitoring of performance, liability insurance, employee retirement and disability benefits, and all other overhead costs) considered in determinations relating to contracting out the performance of certain Department of Defense functions be realistic and fair.

The House amendment contained no similar provision.

The conferees agreed to amend the Senate provision to read that the Secretary of Defense "shall" ensure that such costs be considered and are fair and realistic."

The House recedes with amendment.

Requirements relating to proposed increased utilization of civilian personnel (sec. 1224)

The Senate bill contained a provision (sec. 422) that would prohibit conversion of any commercial or industrial type activity that is being performed by a private contractor on the date of enactment of this Act to performance by Department of Defense civilian employees except:

(1) In time of war, national emergency declared by Congress or the President, or upon a written declaration of the Secretary of Defense that such conversion is required in the interest of national security interests; or unless

(2) The Secretary of Defense notifies Congress of such conversion and provides a detailed cost study that compares all relevant direct and indirect costs of contractor and Department of Defense civilian performance of such activity over a five year period.

The House amendment contained no similar provision.

The House recedes with an amendment that would require that an estimate of costs of performance of any commercial or industrial activity (including workload) being performed by private contractors by more than 50 employees which is to be returned to in-house performance be prepared and that

the Secretary of Defense transmit periodic compilations of these reports to the Committees on Armed Services of the Senate and House of Representatives.

LEGISLATIVE PROVISIONS NOT ADOPTED

Prevailing wage provisions

Section 1002 of the Senate bill contained a provision that would exempt all military construction contracts of $250,000 or less from the provisions of the Davis Bacon Act (40 United States Code 276a(a)), which currently requires the Federal government to pay local prevailing wage rates on all contracts in excess of $2,000, and would prevent severing of contracts for the purpose of avoiding the proposed threshold.

Section 2715 of the House amendment contained a similar provision that would amend section 2852 of Title 10, United States Code, for fiscal year 1987 to raise the threshold for military construction and family housing contracts from $2,000 to $25,000; to prevent severing of contracts to avoid the new threshold; and to establish the private right to seek court enforcement of the contract splitting language.

The Senate recedes from its provision.

The House recedes from it provision.

The conferees agree to delete each of the differing House and Senate prevailing wage provisions, resulting in no change in current law.

TITLE XIII—GENERAL PROVISIONS

FINANCIAL MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Transfer authority (sec. 1301)

The House amendment contained a provision (sec. 1001) that would permit the transfer of an authorization made available in the fiscal year 1987 Defense Authorization Act to any other authorization made available in the Act upon determination by the Secretary of Defense that such a transfer would be in the national interest. The provision would provide the authority for reprogrammings involving the transfer of authorization between authorizations as set out in bill language. The authority to transfer could only be used to provide authorization for higher priority items than the items from which authorization was transferred and could not be used to provide authorization for an item that was denied authorization by the Congress. The Secretary of Defense would be required to promptly notify the Congress of transfers. The total amount of transfers would be limited to $2 billion.

The House provision would also provide that a transfer made pursuant to this section would transfer the obligation limitation associated with the authorization.

The Senate bill contained no similar provision.

The Senate recedes.

General authorization for civilian pay contingencies (sec. 1302)

The Senate bill contained a provision (sec. 1201) that would place contingencies on civilian pay and other matters.

The House amendment contained similar provisions (sec. 201(b) and section 301(b)).

The House recedes.

Foreign currency (sec. 1303)

The Senate bill and the House amendment each contained a provision (sec. 306 and sec. 202, respectively) that would authorize to be appropriated $3.5 million for the purchase of foreign currencies to carry out programs for the Department of Defense.

The conferees have placed this provision in the general provision section.

Special Defense Acquisition Fund (sec. 1304)

The Senate bill contained a provision (sec. 1213) that would increase to $1.1 billion the capitalization of the Special Defense Acquisition Fund (SDAF). The current ceiling is $1.0 billion.

The House amendment contained no similar provision.

The conferees recommend increasing the SDAF ceiling to $1.07 billion.

The contract authority granted in this section is available only in such amounts as provided in appropriations acts.

Limitation on obligation of fiscal year 1985 and fiscal year 1986 funds (sec. 1305)

The House amendment contained a provision (sec. 4007) that would provide that $4.4 billion of funds appropriated for fiscal years 1985 and 1986 and which remain available for obligation may not be obligated.

The Senate bill contained no similar provision.

The conferees agreed to a provision that would limit the obligation of approximately $4.4 billion of funds. The amount of the limitation would be reduced, on an account year basis, by rescissions made in appropriations bills for fiscal year 1987.

The Senate recedes with an amendment.

Limitations on obligations contained in Titles I–III (sec. 1308)

The House amendment contained limitations on obligations that could be incurred from various budget accounts for fiscal year 1987 in sections 101(b), 102(a)(2), 102(b)(2), 102(c)(1), 102(c)(2), 102(d)(2), 102(e)(2), 103(b), 104(b), 106(b), 201(c), and 301(c).

The Senate bill contained no similar provision.

The conferees agreed to include obligation limitations, where consistent with conference agreements, as contained in the House amendment but included a provision that would provide that:

(1) The limitations would apply only to funds directly appropriated or funds transferred by provisions in appropriations acts that explicitly identify the funds transferred; and

(2) The limitations would not apply to obligations from an account that would be reimbursed from other accounts or from sources outside the government.

The Senate recedes with an amendment.

Codification of requirement for periodic reports on unobligated balances (sec. 1307)

The Senate bill contained a provision (sec. 1202) that would amend section 1407 of the Department of Defense Authorization Act, 1986 (Public Law 99-145) to require that the required reports on unobligated balances be submitted each year not later than March 1, April 25, and September 1.

The House amendment contained a provision (sec. 932) that would amend chapter 131 of title 10, United States Code, by inserting a new section containing the text of section 1407 of the Department of Defense Authorization Act, 1986.

The conferees agreed to the House provision, with an amendment to require that the required reports be submitted each year not later than February 1, April 25, and August 15.

The Senate recedes with an amendment.

Reports on inflation budgeting (sec. 1307 and sec. 1308)

The House amendment contained five provisions relating to budgeting for defense inflation.

Section 928 would require that the President's budget submission include separate identification in each budget account of amounts requested to offset inflation: limit the total request for inflation on all defense purchases to the amount that would be estimated with the GNP deflator projections in the President's budget; require separate identification of inflation amounts by account for the two fiscal years immediately preceding the fiscal year for which the budget request is made; require justification for use of any inflation index other than the GNP deflator; require the Secretary of Defense to identify the effect of any Congressional programmatic adjustments on inflation estimates; establish a defense inflation fund in the Treasury to contain appropriations for inflation on Selected Acquisition Report programs and mandate reporting requirements for the funds; and limit disbursements from the fund to inflation costs as determined under the economic price adjustment clauses that would be required by section 929 of the House amendment. This provision would become effective with respect to fiscal year 1988.

Section 929 would require the use of economic price adjustment clauses in contracts for major Selected Acquisition Report programs and include limitations on the terms of such clauses. This provision would become effective with respect to contracts entered into 180 days after enactment.

Section 930 would require periodic reports from GAO on the implementation of sections 928 and 929, and section 931 would require a GAO report on a financial management system for DOD.

Section 939 would preclude the Secretary of Defense from obligating or expending appropriations in excess of the amount needed to carry out a program and, more specifically, preclude the Secretary from obligating appropriations for a program unless a contract relating to the program had been entered into within three years after the appropriation became available.

The Senate bill contained no similar provisions.

The conferees agreed to require two reports from the Secretary of Defense in order to obtain information on inflation estimates, appropriations to offset estimated inflation, and actual inflation experience in the defense budget and defense contracts.

The Secretary of Defense would be required to report annually on amounts appropriated for the fiscal year in progress, and the preceding two fiscal years, to offset estimated inflation in each budget account and to compare amounts appropriated for inflation with estimated requirements at the time the report is submitted. In addition, the report would include an explanation of all variances between amounts originally appropriated for inflation and current estimates of inflation requirements in each account and specifically identify the disposition of any excess appropriations and the source of funds used to make up for any deficient appropriations.

In addition, the Secretary of Defense would be required to report on February 1, 1987, on the current incidence and types of economic price adjustment clauses in contracts for weapon systems subject to Selected Acquisition Report reporting requirements. The Secretary would also be required to provide information on the methodology used in determining estimated and actual inflation for defense budget accounts and on actual inflation in contracts for weapon systems subject to Selected Acquisition Report reporting requirements that contain economic price adjustment clauses.

Finally, the Secretary would be required to compare inflation in such contracts with inflation for major weapon system budget accounts determined using the methodology as reported by the Secretary. The conferees expect this report to reflect a careful analysis using numerical examples taken from actual contracts and historical experience with actual inflation indices.

The Senate recedes on sections 928 and 929 of the House amendment with amendments. The House recedes on sections 930, 931 and 939.

Debt collection (sec. 1309)

The House amendment contained a provision (sec. 1002) that would require the Secretary of Defense to enter into contracts for collection services to recover indebtedness owed to the United States Government, arising out of activities related to the Department of Defense and delinquent more than three months. The authority to enter into such contracts would be subject to the availability of appropriations. In any such contract, the collector would be required to submit a status report to the Secretary on his success in collecting such debt at least every six months.

The House amendment also would authorize the Secretary to report any such debt of more than $100, which is delinquent more than 31 days, to consumer reporting services.

The Senate bill contained no similar provision.

The Senate recedes.

Contingency reduction in authorization levels (sec. 1310)

The House amendment contained a provision (sec. 4005) that would shift the pay date for military personnel from the last day of the month to the first day of the following month effective in September, 1987, thereby lowering the outlays projected for fiscal year 1987 by approximately $2.9 billion.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agreed to a provision that would reduce authorizations in this bill by $6.6 billion unless an act or resolution making appropriations for the Department of Defense implements at least one of two actions that would lower outlays in fiscal year 1987. The authorization reduction of $6.6 billion would reduce estimated outlays by $2.9 billion. The two actions are (a) a delay in the pay date for military personnel from the last day of the month to the first day of the following month, or (b) a reduction in the current level of progress payments for defense contractors.

In the absence of one of the actions, the provision would:

Reduce the military pay raise in the conference report from 3% on January 1 to 2%;

Reduce the conference report authorization for procurement by $3.0 billion;

Reduce the conference report authorization for RDT&E by $1.2 billion;

Reduce the conference report authorization for O&M and Stock Funds by $1.6 billion;

Reduce the conference report authorization for military construction and family housing by $166 million; and

Reduce the conference report authorization for Department of Energy National Security programs by $167 million.

Other than reducing the military pay raise from 3% to 2%, the contingency reductions would not be allocated to specific programs. The reductions would simply be general reductions to the Procurement, R&D, O&M, Military Construction and the Department of Energy titles of the bill.

The conferees stress that they adopted a contingent reduction because of the unrealistic budget authority to outlay ratio implied in the spending targets incorporated in the fiscal year 1987 budget resolution. The budget resolution requires unachievable reductions in outlays in light of the target for budget authority. The conferees found it impossible to meet both the budget authority and outlay targets without imposing unacceptable reductions on readiness accounts or resorting to gimmicks.

The conferees decided not to use the budgetary gimmick of delaying the military pay data to meet the budget resolution targets. A contingent reduction in authorization levels was adopted by the conferees to illustrate the types of reductions in defense spending that would be necessary to meet the fiscal year 1987 outlay target for National Defense in the fiscal year 1987 budget resolution. The conferees expressed the hope that the budget resolutions for fiscal year 1988 and beyond will have a more realistic combination of budget authority and outlay targets that do not force Congress to choose between disproportionate reductions in faster-spending personnel and readiness accounts and the use of budgetary gimmicks that make no meaningful contribution to deficit control and which, in fact, may exacerbate the problem of deficit control in the future.

LEGISLATIVE PROVISIONS NOT ADOPTED

Reductions in authorizations

The House amendment contained a provision (sec. 4006) that would reduce authorization contained in other sections of the bill.

The Senate bill contained no similar provision.

The conferees considered the authorization reductions contained in section 4006 in agreements on the various titles and incorporated the reductions as appropriate in the authorizations provided.

The House recedes.

Report on Army Debt Collection

The House amendment contained a provision (sec. 1022) that would require the Secretary of the Army to report to the Congress within 60 days of the date of enactment on actions he had taken to collect debts reported in a December 13, 1985 General Accounting Office report.

The Senate bill contained no similar provision.

The House recedes.

Limitations on certain spending authority

The Senate bill contained a provision (sec. 1234) that would subject certain specified spending authorities in the Senate bill to the availability of appropriations.

The House amendment included a similar provision (sec. 1003) that would subject any entitlement provision of the House amendment to the availability of appropriations.

The House recedes. The conference report subjects certain specified provisions to the availability of appropriations on a section-by-section basis, as appropriate.

SPECIAL OPERATIONS MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Special Operations Forces (see 1311)

The conferees determined that there are serious deficiencies in the capabilities of the United States to conduct special operations and to engage in low intensity conflicts. The conferees recognized that the current Chairman of the Joint Chiefs of Staff has brought attention to these deficiencies and has been actively seeking effective solutions. Although lauding the efforts of the Chairman of the Joint Chiefs of Staff, the conferees determined that legislation is necessary to overcome the unending resistance in the Department of Defense to necessary organizational and other reforms of special operations forces.

The conferees carefully considered the degree of specificity to include in this provision. Although several elements of this provision are more specific than may normally be expected in legislation, the conferees determined that the seriousness of the problems and the inability or unwillingness of the Department of Defense to solve them left no alternative. The action of the conference committee is fully consistent with the power provided in the Constitution for the Congress to "provide for the common Defence," The conferees determined that the failure to act forcefully in this area and at this time would be inconsistent with the responsibilities of the Congress to the American people.

Congressional Findings

The Senate bill contained a provision (sec. 1224(a)) that would present 15 congressional findings concerning deficiencies in the special operations capabilities of the United States.

The House amendment contained no similar provision.

The Senate recedes.

Assistant Secretary of Defense

The Senate bill contained a provision (sec. 1224(e)) that would establish the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and specify the responsibility of such official.

The House amendment contained a provision (sec. 1011(b)) that would establish the position of Director of the National Special Operations Agency and specify that such official has the rank of an Assistant Secretary of Defense.

The House recedes with an amendment to revise the principal duty of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

Unified Combatant Command

The Senate bill contained a provision (sec. 1224(b)) that would:

(1) Require the President to establish a unified combatant command for special operations forces;

(2) Specify the grade of general or admiral for the commander of such command;

(3) Specify that the commander of such command shall be responsible for and shall have the authority necessary to conduct all affairs of such command relating to special operations forces, including nine specified functions;

(4) Require the commander of such command to be fully prepared to assume operational command of selected special operations if directed to do so;

(5) Assign to such command all active and reserve special operations forces of the Army, Navy, and Air Force based in the United States unless otherwise directed by the National Command Authorities;

(6) Require the President to assign special operations forces located outside the United States to the unified combatant command in whose geographic area such forces are stationed;

(7) Require special operations missions to be conducted under the operational com-

mand of the unified combatant commands in whose geographic areas such missions are to be conducted; and

(8) Require the Secretary of Defense to substantially augment the capabilities of the Office of the Secretary of Defense to provide effective policy and resource oversight of special operations forces.

The House amendment contained a provision (sec. 1011(b)) that would:

(1) Establish a National Special Operations Agency;

(2) Require the Director of such agency to be appointed from civilian life by the President, by and with the advice and consent of the Senate;

(3) Specify that the Director reports directly to the Secretary of Defense and is the principal adviser to the Secretary and the Chairman of the Joint Chiefs of Staff for all matters pertaining to special operations forces and activities;

(4) Specify the authority of the Director;

(5) Specify the titles, qualifications, and selection of three Deputy Directors of such agency;

(6) Require all special operations forces to be assigned to such agency;

(7) Authorize the Secretary of Defense to reassign forces from such agency to a combatant command;

(8) Require forces assigned to such agency to be organized as the Joint Special Operations Command;

(9) Require such command to be commanded by the Deputy Director for Operations of such agency;

(10) Require the Director of such agency to assign to each unified combatant command, subject to the approval of the commander of such command, an officer to serve as the theater special operations commander;

(11) Provide the commander of a unified combatant command with command and operational control of special operations forces assigned or allocated to such command;

(12) Provide that such operational control is to be exercised through the theater special operations, commander, except in the case of elements of the Navy assigned to fleet operations;

(13) Assign responsibility to the Director of such agency for the preparation, justification, and execution of budgets for such agency; and

(14) Authorize the Director of such agency to select, train, and assign the military and civilian personnel of such agency.

The House recedes with amendments to:

(1) Add to chapter 6 of title 10 a new section 167 dealing with the unified combatant command for special operations forces (hereinafter referred to as the "special operations command");

(2) Require all active and reserve special operations forces stationed in the United States to be assigned to the special operations command unless otherwise directed by the Secretary of Defense;

(3) Delete the requirement that the President assign special operations forces located outside the United States to the unified combatant command in whose geographic area such forces are stationed;

(4) Specify additional responsibilities of the commander of such command to conduct specialized courses of instruction for commissioned and noncommissioned officers; to establish priorities for special operations forces requirements; to acquire, as well as develop, special operations-peculiar equipment; to acquire special operations-peculiar material, supplies, and services; and to formulate, as well as submit, requirements for intelligence support;

(5) Require the commander of such command to monitor the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions;

(6) Provide that the separate budget proposal for such command is to include funding for the development and acquisition of special operations-peculiar equipment and the acquisition of other materiel, supplies, or services that are peculiar to special operations activities;

(7) Require that, to the extent that programs and budgets approved by the Congress for special operations forces may be revised, such programs and budgets may be revised only by the Secretary of Defense after consulting with the commander of the special operations command; and

(8) Delete the requirement that the Secretary of Defense substantially augment the capabilities of the Office of the Secretary of Defense to provide effective policy and resource oversight of special operations forces.

The action of the conference committee reflected the view that the organizational arrangement for special operations forces should be institutionalized to provide long-term stability for the development of required mission capabilities. The conferees determined that the most effective organizational arrangement is the establishment of a unified combatant command for special operations forces.

The conferees agreed that the command authority provided to combatant commanders by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 would substantially enhance the ability of the commander of the special operations command to correct deficiencies in the special operations capabilities of the United States. At the same time, the conferees agreed that the commander of the special operations command needs to have additional authority to control or influence resource decisions and the execution of such decisions. For this reason, the conferees agreed to require that the separate budget proposal (which is to be submitted for each combatant command by the Secretary of Defense under section 166 of title 10) for this command include funding for development and acquisition of special operations-peculiar equipment and acquisition of other material, supplies, or services that are peculiar to special operations activities. The conferees intend that the budget, after it is enacted into law, would be executed by the commander of the special operations command.

To further strengthen the resource role of the commander of the special operations command, the conferees agreed to require that authorized revisions of the programs and budgets approved by the Congress for special operations forces be made only by the Secretary of Defense after consulting with the commander. This mechanism is designed to protect special operations forces funding from reallocation by the Military Departments. The conferees determined that this mechanism was necessary to counter the low priority that the Military Departments have traditionally assigned to special operations forces funding and the tendency of the Departments to shift such funding to meet their higher priorities.

With respect to the assignment of forces to the special operations command, the conferees agreed to require all active and reserve special operations forces stationed in the United States to be so assigned unless otherwise directed by the Secretary of Defense. The conferees believed that special operations forces now assigned to the U.S. Atlantic Command and U.S. Pacific Command and stationed in the United States should continue to be assigned to those commands. Although holding this belief, the conferees determined that the law need not specify such assignments. Section 167(c) of title 10 (as added by subsection (b)) would authorize the Secretary of Defense to make these assignments if he determines that they are appropriate.

In listing ten specified functions for the commander of the special operations command, the conferees were especially mindful of the critical requirement to improve and update currently lagging strategy, doctrine, and tactics for the employment of special operations forces. Of equal concern to the conferees is the imperative to fix responsibility in one place for training of all assigned special operations forces and for the conduct of specialized courses of instruction (including supplemental language and area training) for commissioned and noncommissioned officers relating to special operations activities.

The conferees determined that there are critical deficiencies in current intelligence support for special operations forces. Accordingly, the conferees agreed that the Secretary of Defense should ensure that the intelligence requirements formulated and submitted by the commander of the special operations command receive sufficient priority to enable the effective conduct of operations.

Intelligence and Special Activities, Regulations, and Definitions

The House amendment contained a provision (sec. 1011(b)) that would:

(1) specify certain intelligence and special activities of the National Special Operations Agency that would not be authorized by this section;

(2) require the Secretary of Defense to prescribe regulations for the activities of such agency to permit operational security for forces and activities while providing effective oversight, accountability, and assignment of responsibility in the execution of such operational security measures;

(3) define special operations forces; and

(4) define special operations activities.

The Senate bill contained no similar provision.

The Senate recedes with amendments to specify certain intelligence and special activities of the special operations command that would not be authorized by this section, to require the Secretary of Defense to prescribe regulations for the activities of such command, to revise the definition of special operations forces, and to specify special operations activities.

In the absence of common service definitions regarding the composition and activities of special operations units, the conferees determined that clarification of the terms "special operations forces" and "special operations activities" was necessary. Accordingly, the conferees agreed to identify special operations forces and specify special operations activities. The principal purpose of clarifying these terms is to establish the extent of the responsibility of the commander of the special operations command for strategy, doctrine, tactics, resources, and activities.

Major Force Program Category

The Senate bill contained a provision (sec. 1224(b)(6)) that would require the Secretary of Defense to create a major force program category for special operations forces in the Five-Year Defense Plan of the Department of Defense.

The House amendment contained a similar provision (sec. 1011(b)).

The House recedes with an amendment to provide that the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

Theater Special Operations Commanders

The Senate bill contained a provision (sec. 1224(c)) that would require the commanders of the theater special operations commands assigned to the U.S. European Command and the U.S. Pacific Command to be of general or flag officer grade.

The House amendment contained no similar provision.

The House recedes with an amendment to also require the commanders of other theater special operations commands designated by the Secretary of Defense to be of general or flag officer grade.

Interagency Coordination

The Senate bill contained a provision (sec. 1224(d)) that would require the President to establish within the National Security Council a "Board for Unconventional Warfare."

The House amendment contains no similar provision.

The House recedes with amendments to establish a "Board for Low Intensity Conflict" and to codify this requirement in section 101 of the National Security Act of 1947 (50 U.S.C. 402).

The Senate bill contained a provision (sec. 1224(e)) that would express the sense of the Congress that the President should designate a Deputy Assistant to the President for National Security Affairs for Unconventional Warfare.

The House amendment contained no similar provison.

The House recedes with an amendment to title this position as Deputy Assistant to the President for National Security Affairs for Low Intensity Conflict.

Special Operations Forces Master Plan

The Senate bill contained a provision (sec. 1224(f)) that would require programs and activities under the Special Operations Forces Master Plan to be paid for with funds appropriated to the Department of Defense for such purposes.

The House amendment contained no similar provision.

The Senate recedes.

Reports to the Congress

The Senate bill contained a provision (sec. 1224(g)) that would require the President to submit by March 1, 1987 a report to the Senate and House Committees on Armed Services on the actions that have been taken to correct deficiencies identified in special operations capabilities and to implement the Senate provision.

The House amendment contained no similar provision.

The House recedes with amendments to require the Secretary of Defense to submit to the Congress not later than 120 days after the date of enactment a report on the plans of the Secretary for implementation of this section, to require the President to submit his report to the Congress (instead of the Armed Services Committees), to revise the matters to be included in the President's report, and to require the President's report to be submitted not later than one year after the date of enactment.

Transition

The Senate bill contained a provision (sec. 1224(b)) that would require the President to establish the unified combatant command for special operations forces within 180 days of the date of enactment.

The House amendment contained a provision (sec. 1011(d)) that would:

(1) Require the nomination of the Director of the National Special Operations Agency not later than 30 days after the date of enactment;

(2) Require establishment of the National Special Operations Agency not later than six months after the date of enactment;

(3) Authorize the Secretary of Defense to spend unobligated funds to carry out the House provision; and

(4) Require the Secretary of Defense to provide that the initial assignment of personnel to the National Special Operations Agency be made from headquarters staffs whose functions are rendered redundant by the establishment of such agency.

The House recedes with an amendment to authorize the Secretary of Defense to spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as are necessary to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

Special operations airlift (sec. 1312)

The conferees agreed that elimination of special operations airlift deficiencies is deserving of the highest priority within the Department of Defense.

The House bill contained authorization of $268.3 million for service life extension of HH-53 aircraft, conversion of CH/HH-53 aircraft to PAVE LOW-enhanced configuration, and application of blade- and boom-folding modifications to PAVE LOW helicopters.

The Senate bill contained authorization for $55.0 million for HH-53 service life extension only.

The Senate recedes with an amendment to provide $106.5 million for the purpose of PAVE LOW modification. The conferees agreed to defer consideration of the application of blade- and boom-folding modification to PAVE LOW helicopters, without prejudice, until consideration of the fiscal year 1988 authorization request. Similarly, the conferees agreed to defer consideration of the House authorization of $20 million for tactical-upgrade modifications for forward-deployed HH-3 helicopters without prejudice and direct that the Air Force maintain these special operations/combat rescue aircraft in support of the unified combatant commands, with adequate logistics and modification resources, until their replacement overseas by new joint-service HH/MH-60 helicopters.

The House bill contained a provision (sec. 1012) that would require a joint-services development program for the HH-60/MH-60 special operations/combat rescue helicopter, designating the Air Force as executive agent.

The Senate recedes with an amendment that would require the Army to perform as executive agent for the HH/MH-60 program, require a single airframe capable of both land and shipboard operation for the Army, Navy and Air Force, and direct that there be maximum practicable commonality between HH/MH-60 and MH/47 avionics.

PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

LEGISLATIVE PROVISION ADOPTED

Authority to pay expenses of developing countries for participation in combined military exercises (sec. 1321)

The Senate bill contained a provision (sec. 1216) that would provide authority for the Secretary of Defense to pay the expenses of a developing country participating with the United States in a combined military exercise.

The House amendment has no similar provision.

The House recedes with an amendment that would allow such reimbursement, in the amount not to exceed $1.6 million in fiscal year 1987 or $13.4 million in the period of fiscal years 1987 through 1991.

Authority to pay certain expenses of defense personnel of foreign countries (sec. 1322)

The Senate bill contained a provision (sec. 1217) that would authorize the Secretary of Defense to pay the travel, subsistence and similar personal expenses of defense personnel of developing countries in connection with the attendance of such personnel at bilateral or regional meetings where their practicipation is determined to be in the national security interest of the United States. This authority currently exists for defense personnel from Latin America only.

The House amendment contained no similar provision.

The House recedes with amendment that would (1) impose a spending cap of $800,000 per year for fiscal years 1987, 1988, and 1989; (2) add a reporting requirement, and (3) grant the authority for a three-year period only.

MISCELLANEOUS REPORTS

LEGISLATIVE PROVISIONS ADOPTED

Army National Guard Reporting (sec. 1331)

The Senate bill contained a provision (sec. 1238) that would require that the Secretary of Defense require the Chief of the National Guard Bureau to develop and implement procedures to monitor the backlog of maintenance and repair projects of Army National Guard armories.

The House amendment contained no similar provisions.

The Senate recedes.

Submarine overhaul study (sec. 1332)

The Senate bill contained a provision (sec. 1235) that would require the Secretary of the Navy to conduct a study as to the desirability and feasibility of applying production line techniques for the overhaul of *Los Angeles* class submarines.

The House amendment contained no similar provision.

The Senate recedes.

Report on landing area for AV-8B harrier aircraft on Iowa class battleships (sec. 1333)

The House amendment contained a provision (sec. 1022) that would require the Secretary of Defense to submit to the Congress within six months of the enactment of this Act a report on the feasibility and benefits of removing the rear turret from an *Iowa* class battleship to create a landing area for AV-8B Harrier aircraft.

The Senate bill contained no similar provision.

The Senate recedes.

Report of cleanup of National Presto Industries (sec. 1334)

The House amendment contained a provision (sec. 1052) that directed the Secretary of Defense to investigate and report to the committees on Armed Services of the Senate and House of Representatives on the sources, origin, and responsibility for the hazardous waste contamination at the National Presto Industries, Eau Claire, Wisconsin. The Senate bill contained no similar provision.

The Senate recedes.

TECHNICAL AND CLERICAL AMENDMENTS

LEGISLATIVE PROVISIONS ADOPTED

Technical corrections (sec. 1341-1342)

The House amendment contained two provisions (sec. 4002 and 4003) that would effect technical corrections in the Department of Defense Authorization Act, 1985 (Public Law 98-525), and the Department of Defense Authorization Act, 1986 (Public Law 99-145).

The Senate bill included no similar provisions.

The Senate recedes.

Clerical amendments (sec. 1343)

The House amendment contained a provision (sec. 4001) that would effect clerical amendments in titles 10, 14, and 37, United States Code.

The Senate bill included no similar provisions.

The Senate recedes.

MISCELLANEOUS

LEGISLATIVE PROVISIONS ADOPTED

Limitation on sources of funds for Nicaraguan Democratic Resistance (sec. 1351)

The House amendment contained a provision (sec. 1044) that would restrict the source of funds for reprogramming to provide aid to the Contras to the procurement accounts. Operation and maintenance funds could not be used as the source of the reprogramming. In addition, not more than 10 percent of the total amount could be taken from ammunition procurement accounts. The Secretary of Defense would be required to submit a report to Congress describing the source of these funds.

The Senate recedes with an amendment that would prohibit the use of any funds from the ammunition procurement accounts.

Prohibition on shuttle (sec. 1352)

The conferees agreed to include a provision in the conference agreement that would prohibit the use of defense budget function 050 funds for the procurement of the fourth shuttle orbiter. This action is taken in view of overall fiscal pressures on the defense budget sector.

Reporting of terrorist threats (sec. 1353)

The Senate bill contained a provision (sec. 1219) that would require the Secretary of Defense to instruct appropriate officials of the Department of Defense to take such action as may be necessary to ensure that credible, time-sensitive intelligence concerning potential terrorist threats be promptly reported to the headquarters or office of Department of Defense concerned. This intelligence should be reported through the most appropriate and expeditious communications network available to the Department of Defense.

The provision would also exempt the Secretary of Defense from the requirement to issue these instructions if he determines that such instructions would be inappropriate or unwise and notifies Congress of that determination before March 1, 1987.

The House bill contained no similar provision.

The House recedes.

Use of marine mammals for national defense purposes (sec. 1354)

The House amendment contained a provision (sec. 1031) that would provide that notwithstanding the Marine Mammal Protection Act of 1972 the Secretary of Defense, with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission, may authorize the taking of not more than 25 marine mammals each year for national defense purposes.

The House amendment would also provide that any mammal taken under this authority shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

The House amendment would further provide that a mammal may not be taken if such mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973.

The Senate bill contained no similar provision.

The Senate recedes.

Reimbursement for incidental expenses incurred while providing voluntary services (sec. 1355)

The House amendment (sec. 1034) contained a provision that would authorize the Secretaries of the military departments to reimburse incidental expenses incurred by volunteers providing services as ombudsmen or for a family service center program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that reimbursements made to volunteers may only be paid with nonappropriated funds.

Defense of legal malpractice suits (sec. 1356)

The House amendment contained a provision (sec. 1035) that would provide for the United States to defend and be the exclusive defendant in a legal malpractice claim against a lawyer acting in the scope of employment with the Department of Defense.

The Senate bill included no similar provision.

The Senate recedes. This provision is not intended to create a new cause of action. It is merely intended to provide protection for Department of Defense lawyers similar to that provided for doctors in section 1089 of title 10, United States Code.

Off-post rental housing lease indemnity pilot program (sec. 1357)

The House amendment contained a provision (sec. 1042) that would establish a pilot program under which the service Secretaries could guarantee to compensate certain landlords who rent to military members in the event the members damage the rental property. Such compensation would be in lieu of the landlords requiring the members to pay a security deposit.

The Senate bill contained no similar provision

The Senate recedes with a technical amendment.

Wage rate for certain Corps of Engineers employees (sec. 1358)

Section 1037 of the House amendment would require that electric powerplant controllers and powerplant shift operators assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers be paid wages determined in the same manner as employees paid from the Special Power Rate Schedules.

The Senate bill contained no similar provision.

The Senate recedes.

Reimbursement for transferred Defense Industrial Reserve Equipment (sec. 1359)

Section 1043 of the House amendment would require the military departments to reimburse the Defense Industrial Reserve for the "full cost (including direct and indirect costs) of storage, repair, maintenance, and allocated overhead" of property transferred to such departments from the Defense Industrial Reserve.

The Senate bill contained no similar provision.

The Senate recedes.

Extension of exemption for polygraph test program (sec. 1360)

The Senate bill contained a provision (sec. 1204) that would amend section 1221(e) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 727):

(1) By striking out "cryptologic" and inserting in lieu thereof "cryptographic", and

(2) By exempting from the test program and polygraph examination conducted under the authorization granted by the Secretary of Defense on August 31, 1982, on a person in a national program—

(A) Which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) Which is under the purview of the Director of Central Intelligence; and

(C) For which a polygraph examination was established as a condition for participation in such programs before October 1, 1985.

The provision would limit the number of polygraph examinations that could be conducted during fiscal year 1987 so as not to exceed the number conducted pursuant to said authorization during fiscal year 1986.

The House amendment contained no similar provision.

The House recedes.

Facilities for the detention of certain aliens (sec. 1361)

The Senate bill contained a provision (sec. 1223) directing the Secretary of Defense to transmit to the Attorney General a list of facilities which would be suitable for use for the detention of the Marielito criminal aliens together with information on costs.

The House amendment contained no similar provision.

The House recedes, with an amendment that would direct the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives any suitable facilities not otherwise needed for Department of Defense activities.

Correctional facilities at Fort Riley, Kansas (sec. 1362)

The Senate bill contained a provision (sec. 1236) that would prohibit the correctional facilities at Fort Riley, Kansas from being closed, transferred or relocated unless the

Secretary of Defense informed the Congress of such an intent and 180 days had elapsed.

The House amendment contained no similar provision.

The House recedes.

Minuteman education program (sec. 1363)

The Senate bill contained a provision (sec. 1232) that would restrict obligation of graduate educational funds under the Minuteman Education Program unless specific contractual requirements were met.

The House bill contained no similar provision.

The House recedes with an amendment that would prohibit the Secretary of the Air Force from altering the source of education services for the program during fiscal year 1987 without first advising the Committees on Armed Services of the Senate and the House of Representatives of the reasons for altering the source of those services.

Treatment of Communist countries (sec. 1364)

The Senate bill contained a provision (sec. 1233) that would amend the Foreign Missions Act by requiring the Secretary of State to impose on members of foreign missions and their dependents of Soviet bloc countries in the United States limitations and restrictions equivalent to those imposed by the Soviet Union. The Soviet bloc countries included Bulgaria, Cuba, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Rumania. The restrictions were also applicable to government activities involving international trade and instrumentalities of these foreign missions.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees agreed that espionage activities by the Soviet Union and its allies in the United States are a grave threat to the national security of the United States, and that the United States must begin to act vigorously to counter the espionage activities of these countries. The conferees believe, however, that prior to enacting any measures into law, the President should submit to the chairmen of the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate, and the chairmen of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report prepared under the direction of the Secretary of State in close cooperation with the Director of Central Intelligence, the Secretary of Defense and the Director of the Federal Bureau of Investigation. This report should describe the espionage activities of the Soviet Union and certain other countries in the United States and assess the impact of such activities. The report should further assess how these countries use the relative freedom of access they have in the United States and should include an analysis of how the principle of diplomatic reciprocity affects the security interests of the United States. The report also should propose to Congress measures that would be effective in curtailing espionage against the United States. The report should be issued not later than March 1, 1987 and should be submitted in both classified and unclassified versions.

Such measures as the Congress deems appropriate should be enacted in the Foreign Relations Authorization Act for fiscal years 1988 and 1989.

In preparing this report, the conferees emphasize that the Office of Foreign Missions of the Department of State not be used for the conduct of or assessment of intelligence activities.

Civil Air Patrol (sec. 1365)

The House amendment contained a provision (sec. 4004) that would amend section 9441(b)(9) of title 10, United States Code, that relates to activities of the Civil Air Patrol. Specifically, section 4004 would permit the Civil Air Patrol to improve major equipment items that are obtained by other means than through the Department of Defense excess property program. Current law precludes the Civil Air Patrol from modernizing equipment that is obtained through donation or other means of acquisition.

The Senate bill contains no similar provision.

The Senate recedes.

Amendment of Military Selective Service Act to provide eligibility for benefits to certain persons who fail to register (sec. 1366)

The House amendment contained a provision (sec. 1051) that would bar any person born since 1960 who has failed to fulfill a requirement to register with the Selective Service System from working with any firm under a Department of Defense contract or subcontract. The House amendment also contained a provision (sec. 4008) that would bar the Federal government from denying any Federal benefit to any non-registrant who was honorably discharged from the Armed Forces or who was permanently disabled.

The Senate bill contained no similar provisions.

The House recedes on section 1051.

The Senate recedes on section 4008 with an amendment that would clarify that a non-registrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful. The conferees added this provision in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs or an individual who has been honorably discharged from the armed services. Under the law, such an individual is required to register but the conferees did not believe it would be fair to extend this provision to an individual who honestly believed he did not have an obligation to register because of such a handicap or because he was a member of the armed forces. At the same time, the conferees do not intend for this provision in any way to provide an option for self-classification. For example, the conferees do not intend that a person who knowingly failed to register because he viewed himself as a conscientious objector would meet the standards of the conference provision as someone whose failure to register was not knowing or willful. Established procedures for classification, which follows registration, are the only means for determining conscientious objector status. Total paralysis or the existence of an honorable discharge certificate, on the other hand, are objective factors that could lead one to believe, albeit erroneously, that he was not required to register.

Correction of effects of contamination at Rocky Mountain Arsenal (sec. 1367)

The House amendment contained a provision (sec. 1036) that would direct that any monies awarded to the United States, as a result of a judgment or settlement in the litigation concerning the effects of the contamination at the Rocky Mountain Arsenal, be made available to the Secretary of the Army for the exclusive purpose of correcting the effects of the contamination. The Senate bill contained no similar provision.

The Senate recedes.

Sense of Congress regarding death of Lt. Col. Arthur D. Nicholson, Junior (sec. 1368)

The House amendment contained a provision (sec. 1049) that would express the sense of the Congress that (1) the Government of the Union of Soviet Socialist Republics should apologize for and renounce the murder of Lt. Col. Nicholson and should indemnify the family of Lt. Col. Nicholson financially; and (2) the President should name the East-West control point between the American and Soviet sectors in Berlin, currently known as Checkpoint Charlie, in honor of Lt. Col. Nicholson.

The Senate bill contained no similar provision.

The conferees agreed to an amendment to modify the House provision by deleting the section renaming Checkpoint Charlie.

The Senate recedes with an amendment.

Status of members of Commission on Merchant Marine and Defense; extension of report deadline and availability of appropriations (sec. 1369)

The House amendment contained a provision (sec. 821) that would amend section 1536 of the Department of Defense Authorization Act, 1985 (Public Law 98-525) to provide that members of the Commission on Merchant Marine and Defense shall not be considered to be Federal employees for certain purposes, to extend the deadline for reports of the Commission and to extend the availability of funds appropriated to the Commission.

The House amendment would further require that the President make the required appointments to the Commission before the end of the 30-day period beginning on the date of enactment of this Act.

The Senate bill contained no similar provision.

The conferees agreed to that portion of the House provision that establishes a time limit for presidential appointments to the Commission. The remainder of the House provision was enacted in Public Law 99-426.

The Senate recedes.

Nuclear non-proliferation information (sec. 1370)

The Senate bill contained a provision (sec. 1231) that would amend the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242) to include the Department of Defense among those executive departments and agencies required to keep certain congressional committees informed of their activities with respect to nuclear non-proliferation. The Senate bill would also provide that, upon request, the Secretary of Defense have access to all information regarding nuclear proliferation matters that the Secretary of State or Secretary of Energy has or is entitled to have.

The House amendment contained no similar provision.

The conferees agreed to the Senate provision with an amendment that the access granted to the Secretary of Defense by the provision would not apply to any intra-departmental document or portion thereof that solely provides internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.

The House recedes with an amendment.

The conferees recognize that nuclear proliferation is, by its very nature, a national security problem. The purpose of this provi-

sion is to assure that the Secretary of Defense is fully informed on nuclear proliferation matters and has access to national security information of legitimate interest to him.

The conferees intend that the information to be provided under this provision include all information necessary for the Secretary of Defense to discharge fully his national security responsibilities in the area of nuclear proliferation. It includes intelligence information, documents, and cables pertaining to nuclear proliferation matters, including agreements for nuclear cooperation and negotiations leading thereto, subsequent arrangements, as well as all other information available to the Secretaries of State and Energy dealing with nuclear proliferation diplomacy and initiatives of the United States.

Because of concerns that this provision might permit access to internal information that is inappropriate, not needed, or beyond the legitimate national security interests of the Secretary of Defense, the conferees make clear their intent that the information be provided under this provision does not and is not meant to include inter-departmental documents or portions of documents within the Departments of State or Energy that solely provide internal, confidential policy advice to the Secretaries of those Departments about the conduct of interagency deliberations or other policy advice of an internal, confidential nature that is not related to the national security responsibilities of the Secretary of Defense.

Nuclear winter study and report (sec. 1371)

The House amendment contained a provision (sec. 3302) that would require the Secretary of Defense to conduct a comprehensive study on various phenomena associated with nuclear winter and to report to the President and the Congress not later than November 1, 1987 on the results. The House provision also provides that upon submission of this report the Secretary of Defense shall contract with the National Academy of Sciences for an independent evaluation of the report and for a subsequent report on the findings to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives not later than April 1, 1988.

The Senate bill contained no similar provision.

The Senate recedes.

Transfer of two naval vessels to Taiwan (sec. 1372)

The conferees agreed to a provision that would authorize the Secretary of the Navy to sell two patrol gunboats of the *Tacoma* class to the Coordination Council for North American Affairs, representing the people on Taiwan.

The sale would be subject to such terms and conditions as the President may require, shall be for a price not less than the value in U.S. dollars of the vessels involved, and any expenses incident to the transfer would be charged to the purchaser.

The transfer authority would expire two years after the date of enactment of this Act.

Drug interdiction efforts by DOD (sec. 1373)

The Senate bill contained a provision (sec. 1218(a)) that would require the National Drug Enforcement Policy Board to report on the manner and extent to which the Department of Defense should be involved in drug enforcement activities.

The House amendment contained no similar provision.

The Senate recedes with an amendment requiring the President to submit to Congress, not later than 180 days after enactment, a comprehensive program for drug interdiction and enforcement, including the appropriate role of the military in such a program. The conferees believe that such a comprehensive program, coordinating the authority and mission of the various agencies involved in drug enforcement, is essential. The apparent confusion and conflict among the drug agencies has been detrimental to the United States government's drug enforcement efforts to date.

The amendment also modifies section 374 of title 10, United States Code, to require the Secretary of Defense to provide such assistance in the form of manpower or equipment as he deems appropriate when requested by a civilian drug enforcement agency. The conferees support an increased role for the military in drug interdiction but believe that the proper role for the military and the impact on military preparedness must be addressed at the outset. Therefore, the form and extent of the assistance provided is to be at the Secretary's discretion, subject to the limitations contained in Chapter 18 of title 10, United States Code, and other applicable law, such as the Economy Act.

Authorization of funds for the Henry M. Jackson Foundation (sec. 1374)

The conferees agree to authorize $10 million for the Henry M. Jackson Foundation. Established as a memorial to the late Senator from Washington, the foundation supports a highly successful program in the area of Middle East and Chinese studies and United States-Sino-Soviet relations. The foundation has already raised more than $4 million from public contributions since its establishment in 1983, and the conferees believe this one-time appropriation to the foundation is a fitting tribute to Senator Jackson's lifetime of dedicated service to the nation.

LEGISLATIVE PROVISIONS NOT ADOPTED

Drug interdiction efforts by DoD

The Senate bill contained a provision (sec. 1218(a)) that would require the National Drug Enforcement Policy Board to report on the manner and extent to which the Department of Defense should be involved in drug enforcement activities.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that this provision is contained in separate legislation under consideration by the Congress.

Drug educational and counseling report

The Senate bill contained a provision (sec. 1218(b)) that would require the Secretary of Defense to submit a report to Congress concerning: 1) the extent to which military dependents are receiving drug and substance abuse education in Department of Defense operated schools; 2) the type of drug education programs currently provided; 3) whether additional drug education programs are needed; and 4) the extent to which drug education programs do or should include preventative peer counseling classes.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that this provision is contained in separate legislation under consideration by the Congress.

Coast Guard

The Senate bill contained a provision (sec. 1222(a)) that would provide that, from funds authorized to be appropriated for the Department of Defense in fiscal year 1987, $200 million shall be provided for the acquisition and maintenance of U.S. Coast Guard defense-related inventories and $100 million shall be provided in operating funds for the performance of defense readiness responsibilities of the U.S. Coast Guard. The provision would also provide that of these amounts, $15 million be available for transfer to the Secretary of Transportation to be used only for enhanced drug interdiction assistance as described in section 1222(b) of the Senate bill.

The House amendment contained no similar provision.

The Senate recedes.

Enhanced drug interdiction assistance

The Senate bill contained provisions (secs. 1222(b) and (c)) that would authorize the assignment on-board naval vessels at sea in drug-interdiction areas Coast Guard personnel who are trained in law enforcement and who have the power to arrest, search, and seize property and persons suspected of violating the law.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that this provision is contained in separate legislation under consideration by the Congress.

Authorization for appropriations for enhanced drug interdiction activities

The Senate bill contained a provision (sec. 1227) that would authorize $212,115,000 to be appropriated to the Department of Defense for enhanced drug interdiction assistance. Section 1227 also would direct loans of aircraft to the Customs Service and the Navy and require the Customs Service to assume responsibility for the operation and maintenance cost of certain equipment.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that this provision is contained in separate legislation under consideration by the Congress.

Sense of Congress on use of armed forces to protect United States citizens and air carriers at airports outside the United States

The House amendment contained a provision (sec. 1041) declaring it to be the Sense of Congress that members of the Armed Services be detailed to provide security for American citizens and American air carriers at foreign airports.

The Senate bill contained no similar provision.

The conferees note that section 553 of the International Security and Development Cooperation Act of 1985 mandated that the Secretary of Transportation undertake a study of an expanded air marshal program for providing security on air routes outside the United States. The Committee of Conference on that bill intended that this report should include consideration of modifying the role of the current air marshal program. Specifically, consideration should be given to expanding the role of the air marshal to more fully utilize them as ground security coordinators to complement and provide U.S. Government representation as security screening points in high-risk foreign international airports. The conferees on the National Defense Authorization

Act note that the report was due at the start of 1986 and is now long overdue. The conferees direct the Secretary of Transportation to complete that required report and to include within it consideration of the possible use of military personnel. The Secretary of Defense should be given the opportunity to append any comment he may choose on the use of military personnel. Therefore, the House recedes.

Introduction of U.S. Armed Forces into Nicaragua

Section 1046 of the House amendment would provide that funds appropriated to the Department of Defense may not be obligated or expended for the purpose of introducing U.S. Armed Forces into or over Nicaragua for combat unless the Congress has declared war on enacted specific authorization for such introduction, or such introduction is necessary to meet a clear and present danger of hostile attack upon the United States, its territories or possessions or its allies, or to meet a clear and present danger to, and to provide necessary protection for, the U.S. Embassy, U.S. Government personnel, or U.S. citizens, or to respond to hijacking, kidnapping, or other acts of terrorism involving citizens of the United States or its allies.

Moreover, section 1046 would provide that its provisions would not apply if MIG aircraft, or other aircraft of similar design or capability, or nuclear weapons are introduced into Nicaragua. Finally, section 1046 would not invalidate any requirement of the War Powers Resolution nor any authority of the United States to act under the provisions of the Inter-American Treaty of Reciprocal Assistance.

The Senate bill contained no similar provision.

The House recedes.

Authorization for nuclear winter research

The House amendment contained a provision (sec. 3301) that would authorize for fiscal year 1987 $8.5 million for the Department of Defense and $2.5 million for the Department of Energy for nuclear winter research. The House provision further provides that the Secretaries of Defense and Energy shall submit a report by September 30, 1987 on the allocation of funds appropriated pursuant to the authorization.

The Senate bill contained no similar provision.

The House recedes.

OTHER PROVISIONS ADOPTED

Intelligence Program Reductions

The conferees considered the impact undistributed and inflation reductions contained in this Act might have on the National Foreign Intelligence Program and agreed to exempt that program from all undistributed reductions. With respect to inflation adjustments, the conferees agreed to exempt the Central Intelligence Agency and certain Air Force special activities from inflation adjustments. These exemptions have been taken into account in the recommended reductions for each account and line item.

Communications Security

In light of the vulnerability of certain domestic communications to intercept by hostile intelligence services the Senate authorized $129 million to permit prompt implementation of an NSA plan to encrypt selected domestic communications circuits and for a number of other initiatives the details of which are classified. The House has no comparable provisions.

In conjunction with the conferees on the Intelligence Authorization Act for FY 1987, the conferees agreed to authorize $44.5 million for certain initiatives. Additional details relating to this action are addressed in section 102 of the Intelligence Authorization Act for fiscal year 1987 and the Classified Schedule of Authorizations related thereto.

Improved DOD Security/Stilwell Commission

The Senate authorized $22.3 million to accelerate implementation of the Stilwell Commission recommendations to improve personnel and industrial security and reduce the likelihood of espionage in the military services and defense agencies. The House had no comparable provision. The conferees endorsed the Senate position but noted that Defense Appropriations measures failed to include funds for this purpose. Accordingly, the conferees did not include these funds in the conference report. The conferees encourage the Department of Defense to reprogram such funds as might be available during fiscal year 1987 to implement those actions identified in the Senate Report on this subject.

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Barry Goldwater Scholarship and Excellence in Education Foundation (secs. 1401-1412).

The Senate bill contained a number of provisions (secs. 5100-5111) that would create and establish procedures for the operation of the Barry Goldwater Scholarship and Excellence in Education Foundation.

The House amendment contained no similar provision.

The House recedes with technical amendments.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

COMPARISON OF HOUSE AND SENATE BILLS

The Senate bill would authorize $8,507,438,000 in Division B to provide military construction and related authority in support of the military departments during fiscal year 1987.

The House amendment provided $8,347,576,000 in new authorization.

The Department of Defense and the respective military departments requested $9,987,138,000.

SUMMARY OF RESOLUTION OF DIFFERENCES

The conferees agree to an authorization of appropriations for military construction and family housing for fiscal year 1987 of $8,409,289,000.

Authorization of appropriations conference agreement, fiscal year 1987

Title I—Army:	
Inside the United States	660,510,000
Outside the United States	452,210,000
Unspecified minor construction	20,000,000
Planning and design	130,580,000
Family housing construction	354,330,000
Family housing support	1,247,266,000
Homeowners assistance program	5,500,000
Subtotal	2,870,396,000
Title II—Navy:	
Inside the United States	1,109,795,000
Outside the United States	156,290,000
Unspecified minor construction	15,000,000
Planning and design	143,770,000
Defense access roads	5,500,000
Family housing construction	159,292,000
Family housing support	557,981,000
Subtotal	2,147,438,000
Title III—Air Force:	
Inside the United States	784,642,000
Outside the United States	351,878,000
Unspecified minor construction	16,000,000
Planning and design	117,260,000
Defense access roads	32,700,000
Family housing construction	108,840,000
Family housing support	732,409,000
Subtotal	2,143,729,000
Title IV—Defense Agencies:	
Inside the United States	180,130,000
Outside the United States	227,100,000
Unspecified minor construction	4,000,000
Contingency construction	5,000,000
Planning and design	88,200,000
Conforming storage facilities	10,000,000
Family housing construction	270,000
Family housing support	17,330,000
Subtotal	532,030,000
Title V—NATO Infrastructure	247,000,000
Title VI—Guard and Reserve Forces:	
Army National Guard	133,271,000
Army Reserve	86,700,000
Naval and Marine Corps Reserve	44,500,000
Air National Guard	145,325,000
Air Force Reserve	58,900,000
Subtotal	468,696,000
Total authorization of appropriations	8,409,289,000

SUMMARY OF MILITARY FAMILY HOUSING, 1987

[Dollars in thousands]

Item	Army	Navy	Air Force	Defense agencies
New construction	$250,830	$130,712	[1] $43,196	$270
Number of units	3,032	1,368	522	3
Number of mobile home spaces	108	300	24	0
Improvements	$79,500	$26,580	$58,644	0
Planning and design	$24,000	$2,000	$7,000	0
Operation	$495,466	$260,515	$344,615	$2,794
Number of units	158,009	90,688	138,498	652
Maintenance	569,852	265,846	307,684	509
Leasing	$173,885	$22,459	$72,745	$14,027
Number of domestic units [2]	4,825	1,665	1,463	0
Number of foreign units	22,581	1,923	9,200	916
Debt payment	$8,063	$9,071	$7,365	0
Total request	$1,601,596	$717,183	$841,249	$17,600
Summary:				
Total Housing Program	$3,177,628			
New construction	[1, 3] 435,008			
Improvements	164,724			
Planning and design	33,000			
Operations	[4] 1,103,390			
Maintenance	1,143,891			
Leasing	[5] 283,116			

SUMMARY OF MILITARY FAMILY HOUSING, 1987—Continued

[Dollars in thousands]

Item	Army	Navy	Air Force	Defense agencies
Debt payment	24,499			

[1] Includes $.9 million for housing management offices at Davis-Mo nthan AFB Arizona, McGuire AFB, New Jersey, and Pope AFB, North Carolina; and $2 million for a maintenance shop at Beale AFB, California.
[2] Includes authorization for 7,063 Section 801 Program lease points.
[3] For 5,357 units/mobile home spaces; 4,925 and 432 mobile home spaces.
[4] $2,247,281 for 387,847 units.
[5] For 42,573 units.

General Topics

MILITARY FAMILY HOUSING BUILD-TO-LEASE AND RENTAL GUARANTEE PROGRAMS

The Senate bill extended the sec. 801 program for two years and authorized each service to construct up to 3,000 additional units. The Senate bill also extended the sec. 802 program for four years and included several changes to make the sec. 802 program more viable as a housing alternative to military construction. The House amendment placed a moratorium on the Section 801/802 housing program and instructed the Secretary of Defense to conduct a study of other alternatives.

The conferees are encouraged by the savings that the current sec. 801/802 projects which have been submitted to the committees may provide to the government. Eight of the ten projects report savings of 10 percent or greater over military construction. Significant progress has also been made on the issues of cost effectiveness analysis, permanent financing, and efficiency in the mechanics of bringing new projects on line. The conferees are concerned, however, with how these programs relate to the overall housing acquisition program, specifically with the lack of criteria to determine when to use sec. 801 or sec. 802 in lieu of military construction, and what portion of the housing deficit should be earmarked for these programs.

The conferees agree to extend the sec. 801 program for an additional two years and to provide for 1,000 additional leases per service with no limitation on the number of contracts, provided that the Office of the Secretary of Defense submits to the appropriate committees of the Senate and House of Representatives: 1) uniform criteria establishing when the sec. 801-802 programs are to be used, prior to advertising for any proposals; 2) a report by January 31, 1987, addressing the current CONUS housing deficits and multi-year plan to meet the needs of the services and defense agencies; and 3) economic analyses establishing the cost of the military construction alternative and corresponding sec. 801 alternative lease ceiling for each project prior to bid opening. The department will continue to submit to the appropriate Committees of the Senate and House of Representatives the selected proposals with corresponding economic analyses for 21-day notification prior to anticipated award date. The conferees expect savings of at least five percent versus the military construction alternative before the committees will approve the lease request.

The sec. 803 program has the potential to reduce the military housing shortage with a minimum amount of appropriated funds and show significant savings over the traditional military construction procedure. Savings of 38 to 45 percent have been reported on the two projects submitted to the committees this year. The House recognizes the difficulty in financing new construction utilizing the current sec. 802 rules and recedes to the Senate amendments. The services are also authorized an additional 600 leases under the sec. 802 program with no limitation on the number of contracts that can be entered into.

IMPROVEMENTS TO MILITARY FAMILY HOUSING

The budget request contained $145.9 million for improvements to existing Army family housing units and $51.6 million for improvements to existing Navy family housing units.

The Senate bill would authorize $79.5 million for the Army improvements and $26.6 million for the Navy improvements. The reductions were based on the authorization balances remaining from the fiscal year 1986 authorizations, which were larger than the fiscal year appropriations for housing improvements. The House amendment would authorize the amounts requested.

The House recedes.

The Army and Navy are directed to apply the remaining authorization balances from fiscal year 1986 toward their respective fiscal year 1987 appropriation requests for housing improvements.

SPACE LIMITATIONS ON OFFICER HOUSING

The Senate bill contained a provision to increase the square footage for family housing for officers holding special command positions and the senior noncommissioned officer of a military installation. The House amendment contained no similar provision.

The Senate recedes.

The conferees agree with waivers to the maximum allowable square footage for officer housing at Ft. Drum, New York and Yongson, Korea to meet the special requirements of certain command positions. In previous authorization requests, similar waivers have been granted. Rather than taking a piecemeal approach, the conferees direct the Secretary of Defense to study this problem and recommend appropriate action to the Committees on Armed Services of the Senate and the House of Representatives. No further waivers will be granted until the committees have received the department's recommendation.

PHILIPPINE BASES

The Senate bill contained $73 million in fiscal year 1987 for construction projects at air and naval bases in the Philippines. The House amendment contained no funds for that purpose.

The House recedes with an amendment.

The conferees agree that it is in the best interest of the United States to modernize the facilities on these bases and, therefore, have funded the department's request to the maximum extent given the current budget contraints.

BASE CLOSURES

It has been estimated that significant savings could be realized each year if non-essential military installations were closed. The fiscal year 1986 Defense Authorization Act streamlined procedures to close non-essential bases, responding to criticism by the Defense Department that it lacked sufficient legislative authority to expeditiously close such installations. The revised procedures essentially restored the department's authority to what it had been in the early 1970s, a period during which the Nixon and Ford Administrations successfully closed a number of installations. In providing these streamlined procedures, the conferees strongly encouraged the Secretary of Defense to take aggresive action in this area, and to provide closure proposals to Congress as part of the fiscal year 1987 budget request.

Despite this guidance, the Department of Defense budget request for fiscal year 1987 again contained no closure candidates. Earlier requests by the Senate Committee on Armed Services for an analysis of the department's installation structure which addressed the relative priority of each base have been ignored. In response to another request by the Chairman of the Senate Committee on Armed Services, the department did provide an illustrative list of three installations which might be considered typical closure candidates. However, department witnesses testified that these installations, like those similarly identified last year, were used for illustrative purposes only, and were not closure candidates. The department maintained that the revised closure procedures were still too cumbersome to permit it to formally propose installations for closure.

In response to the repeated unwillingness of the department to exercise stewardship over its installations through analysis and identification of closure candidates, the Senate bill authorized the formation of a "Blue Ribbon Task Group on Military Base Closures." Its purpose would be to study and evaluate military installations with a view to determining and recommending which based should be closed. The report of the Task Group would be complete no later than July 31, 1987. The House amendment contained no similar provision.

The Senate recedes.

The conferees remain convinced that the department's installation structure does contain bases which could be closed at substantial long term savings. In this era of resource scarcity, particularly in personnel and operations and maintenance accounts, the conferees view as irresponsible the department's continued unwillingness to address this matter. The Senate recedes on the basis that waiting for the Blue Ribbon Task Group's report could actually hinder department action as part of the two year budget submission due Congress early in 1987.

The conferees again admonish the department to perform a thorough analysis of its installation structure, identifying bases of marginal utility which should be closed. This analysis should be completed promptly so that a list of closure candidates providing significant savings can be included in the fiscal years 1988 and 1989 budget request.

MINOR CONSTRUCTION

The Senate bill contained a provision (sec. 2162) that increased the Minor Construction threshold to $2 million from $1 million. A further provision (sec. 2171) provided for a lump sum authorization for appropriation for projects costing less than $2 million and authority to reprogram minor military construction projects not otherwise authorized.

The House amendment contained a provision (sec. 2711) that codified the threshold for Minor Construction at $1 million, the threshold for unspecified minor construction requiring Congressional notification at $500 thousand and the threshold for unspecified construction out of the operations and maintenance accounts at $200 thousand.

The Senate recedes.

The conferees agree that the Senate approach should be explored because it could increase the department's flexibility to meet

unforeseen construction requirements. Since this represents a major change to current law, the conferees have deferred action until the concept can be further studied and a consensus reached with appropriate committees of Congress with jurisdiction over this matter. It is the intention of the conferees to explore this matter in detail before taking final action on the Military Construction bill for fiscal year 1988-89.

TEST PROGRAM FOR MILITARY INSTALLIATION MASTER PLANNING

The Senate bill contained a provision (sec. 2173) requiring a test program for military installation master planning.

The House amendment contained no similar provision.

The Senate recedes.

The conferees agree that in order to provide Congress with information necessary to determine the desirability and feasibility of using installation master plans as a basis for determining long-term military construction requirements, the Secretary of Defense shall, at the same time he submits the annual request for military construction authorization pursuant to section 2859 of title 10, United States Code, for fiscal year 1988, include in such request:

(1) master plans for at least two military installations of each military department; and

(2) a request for the authorization of those construction projects included in the installation master plans referred to in clause (1) that are scheduled to be constructed within five fiscal years after the fiscal year in which the request is submitted.

LAND TRANSFER

The conferees authorized all specific land transfers contained in the Senate bill and the House amendment. The conferees believe that the Department should propose general authorizing legislation to accommodate these situations rather than requesting case by case authorization. At a minimum such legislation should include sale of such property at fair market value and replacement of facilities displaced at no cost to the government.

TITLE I—ARMY

The Senate bill provided $2,949,746,000 in authorization for the Department of the Army military construction and family housing programs. The House amendment provided authorization of $2,913,930,000 for such purposes. The conferees agree to a total of $2,870,396,000, which is $43,534,000 below the House figure and $79,350,000 below the Senate figure. Among the items considered in conference and acted upon by the conferees were the following:

10TH MOUNTAIN DIVISION, FORT DRUM, NEW YORK

The budget request contained authority to build $615 million in military construction projects to support the 10th Mountain Division being organized at Fort Drum, New York.

The request included $232 million in authorization for fiscal year 1987, and advanced authorizations of $221 million for fiscal year 1988 and $162 million for fiscal year 1989. The Senate bill contained $615 million in project authority and would reduce authorization for fiscal year 1987 to $200 million. The Senate bill did not contain any advance authorizations for fiscal years 1988 and 1989. The House amendment would authorize $180 million for fiscal year 1987 and advanced authorizations of $221 million for fiscal year 1988 and $214 million for fiscal year 1989.

The Senate recedes with an understanding that the Secretary of the Army is directed to keep the Committees on Armed Services of the Senate and the House of Representatives fully advised of construction progress at Fort Drum by providing status reports on a regular basis. The Secretary of the Army is directed to submit to the Committees on Armed Services of the Senate and the House of Representatives each year with the Army's annual military construction budget a report that details the problems and progress of the construction during the previous year as well as anticipated milestones during the coming year. As a minimum, this report should address the following:

(1) scheduled versus actual obligation of funds

(2) significant events since the last report

(3) status of contractors performance on his approved subcontracting plan, and

(4) status of the schedule for fielding the light infantry division.

In addition, the Secretary should notify the committees prior to award of each prime contract specifying who is to receive the contract, the amount of the contract, and a copy of the subcontracting plan for small and small disadvantaged businesses.

6TH INFANTRY DIVISION, ALASKA

The budget request contained $126.7 million for 7 military construction projects and $33 million for 150 units of family housing to support the formation of the 6th Infantry Division at Fort Wainwright, Alaska.

The Senate bill would authorize a lump sum for the 7 construction projects requested and would reduce the total amount to $96.7 million. The Senate bill also would authorize $33 million requested for family housing. The House amendment contained no funds for the military construction projects or the family housing units.

The conferees recommend authorization of $72.3 million for 5 specific construction projects and no funds for family housing. The approved construction projects are barracks modernization, $19 million; child development center, $5.5 million; dining facility, $10 million; tactical equipment shop, $9.9 million; and utilities expansion, $27.9 million.

DISTRIBUTED REDUCTIONS TO ARMY MILITARY CONSTRUCTION

The Senate bill contained a general reduction of $65.1 million in authorization for Army military construction. The House amendment contained no such general reduction.

The conferees agree to a distributed reduction of $34.8 million as follows:

[In thousands of dollars]

Location and project	Budget Request	Conference Agreement
Aberdeen Proving Ground, MD—Barracks complex	19,000	18,000
Fort Leonard Wood, MO—Engineer school/post headquarters	14,000	13,000
Fort Polk, LA—Multipurpose range complex	27,000	26,000
Fort Myer, VA—Physical fitness training center	3,800	0
New Cumberland Army Depot, PA—Eastern Distribution Center phase II	51,000	43,000
Germany—Site security enhancements	17,000	7,000

The distributed reduction also includes a $10 million general reduction in appropriations for Army projects in Germany made by the Committees on Appropriations of the Senate and the House of Representatives.

TITLE II—NAVY

The Senate bill provided $2,161,343,000 in authorization for the Department of the Navy military construction and family housing programs. The House amendment provided authorization of $2,110,333,000 for such purposes. The conferees agree to a total of $2,147,438,000, which is $37,105,000 above the House figure and $13,905,000 below the Senate figure. Among the items considered in conference and acted upon by the conferees were the following:

STRATEGIC HOMEPORTING

The Senate bill contained $85 million for facilities in support of the Navy's strategic homeporting program at Naval Station, Everett, Washington. The House amendment contained no similar provision. The conferees agree to authorize $43.58 million for this purpose with legislative language restricting the obligation of funds.

The conferees have serious concerns about the unresolved environmental and cost sharing issues associated with the homeport at Everett, Washington. In regard to the environmental issue, a final supplemental environmental impact statement is still outstanding and Federal, state and local permits have not been obtained. Final approval of a dredging permit is also outstanding. Therefore, in order to ensure that environmental concerns are fully addressed prior to the initiation of construction at the base, the conferees have prohibited the obligation and expenditure of fiscal year 1987 military construction funds for the Everett homeport until all Federal, state and local permits for dredging activities have been issued.

With respect to cost sharing, the conferees support commitments from state and local officials to play an active role in addressing overall costs of the project. The conferees have also prohibited the obligation and expenditure of fiscal year 1987 military construction funds for Everett, Washington, until the State of Washington has appropriated in fiscal year 1987 its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Navy for homeporting at Everett, Washington. The conferees anticipate a more formal definition of such commitments over the next few months and direct the Secretary of the Navy to report to the Committees on Armed Services of the Senate and the House of Representatives on the status of these commitments by December 31, 1986.

It is the understanding of the conferees that the terms "all projects agreed with by the Navy" includes, but is not limited to, the contribution by the State and local government of $10.1 million for off-base road work and related capital projects associated with the access road to the new base as stated in a letter received by the Committee on Armed Services of the House of Representatives, Subcommittee on Military Installations and Facilities, from the Secretary of the Navy dated June 16, 1986.

Further, the conferees agree that not more than a total of $272 million including $16 million for defense access roads, may be obligated or expended by the Department of Defense and the Department of the Navy during fiscal years 1986 through 1991 for construction associated with strategic homeporting at Everett, Washington.

The Senate bill contained $57.65 million for facilities to support the Naval Station, New York. The House amendment contained $54.4 million for these facilities. The Senate recedes.

The conferees express their support for the strategic homeporting concept but are concerned whether funds will be available to support the homeports on the West Coast and the Gulf Coast. Therefore, the Secretary of the Navy is expected to support the amounts for the Gulf Coast homeports as outlined in the following table:

[In thousands of dollars]

	Fiscal year	
	1988	1999
Pensacola, FL	16,500	15,229
Mobile, AL	10,923	17,731
Pascagoula, MI	17,437	30,054
Lake Charles, LA	10,470	5,301
Galveston, TX	29,563	1,804
Corpus Christi (Ingleside), TX	39,517	33,862
	124,420	103,981

NAVY BRIGS

The Senate bill contained no funds for the consolidated brig facilities at Naval Air Station, Miramar, California and Naval Weapons Station, Charleston, South Carolina. The House amendment contained $22.5 million for the brig at Miramar and $16.5 million for the brig at Charleston.

The Senate recedes.

The conferees agree that the Secretary of Defense should continue to study Defense Department-wide alternatives to meet the confinement facility needs for all services and report its findings to the Committee on Armed Services of the Senate and House of Representatives.

The conferees further direct that the Secretary of Defense designate the Charleston Brig as a pilot joint-use facility to test the concept of tri-service consolidation.

LEASE AND DEVELOPMENT OF CERTAIN REAL PROPERTY, SAN DIEGO, CALIFORNIA

The Senate bill contained a provision (sec. 2183) to lease and develop certain Navy property in San Diego, California. The House amendment contained a similar provision (sec. 2208).

The Senate recedes to the House language with additional language to ensure that the development of the land is formulated through the San Diego Association of Governments' Broadway Complex Coordinating Committee and to allow the Navy to obtain an ownership interest in new facilities if such an arrangement is in the best interest of the Navy.

PROPELLANT FACILITY UPGRADE, NAVAL ORDNANCE STATION, INDIAN HEAD, MARYLAND

The House amendment authorized $950,000 for the upgrade of the Propellant Facility at Indian Head, Maryland in lieu of the $3.68 million requested. The Senate bill provided no authorization. The reduced scope for this project will provide for the construction of this facility at a greatly reduced cost. The facility upgrade will eliminate costly delays, reduce labor costs and provide for a safer production environment.

The conferees direct the Department of the Navy to provide funding for this project from the specified minor construction account.

TITLE III—AIR FORCE

The Senate bill provided $2,149,749,000 in authorization for military construction and military family housing for the Department of the Air Force. The House amendment provided $2,108,710,000 for such purposes. The conferees agree to a total of $2,143,729,000, which is $35,019,000 above the House figure and $6,020,000 below the Senate figure.

TITLE IV—DEFENSE AGENCIES

The Senate bill authorized $568,500,000 in new construction for Defense Agencies while the House amendment provided $516,403,000. The conferees agree to a total of $532,030,000, which is $15,627,000 above the House figure and $36,470,000 below the Senate figure. Among the items considered in conference and acted upon by the conferees were the following:

BROOKE ARMY MEDICAL CENTER

Sec. 104 of the Fiscal Year 1985 Military Construction Authorization Act (Pub. L. 98-407) directed the Secretary of the Army to design a replacement hospital of no less than 450 beds for the Brooke Army Medical Center (BAMC) located at Fort Sam Houston, Texas.

At the same time, Congress directed the Secretary of Defense to establish a Blue Ribbon Panel of Sizing of Department of Defense Medical Treatment Facilities to review, among other things, the appropriate sizing and utilization of military medical facilities. The Blue Ribbon Panel's final report in June, 1985, was too late for its findings regarding the BAMC replacement to be incorporated in the Congress' consideration of the Defense Department's Fiscal Year 1986 Military Construction request.

In the Conference Report on the Military Construction Authorization Act, 1986, the conferees stated, "Future requests for authorization for medical facilities will be carefully matched against the comments and recommendations of both the Blue Ribbon Panel and the Assistant Secretary of Defense for Health Affairs."

Taking into account the recommendations of the Blue Ribbon Panel, the Assistant Secretary of Defense for Health Affairs determined in July, 1986, that the BAMC replacement hospital should be designed as ". . . a 450 bed teaching hospital with initial construction of 200 beds which can be expanded, if required in the future, by 250 beds. Fifty beds of the initial construction will be devoted to the world's most modern Burn Center and Institute for Surgical Research. The hospital will include a state-of-the-art outpatient care center capable of providing nearly one million outpatient visits annually. The replacement hospital will be designed and sited to accommodate rapid expansion to 450 beds, if the military medical requirement makes that necessary in the future."

Based upon this determination, the Senate repealed Sec. 104 of P.L. 98-407. It further authorized $129 million for the construction of a replacement facility for the BAMC, authorizing $10 million for appropriation in Fiscal Year 1987. This action accelerated by two years the construction of this important facility and resulted in an estimated savings of $250 million over the project which had been under design.

The House, citing the progress which the Army had made in designing a 450 bed hospital on a 695 bed frame, a project estimated to cost $390 million, authorized $10 million to begin site preparation for this hospital. A $10 million project to provide unaccompanied officer housing at Goodfellow Air Force Base was deferred to finance this initiative.

The House recedes with amendment.

The conferees authorize the design of a 450 bed hospital with initial construction of a 200 bed facility. The 200 bed hospital shall be designed and sited for efficient expansion to its full 450 bed capacity if the increase is required in the future. The conferees increased the project's authorization to $135 million to accommodate this flexible design.

CONFORMING STORAGE FACILITIES

The budget request contained $21.4 million for the construction of conforming storage facilities at various worldwide locations. These facilities would be buildings for the storage of hazardous material and waste. The Administration also requested that the provisions of the Resource Conservation and Recovery Act (RCRA), which require the issuance of a permit prior to construction, be removed allowing the department to construct the facilities while the permit application is under consideration; however, the operation of the completed facility would not commence until the final permit was issued.

The House amendment would authorize a total of $3.263 million for 6 specified conforming storage facilities. The 6 authorized projects derived from a list provided to the committee of over 90 possible projects, were the only projects that at the time of submission were at the 35% design level and had a permit already requested. The House bill did not consider any changes to RCRA.

The Senate bill would authorize the Administration request of $21 million and provide a class authorization to construct conforming storage facilities as the required permits become available. The Senate bill also did not provide for any changes to RCRA.

The conferees agree to provide a total of $10 million for the construction of conforming storage facilities in fiscal year 1987. The facilities to be constructed are limited to those listed on a report provided to the committees of the House and Senate by the Comptroller, Defense Logistics Agency. Prior to construction of each project, the Secretary of Defense is to notify the Armed Services committees of the Senate and the House of Representatives of the justification, estimated costs, and the permit process for each project.

TITLE V—NATO

The Senate bill authorized $239,000,000 for the NATO Infrastructure program.

The House amendment provided authorization in the amount of $247,000,000.

The Senate recedes.

RESTRICTION ON NATO INFRASTRUCTURE EXPENDITURES

The House amendment contained a provision (sec. 2504) that would prohibit the Secretary of Defense from obligating any funds after fiscal year 1987 with respect to the NATO Infrastructure program until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives the following:

(1) a comprehensive master plan for establishing adequate active defenses for air bases in Europe where U.S. aircraft now operate or plan to operate, and

(2) a report certified by the Secretary that sufficient funds have been budgeted by the Department of Defense in the fiscal year 1988 five-year defense plan to meet the objectives of the master plan.

The Senate bill contained no similar provision.

The Senate recedes.

TITLE VI—GUARD AND RESERVE

The Senate bill provided a lump sum authorization of $438,100,000 for the Guard and Reserve construction program. The House amendment contained authorization

of $451,200,000. The conferees agree to a total of $468,696,000, which is $17,496,000 above the House figure and $30,596,000 above the Senate figure. Among the items considered in conference and acted upon by the conferees were the following:

ALLOCATION OF FUNDING FOR NATIONAL GUARD AND RESERVE PROJECTS

The House amendment contained a provision directing the Secretary of Defense to program at least 10 percent of the total amount requested for military construction authorization (excluding the amount requested for military family housing) for a fiscal year for construction of facilities in support of the Guard and Reserve forces.

The Senate bill contained no similar provision.

The conferees agree to drop the legislative provision mandating that at least 10 percent of the military construction budget be dedicated to the Guard and Reserve components. However, the conferees strongly encourage the Department of Defense to request higher levels of funding in order to begin to eliminate the construction backlog which has resulted from years of failure on the part of the Department of Defense to provide an equitable distribution of funds between the active and reserve components.

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
ALABAMA						
	ARMY					
		ANNISTON ARMY DEPOT				
		SECURITY UPGRADE	1,950	0	1,950	0
		FORT MCCLELLAN				
		CHILD DEVELOPMENT CENTER	540	540	540	540
		REDSTONE ARSENAL				
		MICROWAVE/MILLIMETER WAVE SIMULATOR	19,500	0	19,500	0
		FORT RUCKER				
		AERIAL GUNNERY RANGE	17,500	17,500	17,500	17,500
		STAGEFIELDS	27,000	27,000	27,000	27,000
	AIR FORCE					
		GUNTER AFB				
		ALTER ELECTRICAL DISTRIBUTION SYSTEM	2,900	2,900	2,900	2,900
		MAXWELL AFB				
		ADD-ALTER ACADEMIC FACILITY (ACSC)	1,700	1,700	1,700	1,700
		CHAPEL ANNEX	510	510	510	510
		VEHICLE MAINTENANCE COMPLEX	3,100	3,100	0	3,100
	DEFENSE LEVEL ACTIVITIES					
		FORT MCCLELLAN				
		ELEMENTARY SCHOOL ADDITION	2,830	2,830	0	0
	ARMY NATIONAL GUARD					
		FORT MCCLELLAN				
		STATE MILITARY ACADEMY-GENERAL INSTR BLDG	825	825	825	825
		MONTGOMERY				
		U.S. PROPERTY & FISCAL OFFICE ADDITION	360	360	360	360
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	375	375	375	375
	NAVY RESERVE					
		NMCRC MOBILE				
		VEHICLE MAINT FACILITY	250	250	250	250
		RNMCB-24 REDSTONE ARSENAL				
		OPERATIONAL STORAGE FACILITY RNMCB-24	175	175	175	175
TOTAL: ALABAMA			79,515	58,065	73,585	55,235

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
ALASKA						
	ARMY					
		FT J M WAINWRIGHT				
		BARRACKS MODERNIZATION	21,000	0	21,000	19,000
		CHILD DEVELOPMENT CENTER	11,000	0	11,000	5,500
		DINING FACILITIES	16,500	0	16,500	10,000
		TACTICAL EQUIPMENT SHOP	30,000	0	30,000	0
		TACTICAL EQUIPMENT SHOP	9,900	0	9,900	9,900
		TACTICAL EQUIPMENT SHOP	7,300	0	7,300	0
		UTILITIES EXPANSION	31,000	0	31,000	27,900
		GENERAL REDUCTION	0	0	(30,000)	0
		FAMILY HOUSING NEW CONSTRUCTION (150)	33,000	0	33,000	0
		FORT RICHARDSON				
		BARRACKS MODERNIZATION	11,200	0	11,200	0
	NAVY					
		NAVAL AIR STATION ADAK				
		CONSTRUCTION MANAGEMENT FACILITY IMPROVES	500	0	500	500
		RADAR SUPPORT FACILITIES	24,400	0	24,400	24,400
		NAVAL FACILITY ADAK				
		TERMINAL BUILDING ADDITION	5,700	5,700	5,700	5,700
		NAVAL SECURITY GROUP ACTIVITY ADAK				
		OCEAN SURVEILLANCE BUILDING	13,400	13,400	13,400	13,400
		WATER DISTRIBUTION SYSTEM IMPROVEMENTS	1,200	1,200	1,200	1,200
	AIR FORCE					
		EIELSON AFB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,800	2,800	2,800	2,800
		DINING HALL	5,700	0	0	0
		FIRE PROTECTION-FLIGHTLINE	2,150	2,150	2,150	2,150
		HAZARDOUS MATERIALS STORAGE	3,450	3,450	3,450	3,450
		LIBRARY	2,500	0	0	0
		LOOP ACCESS ROAD	3,200	3,200	3,200	3,200
		SECURITY FENCE	990	990	990	990
		ELMENDORF AFB				
		BATTERY SHOP	1,500	1,500	1,500	1,500
		ELECTRICAL DISTRIBUTION SYSTEM ALTERATION	1,670	1,670	1,670	1,670
		SECURITY POLICE FACILITY	5,000	5,000	0	0
		GALENA AIRPORT				
		ADD TO-ALTER POWER PLANT	4,000	4,000	4,000	4,000
		UNACCOMPANIED PERSONNEL HOUSING	7,600	7,600	7,600	7,600
		KING SALMON AFB				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		UNACCOMP OFFICER PERSONNEL HOUSING	4,050	4,050	4,050	4,050
		SHEMYA AFB				
		ADD-ALTER WATER SYSTEM-PHASE I	4,200	4,200	4,200	4,200
		DIESEL STORAGE TANKS	15,500	15,500	15,500	15,500
		SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,600	2,600	2,600	2,600
	DEFENSE LEVEL ACTIVITIES					
		FORT WAINWRIGHT				
		TROOP MEDICAL CLINIC	8,800	0	0	0
	ARMY NATIONAL GUARD					
		ANCHORAGE				
		CSMS SEWER LINE EXTENSION	204	204	204	204
		U.S. PROPERTY & FISCAL OFFICE IMPROVEMENTS	144	144	144	144
		ANGOON				
		SCOUT ARMORY	184	184	184	184
		SAVOOGNA				
		SCOUT ARMORY EXPANSION	193	193	193	193
TOTAL: ALASKA			292,535	79,735	240,535	171,935
ARIZONA						
	ARMY					
		FORT HUACHUCA				
		COMMUNICATION TEST FACILITY	5,600	5,600	5,600	5,600
		ELECTRONIC TEST AND EVALUATION CENTER	3,400	3,400	3,400	3,400
		GENERAL INSTRUCTION BUILDING	8,200	8,200	8,200	8,200
		NAVAJO ARMY DEPOT				
		SECURITY UPGRADE	3,900	0	3,900	0
		YUMA PROVING GROUND				
		CHILD DEVELOPMENT-RELIGIOUS ED FACILITY	820	820	820	820
	NAVY					
		MARINE CORPS AIR STATION YUMA				
		ARMORY	640	640	640	640
		CONSTRUCTION MANAGEMENT FACILITY	450	450	450	450
		ENGINE MAINTENANCE FACILITY MODIFICATIONS	300	300	300	300
		MAINTENANCE HANGERS ADDITIONS	2,650	2,650	2,650	2,650
		MARINE AIR CONTROL SQUADRON FACILITY	2,950	2,950	2,950	2,950
		TACTICAL SUPPORT VAN PADS	1,870	1,870	1,870	1,870
	AIR FORCE					
		DAVIS-MONTHAN AFB				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT	
		AIRCRAFT PROCESSING APRON (MASDC)	3,400	0	3,400	3,400	
		BASE CIVIL ENGINEER ADMINISTRATION FAC	2,600	2,600	0	2,600	
		CONTROL TOWER	2,400	2,400	2,400	2,400	
		ECIP-ALTER HEAT-VENTILATION-AIR COND	230	0	0	0	1/
		GLCM-CONSOLIDATED STORAGE	1,900	1,900	1,900	1,900	
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	5,300	0	5,300	5,300	
		HOUSING MANAGEMENT OFFICE	300	300	300	300	
		HOLBROOK					
		STR-PURCHASE UEPH-LAND ACQUISITION	630	630	630	630	
		LUKE AFB					
		JP-4 VAPOR INCINERATION SYSTEM	1,350	1,350	1,350	1,350	
		MEDICAL WAR RESERVE MATERIAL FACILITY	720	720	720	720	
		NONDESTRUCT INSPECTION FACILITY	740	740	740	740	
		SMALL AIRCRAFT MAINTENANCE DOCKS	6,380	6,380	6,380	6,380	
		F15E-ADD/ALTER FLIGHT SIMULATOR FAC	7,200	7,200	7,200	7,200	
		F15E-ALTER FAC FOR F-15 FLIGHT ACADEMIC FAC	1,200	1,200	1,200	1,200	
		F15E-FIELD TRAINING DETACHMENT FAC	2,800	2,800	2,800	2,800	
		F15E-FUEL TANK STORAGE FACILITY	650	650	650	650	
		F15E-SQUADRON OPERATIONS FACILITY	3,100	3,100	3,100	3,100	
		WILLIAMS AFB					
		CONSOLIDATED SUPPORT FACILITY	3,800	0	0	0	
		FLIGHT SIMULATOR RESEARCH FACILITY	4,900	4,900	4,900	4,900	
	JOINT TACTICAL C3 AGENCY						
		FORT HUACHUCA					
		COMMUNICATIONS TEST FACILITY	9,890	9,890	9,890	9,890	
	ARMY NATIONAL GUARD						
		CHANDLER					
		60 PERSON ARMORY	0	0	810	810	
		PHOENIX					
		RANGES, RIFLE BAFFLED	210	210	210	210	
		TUCSON					
		400 PERSON ARMORY	0	0	1,576	1,576	
		VARIOUS LOCATIONS					
		ARMORY UNIT STORAGE BUILDINGS	390	390	390	390	
	AIR NATIONAL GUARD						
		TUCSON IAP					
		COMPOSITE ACFT MAINT FACS-PARKING APRON	12,440	12,440	12,440	12,440	
	AIR FORCE RESERVE						

1/ authorized to be funded with prior year energy savings

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		LUKE AFB				
		FUEL SYSTEM MAINTENANCE HANGAR	2,100	2,100	2,100	2,100
TOTAL: ARIZONA			105,410	88,780	101,166	99,866
ARKANSAS						
	AIR FORCE					
		BLYTHEVILLE AFB				
		ADD-ALTER TARGET INTELLIGENCE FACILITY	820	820	820	820
		ALTER TAXIWAYS	2,000	2,000	0	2,000
		PETROLEUM OPERATIONS FACILITY	540	0	540	0
		SECURITY IMPROVEMENTS	1,050	1,050	1,050	1,050
		LITTLE ROCK AFB				
		ADD-ALTER FUEL SYSTEMS MAINT DOCKS	2,750	2,750	0	2,750
	ARMY NATIONAL GUARD					
		ARKADELPHIA				
		ARMORY ADD-ALT	584	584	584	584
		CAMP ROBINSON				
		DINING FACILITY, MILITARY ACADEMY	221	221	221	221
		GENERAL INSTRUCTION BUILDING	297	297	297	297
		RANGE, 25M BASIC-NIGHT FIRE	166	166	166	166
		RANGE, 50 CALIBER SCALED	107	107	107	107
		RANGE, RECORD FIRE	305	305	305	305
		WASTEWATER SYSTEM IMPROVEMENT	711	711	711	711
		WATER SYSTEM IMPROVEMENT	454	454	454	454
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	250	250	250	250
	AIR NATIONAL GUARD					
		FT SMITH MAP				
		ADD-ALTER JET FUEL STORAGE COMPLEX	570	570	570	570
	ARMY RESERVE					
		CAMP ROBINSON				
		WATER SYSTEM IMPROVEMENT	150	150	150	150
		FORT CHAFFEE				
		ARMY RESERVE CENTER	2,600	2,600	2,600	2,600
		NORTH LITTLE ROCK				
		ARMED FORCES RESERVE CENTER-MAINT FAC	7,486	7,486	7,486	7,486
TOTAL: ARKANSAS			21,061	20,521	16,311	20,521

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
CALIFORNIA						
	ARMY					
		FT IRWIN				
		GENERAL PURPOSE WAREHOUSE	2,050	0	0	0
		TROOP STAGING AREA	820	820	820	820
		FAMILY HOUSING-MOBILE HOME SPACES (38)	730	730	730	730
		FORT ORD				
		FLIGHT SIMULATOR BUILDING	2,100	2,100	2,100	2,100
		PHYSICAL FITNESS TRAINING CENTER	4,450	4,450	4,450	4,450
		FAMILY HOUSING NEW CONSTRUCTION (385)	34,000	34,000	34,000	34,000
		PRESIDIO OF SAN FRANCISCO				
		BARRACKS	5,100	0	5,100	0
		SIERRA ARMY DEPOT				
		SECURITY UPGRADE	2,450	0	2,450	0
	NAVY					
		COMBAT SYS TECH SCHOOLS CMD MARE ISLAND				
		COMBAT SYSTEMS MAINTENANCE TRAINING FAC	5,200	5,200	5,200	5,200
		FLEET INTELL TRNG CENTER PAC SAN DIEGO				
		INTELLIGENCE TRAINING BUILDING	4,220	4,220	4,220	4,220
		FLEET TRAINING CENTER SAN DIEGO				
		WEAPONS TRAINING BUILDING	3,930	3,930	3,930	3,930
		MARCORP AIR-GRND COMB CTR TWENTYNINE PALMS				
		BACHELOR ENLISTED QUARTERS	22,600	17,600	22,600	17,600
		COMBINED ARMS TRAINER FACILITY	1,280	1,280	1,280	1,280
		ORGANIZATIONAL AUTOMOTIVE MAINT SHOP	9,820	9,820	9,820	9,820
		REGIMENTAL BATTALION OPERATIONS CENTER	3,930	3,930	3,930	3,930
		FAMILY HOUSING NEW CONSTRUCTION (392)	33,900	33,900	33,900	33,900
		FAMILY HOUSING-MOBILE HOME SPACES (75)	1,400	1,400	1,400	1,400
		MARINE CORPS AIR STATION CAMP PENDLETON				
		AIRCRAFT MAINTENANCE TRAINING BUILDING	1,080	0	1,080	1,080
		AIRCRAFT OPERATIONS BLDG AND CONTROL TOWER	2,160	2,160	2,160	2,160
		ELECTRONICS & COMMUNICATIONS MAINT SHOP	350	350	350	350
		ENGINE TEST CELL	3,240	3,240	3,240	3,240
		OIL SPILL PREVENTION	540	540	540	540
		ORDNANCE HANDLING PAD	3,040	3,040	3,040	3,040
		MARINE CORPS AIR STATION EL TORO				
		ENGINE MAINTENANCE SHOP ADDITION	1,570	1,570	1,570	1,570
		MAINTENANCE HANGAR MODERNIZATION	11,880	11,880	11,880	11,880
		RUNWAY EXTENSION	0	0	14,400	14,400

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		FAMILY HOUSING-NEW CONSTRUCTION	0	2,300	0	2,300
		MARINE CORPS AIR STATION TUSTIN				
		AIR TRAFFIC CONTROL SQUADRON FACILITY	2,450	2,450	2,450	2,450
		AIRCRAFT RINSE FACILITY	870	870	870	870
		ARMORY	790	790	790	790
		BACHELOR ENLISTED QUARTERS	10,800	10,800	10,800	10,800
		MARINE CORPS BASE CAMP PENDLETON				
		BACHELOR ENLISTED QUARTERS	12,300	12,300	12,300	12,300
		BATTALION OPERATIONS CENTER	1,080	1,080	1,080	1,080
		COMBAT VEHICLE MAINTENANCE SHOP	4,320	4,320	4,320	4,320
		COMMUNICATIONS SUPPORT STOREHOUSE	2,650	2,650	0	0
		MESS HALL ADDITIONS AND MODERNIZATIONS	5,100	5,100	5,100	5,100
		OIL SPILL PREVENTION	1,180	1,180	1,180	1,180
		PARACHUTE AND SURVIVAL EQUIPMENT SHOP	2,160	2,160	2,160	2,160
		PHYSICAL FITNESS CENTER	2,850	2,850	2,850	2,850
		TRAINING SUPPORT CENTER	5,500	5,500	0	0
		FAMILY HOUSING-MOBILE HOME SPACES (100)	1,800	1,800	1,800	1,800
		MARINE CORPS RECRUIT DEPOT SAN DIEGO				
		SUPPLY COMPLEX	8,440	8,440	0	0
		NAVAL AIR STATION ALAMEDA				
		BERTHING PIER AND UTILITIES IMPROVEMENTS	17,675	17,675	17,675	17,675
		WATERFRONT SUPPORT FACILITY	950	950	950	950
		NAVAL AIR STATION LEMOORE				
		INDUSTRIAL WASTE TREATMENT FACILITY	980	980	980	980
		NAVAL AIR STATION MIRAMAR				
		AVIONICS SHOP ADDITION	3,240	3,240	3,240	3,240
		BACHELOR ENLISTED QUARTERS	13,200	9,200	13,200	9,200
		CONSOLIDATED BRIG	22,500	22,500	0	22,500
		HANGAR UTILITIES IMPROVEMENTS	350	350	350	350
		MAINTENANCE HANGAR ADDITION	5,110	5,110	5,110	5,110
		NAVAL AIR STATION MOFFETT FIELD				
		FAMILY HOUSING NEW CONSTRUCTION (126)	11,600	11,600	11,600	11,600
		NAVAL AMPHIBIOUS BASE CORONADO				
		BACHELOR OFFICER QUARTERS	9,800	9,800	9,800	9,800
		ELECTICAL DISTRIBUTION SYSTEM IMPROVEMENTS	5,100	5,100	5,100	5,100
		OPERATIONAL STORAGE WAREHOUSE	3,720	3,720	0	0
		SEALIFT SUPPORT PIER	2,550	2,550	2,550	2,550
		NAVAL COMMUNICATION STATION STOCKTON				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		FIRE PROTECTION PIPELINE	2,750	0	2,750	0
		NAVAL CONSTRUCT BATTALION CTR PORT HUENEME				
		ABRASIVE BLAST FACILITY	300	300	300	300
		BACHELOR OFFICER QUARTERS	3,040	3,040	3,040	3,040
		ENGINEERING SUPPORT FACILITY	3,140	3,140	0	0
		HAZARDOUS WASTE FACILITY	640	640	640	640
		NAVAL CONSTRUCTION TRNG CTR PORT HUENEME				
		AUTOMOTIVE VEHICLE MAINTENANCE FACILITY	1,470	0	1,470	0
		SEABEE FLEET SUPPORT TRAINING FACILITIES	3,240	3,240	0	0
		NAVAL FACILITY CENTERVILLE BEACH				
		SECURITY IMPROVEMENTS	1,370	1,370	1,370	1,370
		NAVAL SECURITY GROUP DETACHMENT SAN DIEGO				
		CLASSIFIED MATERIALS ISSUE OFFICE ADDITION	1,570	0	1,570	0
		NAVAL SHIPYARD MARE ISLAND				
		SEWAGE TREATMENT PLANT	0	0	5,100	0
		NAVAL SHIPYARD LONG BEACH				
		ELECTRONIC SYSTEMS EVALUATION FACILITY	1,180	1,180	1,180	1,180
		HAZARDOUS WASTE FACILITY	2,450	2,450	2,450	2,450
		NAVAL STATION LONG BEACH				
		BACHELOR ENLISTED QUARTERS	7,050	7,050	7,050	7,050
		BACHELOR OFFICER QUARTERS	3,730	0	0	0
		LIGHTING SYSTEMS	210	210	210	210
		FAMILY HOUSING NEW CONSTRUCTION (300)	22,900	22,900	22,900	22,900
		NAVAL STATION MARE ISLAND				
		RELIGIOUS EDUCATION BUILDING ALTERATION	470	0	470	0
		NAVAL STATION SAN DIEGO				
		BACHELOR ENLISTED QUARTERS	18,200	18,200	18,200	18,200
		DREDGING	1,260	1,260	1,260	1,260
		NAVAL SUBMARINE BASE SAN DIEGO				
		BACHELOR ENLISTED QUARTERS	9,100	6,200	9,100	9,100
		SEWAGE SYSTEM IMPROVEMENTS	300	300	300	300
		NAVAL SUPPLY CENTER OAKLAND				
		FIRE PROTECTION SYSTEM	540	540	540	540
		GENERAL WAREHOUSE ADDITION & MODERNIZATION	2,950	2,950	0	2,950
		NAVAL SUPPLY CENTER SAN DIEGO				
		PERSONAL PROPERTY OFFICE	1,370	0	1,370	1,370

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		RAILROAD TRACK RELOCATION	2,450	2,450	0	0
		NAVAL TECHNICAL TRNG CTR SAN FRANCISCO				
		FIRE FIGHTING TRAINER FACILITY	9,820	9,820	0	0
		NAVAL TRAINING CENTER SAN DIEGO				
		BARRACKS	4,220	4,220	4,220	4,220
		BRIDGE	2,950	0	0	0
		ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENTS	8,250	8,250	8,250	8,250
		MACHINERY REPAIRMAN TRAINING BUILDING	5,700	5,700	5,700	5,700
		NAVAL WEAPONS CENTER CHINA LAKE				
		EXPLOSIVE ORDNANCE BREAKDOWN FACILITY	1,370	1,370	1,370	1,370
		GUIDED MISSILE LABORATORY	10,300	0	10,300	0
		MESS HALL	2,450	0	2,450	0
		NAVAL WEAPONS STATION CONCORD				
		MISSILE TEST CELLS	790	790	790	790
		NAVAL WEAPONS STATION SEAL BEACH				
		QUALITY EVALUATION LABORATORY	6,100	0	6,100	0
		NAVY PUBLIC WORKS CENTER SAN DIEGO				
		DEFENSE ACCESS ROADS	1,400	1,400	1,400	1,400
		NAVY PUBLIC WORKS CENTER SAN FRANCISCO				
		NOISE ATTENUATION	450	450	450	450
		FAMILY HOUSING NEW CONSTRUCTION (300)	26,450	26,450	26,450	26,450
		NAVY TACT INTEROP SUPPORT ACT LONG BEACH				
		TACTICAL DATA SYSTEM SUPPORT FACILITY	510	510	510	510
		PACIFIC MISSILE TEST CENTER POINT MAGU				
		TELEMETRY FACILITIES	590	590	590	590
	AIR FORCE					
		BEALE AFB				
		KC135 COCKPIT PROCEDURES TRAINER SIM FAC	890	890	890	890
		SECURITY IMPROVEMENTS	400	400	400	400
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	710	710	710	710
		TR1-AIRCRAFT SHELTER/APRON	4,000	4,000	4,000	4,000
		U2R-APRON AND SHELTERS	2,549	2,549	2,549	2,549
		U2R-SHELTERS AND APRON	967	967	967	967
		HOUSING MAINTENANCE SHOP	180	180	180	180
		CASTLE AFB				
		SURVIVAL EQUIPMENT SHOP	1,800	1,800	1,800	1,800
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	830	830	830	830

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		EDWARDS AFB				
		ADD TO PROPELLANT LABORATORY COMPLEX	5,500	0	5,500	0
		ADD-ALTER AVIONICS RESEARCH LAB	7,200	7,200	7,200	7,200
		ADD-ALTER TEST MANAGEMENT AND SECURITY FAC	1,400	1,400	1,400	1,400
		ALTER AVIONICS SHOP	2,300	0	2,300	2,300
		FAMILY HOUSING-ADD.MOBILE HOME SPACES (24)	376	376	376	376
		GEORGE AFB				
		ADD-ALTER VEHICLE MAINTENANCE SHOP	1,900	1,900	1,900	1,900
		RESOURCE MANAGEMENT FACILITY	7,650	7,650	7,650	7,650
		VISITING PERSONNEL QUARTERS	5,000	0	0	0
		FT MACARTHUR				
		ALTER PERSONNEL SUPPORT FACILITY	3,000	0	0	0
		MARCH AFB				
		KC10-HYDRANT FUELING-CENTRAL ACFT SPT SYS	13,600	13,600	13,600	13,600
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	840	840	840	840
		MATHER AFB				
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	740	740	740	740
		MCCLELLAN AFB				
		ADD TO-ALTER DEPOT WAREHOUSE	9,400	9,400	0	9,400
		AMMUNITION STORAGE COMPLEX/LAND ACQ	4,300	4,300	4,300	4,300
		DEPOT FLIGHT INSTRUMENT OVERHAUL FACILITY	9,400	9,400	9,400	9,400
		REGIONAL WASTEWATER CONNECTION	5,800	5,800	5,800	5,800
		NORTON AFB				
		ADD-ALTER APPROACH LIGHTS	1,450	1,450	1,450	1,450
		SUNNYVALE AFS				
		ALTER AUTOMATED REMOTE TRACKING STATION	600	600	600	600
		ALTER MISSION CONTROL CENTERS	2,000	2,000	2,000	2,000
		TRAVIS AFB				
		ALTER AIRCRAFT MAINTENANCE HANGAR	1,600	1,600	1,600	1,600
		PHYSICAL FITNESS CENTER	4,700	4,700	4,700	4,700
		SATELLITE COMMUNICATIONS GROUND TERMINAL	1,900	1,900	1,900	1,900
		VANDENBURG AFB				
		ADD/ALTER OAK MOUNTAIN POWER PLANT	2,700	2,700	2,700	2,700
	STRATEGIC DEFENSE INITIATIVE ORGANIZATION					
		EDWARDS AFB				
		ROCKET PROPULSION BRILLION FACILITY	4,140	0	4,140	4,140

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	DEFENSE LEVEL ACTIVITIES					
		DEFENSE LANGUAGE INSTITUTE - MONTEREY				
		BARRACKS	5,400	5,400	5,400	5,400
		EDWARDS AFB				
		DENTAL CLINIC	3,950	3,950	3,950	3,950
		MARCH AFB				
		ADD/ALTER MEDICAL LOGISTIC FACILITY	2,350	2,350	0	0
		FORT ORD				
		HOSPITAL ADDITION	530	530	0	530
		VANDENBERG AFB				
		ADD/ALTER MEDICAL CENTER CLINIC ANNEX	1,900	1,900	0	0
	DEFENSE LOGISTICS AGENCY					
		DEF FUEL SUPPORT POINT ESTERO BAY				
		FIRE PROTECTION	680	680	680	680
	ARMY NATIONAL GUARD					
		CAMP SAN LUIS OBISPO				
		CLOSE COMBAT COURSE	184	184	184	184
		LONG BEACH				
		ORGANIZATIONAL MAINT. SHOP MODIFICATIONS	191	191	191	191
		SANTA BARBARA				
		ORGANIZATIONAL MAINT. SHOP MODIFICATIONS	125	125	125	125
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	500	500	500	500
	AIR NATIONAL GUARD					
		MOFFETT NAS				
		AIRCRAFT PARKING APRON SHOULDER	160	160	160	160
		POINT MUGU NAS				
		ANG OPERATIONS AND TRAINING COMPLEX-PHI	19,700	19,700	19,700	19,700
	ARMY RESERVE					
		OAKLAND				
		ADD/ALTER RESERVE CENTER/MAINT FACILITY	2,986	2,986	2,986	2,986
		SANTA ANA				
		ADD/ALTER ARMED FORCES RESERVE CENTER	1,158	1,158	1,158	1,158
		VAN NUYS				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		MAINTENANCE SHOP/KITCHEN	300	300	300	300
		WEST LOS ANGELES				
		ADD/ALTER RESERVE CENTER	3,648	3,648	3,648	3,648
	NAVY RESERVE					
		NMCRC LONG BEACH				
		PARACHUTE LOFT	190	190	190	190
	AIR FORCE RESERVE					
		MARCH AFB				
		AERIAL PORT TRAINING FACILITY	1,980	1,980	1,980	1,980
		COMPOSITE MAINTENANCE FACILITY	2,300	2,300	2,300	2,300
		NORTON AFB				
		ALTER 445 MAW HEADQUARTERS	180	180	180	180
TOTAL: CALIFORNIA			652,169	578,789	576,349	561,769
COLORADO						
	ARMY					
		FORT CARSON				
		RANGE ROADS - PHASE III	3,500	3,500	3,500	3,500
		VEHICLE WASHRACK	7,800	7,800	7,800	7,800
		PUEBLO DEPOT ACTIVITY				
		SECURITY UPGRADE	600	0	600	0
		ROCKY MOUNTAIN ARSENAL				
		GROUND WATER TREATMENT FACILITY	0	0	6,000	0
	AIR FORCE					
		FALCON AFS				
		LAND ACQUISITION (EASEMENT)	6,400	6,400	6,400	6,400
		LA JUNTA				
		STR-COMPOSITE SUPPORT FACILITIES	2,150	2,150	2,150	2,150
		STR-LAND ACQUISITION	260	260	260	260
		STR-TECHNICAL OPERATIONS FACILITY	1,300	1,300	1,300	1,300
		STR-UNACCOMP ENLISTED PERSONNEL HOUSING	1,750	1,750	1,750	1,750
		FAMILY HOUSING NEW CONSTRUCTION (40)	4,000	4,000	4,000	4,000
		PETERSON AFB				
		ADD-ALTER SECURITY POLICE FACILITY	590	590	590	590
		BASE SUPPLY WAREHOUSE-PHASE I	4,000	0	0	0
		TROOP SUBSISTENCE STORAGE FACILITY	990	0	990	0
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,050	3,050	3,050	3,050

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		US AIR FORCE ACADEMY				
		ADD-ALTER BASE CIVIL ENGINEERING FACS	990	990	990	990
		ADD-ALTER SECURITY POLICE FACILITY	600	0	600	0
		ALTER ELECTRICAL DISTRIBUTION SYSTEM	4,000	4,000	4,000	4,000
		LAND ACQUISITION	230	230	230	230
		ADD-ALTER CADET GYMNASIUM	0	0	0	7,400 1/
	NAVY RESERVE					
		NRC FORT CARSON				
		PERMANENT DRILL SITE RNCFSU-2	390	390	390	390
	AIR FORCE RESERVE					
		PETERSON AFB				
		ADD-ALTER SECURITY POLICE FACILITY	200	200	200	200
		COMPOSITE TRAINING FACILITY	1,060	1,060	1,060	1,060
TOTAL: COLORADO			43,860	37,670	45,860	45,070
CONNECTICUT						
	NAVY					
		NAVAL SUBMARINE BASE NEW LONDON				
		BACHELOR OFFICER QUARTERS	9,300	0	0	0
		FUEL STORAGE TANKS	1,470	1,470	1,470	1,470
		QUAYWALL	3,160	3,160	3,160	3,160
		WEAPONS STORAGE IMPROVEMENTS	2,950	0	0	0
		NAVAL SUBMARINE SCHOOL NEW LONDON				
		ADVANCED ENGINEERING TRAINING FACILITY	6,200	6,200	6,200	6,200
		SUBMARINE FIRE FIGHTING TRAINER FACILITY	3,340	3,340	3,340	3,340
TOTAL: CONNECTICUT			26,420	14,170	14,170	14,170
DELAWARE						
	ARMY NATIONAL GUARD					
		DAGSBORO				
		ORGANIZATIONAL MAINTENANCE SHOP	396	396	396	396
TOTAL: DELAWARE			396	396	396	396
DISTRICT OF COLUMBIA						
	NAVY					
		COMMANDANT NAVAL DISTRICT WASHINGTON				
		BACHELOR ENLISTED QUARTERS MODERNIZATION	2,000	2,000	2,000	2,000
		WHITE HOUSE SUPPORT COMPLEX	24,000	0	0	0
		NAVAL OBSERVATORY WASHINGTON				

1/ authorized for appropriations in lieu of extending authorization without an appropriation

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		EMERGENCY POWER BUILDING	980	980	980	980
		NAVAL RESEARCH LABORATORY WASHINGTON				
		PHYSICS LABORATORY IMPROVEMENTS	8,730	0	8,730	0
	DEFENSE NUCLEAR AGENCY					
		NAVAL RESEARCH LAB				
		PULSE POWER RESEARCH FACILITY	3,200	0	3,200	0
TOTAL: DISTR OF COLUMBIA			38,910	2,980	14,910	2,980
FLORIDA						
	NAVY					
		NAVAL AIR REWORK FACILITY PENSACOLA				
		AIRCRAFT STRUCTURES REPAIR FACILITY	8,050	8,050	8,050	8,050
		NAVAL AIR STATION CECIL FIELD				
		AIRCRAFT ACOUSTICAL ENCLOSURE	4,910	4,910	0	4,910
		BACHELOR ENLISTED QUARTERS	3,730	3,730	3,730	3,730
		NAVAL AIR STATION JACKSONVILLE				
		AIRCRAFT PARKING APRON	2,160	2,160	2,160	2,160
		BRIG	2,650	2,650	2,650	2,650
		HELICOPTER TRAINING FACILITY	4,220	4,220	0	0
		NAVAL AIR STATION KEY WEST				
		AIR COMBAT TRAINING DEBRIEFING FACILITY	930	930	930	930
		HYDROFOIL BERTHING WHARF	8,490	8,490	0	0
		MUNICIPAL SEWER CONNECTION IMPROVEMENTS	720	720	720	720
		NAVAL AIR STATION WHITING FIELD				
		RUNWAY IMPROVEMENT	2,120	0	2,120	0
		NAVAL COASTAL SYSTEMS CENTER PANAMA CITY				
		UNDERWATER EQUIPMENT LABORATORY	880	880	880	880
		NAVAL DIV & SALVAGE TRNG CTR PANAMA CITY				
		DIVER TRAINING BUILDING ADDITION	2,850	2,850	2,850	2,850
		NAVAL HOSPITAL PENSACOLA				
		FIRE PROTECTION SYSTEM IMPROVEMENTS	690	690	690	690
		NAVAL STATION MAYPORT				
		PHYSICAL FITNESS CENTER ADDITION	880	880	880	880
		NAVAL SUPPLY CENTER DETACHMENT MAYPORT				
		FLEET SUPPORT WAREHOUSE ADDITION	3,730	3,730	3,730	3,730

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		NAVAL SUPPLY CENTER JACKSONVILLE				
		OIL SPILL PREVENTION	830	830	830	830
		NAVAL TECHNICAL TRAINING CENTER PENSACOLA				
		BOILER PLANT MODIFICATIONS	1,180	1,180	1,180	1,180
		CONTROLLED HUMIDITY STORAGE FACILITY	1,570	1,570	1,570	1,570
		INSTRUMENTATION TRAINING FACILITY	4,610	4,610	4,610	4,610
		NAVAL TRAINING CENTER ORLANDO				
		ADVANCED UNDERWATER WEAPONS TRAINING FAC	2,950	2,950	0	0
		BARRACKS	8,440	8,440	8,440	8,440
		FIRE STATION	1,230	1,230	1,230	1,230
		PUBLIC WORKS SHOP	2,550	0	0	0
		NAVY PUBLIC WORKS CENTER PENSACOLA				
		ELECTRICAL SYSTEM IMPROVEMENTS	1,470	1,470	1,470	1,470
		HAZARDOUS MATERIALS STORAGE & HANDLING FAC	400	400	400	400
		OIL SPILL PREVENTION	250	250	250	250
	AIR FORCE					
		AVON PARK				
		EXTEND RUNWAY	4,100	4,100	0	4,100 1/
		EGLIN AFB				
		FUEL SYSTEMS MAINTENANCE FACILITY	1,650	0	0	0
		NON-DESTRUCT INSPECTION FACILITY	720	720	720	720
		HOMESTEAD AFB				
		DINING HALL AND TROOP ISSUE FACILITY	3,400	3,400	3,400	3,400
		F16-ECM PID SHOP AND STORAGE	1,650	1,650	1,650	1,650
		MEDICAL WAR RESERVE MATERIAL FACILITY	770	770	770	770
		SOUND SUPPRESSOR SUPPORT	730	730	730	730
		MACDILL AFB				
		ALTER USREDCOM COMMAND CENTER	1,600	1,600	1,600	1,600
		BASE CONTRACTING FACILITY	1,350	1,350	0	0
		MEDICAL WAR RESERVE MATERIAL FACILITY	780	780	780	780
		PATRICK AFB				
		AIRCRAFT CORROSION CONTROL FACILITIES	2,600	2,600	2,600	2,600
		TYNDALL AFB				
		ECIP-FACILITY ENERGY IMPROVEMENTS	600	0	0	0 2/
		F15-ADD/ALTER SQUADRON OPERATIONS FAC	760	760	760	760
		F15-ADDITION TO AIRCRAFT APRON	9,300	9,300	9,300	9,300
		F15-UNACCOMP ENLISTED PERSONNEL HOUSING	4,650	4,650	4,650	4,650
	ARMY NATIONAL GUARD					

1/ project authorized in fiscal year 1986, use prior year authorization

2/ authorized to be funded with prior year energy savings

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		AVON PARK				
		RANGE, 25 METER ZERO	109	109	109	109
		RANGE, COMBAT PISTOL	165	165	165	165
		CAMP BLANDING				
		MOBILIZATION & TRAINING EQUIP SITE ADD/ALT	1,043	1,043	1,043	1,043
		CRYSTAL RIVER				
		200 PERSON ARMORY	1,017	1,017	1,017	1,017
		DAYTONA BEACH				
		ARMORY MODIFICATION	389	389	389	389
		LAKELAND				
		TRAINING SET FIRE OBSERVATION BUILDING	116	116	116	116
		PANAMA CITY				
		ARMORY ADD/ALT	809	809	809	809
		PENSACOLA				
		ORGANIZATIONAL MAINTENANCE SHOP	307	307	307	307
		SARASOTA				
		ARMORY ADD/ALT	617	617	617	617
		TAVARES				
		ORGANIZATIONAL MAINTENANCE SHOP	487	487	487	487
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	315	315	315	315
	AIR NATIONAL GUARD					
		JACKSONVILLE IAP				
		ADD-ALTER AIRCRAFT ENGINE SHOP	360	360	360	360
		FIRE SUPPRESSION SYSTEM	750	750	750	750
		SPECIAL FUELS FACILITY	240	240	240	240
		MACDILL AFB				
		COMMUNICATIONS-ELECTRONICS TRNG COMPLEX	4,700	4,700	4,700	4,700
	ARMY RESERVE					
		PERRINE				
		ARMY RESERVE CENTER/MEDICAL WING/MAINT	6,700	6,700	6,700	6,700
TOTAL: FLORIDA		----------	125,274	118,354	94,454	101,344
GEORGIA						
	ARMY					

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		FORT BENNING				
		CHAPEL	1,700	1,700	1,700	1,700
		CHILD DEVELOPMENT CENTER ADDITION	280	280	280	280
		FIRE STATION	1,100	1,100	1,100	1,100
		VEHICLE WASH FACILITY	4,000	4,000	0	0
		VEHICLE WASH FACILITY	9,100	9,100	9,100	9,100
		FORT MCPHERSON				
		OPERATIONS FACILITY	2,900	2,900	2,900	2,900
		FT STEWART/HUNTER AAF				
		FLIGHT SIMULATOR BUILDING	1,550	1,550	1,550	1,550
	NAVY					
		NAVAL SUBMARINE BASE KINGS BAY				
		BACHELOR OFFICER QUARTERS	3,440	3,440	3,440	3,440
		COMMANDER SUBMARINE GROUP OFFICE	1,550	0	1,550	1,550
		COMMUNITY IMPACT ASSISTANCE	5,100	5,100	5,100	5,100
		DEFENSIVE ORDNANCE SUPPORT FACILITIES	3,440	3,440	3,440	3,440
		DIESEL FUEL FACILITIES	1,960	1,960	1,960	1,960
		DOCKSIDE HANDLING BUILDING	3,340	3,340	3,340	3,340
		DREDGING	50,400	45,360	50,400	50,400
		DRYDOCK	45,450	40,905	45,450	45,450 1/
		FIRE STATION	350	350	350	350
		OFF-CREW OPERATIONS BUILDING	7,400	6,660	7,400	7,400
		PROVISION WAREHOUSE	2,160	0	2,160	2,160
		READY STORES FACILITY	1,270	0	1,270	1,270
		REFIT SUPPORT FACILITY	2,950	2,950	2,950	2,950
		REFIT WHARF	23,500	21,150	23,500	23,500
		STRATEGIC WEAPONS MAGAZINES	16,700	15,030	16,700	16,700
		STRATEGIC WPNS SYS SECOND LEVEL MAIN SHOPS	3,930	3,930	3,930	3,930
		UTILITIES AND SITE IMPROVEMENTS	4,900	4,900	4,900	4,900
		GENERAL REDUCTION	0	0	(10,000)	(10,000)
	AIR FORCE					
		MOODY AFB				
		AIR FORCE COMM COMMAND MAINT FAC	900	900	900	900
		ROBINS AFB				
		ADD TO-ALTER AVIONICS REPAIR FACILITY	6,455	6,455	6,455	6,455
		AIRCRAFT UTILITY OUTLETS	1,700	1,700	1,700	1,700
		DANGEROUS CARGO PAD	2,700	2,700	2,700	2,700
		HIGH DENSITY STORAGE FACILITIES	3,800	3,800	3,800	3,800
		KC135-COCKPIT PROCEDURES TRAINER SIM FAC	660	660	660	660
		SOUND SUPPRESSOR SUPPORT	740	740	740	740
	DEFENSE LEVEL ACTIVITIES					

1/ authorized at $125,600,000 and authorized for appropriations at $40,000,000 in fiscal year 1986, authorized for appropriations at $45,450,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		FORT BENNING				
		WHITE ELEM SCHOOL MODERNIZATION/ADDITION	1,080	1,080	0	0
		ROBINS AIR FORCE BASE				
		ROBINS AND LINWOOD ELEM SCHOOL ADDITIONS	2,440	2,440	0	0
	DEFENSE LOGISTICS AGENCY					
		FORT STEWART				
		HAZARDOUS MATERIALS/WASTE STORAGE FACILITY	0	730	0	0 1/
	ARMY NATIONAL GUARD					
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	486	486	486	486
	AIR NATIONAL GUARD					
		DOBBINS AFB				
		ADD-ALTER AIRCRAFT MAINTENANCE BLDGS-PH I	6,000	6,000	6,000	6,000
		ST SIMONS ISLAND				
		COMMUNICATIONS/ELECTRONICS TRAINING FAC	5,000	5,000	5,000	5,000
TOTAL: GEORGIA			230,431	211,836	212,911	212,911
HAWAII						
	ARMY					
		HAWAII VARIOUS				
		OPERATIONS SUPPORT FACILITY	12,000	0	12,000	0
		WHEELER ARMY AIR FIELD				
		FLIGHT SIMULATOR BUILDING	2,900	2,900	2,900	2,900
	NAVY					
		CAMP H M SMITH - OAHU				
		LAND ACQUISITION	1,570	1,570	1,570	1,570
		SECURITY HEADQUARTERS	500	0	500	500
		MARINE CORPS AIR STATION KANEOHE BAY				
		AIRCRAFT RINSE FACILITY	1,280	0	1,280	0
		BACHELOR ENLISTED QUARTERS MODERNIZATION	8,800	8,800	8,800	8,800
		COMBAT VEHICLE MAINTENANCE SHOP	6,480	6,480	0	0
		COMPANY AND BATTERY OPERATIONS CENTER	9,130	9,130	9,130	9,130
		CORROSION CONTROL HANGAR	2,260	0	2,260	0
		FLIGHT LINE SECURITY IMPROVEMENTS	2,550	2,550	2,550	2,550
		OPERATIONAL TRAINER FACILITY	880	880	880	880
		POWER CHECK PAD	500	500	500	500
		TACTICAL SUPPORT VAN PADS	8,840	8,840	8,840	8,840
		NAVAL AIR STATION BARBERS POINT				

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		TACAMO SUPPORT COMPLEX	25,300	0	0	0
		NAVAL COM AREA MASTER STA EASTPAC HONOLULU				
		ANTENNA SAFETY IMPROVEMENTS	1,080	0	1,080	0
		NAVAL MAGAZINE LUALUALEI				
		MINE MAINTENANCE FACILITY MODIFICATIONS	860	860	860	860
		MISSILE MAINTENANCE FACILITY	2,850	2,850	2,850	2,850
		SECURITY IMPROVEMENTS	640	640	640	640
		NAVAL STATION PEARL HARBOR				
		SEAL TEAM TRAINING AND SUPPORT BUILDING	3,240	3,240	3,240	3,240
		NAVAL SUBMARINE BASE PEARL HARBOR				
		DREDGING	690	690	690	690
		NAVAL SUPPLY CENTER PEARL HARBOR				
		COLD STORAGE FACILITY	11,820	11,820	0	0
		NAVY PUBLIC WORKS CENTER PEARL HARBOR				
		ELECTRICAL DISTR SYS IMPROVEMENTS (PH 1)	18,200	0	18,200	0
		MUNICIPAL SEWER CONNECTION	790	790	790	790
		WATER DISTRIBUTION SYSTEM IMPROVEMENTS	6,700	6,700	6,700	6,700
		PACIFIC MISSILE RANGE FAC BARKING SANDS				
		AIRCRAFT MAINTENANCE HANGAR & SUPPORT FACS	5,900	5,900	5,900	5,900
		RANGE OPERATIONS CENTER ADDITION	2,360	2,360	2,360	2,360
	AIR FORCE					
		HICKAM AFB				
		ADD-ALTER COMMAND CENTER	4,700	4,700	0	4,700
		VEHICLE OPERATIONS-MAINTENANCE FACILITY	1,150	0	1,150	0
	STRATEGIC DEFENSE INITIATIVE ORGANIZATION					
		PACIFIC MISSILE RANGE				
		INTERMEDIATE BALLISTIC MISSILE LAUNCH CPLX	2,890	0	2,890	2,890
	DEFENSE LEVEL ACTIVITIES					
		PEARL HARBOR				
		OCCUPATIONAL HEALTH CLINIC	9,700	9,700	9,700	9,700
	AIR NATIONAL GUARD					
		BARKING SANDS				
		ADD-ALTER COMMUNICATIONS-ELEC TRNG COMPLEX	2,000	2,000	2,000	2,000
		KEAUKAHA MILITARY RESERVATION				
		MOBILITY STORAGE WAREHOUSE	180	180	180	180
TOTAL: HAWAII		----------	158,740	94,080	110,440	79,170

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
IDAHO						
	AIR FORCE					
		MOUNTAIN HOME AFB				
		ADD-ALTER VEHICLE MAINTENANCE SHOP	520	520	520	520
		COMBAT SUPPORT CENTER	8,700	8,700	8,700	8,700
		NAVIGATION AIDS COMMUNICATION MAINT SHOP	840	840	840	840
		SOUND SUPPRESSOR SUPPORT	700	700	700	700
		UNACCOMP ENLISTED PERSONNEL HOUSING (OTH-B)	4,000	4,000	4,000	4,000
	DEFENSE LEVEL ACTIVITIES					
		MOUNTAIN HOME AFB				
		COMPOSITE MEDICAL FACILITY	30,500	30,500	30,500	30,500
	ARMY NATIONAL GUARD					
		GOWEN FIELD				
		TANK COMMANDERS ACADEMY COMPLEX	2,935	2,935	2,935	2,935
	AIR NATIONAL GUARD					
		BOISE AIRPORT				
		AIRMAN DORMITORY	320	320	320	320
		BASE SUPPLY/EQUIPMENT WAREHOUSE	2,600	2,600	2,600	2,600
		DINING HALL	150	150	150	150
TOTAL: IDAHO			51,265	51,265	51,265	51,265

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
ILLINOIS						
	ARMY					
		SAVANNA ARMY DEPOT				
		SECURITY UPGRADE	320	320	320	320
		FORT SHERIDAN				
		BARRACKS	2,050	2,050	2,050	2,050
	NAVY					
		NAVAL TRAINING CENTER GREAT LAKES				
		FIRE FIGHTING TRAINER	5,300	5,300	5,300	5,300
	AIR FORCE					
		CHANUTE AFB				
		LIQUID FUELS TRAINING FACILITY	2,600	2,600	2,600	2,600
		WEATHER TRAINING FACILITY	8,700	8,700	8,700	8,700
		SCOTT AFB				
		ADD-ALTER CONSOLIDATED COMPUTER FACILITY	8,900	1,100	1,100	1,100
	DEFENSE COMMUNICATION AGENCY					
		SCOTT AFB				
		DECCO COMPUTER CENTER/ADMIN FACILITY	7,600	7,600	7,600	7,600
	ARMY NATIONAL GUARD					
		CHICAGO				
		OMS MODIFICATIONS	346	346	346	346
		CHICAGO				
		ARMORY ALTERATION	1,573	1,573	1,573	1,573
		MARSEILLES				
		FACILITY ENGR. SHOP & STORAGE BUILDING	208	208	208	208
	AIR NATIONAL GUARD					
		CAPITAL MAP				
		AIRCRAFT APRON SECURITY LIGHTING	120	120	120	120
		CHICAGO-O'HARE IAP				
		ANG/AFRES MEDICAL TRAINING FACILITY	800	800	800	800
		GREATER PEORIA AIRPORT				
		SITE PREPARATION-PHASE I	4,000	4,000	4,000	4,000
	ARMY RESERVE					
		JOLIET				
		WEEKEND TRAINING SITE/RANGES	4,765	4,765	4,765	4,765

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	NAVY RESERVE					
		NAS GLENVIEW				
		AVIATION TECHNICAL TRAINING BUILDING	2,200	2,200	2,200	2,200
		KC-130 PARKING APRON	1,900	1,900	1,900	1,900
		OPERATIONAL STORAGE FACILITY RNMCB-25	175	175	175	175
		NRF GREAT LAKES				
		ASSAULT CRAFT UNIT MAINT. FACILITY	700	700	700	700
	AIR FORCE RESERVE					
		CHICAGO-O'HARE IAP				
		TACTICAL CLINIC (JOINT USE)	750	750	750	750
TOTAL: ILLINOIS			53,007	45,207	45,207	45,207
INDIANA						
	ARMY					
		INDIANA ARMY AMUNITION PLANT				
		ACCESS ROADS TO SHIPHOUSES	260	0	0	0 1/
		MODERNIZE TESTING LABORATORIES	1,300	0	0	0 1/
	NAVY					
		NAVAL WEAPONS SUPPORT CENTER CRANE				
		FLEET MICROWAVE SUPPORT CENTER	6,880	6,880	6,880	6,880
	AIR FORCE					
		GRISSOM AFB				
		COMBAT ARMS TRAINING/MAINT FACS	850	850	850	850
		MISSION OPERATIONS FACILITY	3,000	3,000	3,000	3,000
	ARMY NATIONAL GUARD					
		CAMP ATTERBURY				
		RANGE, RECORD FIRE M-16	334	334	334	334
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	318	318	318	318
	ARMY RESERVE					
		SOUTH BEND				
		ADD/ALTER RESERVE CENTER/MAINT FACILITIES	3,511	3,511	3,511	3,511
	AIR FORCE RESERVE					
		GRISSOM AFB				
		AVIONICS/DCM FACILITY (A-10)	1,800	1,800	1,800	1,800
TOTAL: INDIANA			18,253	16,693	16,693	16,693
IOWA						

1/ recommended project be transferred to Army ammunition procurement account

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT	
	ARMY NATIONAL GUARD						
		CAMP DODGE					
		RANGE, FIELD FIRE	257	257	257	257	
		REGIONAL MAINTENANCE TNG SITE	839	839	839	839	
		SEWAGE SYSTEM MODIFICATION	806	806	806	806	
		VARIOUS LOCATIONS					
		ARMORY UNIT STORAGE BUILDINGS	280	280	280	280	
	AIR NATIONAL GUARD						
		DES MOINES MAP					
		LANA POD MAINTENANCE SHOP	360	360	360	360	
	ARMY RESERVE						
		OTTUMWA					
		LAND ACQUISITION	60	60	60	60	
TOTAL: IOWA			2,602	2,602	2,602	2,602	
KANSAS							
	ARMY						
		KANSAS ARMY AMMUNITION PLANT					
		EMERGENCY LIGHTING & POWER FOR 300 LINE	410	0	0	0	1/
		UPGRADE COAL HANDLING SYSTEM-BUILDING 209	640	0	0	0	1/
		FORT LEAVENWORTH					
		WATER STORAGE TANK	1,100	1,100	1,100	1,100	
		FORT RILEY					
		BARRACKS MODERNIZATION	6,100	6,100	6,100	6,100	
		CHILD DEVELOPMENT CENTER	4,250	4,250	0	0	
		PRIMARY WATER SUPPLY CONNECTION	2,150	2,150	2,150	2,150	
	AIR FORCE						
		MCCONNELL AFB					
		B1B-ADD/ALTER ACFT MAINTENANCE MGMT FAC	1,900	1,900	1,900	1,900	
		B1B-ADD/ALTER ACFT MAINTENANCE SHOPS	2,740	2,740	2,740	2,740	
		B1B-ADD/ALTER OPERATIONS MAINTENANCE FACS	2,000	2,000	2,000	2,000	
		B1B-ADD/ALTER ACFT PRECISION MEASUREMENT EQ	500	500	500	500	
		B1B-ADD/ALTER ACFT SUPPORT EQUIP/STORAGE FAC	1,250	1,250	1,250	1,250	
		B1B-AIRFIELD PAVEMENT	2,740	2,740	2,740	2,740	
		B1B-ALTER AIRCRAFT MAINT HANGARS	11,970	11,970	11,970	11,970	
		B1B-BASE ENGINEER MAINT MANAGEMENT FAC	240	240	240	240	
		B1B-BLAST DEFLECTORS	960	960	960	960	
		B1B-CASS EQUIPMENT AND INSTALLATION	1,200	1,200	1,200	1,200	
		B1B-FLIGHT SIMULATOR TRNG FACILITY	3,660	3,660	3,660	3,660	
		B1B-HEAVY EQUIPMENT MAINTENANCE FACILITY	1,050	1,050	1,050	1,050	
		B1B-MOBILITY CENTER	1,950	1,950	1,950	1,950	

1/ recommended project be transferred to Army ammunition procurement account

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		KC135-HYDRANT FUELING SYSTEM	2,600	2,600	2,600	2,600
		SECURITY IMPROVEMENTS	980	980	980	980
		GENERAL REDUCTION	0	0	(2,000)	(2,000)
	ARMY NATIONAL GUARD					
		JUNCTION CITY				
		ARMORY MODIFICATION	353	353	353	353
		NICKELL BARRACKS				
		RANGE, RECORD FIRE M-16	291	291	291	291
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	335	335	335	335
	AIR NATIONAL GUARD					
		FORBES FIELD				
		ALTER OPERATIONS AND TRAINING FACILITY	172	172	172	172
		MCCONNELL AFB				
		ADD-ALTER BASE SUPPLY COMPLEX	1,500	1,500	1,500	1,500
		ADDITION TO ENGINE SHOP	500	500	500	500
	ARMY RESERVE					
		KANSAS CITY				
		ADD/ALTER ARMY RESERVE CENTER	1,548	1,548	1,548	1,548
		MANHATTAN				
		ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,522	1,522	1,522	1,522
		PARSONS				
		ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,534	1,534	1,534	1,534
TOTAL: KANSAS			58,145	57,095	50,845	50,845
KENTUCKY						
	ARMY					
		FORT CAMPBELL				
		AIRCRAFT MAINTENANCE HANGAR	16,500	0	0	0
		FUEL PUMPING STATION	240	0	240	240
		VEHICLE WASH FACILITY	4,500	4,500	4,500	4,500
		FORT KNOX				
		APPLIED INSTRUCTION FACILITY	3,200	3,200	0	0
		LEXINGTON-BLUEGRASS DEP ACT				
		SECURITY UPGRADE	540	0	540	0
	DEFENSE LEVEL ACTIVITIES					

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		FORT CAMPBELL				
		MIDDLE SCHOOL ADDITION	1,340	1,340	0	0
		FORT KNOX				
		ELEMENTARY SCHOOL GYMNASIUMS-SIX	4,350	4,350	0	0
TOTAL: KENTURCY			30,670	13,390	5,280	4,740
LOUISIANA						
	ARMY					
		FORT POLK				
		MULTI-PURPOSE TRAINING RANGE	27,000	27,000	27,000	26,000 1/
		FAMILY HOUSING NEW CONSTRUCTION (583)	37,000	37,000	37,000	37,000
	AIR FORCE					
		ENGLAND AFB				
		BASE CIVIL ENGINEER ADMINISTRATIVE FAC	2,300	2,300	0	0
	DEFENSE LEVEL ACTIVITIES					
		FORT POLK				
		TROOP MEDICAL CLINIC	2,650	2,650	2,650	2,650
	ARMY NATIONAL GUARD					
		DELHI				
		60 PERSON ARMORY	859	859	859	859
		FARMERVILLE				
		60 PERSON ARMORY	835	835	835	835
		MONROE				
		ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT.	268	268	268	268
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	300	300	300	300
		VILLE PLATTE				
		60 PERSON ARMORY	690	690	690	690
	NAVY RESERVE					
		NAVAL AIR STATION NEW ORLEANS				
		APPROACH LIGHTING SYSTEM RUNWAYS 4 AND 22	2,200	2,200	2,200	2,200
		NAVAL SUPPORT ACTIVITY, NEW ORLEANS				
		ADMIN SPACE, BLDG 603-2-C	260	260	260	260
		ISMO/AUDIO VISION	275	275	275	275
		NMCRC NEW ORLEANS				
		RESERVE TRAINING BUILDING ALTERATION	700	700	700	700

1/ distributed general reduction, not authorized for appropriations

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		RNMCB-28 BARKSDALE AFB				
		OPERATIONAL STORAGE FACILITY RNMCB-28	175	175	175	175
	AIR FORCE RESERVE					
		BARKSDALE AFB				
		ALTER AVIONICS/SQUADRON OPERATIONS	1,000	1,000	1,000	1,000
TOTAL: LOUISIANA			76,512	76,512	74,212	73,212
MAINE						
	NAVY					
		NAVAL AIR STATION BRUNSWICK				
		GROUND SUPPORT EQUIPMENT FACILITY	2,160	0	2,160	0
		OIL SPILL PREVENTION	450	450	450	450
		OPERATIONAL TRAINER FACILITY ADDITION	710	710	710	710
		NAVAL SHIPYARD PORTSMOUTH KITTERY				
		ENGINEERING MANAGEMENT BUILDING	10,900	0	10,900	10,900
		HAZARDOUS MATERIAL STORAGE & HANDLING FAC	5,100	5,100	5,100	5,100
		LOGISTICS SUPPORT FACILITY ALTERATIONS	980	980	980	980
		REFUELING CRANE	6,190	6,190	6,190	6,190
	AIR FORCE					
		BANGOR				
		PHYSICAL FITNESS FACILITY	1,250	0	1,250	0
		LORING AFB				
		AIRCRAFT APRON-REFUELING SYSTEM-PH I	12,200	0	12,200	0
		ALTER WEAPONS STORAGE AREA	1,300	1,300	1,300	1,300
	DEFENSE LOGISTICS AGENCY					
		NAS BRUNSWICK				
		HAZARDOUS MATERIALS/WASTE STORAGE FACILITY	0	510	0	0 1/
	ARMY NATIONAL GUARD					
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	503	503	503	503
	ARMY RESERVE					
		SACO				
		ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,129	1,129	1,129	1,129
	NAVY RESERVE					
		RNMCB-27 NAVAL AIR STATION BRUNSWICK				
		OPERATIONAL STORAGE FACILITY RNMCB-27	175	175	175	175
TOTAL: MAINE			43,047	17,047	43,047	27,437

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
MARYLAND						
	ARMY					
		ABERDEEN PROVING GROUND				
		APPLIED INSTRUCTION BUILDING	23,000	23,000	0	22,000 1/
		BARRACKS COMPLEX	19,000	19,000	19,000	18,000 1/
		CONDENSATE RETURN	750	750	750	750
		FAMILY HOUSING NEW CONSTRUCTION (140)	9,700	9,700	9,700	9,700
		FAMILY HOUSING-MOBILE HOME SPACES (70)	1,100	1,100	1,100	1,100
		HARRY DIAMOND LAB				
		COMPUTER LABORATORY ADDITION	680	680	680	680
	NAVY					
		NAVAL ACADEMY ANNAPOLIS				
		EDUCATIONAL COMPUTER CENTER	2,260	2,260	2,260	2,260
		FIRE STATION	400	400	400	400
		NAVAL AIR TEST CENTER PATUXENT RIVER				
		AIRCRAFT TEST AND EVALUATION FACILITY	13,300	13,300	13,300	13,300
		LANDING SYSTEM TEST FACILITY	4,030	4,030	4,030	4,030
		MUNICIPAL SEWER CONNECTION	1,360	1,360	1,360	1,360
		STEAM AND CONDENSATE SYSTEMS	2,450	2,450	2,450	2,450
		NAVAL ORDANCE STATION INDIAN HEAD				
		OIL SPILL PREVENTION	500	500	500	500
		PROPELLANT FACILITIES UPGRADE	3,680	950	0	0
	AIR FORCE					
		ANDREWS AFB				
		AF ONE MAINT AND SUPPORT COMPLEX	45,000	0	25,000	25,000 2/
		ECIP-ALTER LIGHTING SYSTEMS	430	0	0	0 2/
	DEFENSE LEVEL ACTIVITIES					
		ANDREWS AFB				
		ALTER MEDICAL CENTER CLINIC ANNEX	2,000	2,000	0	0
		USUHS BETHESDA				
		MEDICAL STORAGE FACILITY	900	900	900	900
	NATIONAL SECURITY AGENCY					
		FORT MEADE				
		CONNECTOR ROAD	5,200	5,200	5,200	5,200
		R&D FACILITY	53,700	38,000	53,700	38,000 3/
		ROAD IMPROVEMENTS	4,370	0	4,370	4,370
	DEFENSE NUCLEAR AGENCY					
		BETHESDA NAVAL HOSPITAL				

1/ distributed general reduction, not authorized for appropriations
2/ authorized to be funded with prior year energy savings
3/ authorized at $74,064,000 and authorized for appropriations at $21,364,000 in fiscal year 1986, authorized for appropriations at $38,000,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		RESEARCH SUPPORT BUILDING	790	790	790	790
	ARMY NATIONAL GUARD					
		EDGEWOOD				
		400 PERSON ARMORY	5,723	5,723	5,723	5,723
	AIR NATIONAL GUARD					
		ANDREWS AFB				
		ALTER AIRCRAFT MAINTENANCE SHOP	300	300	300	300
	AIR FORCE RESERVE					
		ANDREWS AFB				
		ALTER BLDG FOR MOBILE AERIAL PORT SQUADRON	110	110	110	110
		ALTER FIRE PROTECTION SYSTEM HANGAR TEN	300	300	300	300
		ALTER FUEL SYSTEM DOCK	160	160	160	160
TOTAL: MARYLAND		----------	201,193	132,963	152,083	157,383
MASSACHUSETTS						
	ARMY					
		FORT DEVENS				
		ACADEMIC INSTRUCTION FACILITY	6,800	6,800	6,800	6,800
		ACADEMIC INSTRUCTION FACILITY	9,500	9,500	3,000	9,500
		BARRACKS MODERNIZATION	4,500	4,500	4,500	4,500
	AIR FORCE					
		CAPE COD				
		ALTER POWER PLANT	4,300	4,300	4,300	4,300
		HANSCOM AFB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,700	2,700	2,700	2,700
		ALTER UNACCOMP OFFICER PERSONNEL HOUSING	1,300	1,300	1,300	1,300
	ARMY NATIONAL GUARD					
		CAMP CURTIS GUILD (READING)				
		ORGANIZATIONAL MAINTENANCE SHOP	543	543	543	543
	AIR NATIONAL GUARD					
		OTIS ANGB				
		ALTER AIRCRAFT ENGINE SHOP	210	210	210	210
		ALTER AVIONICS/PMEL FACILITY	3,000	3,000	3,000	3,000
	ARMY RESERVE					
		DEVENS				
		EQUIPMENT CONCENTRATION SITE	360	360	360	360
	AIR FORCE RESERVE					
		WESTOVER AFB				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ALTER SQUADRON OPERATIONS	1,250	1,250	1,250	1,250
		APRON, TAXIWAY/HYDRANT FUELING SYSTEM	13,730	13,730	13,730	13,730
		CONSTRUCT FIRE STATION	1,800	1,800	1,800	1,800
		UPGRADE HANGAR	6,505	6,505	6,505	6,505
		UPGRADE HYDRANT REFUELING SYSTEM	1,000	1,000	1,000	1,000
TOTAL: MASSACHUSETTS			57,498	57,498	50,998	57,498
MICHIGAN						
	ARMY					
		DETROIT ARSENAL				
		CHILD DEVELOPMENT CENTER	1,350	1,350	1,350	1,350
	AIR FORCE					
		KI SAWYER AFB				
		ADD-ALTER COMBAT ARMS TRNG/MAINT FACS	740	740	740	740
		SECURITY IMPROVEMENTS	990	990	990	990
		WURTSMITH AFB				
		B52-ADD TO AIRCRAFT PARKING APRON	4,450	4,450	4,450	4,450
		B52-ADD TO HYDRANT REFUELING WITH CASS	1,500	1,500	1,500	1,500
		B52-ADD/ALTER ALERT ACFT PARKING AREA	2,700	2,700	2,700	2,700
		B52-ADD/ALTER ALERT CREW FACILITY	1,900	1,900	1,900	1,900
		ECIP-BOILER IMPROVEMENTS	320	0	0	0 1/
		SECURITY IMPROVEMENTS	870	870	870	870
		GENERAL REDUCTION	0	0	(1,000)	(1,000)
	ARMY NATIONAL GUARD					
		AUGUSTA				
		RANGE, M60 TRANSITION	180	180	180	180
		CAMP GRAYLING				
		AUTOMATED FIELD FIRE RANGE	553	553	553	553
		AUTOMATED RECORD FIRE RANGE	665	665	665	665
		DEARBORN				
		ORGANIZATIONAL MAINTENANCE SHOP	297	297	297	297
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	245	245	245	245
	ARMY RESERVE					
		KALAMAZOO				
		LAND ACQUISITION	110	110	110	110
		SAGINAW				
		ARMED FORCES RESERVE CENTER	3,070	3,070	3,070	3,070

1/ authorized to be funded with prior year energy savings

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	NAVY RESERVE					
		AFRC SAGINAW				
		RESERVE TRAINING BUILDING	3,600	3,600	3,600	3,600
		RNMCB-26 DETROIT				
		OPERATIONAL STORAGE FACILITY RNMCB-26	175	175	175	175
	AIR FORCE RESERVE					
		SELFRIDGE ANGB				
		SURVIVAL EQUIPMENT SHOP	800	800	800	800
TOTAL: MICHIGAN			24,515	24,195	23,195	23,195
MINNESOTA						
	ARMY NATIONAL GUARD					
		ALBERT LEA				
		100 PERSON ARMORY	843	843	843	843
		CAMP RIPLEY				
		TRNG FACIL - A/A TRACKING & LIVE FIRE RANGE	592	592	592	592
		TROOP ISSUE SUBSISTANCE ACTIVITY	3,031	3,031	3,031	3,031
		DETROIT LAKES				
		ORGANIZATIONAL MAINTENANCE SHOP ADD/ALT	374	374	374	374
		MOOREHEAD				
		200 PERSON ARMORY	1,331	1,331	1,331	1,331
		WILLMAR				
		ORGANIZATIONAL MAINT. SHOP MODIFICATIONS	226	226	226	226
	ARMY RESERVE					
		ST CLOUD				
		LAND ACQUISITION	255	255	255	255
	NAVY RESERVE					
		RNCFSU-4 ST PAUL INTERNATIONAL AIRPORT				
		PERMANENT DRILL SITE RNCFSU-4	390	390	390	390
TOTAL: MINNESOTA			7,042	7,042	7,042	7,042
MISSISSIPPI						
	NAVY					
		NAVAL AIR STATION MERIDIAN				
		AIRFIELD PAVEMENTS	3,170	3,170	3,170	3,170
		FACILITY ENERGY IMPROVEMENTS	650	650	650	650
		GAS GENERATING PLANT	590	590	590	590
		PHYSICAL SECURITY IMPROVEMENTS	250	0	250	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT	
		NAVAL CONSTRUCTION BATTALION CTR GULFPORT					
		CONTROLLED HUMIDITY STORAGE FACILITIES	14,200	14,200	14,200	14,200	
		DATA PROCESSING CENTER	690	690	690	690	
		FACILITY ENERGY IMPROVEMENTS	400	400	400	400	
		SEABEE BATTALION OPERATIONS FACILITY	1,670	0	1,670	1,670	
		SECURITY BUILDING	690	690	690	690	
		NAVAL CONSTRUCTION TRAINING CTR GULFPORT					
		SEABEES INSTRUCTION BUILDING	1,180	1,180	1,180	1,180	
		SUPERVISOR OF SHIP BUILDING PASCAGOULA					
		LAND ACQUISITION & BUILDING MODERNIZATION	4,120	4,120	4,120	4,120	
	AIR FORCE						
		KEESLER AFB					
		DEFENSE ACCESS ROAD	3,200	3,200	3,200	3,200	
		ECIP-FACILITY ENERGY IMPROVEMENTS	1,970	0	0	0	1/
	DEFENSE LEVEL ACTIVITIES						
		KEESLER AFB					
		ADD/ALTER RADIOLOGY LINER ACCELERATOR	3,100	3,100	3,100	3,100	
	ARMY NATIONAL GUARD						
		CAMP MCCAIN					
		BARRACKS, ADM., MESS HALL	0	0	625	625	
		COMBINED SUPPT. MAINT. SHOP	0	0	1,745	1,745	
		ARMORY	0	0	1,410	1,410	
		CAMP SHELBY					
		REGIONAL MAINTENANCE TNG SITE	1,214	1,214	1,214	1,214	
		REHAB. PAHSE 21A	0	0	4,451	4,451	
	AIR NATIONAL GUARD						
		ALLEN C THOMPSON FIELD					
		ADD-ALTER ENGINE/AVIONICS SHOPS	1,300	1,300	1,300	1,300	
		GULFPORT					
		JET FUEL STORAGE COMPLEX	4,250	4,250	4,250	4,250	
TOTAL: MISSISSIPPI		----------	42,644	38,754	48,905	48,655	
MISSOURI							
	ARMY						
		LAKE CITY AAP					
		CONSTRUCT 2 WATER WELLS	370	0	0	0	2/
		FORT LEONARD WOOD					

1/ authorized to be funded with prior year energy savings

2/ recommended project be transferred to Army ammunition procurement account

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		APPLIED INSTRUCTION FACILITY	16,000	16,000	0	16,000 1/
		ENGINEER SCHOOL/POST HEADQUARTERS BUILDING	14,000	14,000	14,000	13,000
		UNACCOMPANIED OFFICER HOUSING	13,200	13,200	13,200	13,200
	AIR FORCE					
		WHITEMAN AFB				
		ALTER ELECTRICAL DISTRIBUTION SYSTEM	9,500	9,500	9,500	9,500
		COLD STORAGE FACILITY	1,200	1,200	1,200	1,200
	DEFENSE MAPPING AGENCY					
		DMA AEROSPACE CENTER	16,700	16,700	16,700	16,700
		DIGITAL PRODUCTION FACILITIES				
	ARMY NATIONAL GUARD					
		CAMP CLARK				
		RANGE, COMBAT PISTOL	105	105	105	105
		FORT CROWDER				
		CLASSROOMS, MILITARY	123	123	123	123
		RANGE, COMBAT PISTOL	105	105	105	105
		RANGE, RECORD FIRE	231	231	231	231
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	343	343	343	343
	AIR NATIONAL GUARD					
		ROSECRANS MEMORIAL AIRPORT				
		ADD TO SUPPORT EQUIPMENT SHOP	180	180	180	180
		ADDITION TO SQUADRON OPERATIONS	1,200	1,200	1,200	1,200
		ST LOUIS-LAMBERT FIELD				
		MOBILITY STORAGE WAREHOUSE	350	350	350	350
	NAVY RESERVE					
		RNMCB-15 RICHARDS GEBAUR AFB				
		OPERATIONAL STORAGE FACILITY RNMCB-15	175	175	175	175
TOTAL: MISSOURI		----------	73,782	73,412	57,412	72,412
MONTANA						
	AIR FORCE					
		MALMSTROM AFB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,800	3,800	3,800	3,800
		KC135R-ADD TO AND ALTER FIRE STATION	570	570	570	570
		KC135R-ADD/ALTER VEHICLE MAINTENANCE SHOP	800	800	800	800
		KC135R-ALTER AIRFIELD PAVEMENTS	6,600	6,600	6,600	6,600
		KC135R-ALTER AVIONICS MAINTENANCE SHOP	210	210	210	210
		KC135R-ALTER FUEL CELL MAINTENANCE DOCK	1,400	1,400	1,400	1,400

1/ distributed general reduction, not authorized for appropriations

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		KC135R-ALTER HEADQUARTERS OPERATIONS FAC	7,700	7,700	7,700	7,700
		KC135R-ALTER HYDRANT REFUELING SYSTEM	8,500	8,500	8,500	8,500
		KC135R-ALTER SUPPORT EQUIP/STORAGE FAC	280	280	280	280
		KC135R-APRON LIGHTING	390	390	390	390
		KC135R-CASS PROVISIONS-PHASE I	1,800	1,800	1,800	1,800
		KC135R-INSTRUMENT LANDING SYSTEM	920	920	920	920
		KC135R-RUNWAY APPROACH LIGHTING	800	800	800	800
		GENERAL REDUCTION	0	0	(3,000)	(3,000)
	ARMY NATIONAL GUARD					
		BILLINGS				
		ORGANIZATIONAL MAINTENANCE SHOP	410	410	410	410
		RANGE, MULTI-PURPOSE INDOOR	315	315	315	315
		GLENDIVE				
		RANGE, MULTI-PURPOSE INDOOR	315	315	315	315
		LIMESTONE HILLS				
		RANGE SUPPORT FACILITY	192	192	192	192
	AIR NATIONAL GUARD					
		GREAT FALLS IAP				
		SPECIAL FUELS FACILITY	190	190	190	190
TOTAL: MONTANA			35,192	35,192	32,192	32,192
NEBRASKA						
	AIR FORCE					
		OFFUTT AFB				
		ADD TO COMBAT ARMS TRAINING/MAINT FACS	520	520	520	520
		ADD-ALTER STRATEGIC COMM DIVISION HQ FAC	2,470	2,470	2,470	2,470
		ECIP-FACILITY ENERGY IMPROVEMENTS	2,680	0	0	0
		ELECTRICAL SUBSTATION	4,450	4,450	4,450	4,450
		SECURITY IMPROVEMENTS	2,500	2,500	2,500	2,500
		STRATEGIC ANALYSIS AND APPLICATIONS CTR	12,350	12,350	12,350	12,350
	ARMY NATIONAL GUARD					
		GERING	135	135	135	135
		ORGANIZATIONAL MAINTENANCE SHOP				
		HASTINGS				
		RANGE, FIELD FIRE	127	127	127	127
		RANGE, TANK TABLE VIIC	129	129	129	129
		UNIT TRAINING EQUIPMENT SITE	581	581	581	581
		LINCOLN				
		U.S. PROPERTY & FISCAL OFFICE ADDITION	242	242	242	242

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	283	283	283	283
	AIR NATIONAL GUARD					
		LINCOLN MAP				
		ADD-ALTER FLIGHTLINE MAINTENANCE SHOP	160	160	160	160
TOTAL: NEBRASKA			26,627	23,947	23,947	23,947
NEVADA						
	ARMY					
		HAWTHORNE AAP				
		AMMUNITION SURVEILLANCE FACILITY	7,000	0	0	0
	NAVY					
		NAVAL AIR STATION FALLON				
		ELECTRONIC WARFARE RANGE IMPROVEMENTS	11,800	7,800	7,800	7,800
		LAND ACQUISITION	6,400	6,400	6,400	6,400
		PARALLEL RUNWAY	17,000	17,000	17,000	17,000
	AIR FORCE					
		INDIAN SPRINGS				
		CONTROL TOWER	1,700	1,700	1,700	1,700
		NELLIS AFB				
		BASE CIVIL ENGINEERING COMPLEX-PHASE I	7,700	7,700	0	0
		COMBAT SUPPORT CENTER	6,200	6,200	6,200	6,200
		DINING HALL	2,600	2,600	2,600	2,600
		PARALLEL TAXIWAY/LAND ACQUISITION	7,300	7,300	7,300	7,300
	NAVY RESERVE					
		AFRC LAS VEGAS				
		RESERVE CENTER ADDITION	1,000	1,000	1,000	1,000
TOTAL: NEVADA			68,700	57,700	50,000	50,000
NEW HAMPSHIRE						
	AIR FORCE					
		PEASE AFB				
		ADD-ALTER AVIONICS MAINTENANCE SHOP	1,150	1,150	1,150	1,150
		ADD-ALTER COMBAT ARMS TRAINING/MAINT FAC	1,050	1,050	1,050	1,050
	ARMY NATIONAL GUARD					
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	460	460	460	460
TOTAL: NEW HAMPSHIRE			2,660	2,660	2,660	2,660

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
NEW JERSEY						
	ARMY	FORT MONMOUTH				
		BARRACKS MODERNIZATION	4,900	4,900	4,900	4,900
	NAVY					
		NAVAL WEAPONS STATION EARLE				
		AMMUNITION PIER AND TRESTLE	52,500	32,500	32,500	32,500 1/
		FLEET SUPPORT FACILITIES	1,960	1,960	1,960	1,960
		SECURITY TOWER	300	300	300	300
	AIR FORCE					
		MCGUIRE AFB				
		ADD-ALTER BASE CIVIL ENGINEERING COMPLEX	5,700	5,700	0	0
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	7,000	7,000	7,000	7,000
		SATELITTLE COMMUNICATIONS GROUND TERMINAL	895	895	895	895
		HOUSING MANAGEMENT OFFICE	325	325	325	325
	DEFENSE LEVEL ACTIVITIES					
		MCGUIRE AFB				
		DENTAL CLINIC	3,800	3,800	3,800	3,800
	ARMY NATIONAL GUARD					
		RED BANK				
		ORGANIZATION MAINTENANCE SHOP MODIF.	211	211	211	211
		SEA GIRT				
		BAFFLED RANGES	567	567	567	567
		VINELAND				
		ORGANIZATIONAL MAINTENANCE SHOP MODIF.	183	183	183	183
	AIR NATIONAL GUARD					
		ATLANTIC CITY				
		ADD-ALTER FUEL CELL MAINTENANCE HANGER	350	350	350	350
		AVIONICS SHOP	2,060	2,060	2,060	2,060
		COMPOSITE AIRCRAFT MAINTENANCE COMPLEX	3,600	3,600	3,600	3,600
		MCGUIRE AFB				
		BASE SUPPLY WAREHOUSE	3,000	3,000	3,000	3,000
		MUNITIONS MAINTENANCE AND STORAGE FAC	1,200	1,200	1,200	1,200
	NAVY RESERVE					
		RNMCB-21 LAKEHURST				
		OPERATIONAL STORAGE FACILITY RNMCB-21	175	175	175	175
TOTAL: NEW JERSEY			88,726	68,726	63,026	63,026
NEW MEXICO						

1/ authorized at $52,500,000 and authorized for appropriations at $32,500,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	ARMY					
		FORT WINGATE				
		SECURITY UPGRADE	350	0	350	0
	AIR FORCE					
		CANNON AFB				
		SMALL AIRCARFT MAINTENANCE DOCK	0	0	4,700	4,700
		AIRCRAFT FUEL SYSTEM MAINTENANCE DOCK	0	0	2,550	2,550
		HOLLOMAN AFB				
		LAND ACQUISITION	2,150	2,150	2,150	2,150
		RATSCAT MODERNIZATION-PHASE II	4,160	4,160	4,160	4,160
		SATELLITE COMMUNICATIONS SYSTEMS SECURITY	600	600	600	600
		TACTICAL OPERATIONS CENTER	3,350	3,350	3,350	3,350
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,500	4,500	4,500	4,500
		KIRTLAND AFB				
		ALTER MAINTENANCE HANGER	1,300	1,300	1,300	1,300
		COMMUNICATIONS DUCT SYSTEM	1,800	1,800	1,800	1,800
		OPTICS AND BEAM CONTROL LABORATORY	8,700	0	8,700	8,700
	STRATEGIC DEFENSE INITIATIVE ORGANIZATION					
		WHITE SANDS MISSILE RANGE				
		HIGH ENDO DEFENSE INTERCEPTOR LAUNCH CMPX	1,930	0	1,930	1,930
	DEFENSE LEVEL ACTIVITIES					
		KIRTLAND AFB				
		ADD-ALTER COMPOSITE MEDICAL FACILITY	25,550	0	16,000	16,000
	DEFENSE LOGISTICS AGENCY					
		KIRTLAND ARB				
		HAZARDOUS MATERIALS/WASTE STORAGE FACILITY	0	620	0	0 1/
	DEFENSE NUCLEAR AGENCY					
		KIRTLAND AFB				
		POWER UPGRADE BUILDING NBR 20676	900	900	900	900
	ARMY NATIONAL GUARD					
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	209	209	209	209
	AIR NATIONAL GUARD					
		KIRTLAND AFB				
		LANA POD MAINTENANCE SHOP	360	360	360	360
TOTAL: NEW MEXICO		----------	55,859	19,949	53,559	53,209

NEW YORK

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	ARMY					
		FORT DRUM				
		10TH MOUNTAIN DIVISION FACILITIES-PHASE I	232,000	180,000	200,000	180,000 1/
		FAMILY HOUSING NEW CONSTRUCTION (1200)	91,000	91,000	91,000	91,000
		SENECA ARMY DEPOT				
		SECURITY LIGHTING	1,100	0	1,100	0
		FAMILY HOUSING NEW CONSTRUCTION (30)	2,900	2,900	2,900	2,900
		U.S. MILITARY ACADEMY				
		ACADEMIC FACILITY MODERNIZATION	15,500	14,500	15,500	14,500
		ACADEMIC FACILITY MODERNIZATION PHASE II	13,000	10,000	13,000	10,000
	NAVY					
		NAVAL STATION NEW YORK				
		SHORE INTERM MAINT ACTIVITY	22,600	22,600	22,600	22,600
		SUPPLY WAREHOUSE	6,800	0	6,800	0
		BACHELOR ENLISTED QUARTERS/MESS HALL	7,950	7,950	7,950	7,950
		BACHELOR OFFICER QUARTERS	2,450	0	2,450	0
		UTILITIES/SITE IMPROVEMENT	22,400	22,400	22,400	22,400
		FAMILY HOUSING NEW CONSTRUCTION (300)	28,330	0	0	0
		DEFENSE ACCESS ROADS	1,450	1,450	1,450	1,450
		GENERAL REDUCTION	0	0	(6,000)	0
	AIR FORCE					
		GRIFFISS AFB				
		SECURITY IMPROVEMENTS	1,150	1,150	1,150	1,150
		T9 NOISE SUPPRESSOR SUPPORT FACILITY	440	440	440	440
		PLATTSBURGH AFB				
		ADD-ALTER VEHICLE MAINTENANCE SHOP	3,200	3,200	0	0
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,000	3,000	0	0
		COMBAT ARMS TRAINING/MAINT FACS.	1,250	1,250	1,250	1,250
		KC135 COCKPIT PROCEDURES TRAINER/MAINT FAC	760	760	760	760
		SECURITY IMPROVEMENTS	1,400	1,400	1,400	1,400
	DEFENSE LEVEL ACTIVITIES					
		GOVERNORS ISLAND				
		ELEM/JR HIGH SCHOOL ADDITION/ROOF REPAIR	2,600	2,600	0	0
	ARMY NATIONAL GUARD					
		DRYDEN				
		200 PERSON ARMORY	1,670	1,670	1,670	1,670
		GUILERLAND				
		TRAINING FACILITIES, PHASE II	305	305	305	305
		VARIOUS LOCATIONS				

1/ authorized for appropriations at $180,000,000 in fiscal year 1987, $221,000,000 in fiscal year 1988, and $214,000,000 in fiscal year 1989

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ARMORY UNIT STORAGE BUILDINGS	775	775	775	775
	AIR NATIONAL GUARD					
		HANCOCK FIELD				
		MOBILITY STORAGE WAREHOUSE	170	170	170	170
		STEWART AIRPORT				
		COMPOSITE MAINT FAC/SUPPLY COMPLEX	10,150	10,150	10,150	10,150
	ARMY RESERVE					
		NEWBURGH				
		ARMY RESERVE CENTER/MAINT FACILITIES	5,485	5,485	5,485	5,485
		SCHENECTADY				
		MAINT ACTIVITY/KITCHEN ADDITION	165	165	165	165
	NAVY RESERVE					
		RNCFSU-1 SYRACUSE				
		PERMANENT DRILL SITE RNCFSU-1	390	390	390	390
		RNMCB-13 PEEKSKILL				
		OPERATIONAL STORAGE FACILITY RNMCB-13	175	175	175	175
TOTAL: NEW YORK		----------	480,565	385,885	405,435	377,085
NORTH CAROLINA						
	ARMY					
		FORT BRAGG				
		AERIAL GUNNERY RANGE	2,350	2,350	0	0
		FLIGHT SIMULATOR BUILDING	1,300	1,300	1,300	1,300
		OPERATIONS COMPLEX PHASE II	5,200	5,200	5,200	5,200
		RANGE COMPLEX	1,050	1,050	1,050	1,050
		SPECIAL FORCES MISSION SUPPORT FACILITY	6,500	6,500	6,500	6,500
		TACTICAL EQUIPMENT SHOP	8,200	8,200	0	8,200
		SUNNY POINT ARMY TERM				
		PROVOST MARSHAL FACILITY	650	650	650	650
	NAVY					
		MARINE CORPS AIR STATIONS CHERRY POINT				
		AIRCRAFT RINSE FACILITY	500	500	500	500
		LAND ACQUISITION	1,370	1,370	1,370	1,370
		OPERATIONAL TRAINER FACILITY ADDITION	980	980	980	980
		REFUELING VEHICLE MAINTENANCE SHOPS	2,060	0	2,060	0
		TACTICAL AIR COMBAT TRAINING FACILITY	3,730	3,730	3,730	3,730
		TROOP AND CARGO STAGING FACILITY	6,870	6,870	6,870	6,870
		MARINE CORPS AIR STATION NEW RIVER				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		BACHELOR ENLISTED QUARTERS	4,900	4,900	4,900	4,900
		GROUP OPERATIONS FACILITY	980	980	980	980
		MAINTENANCE HANGER MODERNIZATION	15,120	15,120	15,120	15,120
		ROAD IMPROVEMENTS	710	710	710	710
		MARINE CORPS BASE CAMP LEJUNE				
		BACHELOR ENLISTED QUARTERS	17,700	14,700	17,700	14,700
		BATTALION OPERATIONS FACILITY	3,250	3,250	3,250	3,250
		COMBAT VEHICLE MAINTENANCE SHOP	2,850	2,850	2,850	2,850
		ELECTRONICS & COMMUNICATIONS MAINT SHOP	4,610	4,610	4,610	4,610
		FIELD MAINTENANCE COMPLEX	5,900	5,900	0	5,900
		MESS HALL	4,810	0	4,810	0
		FAMILY HOUSING-MOBILE HOME SPACES (75)	930	930	930	930
		NAVAL AIR REWORK FACILITY CHERRY POINT				
		AIRCARFT ENGINE BLADE REWORK FACILITY	15,600	15,600	15,600	15,600
		AIRCRAFT REWORK FACILITY	21,600	21,600	21,600	21,600
		NAVAL HOSPITAL CAMP LEJUNE				
		BACHELOR ENLISTED QUARTERS	1,670	1,670	1,670	1,670
	AIR FORCE					
		POPE AFB				
		MUNITIONS STORAGE COMPLEX	1,100	1,100	1,100	1,100
		UPGRADE CENTRAL HEATING PLANTS	2,300	2,300	2,300	2,300
		HOUSING MANAGEMENT OFFICE	300	300	300	300
		SEYMOUR JOHNSON AFB				
		AIRCRAFT MAINTENANCE SUPPLY WAREHOUSE	2,100	2,100	0	0
		SOUND SUPPRESSOR SUPPORT	660	660	660	660
	DEFENSE LEVEL ACTIVITIES					
		CAMP LEJUNE				
		MEDICAL AND DENTAL CLINIC	3,900	3,900	3,900	3,900
		TARAWA TERR/STONE ST/DELALIP ELMEM ADD	1,190	1,190	0	0
	DEFENSE LOGISTICS AGENCY					
		FORT BRAGG				
		HAZARDOUS MATERIALS/WASTE STORAGE FACILITY	0	825	0	0 1/
	ARMY NATIONAL GUARD					
		FORT BRAGG				
		REGIONAL MAINTENANCE TNG SITE	1,211	1,211	1,211	1,211
		MORRISVILLE				
		400 PERSON ARMORY	2,061	2,061	2,061	2,061
		ARMY AVIATION SUPPORT FACILITY	3,698	3,698	3,698	3,698

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	475	475	475	475
	ARMY RESERVE					
		FORT BRAGG				
		EQUIPMENT CONCENTRATION SITE/MAINT FAC	2,946	2,946	2,946	2,946
		DURHAM				
		LAND ACQUISITION	90	90	90	90
		STATESVILLE				
		LAND ACQUISITION	35	35	35	35
TOTAL: NORTH CAROLINA			163,456	154,411	143,716	147,946
NORTH DAKOTA						
	AIR FORCE					
		CAVALIER				
		ADD-ALTER COOLING SYSTEM	1,120	1,120	1,120	1,120
		ALTER SATCOM GROUND TERMINAL	1,700	1,700	1,700	1,700
		GRAND FORKS AFB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,100	4,100	4,100	4,100
		B1B ADD/ALTER VARIOUS MAINTENANCE FACS	1,700	1,700	1,700	1,700
		B1B ALTER FLIGHT SIMULATOR TRAINING FAC	1,100	1,100	1,100	1,100
		B1B ALTER INTEGRATED MAINTENANCE FAC	550	550	550	550
		B1B BLAST DEFLECTORS	1,750	1,750	1,750	1,750
		B1B CASS EQUIPMENT AND INSTALLATION	3,000	3,000	3,000	3,000
		B1B CROSSOVER TAXIWAY	2,400	2,400	2,400	2,400
		B1B JET ENGINE STORAGE FACILITY	430	430	430	430
		B1B SECONDARY FIRE STATION	330	330	330	330
		B1B SUPPORT EQUIP AND STORAGE FACILITY	3,150	3,150	3,150	3,150
		B1B TRACTOR/TRAILER STORAGE FACILITIES	930	930	930	930
		COMBAT ARMS TRAINING/MAINT FACS	1,500	1,500	1,500	1,500
		ELEVATED WATER STORAGE TANK	680	680	680	680
		KC135 COCKPIT PROCEDURES TRAINER SIM FAC	780	780	780	780
		SECURITY IMPROVEMENTS	730	730	730	730
		GENERAL REDUCTION	0	0	(2,400)	(2,400)
		MINOT AFB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,650	4,650	4,650	4,650
		CM-ADD/ALTER MUNITIONS MAINTENANCE SHOP	1,700	1,700	1,700	1,700
		CM-MUNITIONS UPLOAD TRAINING FACILITY	8,300	8,300	8,300	8,300
		CM-UNARMED WEAPONS STORAGE FACILITY	1,100	1,100	1,100	1,100
		CM-UPGRADE WEAPONS STORAGE AREA	2,100	2,100	2,100	2,100
		CM-WEAPONS CONVOY RAODS	710	710	710	710
		CM-WEAPONS STORAGE IGLOOS	11,100	11,100	11,100	11,100
		COMBAT ARMS TRAINING/MAINT FACS	1,250	1,250	1,250	1,250

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ECIP-ALTER HEATING SYSTEM	250	0	0	0 1/
		KC135-COCKPIT PROCEDURES TRNG SIM FAC	890	890	890	890
		SECURITY IMPROVEMENTS	1,050	1,050	1,050	1,050
		GENERAL REDUCTION	0	0	(3,000)	(3,000)
	ARMY NATIONAL GUARD					
		BISMARK				
		400 PERSON ARMORY	5,295	5,295	5,295	5,295
TOTAL: NORTH DAKOTA			64,345	64,095	58,695	58,695

1/ authorized to be funded with prior year energy savings

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
OHIO						
	AIR FORCE					
		NEWARK AFS				
		RADIAC LABORATORY	3,000	3,000	3,000	3,000
		WRIGHT-PATTERSON AFB				
		ACCESS ROAD	15,000	15,000	15,000	15,000
		ADD-ALTER ACFT FIRE PROT/EXPL RESEARCH LAB	2,850	2,850	2,850	2,850
		ADD-ALTER BIOCOMMUNICATIONS LABORATORY	7,400	7,400	7,400	7,400
		AIRCRAFT SUPPORT EQUIPMENT FACILITY	3,300	3,300	0	0
		HANGAR FIRE PROTECTION SYSTEM	2,350	2,350	2,350	2,350
		ROAD	3,600	3,600	3,600	3,600
	DEFENSE LOGISTICS AGENCY					
		DEFENSE CONSTRUCTION SUPPLY CENTER				
		IMPROVE LIGHTING	580	580	580	580
		IMPROVE WAREHOUSE FACILITIES	280	280	280	280
	ARMY NATIONAL GUARD					
		LIMA				
		ORGANIZATIONAL MAINTENANCE SHOP	324	324	324	324
		PIQUA				
		ORGANIZATIONAL MAINTENANCE SHOP	312	312	312	312
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	500	500	500	500
	AIR NATIONAL GUARD					
		RICKENBACKER ANGB				
		ALTER AGE MAINTENANCE SHOP	160	160	160	160
		SPRINGFIELD MAP				
		WATER AND SEWER LINES	1,100	1,100	1,100	1,100
		TOLEDO EXPRESS AIRPORT				
		ADD TO FIRE STATION	250	250	250	250
	NAVY RESERVE					
		NMCRC YOUNGSTOWN				
		RESERVE TRAINING BUILDING	3,600	3,600	3,600	3,600
		RNMCB-20 COLUMBUS				
		OPERATIONAL STORAGE FACILITY RNMCB-20	175	175	175	175
	AIR FORCE RESERVE					
		WRIGHT-PATTERSON AFB				
		ALTER 401ST CLSS FACILITY	200	200	200	200

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		YOUNGSTOWN MAP				
		ADD-ALTER SQUADRON OPERATIONS	340	340	340	340
TOTAL:OHIO			45,321	45,321	42,021	42,021
OKLAHOMA						
	ARMY					
		FORT SILL				
		VEHICLE WASH FACILITY	3,050	0	0	0
	AIR FORCE					
		ALTUS AFB				
		LAND ACQUISITION	310	310	310	310
		TINKER AFB				
		ADD-ALTER ENGINE TUBING/ACCESSORY SHOP	1,650	1,650	1,650	1,650
		ADD-ALTER HAZARDOUS STORAGE FACILITY	1,800	1,800	1,800	1,800
		ADD-ALTER HEAT TREATMENT FACILITY	2,300	2,300	2,300	2,300
		AIRCRAFT MAINTENANCE HANGAR	15,000	15,000	15,000	15,000
		ALTER F-107 ENGINE FACILITY	1,350	1,350	1,350	1,350
		WAREHOUSE	10,800	10,800	0	10,800
	ARMY NATIONAL GUARD					
		CAMP GRUBER				
		RANGE, LT ANTI-ARMOR WEAPONS	147	147	147	147
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	410	410	410	410
	AIR NATIONAL GUARD					
		TULSA IAP				
		ADDITION FOR ECM POD MAINTENANCE SHOP	220	220	220	220
	AIR FORCE RESERVE					
		TINKER AFB				
		ADD TO TERMINAL FOR AERIAL PORT	830	830	830	830
TOTAL: OKLAHOMA			37,867	34,817	24,017	34,817
OREGON						
	ARMY					
		UMATILLA ARMY DEPOT				
		SECURITY UPGRADE	1,050	0	1,050	0
	ARMY NATIONAL GUARD					
		ASHLAND				
		100 PERSON ARMORY	1,048	1,048	1,048	1,048

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		CAMP ADAIR				
		TARGET STORAGE/LATRINE/SAFETY BERM/ROAD	304	304	304	304
		CAMP WITHYCOMBE				
		COMM-ELEC, CANVAS & CARPENTRY SHOP	663	663	663	663
		EUGENE				
		ARMORY ADD/ALT	503	503	503	503
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	277	277	277	277
	AIR NATIONAL GUARD					
		KINGSLEY FIELD				
		ALTER PARACHUTE AND DINGHY SHOP	250	250	250	250
		PORTLAND IAP				
		BASE SUPPLY WAREHOUSE	4,600	4,600	4,600	4,600
	AIR FORCE RESERVE					
		PORTLAND IAP				
		ADD TO BASE WAREHOUSE	400	400	400	400
		ADD-ALTER MEDICAL TRAINING FACILITY	380	380	380	380
		MAINTENANCE HANGAR	3,900	3,900	3,900	3,900
TOTAL: OREGON		----------	13,375	12,325	13,375	12,325
PENNSYLVANIA						
	ARMY					
		CARLISLE BARRACKS				
		TACTICAL EQUIPMENT SHOP	800	800	800	800
		LETTERKENNY ARMY DEPOT				
		SECURITY UPGRADE	1,900	0	1,900	0
		NEW CUMBERLAND AD				
		EASTERN DISTRIBUTION CENTER-PHASE II	51,000	51,000	51,000	43,000 1/
	NAVY					
		NAVAL SHIP SYSTEM ENGR STA PHILADELPHIA				
		ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	400	400	400	400
		NAVY SHIPS PARTS CONTROL CTR MECHANICSBURG				
		FACILITY ENERGY IMPROVEMENTS	1,670	1,670	1,670	1,670
	DEFENSE LOGISTICS AGENCY					
		DEF REUTILIZATION & MARKETING OFC MECHANBG				

1/ authorized at $88,000,000 and authorized for appropriations at $15,000,000 in fiscal year 1986, authorized for appropriations at $43,000,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		SCRAPYARD IMPROVEMENTS	1,290	0	1,290	0
		NAVY SHIP PARTS CONTROL CTR MECHANICSBURG				
		HAZARDOUS MATERIALS/WASTE STORAGE FAC	0	318	0	0 1/
	ARMY NATIONAL GUARD					
		INDIANA				
		RANGE, 25 METER BAFFLED	125	125	125	125
		RIDGEWAY				
		RANGE, 25 METER BAFFLED	125	125	125	125
		WILLIAMSTOWN				
		ARMORY ADD/ALT	533	533	533	533
	ARMY RESERVE					
		CLINTON				
		LOCAL TRAINING AREA	476	476	476	476
		LEWISBURG				
		ARMY RESERVE CENTER MAINT FACILITY	1,296	1,296	1,296	1,296
		SCHUYLKILL HAVEN				
		ADD/ALTER RESERVE CENTER/MAINT FACILITY	2,089	2,089	2,089	2,089
	NAVY RESERVE					
		MCRC WYOMING				
		COMBAT VEHICLE MAINT FACILITY	190	190	190	190
		NAS WILLOW GROVE				
		AIRCRAFT MAINTENANCE HANGAR	8,000	8,000	8,000	8,000
		AIRCRAFT RINSE FACILITY	150	150	150	150
		RNCFSU-1 BEAVER COUNTY				
		PERMANENT DRILL SITE RNCFSU-1	390	390	390	390
	AIR FORCE RESERVE					
		GREATER PITTSBURGH IAP				
		ADD-ALTER AERIAL PORT TRAINING FACILITY	620	620	620	620
TOTAL: PENNSYLVANIA		----------	71,054	68,182	71,054	59,864
RHODE ISLAND						
	NAVY					
		NAVAL EDUCATION & TRAINING CENTER NEWPORT				
		BACHELOR OFFICER QUARTERS	8,800	8,800	8,800	8,800
		UTILITY SYSTEMS IMPROVEMENTS	2,900	2,900	2,900	2,900

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		SURFACE WARFARE OFFICERS SCH CMD NEWPORT				
		SURFACE WARFARE OFFICER TRAINING FACILITY	8,840	8,840	0	8,840
	ARMY NATIONAL GUARD					
		CAMP FOGARTY				
		RANGE, RIFLE 175 METER BAFFLED	288	288	288	288
		WARWICK				
		ARMORY ADD/ALT	2,880	2,880	2,880	2,880
	AIR NATIONAL GUARD					
		NORTH SMITHFIELD ANGS				
		COMMUNICATIONS/ELECTRONICS TRNG FAC-PH I	2,400	2,400	2,400	2,400
TOTAL: RHODE ISLAND		----------	26,108	26,108	17,268	26,108
SOUTH CAROLINA						
	ARMY					
		FORT JACKSON				
		APPLIED INSTRUCTION FACILITY	1,300	1,300	1,300	1,300
		SOLDIER SERVICE CENTER	0	0	9,100	9,100
	NAVY					
		MARINE CORPS AIR STATION BEAUFORT				
		AIRCRAFT RINSE FACILITY	740	0	740	740
		AUTOMOTIVE VEHICLE MAINTENANCE SHOP	640	640	640	640
		FLIGHT LINE SECURITY IMPROVEMENTS	1,280	1,280	1,280	1,280
		FUEL SYSTEM MAINTENANCE FACILITIES	1,370	1,370	1,370	1,370
		RUNWAY APPROACH LIGHTING	960	960	960	960
		MARINE CORPS RECRUIT DEPOT PARRIS ISLAND				
		RECRUIT BATTALION OPERATIONS FACILITY	1,870	0	1,870	0
		CLOTHING ISSUE	0	0	2,630	2,630
		BACHELOR OFFICER QUARTERS	0	0	4,620	4,620
		NAVAL SHIPYARD CHARLESTON				
		DRYDOCK PUMPHOUSE ALTERNATIONS	7,860	7,860	7,860	7,860
		HAZARDOUS & FLAMMABLE MATERIALS STOREHOUSE	2,950	2,950	2,950	2,950
		NAVAL STATION CHARLESTON				
		MOBILE MINE ASSEMBLY GROUP OPERATIONS FAC	1,400	1,400	1,400	1,400
		NAVAL WEAPONS STATION CHARLESTON				
		CONSOLIDATED BRIG	16,500	16,500	0	16,500
		PIER IMPROVEMENTS	6,130	6,130	6,130	6,130
	AIR FORCE					

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		CHARLESTON AFB				
		ADD-ALTER RECREATION CENTER	560	560	560	560
		CORROSION CONTROL COVERED WASHRACK	5,000	5,000	5,000	5,000
		MATERIAL HANDLING EQUIP MAINT SHOP	730	730	730	730
		SPECIAL OPERATIONS BUILDING	0	0	1,200	1,200
		MYRTLE BEACH AFB				
		AIRCRAFT CORROSION CONTROL FACILITY	3,000	0	3,000	3,000
		SHAW AFB				
		ADD-ALTER 9TH AIR FORCE HEADQUARTERS	3,700	3,700	3,700	3,700
	DEFENSE LOGISTICS AGENCY					
		DEF FUEL SUPPORT CHARLESTON				
		FIRE PROTECTION	460	460	460	460
		DEF FUEL SUPPORT POINT NSC CHARLESTON				
		FUEL TANKAGE	5,130	5,130	5,130	5,130
	ARMY NATIONAL GUARD					
		HAMPTON				
		LOGISTICAL FACILITY DAS3 CLIX	128	128	128	128
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	315	315	315	315
	AIR NATIONAL GUARD					
		MCENTIRE				
		MUNITIONS MAINTENANCE/STORAGE FACILITY	1,600	1,600	1,600	1,600
	ARMY RESERVE					
		FLORENCE				
		LAND ACQUISITION	200	200	200	200
		ORANGEBURG				
		LAND ACQUISITION	75	75	75	75
		ROCK HILL				
		LAND ACQUISITION	20	20	20	20
TOTAL: SOUTH CAROLINA		----------	63,918	58,308	64,968	79,598
SOUTH DAKOTA						
	AIR FORCE					
		ELLSWORTH AFB				
		B1B-ADD/ALTER WRSK STORAGE FACILITY	860	860	860	860
		COMBAT ARMS TRAINING/MAINT FACS	1,000	1,000	1,000	1,000
		CONTROL TOWER	2,150	2,150	2,150	2,150

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		LIFE SUPPORT FACILITY	950	950	950	950
		SECURITY IMPROVEMENTS	450	450	450	450
		STC-CONTROL AND OPERATIONS FACILITY	5,500	5,500	5,500	5,500
	ARMY NATIONAL GUARD					
		MITCHELL				
		RANGE, PISTOL BAFFLED	221	221	221	221
		SIOUX FALLS				
		RANGE, PISTOL BAFFLED	221	221	221	221
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	400	400	400	400
	AIR NATIONAL GUARD					
		JOE FOSS FIELD				
		JET FUEL STORAGE COMPLEX	2,500	2,500	2,500	2,500
TOTAL: SOUTH DAKOTA			14,252	14,252	14,252	14,252
TENNESSEE						
	ARMY					
		HOLSTON ARMY AMMUNITION PLANT				
		BACKUP ELECTRIC POWER	2,950	0	0	0 1/
		MODERNIZE A-COMPOSITION FAC LINE 10	5,000	0	0	0 1/
		MODERNIZE COMPOSITION A-5 DRYING PROCESS	3,000	0	0	0 1/
		TURBINE GENERATOR FOR BUILDING B-6 (ECAM)	330	0	0	0 1/
		MILAN AAP				
		AMMUNITION STORAGE MAGAZINES FOR LINE-B	610	0	0	0 1/
	NAVY					
		NAVAL AIR STATION MEMPHIS				
		AVIATION ORDNANCEMAN TRAINING BUILDING	12,800	0	12,800	12,800
		BRIG	2,750	2,750	2,750	2,750
		ENTRANCE ROADS IMPROVEMENT	1,570	0	1,570	0
		WATER TREATMENT FACILITY	260	260	260	260
	AIR FORCE					
		ARNOLD ENGINEERING DEV CENTER				
		ADD-ALTER CHEMICAL LABORATORY	730	730	730	730
		FIRE DEFICIENCY CORRECTIONS	2,800	2,800	2,800	2,800
	DEFENSE LOGISTICS AGENCY					
		DEFENSE DEPOT MEMPHIS				
		DINING FACILITY	1,160	1,160	1,160	1,160
	ARMY NATIONAL GUARD					

1/ recommended project be transferred to Army ammunition procurement account

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		CATOOSA				
		RANGE, MACHINE GUN/DEMOLITION	138	138	138	138
		DYERSBURG				
		100 PERSON ARMORY	0	0	984	984
		HOHENWALD				
		60 PERSON ARMORY	656	656	656	656
		MILAN				
		TRAINING FAC. PHASE III	2,697	2,697	2,697	2,697
		MILLINGTON				
		60 PERSON ARMORY	1,013	1,013	1,013	1,013
		NASHVILLE				
		USPFO ADDITION	644	644	644	644
		PULASKI				
		100 PERSON ARMORY	650	650	650	650
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	335	335	335	335
TOTAL: TENNESSEE			40,093	13,833	29,187	27,617
TEXAS						
	ARMY					
		CORPUS CHRISTI ARMY DEPOT				
		AIRCRAFT MAINTENANCE SHOP	7,200	7,200	7,200	7,200
		AIRCRAFT MAINTENANCE SHOP ADDITION	2,150	0	2,150	0
		COMPOSITE PANEL PREPARATION FACILITY	1,200	1,200	1,200	1,200
		POWER TRAINING FACILITY	0	2,250	0	2,250
		FORT HOOD				
		ACADEMIC INSTRUCTION FACILITY	2,750	2,750	0	2,750
		VEHICLE WASH FACILITY	10,600	10,600	10,600	10,600
		RED RIVER ARMY DEPOT				
		SECURITY UPGRADE	1,350	0	1,350	0
		FORT SAM HOUSTON				
		CHILD DEVELOPMENT CENTER	2,900	2,900	0	0
		WATER STORAGE TANK	800	800	800	800
	NAVY					
		NAVAL AIR STATION CORPUS CHRISTI				
		FACILITY ENERGY IMPROVEMENTS	690	690	690	690

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		NAVAL AIR STATION KINGSVILLE				
		FIRE ALARM SYSTEM	640	640	640	640
		JET ENGINE TEST CELL FACILITY	3,140	3,140	3,140	3,140
	AIR FORCE					
		BERGSTROM AFB				
		ADD-ALTER TACTICAL INTELL SQ FACILITY	1,260	1,260	1,260	1,260
		SOUND SUPPRESSOR SUPPORT	600	600	600	600
		TACTICAL AIR CONTROL CENTER FACILITY	3,390	0	3,390	0
		CARSWELL AFB				
		VEHICLE FUELING STATION	490	490	490	490
		DYESS AFB				
		B1B-JET ENGINE STORAGE FACILITY	590	590	590	590
		B1B-MUNITIONS EQUIPMENT STORAGE FACILITIES	1,050	1,050	1,050	1,050
		COMBAT ARMS TRAINING/MAINT FACS	960	960	960	960
		SECURITY IMPROVEMENTS	750	750	750	750
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	780	780	780	780
		GOODFELLOW AFB				
		UNACCOMPANIED OFFICER PERSONNEL HOUSING	10,000	0	10,000	0
		KELLY AFB				
		FUEL SYSTEMS ACCESSORIES TEST FACILITY	10,900	10,900	0	0
		WEAPONS SYSTEMS SUPPORT CENTER	39,000	0	39,000	0
		LACKLAND AFB				
		ACADEMIC FACILITY-SECURITY POLICE	5,500	0	5,500	0
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	16,000	16,000	16,000	16,000
		LAUGHLIN AFB				
		LAND ACQUISITION-AUXILIARY FIELD	3,700	3,700	3,700	3,700
		RANDOLPH AFB				
		AF MGMT ENGINEERING AGENCY ADMIN FAC	2,250	2,250	0	0
	DEFENSE LEVEL ACTIVITIES					
		BROOKS AFB				
		ADD/ALTER DRUG ABUSE DETECTION LAB	1,850	0	1,850	1,850
		FORT HOOD				
		TROOP MEDICAL CLINIC	3,450	3,450	3,450	3,450
		FORT SAM HOUSTON				
		SITE PREPARATION	0	10,000	10,000	10,000 1/

1/ authorized at $135,000,000 and authorized for appropriations at $10,000,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		RANDOLPH AFB				
		CLINIC/DENTAL CLINIC	13,700	13,700	13,700	13,700
	ARMY NATIONAL GUARD					
		ABILENE				
		ARMORY ADD/ALT	924	924	924	924
		AUSTIN				
		ARMORY MODIFICATION	400	400	400	400
		U.S. PROPERTY & FISCAL OFFICE ADDITION	400	400	400	400
		CAMP MAXEY				
		RANGE, COMBAT PISTOL	126	126	126	126
		CAMP SWIFT				
		RANGE, M-16 RECORD FIRE	271	271	271	271
		RANGE, M60/M2 TRANSITION	312	312	312	312
		DECATUR				
		ARMORY ADD/ALT	801	801	801	801
		WAXAHACHIE				
		ARMORY ADD/ALT	774	774	774	774
	AIR NATIONAL GUARD					
		ELLINGTON ANGB				
		ALTER WEAPONS AND RELEASE SHOP	224	224	224	224
		KELLY AFB				
		JET BLAST DEFLECTOR	125	125	125	125
	ARMY RESERVE					
		CAMP BULLIS				
		MILITARY INTELLIGENCE TRAINING FACILITY	1,918	1,918	1,918	1,918
		FT SAM HOUSTON				
		RESERVE CENTER ALTERATION	145	145	145	145
		SINTON				
		RESERVE CENTER ADDITION	190	190	190	190
	NAVY RESERVE					
		NAVAL AIR STATION DALLAS				
		AIRCRAFT COOLING	250	250	250	250
		AIRFIELD APPROACH LIGHTING	2,400	2,400	2,400	2,400
		OPERATIONAL STORAGE FACILITY RNMCB-22	175	175	175	175
		NAVAL RESERVE CENTER CORPUS CHRISTI				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		VEHICLE MAINT FACILITY	250	250	250	250
	AIR FORCE RESERVE					
		CARSWELL AFB				
		COMPOSITE TRAINING FACILITY	1,500	1,500	1,500	1,500
TOTAL: TEXAS			160,825	109,835	152,025	95,635
UTAH						
	ARMY					
		DUGWAY PROVING GROUND				
		COMMUNITY CENTER	3,200	0	0	0
		MATERIAL TEST FACILITY	9,700	9,700	9,700	9,700
		TOOELE ARMY DEPOT				
		SECURITY UPGRADE	1,850	0	1,850	0
	AIR FORCE					
		HILL AFB				
		ADD TO WATER SUPPLY AND DIST SYSTEM	1,200	1,200	1,200	1,200
		DEPOT INSTRUMENT OVERHAUL SHOP	1,550	1,550	1,550	1,550
		GAPFILLER RADAR FACILITY	1,300	1,300	1,300	1,300
		LOGISTICS SYSTEMS OPERATIONS CENTER	11,500	11,500	0	11,500
		PEACEKEEPER-ADD/ALTER STAGE I STORAGE	1,000	1,000	1,000	1,000
		PEACEKEEPER-SYSTEM ENGINEERING TEST SILO	4,000	4,000	4,000	4,000
	DEFENSE LOGISTICS AGENCY					
		DEFENSE DEPOT OGDEN				
		ADMINISTRATIVE FACILITIES	9,780	0	9,780	0
		TRANSIENT AND VISITOR HOUSING	620	0	620	0
	ARMY NATIONAL GUARD					
		CAMP WILLIAMS				
		BOQ/BEQ RENOVATION	139	139	139	139
		RANGE, FIELD FIRE	179	179	179	179
		RANGE, KNOWN DISTANCE	135	135	135	135
		DRAPER				
		MILITARY COMPLEX ACQUISITION	5,376	5,376	5,376	5,376
	ARMY RESERVE					
		PROVO				
		STORAGE BUILDING	110	110	110	110
	AIR FORCE RESERVE					
		HILL AFB				
		POWER CHECK PAD WITH SUPPRESSOR	750	750	750	750
TOTAL: UTAH			52,389	36,939	37,689	36,939

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT	
VERMONT							
	ARMY NATIONAL GUARD						
		VARIOUS LOCATIONS					
		ARMORY UNIT STORAGE BUILDINGS	350	350	350	350	
TOTAL: VERMONT			350	350	350	350	
VIRGINIA							
	ARMY						
		FORT BELVOIR					
		CHILD DEVELOPMENT/RELIGIOUS ED FACILITY	5,600	0	0	0	
		FORT EUSTIS					
		APPLIED INSTRUCTION FACILITY	2,050	2,050	2,050	2,050	
		FORT LEE					
		BARRACKS	10,000	10,000	10,000	10,000	
		GENERAL INSTRUCTION BUILDING ADDITION	7,600	7,600	7,600	7,600	
		FORT MYER					
		PHYSICAL FITNESS TRAINING CENTER	3,800	3,800	3,800	0	1/
		RADFORD AAP					
		ELECTRIC POWER CENTER UPGRADE	9,200	0	0	0	2/
		EXPAND 155MM STICK PROPELLANT PRODUCTION	750	0	0	0	2/
		REPLACE EXPLOSION PROTECTION BARRICADES	1,100	0	0	0	2/
		STEAM SUPPLY LINE TO HORSESHOE AREA	8,700	0	0	0	2/
		FORT STORY					
		ELECTRICAL DISTRIBUTION SYSTEM UPGRADE	1,700	1,700	1,700	1,700	
		STORAGE/MAINTENANCE FACILITY	1,000	1,000	1,000	1,000	
	NAVY						
		FLEET COMBAT TRAIN CTR ATLANTIC DAM NECK					
		ELECTRICAL DISTRIBUTION SYSTEM	820	0	820	0	
		DEFENSE ACCESS ROADS	2,550	2,550	2,550	2,550	
		FLEET INTEL CTR EUROPE & ATLANTIC NORFOLK					
		INTELLIGENCE BUILDING ADDITION	1,880	0	1,880	1,880	
		FLEET TRAINING CENTER NORFOLK					
		ELECTRICAL TRADES TRAINING BLDG ADDITION	5,400	5,400	5,400	5,400	
		MARINE CORPS DEV EDUC COMM. QUANTICO					
		FAMILY HOUSING-MOBILE HOME SPACES (50)	790	790	790	790	

1/ distributed general reduction, not authorized for appropriations
2/ recommended project be transferred to Army ammunition procurement account

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		HEADQUARTERS MARINE CORPS ARLINGTON				
		PHYSICAL FITNESS CENTER	3,020	3,020	3,020	3,020
		NAVAL AIR STATION NORFOLK				
		HELICOPTER TRAINING FACILITIES	1,570	1,570	1,570	1,570
		NAVAL AMPHIBIOUS BASE LITTLE CREEK				
		BEACH GROUP OPERATIONS FACILITIES	5,890	5,890	5,890	5,890
		STEAM AND CONDENSATE SYSTEMS	1,080	1,080	1,080	1,080
		NAVAL ELECTRONIC SYS ENGR CTR PORTSMOUTH				
		ELECTRONIC SYSTEMS INTEGRATION & SPT FAC	1,870	1,870	1,870	1,870
		NAVAL GUIDED MISSILES SCHOOL DAM NECK				
		SUBMARINE TRAINING BUILDING ADDITION	3,140	3,140	3,140	3,140
		NAVAL LEGAL SERVICE OFFICE DET OCEANA				
		LEGAL SERVICES OFFICE	540	540	540	540
		NAVAL LEGAL SERVICE OFFICE NORFOLK				
		NAVAL LEGAL SERVICE BUILDING ADDITION	1,080	1,080	1,080	1,080
		NAVAL OCEAN PROCESSING FACILITY DAM NECK				
		SECURITY IMPROVEMENTS	540	540	540	540
		NAVAL RESEARCH LABORATORY ANNEX QUANTICO				
		MIDWAY RESEARCH CENTER	1,500	1,500	1,500	1,500
		NAVAL SEA COMBAT SYSTEMS ENGR STA NORFOLK				
		SHIPBOARD ELECTRONICS SYSTEMS EVAL FAC	980	980	980	980
		NAVAL SHIPYARD NORFOLK				
		BACHELOR ENLISTED QUARTERS	5,900	5,900	5,900	5,900
		NAVAL SUPPLY CENTER NORFOLK				
		HAZARDOUS MTRLS STRG & HANDLING FAC ADDN	3,140	3,140	3,140	3,140
		NAVAL SURFACE WEAPONS CENTER DAHLGREN				
		AEGIS COMPUTER CENTER ADDITION	3,830	3,830	3,830	3,830
		AEGIS EDUCATION CENTER ADDITION	2,950	2,950	2,950	2,950
		PERSONNEL SUPPORT FACILITIES	5,450	5,450	5,450	5,450
		WEAPONS SYSTEM DEVELOPMENT LABORATORY ADDN	3,730	3,730	3,730	3,730
		NAVAL WEAPONS STATION YORKTOWN				
		MISSILE STORAGE FACILITIES	4,220	4,220	4,220	4,220
		NAVY PUBLIC WORKS CENTER NORFOLK				
		MAINTENANCE STORAGE FACILITY	2,450	2,450	2,450	2,450

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		OIL SPILL PREVENTION	690	690	690	690
		STEAM PLANT IMPROVEMENTS	5,600	5,600	5,600	5,600
	AIR FORCE					
		LANGLEY AFB				
		ADD-ALTER DATA PROCESSING FACILITY	3,550	3,550	3,550	3,550
		BASE SUPPLY COMPLEX-PHASE III	4,450	4,450	4,450	4,450
		ECIP-UPGRADE HEATING SYSTEM	1,640	0	0	0 1/
	DEFENSE LEVEL ACTIVITIES					
		DAHLGREN				
		ELEMENTARY/JR HIGH SCHOOL ADDITION	1,130	1,130	0	0
		PENTAGON				
		DEMOLITION OF PARKING LOT	2,500	0	0	0
		QUANTICO				
		HIGH SCHOOL ADDITION	420	420	0	0
	DEFENSE COMMUNICATIONS AGENCY					
		PENTAGON				
		JDSSC PENTAGON ALTERATION/EXPANSION	2,300	0	2,300	0
	ARMY NATIONAL GUARD					
		CHARLOTTESVILLE				
		ARMORY ADD/ALT	910	910	910	910
		FREDERICKSBURG				
		ARMORY ADD/ALT	1,239	1,239	1,239	1,239
		ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT.	191	191	191	191
		LEESBURG				
		100 PERSON ARMORY	1,024	1,024	1,024	1,024
		LEXINGTON				
		60 PERSON ARMORY	897	897	897	897
		MANASSAS				
		ARMORY ADD/ALT	903	903	903	903
		STAUNTON				
		ARMORY ADD/ALT	1,302	1,302	1,302	1,302
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	460	460	460	460
	ARMY RESERVE					
		FORT LEE				

1/ authorized to be funded with prior year energy savings

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ADD/ALTER ARMY RESERVE CENTER	2,299	2,299	2,299	2,299
	NAVY RESERVE					
		RNMCB-23 FT BELVOIR				
		OPERATIONAL STORAGE FACILITY RNMCB-23	175	175	175	175
TOTAL: VIRGINIA			147,500	113,010	116,460	109,540
WASHINGTON						
	ARMY					
		FORT LEWIS				
		COMSEC MAINTENANCE FACILITY	600	600	600	600
		FIRE PROTECTION SYSTEM	480	480	480	480
		LANDFILL UPGRADE	7,500	7,500	7,500	7,500
		REFUSE INCINERATOR PLANT	13,000	13,000	13,000	13,000
		TACTICAL EQUIPMENT SHOP	4,400	4,400	0	0
	NAVY					
		NAVAL AIR STATION WHIDBEY ISLAND				
		AIRCRAFT PARKING APRON	3,510	3,510	3,510	3,510
		FLIGHT SIMULATOR BUILDING ADDITION	980	980	980	980
		WATER TREATMENT FACILITY	690	690	690	690
		NAVAL STATION EVERETT				
		PIER	38,000	0	38,000	0
		DREDGING/BREAKWATER	13,820	0	13,820	0
		SHORE IMPROVE/SEAWALL	15,700	0	15,700	15,700
		UTILITIES/SITE IMPROVEMENT	19,070	0	19,070	19,070
		LAND ACQUISITION	8,810	0	8,810	8,810
		GENERAL REDUCTION	0	0	(10,000)	0
		NAVAL STATION SEATTLE				
		BRIG	2,950	2,950	2,950	2,950
		NAVAL SUBMARINE BASE BANGOR				
		BACHELOR ENLISTED QUARTERS	4,900	0	4,900	0
		ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	5,600	5,600	5,600	5,600
		HAZARDOUS WASTE FACILITY	1,280	0	1,280	1,280
		SECURITY BUILDING	2,750	0	0	0
		SEWERAGE SYSTEM	300	300	300	300
		SEWERAGE SYSTEM	400	0	400	0
		NAVAL SUPPLY CENTER BREMERTON				
		OIL SPILL PREVENTION	500	500	500	500
		NAVAL UNDERSEA WARFARE ENGR STA KEYPORT				
		MISSILE MAGAZINES	5,890	5,890	0	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES
(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		TRIDENT REFIT FACILITY BANGOR				
		ELECTRICAL DISTRIBUTION SYSTEM	980	980	980	980
		WATER TREATMENT PLANT IMPROVEMENTS	590	590	590	590
	AIR FORCE					
		FAIRCHILD AFB				
		ALTER CONSOLIDATED BASE PERSONNEL OFFICE	1,950	1,950	1,950	1,950
		ECIP-WEATHERIZATION	1,350	0	0	0 1/
		SECURITY IMPROVEMENTS	570	570	570	570
		SECURITY POLICE OPERATIONS FACILITY	2,900	2,900	2,900	2,900
		T9-NOISE SUPPRESSOR SUPPORT FACILITY	750	750	750	750
		MCCHORD AFB				
		ADD TO-ALTER AIR FREIGHT TERMINAL	6,400	6,400	6,400	6,400
		SQUADRONS OPERATIONS FACILITY	4,900	0	0	0
	DEFENSE LEVEL ACTIVITIES					
		FORT LEWIS				
		MADIGAN ARMY MEDICAL CENTER PHASE II	72,100	72,100	72,100	72,100 2/
	DEFENSE LOGISTICS AGENCY					
		DEF FUEL SUPPORT POINT MUKILTEO				
		FUEL PIER	6,360	0	6,360	0
	ARMY NATIONAL GUARD					
		CAMP MURRAY				
		U.S. PROPERTY & FISCAL OFFICE ADDITION	302	302	302	302
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	332	332	332	332
	ARMY RESERVE					
		BOTHELL				
		ARMY RESERVE CENTER	3,400	3,400	3,400	3,400
	NAVY RESERVE					
		NAF WHIDBEY ISLAND				
		AIRCRAFT MAINTENANCE HANGAR	6,100	6,100	6,100	6,100
TOTAL: WASHINGTON		----------	260,114	142,774	230,824	177,344
WEST VIRGINIA						
	ARMY					
		FORT DAWSON				
		STUDENT TRAINING FACILITY	8,700	8,700	8,700	8,700
	AIR NATIONAL GUARD					
		CHARLESTON				

1/ authorized to be funded with prior year energy savings

2/ authorized at $338,000,000 and authorized for appropriations at $11,200,000 in fiscal year 1985, authorized for appropriations at $26,000,000 in fiscal year 1986, and authorized for appropriations at $72,100,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		MULTIPLE FACILITIES ADD.	0	0	625	625
		E WV REGIONAL APT (MARTINSBURG)				
		SHORTFIELD RUNWAY	2,500	2,500	2,500	2,500
		RAMP ADDITION, PHASE I	0	0	2,500	2,500
TOTAL: WEST VIRGINIA			11,200	11,200	14,325	14,325
WISCONSIN						
	ARMY					
		BADGER AAP				
		OPEN/CLOSE LANDFILL	980	980	980	980
	DEFENSE LOGISTICS AGENCY					
		FORT MCCOY				
		HAZARDOUS MATERALS/WASTE STORAGE FACILITY	0	260	0	0 1/
	ARMY NATIONAL GUARD					
		CAMP WILLIAMS				
		LOGISTICAL FACILITY DAS3 CLIX	110	110	110	110
		PLATTEVILLE				
		ARMORY RENOVATION	0	0	570	570
		VARIOUS LOCATIONS				
		ARMORY UNIT STORAGE BUILDINGS	290	290	290	290
	AIR NATIONAL GUARD					
		MITCHELL ANGB				
		COMPOSITE FACILITES	0	0	2,200	2,200
		TRUAX FIELD				
		ADD TO AIRCRAFT ENGINE SHOP	900	900	900	900
		ALTER BASE ENGINEER MAINTENANCE SHOP	386	386	386	386
		COMPOSITE SQUADRON OPERATIONS	2,200	2,200	2,200	2,200
	ARMY RESERVE					
		FOND DU LAC				
		ARMY RESERVE CENTER TANK TRAINING FACILITY	1,562	1,562	1,562	1,562
		RACINE				
		LAND ACQUISITION	235	235	235	235
	AIR FORCE RESERVE					
		BILLY MITCHELL FIELD				
		CONSTRUCT SQUADRON OPERATIONS FACILITY	1,565	1,565	1,565	1,565
TOTAL: WISCONSIN			8,228	8,488	10,998	10,998

1/ authorized by section 2404, hazardous waste storage

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
WYOMING						
	AIR FORCE					
		FE WARREN AFB				
		ADD/ALTER ENERGY MONITORING/CONTROL SYS	2,600	2,600	2,600	2,600
		COMBAT ARMS TRAINING/MAINT FACS	550	550	550	550
		PEACEKEEPER-ACCESS ROADS	14,500	14,500	14,500	14,500
		PEACEKEEPER-LAUNCH FACILITIES SITE WORK	5,000	0	3,400	0
		PEACEKEEPER-REAL ESTATE	400	400	400	400
	ARMY NATIONAL GUARD					
		CAMP GUERNSEY				
		MESS HALL REHAB	641	641	641	641
		RANGE, FIELD FIRE	175	175	175	175
TOTAL: WYOMING			23,866	18,866	22,266	18,866
CONUS CLASSIFIED						
	ARMY					
		CLASSIFIED LOCATION				
		CLASSIFIED PROJECT	7,400	2,400	7,400	7,100
	DEFENSE LEVEL ACTIVITIES					
		CLASSIFIED LOCATION				
		CLASSIFIED PROJECT	3,000	3,000	3,000	3,000
	NATIONAL SECURITY AGENCY					
		CLASSIFIED LOCATION				
		CLASSIFIED PROJECT	4,000	4,000	4,000	4,000
		CLASSIFIED PROJECT	3,000	0	3,000	0
		CLASSIFIED PROJECT	1,000	1,000	1,000	1,000
	AIR FORCE RESERVE					
		AIR FORCE RESERVE				
		H-70 SERVICE AND STORAGE FACILITY	250	250	250	250
TOTAL: CONUS CLASSIFIED			18,650	10,650	18,650	15,350
CONUS UNSPECIFIED						
	AIR FORCE					
		CONUS UNSPECIFIED				
		SPECIAL TACTICAL DETACHMENT	37,056	37,056	37,056	37,056
	AIR FORCE RESERVE					
		AIR FORCE RESERVE				
		ADD-ALTER MISCELLANEOUS SHOPS	1,350	1,350	1,350	1,350
		ALTER AVIONICS SHOP	650	650	650	650
TOTAL: CONUS UNSPECIFIED			39,056	39,056	39,056	39,056

71-059 O-87-43 (Pt. 21)

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
INSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
CONUS VARIOUS						
	AIR FORCE					
		BASE THIRTY NINE				
		F15E-ADD/ALTER FLIGHT SIMULATOR FAC	2,300	2,300	2,300	2,300
		WEST CONUS				
		OTH-B RADAR TRANS STANDBY POWER LINE	18,000	7,500	7,500	7,500
		OTH-B TRANSMITTER/RCVR SUPPORT FACS	2,800	2,800	2,800	2,800
	AIR NATIONAL GUARD					
		CONUS VARIOUS				
		AIRCRAFT ARRESTING SYSTEMS	1,700	1,700	1,700	1,700
		FLIGHT SIMULATOR FACILITIES	2,683	2,683	2,683	2,683
		POWER CHECK PADS WITH SUPPRESSOR	4,000	4,000	4,000	4,000
TOTAL: CONUS VARIOUS			31,483	20,983	20,983	20,983

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
AUSTRALIA						
	NAVY					
		NAVAL COMMUNICATION STATION HAROLD E HOLT				
		EMERGENCY COOLING SYSTEM	310	310	310	310
		PUBLIC WORK SHOP	1,870	0	1,870	1,870
	AIR FORCE					
		WOOMERA AS				
		SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,300	2,300	2,300	2,300
TOTAL: AUSTRALIA			4,480	2,610	4,480	4,480
BAHAMAS						
	NAVY					
		NAVAL UNDERWATER SYSTEMS CTR ANDROS ISLAND				
		CIVILIAN QUARTERS	3,730	3,730	3,730	3,730
TOTAL: BAHAMAS			3,730	3,730	3,730	3,730
BAHRAIN ISLAND						
	NAVY					
		ADMINISTRATIVE SUPPORT UNIT				
		INDOOR RECREATION FACILITY	2,550	2,550	2,550	2,550
TOTAL: BAHARAIN ISLAND			2,550	2,550	2,550	2,550
BELGIUM						
	AIR FORCE					
		FLORENNES				
		GLCM-AUTOMOTIVE HOBBY SHOP	520	0	0	0
		GLCM-COMMISSARY	3,500	0	0	0
		GLCM-DATA PROCESSING FACILITY	1,200	1,200	1,200	1,200
		GLCM-EXCHANGE COMPLEX	2,850	0	0	0
		GLCM-YOUTH CENTER	750	0	0	0
	DEFENSE LEVEL ACTIVITIES					
		SHAPE HQ - CASTEAU				
		ELEMENTARY AND HIGH SCHOOL ADDITION	1,260	1,260	1,260	1,260
TOTAL: BELGIUM			10,080	2,460	2,460	2,460
BERMUDA						
	DEFENSE LEVEL ACTIVITIES					
		NAVAL AIR STATION				
		ELEMENTARY SCHOOL	4,280	4,280	4,280	4,280
TOTAL: BERMUDA			4,280	4,280	4,280	4,280

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
CUBA						
	NAVY					
		NAVAL STATION GUANTANAMO BAY				
		STANDBY ELECTRIC POWER GENERATORS	2,600	2,600	2,600	2,600
TOTAL: CUBA			2,600	2,600	2,600	2,600
DIEGO GARCIA						
	AIR FORCE					
		DIEGO GARCIA				
		GLOBAL POSITIONING SYS INTERNET FACILITIES	3,900	0	0	0
		VEHICLE MAINTENANCE/STORAGE FACILITY	800	0	0	0
TOTAL: DIEGO GARCIA			4,700	0	0	0
GERMANY						
	ARMY					
		ANSBACK				
		AMMUNITION STORAGE	860	860	860	860
		CHILD DEVELOPMENT CENTER	930	930	930	930
		ASCHAFFENBURG				
		HARDSTAND	3,650	3,650	3,650	3,650
		TACTICAL EQUIPMENT SHOP	3,350	3,350	3,350	3,350
		BAD KREUZNACH				
		FACILITY MODERNIZATION	10,200	10,200	0	0
		CHILD DEVELOPMENT CENTER	900	900	900	900
		BAMBERG				
		FACILITY MODERNIZATION	18,000	18,000	0	0
		BAUMHOLDER				
		AMMUNITION STORAGE	4,400	4,400	4,400	4,400
		CHILD DEVELOPMENT CENTER	2,000	2,000	2,000	2,000
		COMMAND AND CONTROL BUILDING	10,000	10,000	10,000	10,000
		FACILITY MODERNIZATION PHASE IV	12,400	0	12,400	0
		SEWER/POL SEPARATOR	2,050	2,050	2,050	2,050
		BITBURG TRAINING AREA				
		TACTICAL SITE FACILITIES	520	520	520	520
		BARRACKS	13,800	13,800	13,800	13,800
		DINING FACILITY	1,850	1,850	1,850	1,850
		HEATING PLANT	2,550	2,550	2,550	2,550
		TACTICAL EQUIPMENT SHOP	1,200	1,200	1,200	1,200

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		CRAILSHEIN				
		FAMILY HOUSING NEW CONSTRUCTION (40)	4,100	4,100	4,100	4,100
		DARMSTADT				
		FAMILY HOUSING NEW CONSTRUCTION (40)	3,150	3,150	3,150	3,150
		EINSIEDLERHOF				
		TRAINING EXERCISE FACILITY	4,750	0	4,750	0
		ERLANGEN				
		FAMILY HOUSING NEW CONSTRUCTION (106)	9,400	9,400	9,400	9,400
		FRANKFURT				
		CRIME LABORATORY MODERNIZATION/ADDITION	3,500	0	3,500	0
		FULDA				
		CHILD DEVELOPMENT CENTER	1,000	1,000	1,000	1,000
		GIESSEN GENERAL DEPOT				
		DINING FACILITY	2,100	2,100	2,100	2,100
		FACILITY MODERNIZATION	16,000	0	0	0
		FACILITY MODERNIZATION PHASE III	970	970	970	970
		FUEL STATION	3,500	3,500	3,500	3,500
		GEOPPINGEN				
		SITE SUPPORT UPGRADE	1,850	1,850	1,850	1,850
		HANAU				
		AIRCRAFT MAINTENANCE HANGAR	7,100	7,100	0	7,100
		CHILD DEVELOPMENT CENTER	1,850	1,850	1,850	1,850
		FACILITY MODERNIZATION	11,000	11,000	11,000	11,000
		FLIGHT SIMULATOR BUILDING	3,700	3,700	3,700	3,700
		HARDSTAND	2,500	2,500	2,500	2,500
		HEIDELBERG				
		CHILD DEVELOPMENT CENTER	1,600	1,600	1,600	1,600
		HEILBRONN				
		BARRACKS	2,100	2,100	2,100	2,100
		HERZO BASE				
		FAMILY HOUSING NEW CONSTRUCTION (34)	3,300	3,300	3,300	3,300
		HOHENFELS TNG AREA				
		COMBAT MANEUVER TRAINING COMPLEX	8,800	8,800	8,800	8,800
		KAISERSLAUTERN				
		PETROLEUM LABORATORY	1,400	1,400	1,400	1,400

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT	
		KARLSRUHE					
		FACILITY MODERNIZATION	10,000	10,000	10,000	10,000	
		LOCATION 280					
		AIR CONDITIONING UPGRADE	2,100	2,100	2,100	2,100	
		MAINZ					
		FAMILY HOUSING NEW CONSTRUCTION (20)	1,850	0	0	0	
		MANNHEIM					
		RANGE COMPLEX	2,450	2,450	2,450	2,450	
		NEU ULM					
		SITE SUPPORT UPGRADE	2,850	2,850	2,850	2,850	
		SITE SUPPORT UPGRADE	19,000	19,000	19,000	19,000	
		TACTICAL EQUIPMENT SHOP	4,200	4,200	4,200	4,200	
		NUERNBERG					
		FERRIS BARRACKS	5,500	5,500	5,500	5,500	
		RHEINBERG					
		ADMINISTRATIVE SPACE ALTERATION	7,200	0	7,200	0	
		AUTOMATED DATA PROCESSING FACILITY	680	0	680	150	
		BARRACKS WITH DINING	14,800	0	14,800	10,500	
		CHILD DEVELOPMENT CENTER	930	0	930	0	
		COMMUNICATIONS CENTER CONVERSION	400	0	400	300	
		LOGISTICAL SUPPLY FACILITY	6,700	0	6,700	6,200	
		PHYSICAL FITNESS TRAINING CENTER	4,900	0	4,900	0	
		SCHWEINFURT					
		CHILD DEVELOPMENT CENTER	900	900	900	900	
		FACILITY MODERNIZATION	16,000	0	0	0	
		FACILITY MODERNIZATION PHASE IV	8,500	8,500	8,500	8,500	
		TACTICAL EQUIPMENT SHOP	13,600	13,600	13,600	13,600	
		FAMILY HOUSING NEW CONSTRUCTION (90)	8,400	8,400	8,400	8,400	
		STUTTGART					
		SEWER SYSTEM UPGRADE	820	820	820	820	
		VARIOUS SITES					
		MAINTENANCE TRAINING FACILITY	1,850	1,850	1,850	1,850	
		SITE SECURITY ENHANCEMENTS	17,000	17,000	17,000	7,000	1/
		WARTIME HOST NATION SUPPORT	17,500	0	17,500	4,500	
		VILSECK					
		BARRACKS	6,800	6,800	6,800	6,800	
		CHAPEL/RELIGIOUS EDUCATION FACILITY	3,450	0	3,450	0	

1/ distributed general reduction, not authorized for appropriations

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		COMMISSARY SALES	7,300	0	0	0
		EXCHANGE MAIN RETAIL STORE	8,000	0	0	0
		POST OFFICE	1,300	0	1,300	0
		PROVOST MARSHAL FACILITY	1,800	1,800	1,800	1,800
		RELOCATE AMMUNITION AREA	920	920	920	920
		UNACCOMPANIED OFFICER HOUSING	4,050	4,050	4,050	4,050
		UTILITIES	36,000	36,000	36,000	36,000
		FAMILY HOUSING NEW CONSTRUCTION (224)	21,000	21,000	21,000	21,000
		WILDFLECKEN				
		VEHICLE WASH FACILITY	3,800	0	3,800	0
		FAMILY HOUSING NEW CONSTRUCTION (24)	2,050	2,050	2,050	2,050
		WUERZBURG				
		CHILD DEVELOPMENT CENTER	1,000	1,000	1,000	1,000
		GENERAL REDUCTION	0	0	0	(10,000)
	AIR FORCE					
		BITBURG AB				
		ADD-ALTER SEWAGE TREATMENT PLANT	1,500	1,500	1,500	1,500
		ALTER BASE MAIN ENTRANCE	440	440	440	440
		DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
		PASSIVE DEFENSE EQUIP STORAGE FACILITY	770	770	770	770
		RAPID RUNWAY REPAIR EQUIP STORAGE FAC	960	960	960	960
		WATER STORAGE TANK	480	480	480	480
		FAMILY HOUSING NEW CONSTRUCTION (332)	26,415	26,415	26,415	26,415
		HAHN AB				
		ADD TO VEHICLE MAINTENANCE FACILITY	1,900	0	1,900	0
		ADD-ALTER FIRE STATION	1,100	1,100	1,100	1,100
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,300	2,300	2,300	2,300
		ALTERNATE LAUNCH/RECOVERY SURFACE (ALRS)	2,100	0	0	0
		POST OFFICE	980	0	0	0
		RAPID RUNWAY REPAIR EQUIP STORAGE BLDG	840	840	840	840
		SECURITY POLICE OPERATIONS FACILITY	1,100	1,100	1,100	1,100
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	1,400	1,400	1,400	1,400
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,000	4,000	4,000	4,000
		FAMILY HOUSING NEW CONSTRUCTION (150)	11,300	11,300	11,300	11,300
		HESSISCH				
		ADD-ALTER COMPOSITE RECREATION CENTER	2,000	0	2,000	0
		LINDSEY AS				
		DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
		PRUEM AS				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		COMPOSITE RECREATION CENTER	1,150	0	1,150	0
		RAMSTEIN AB				
		ADD TO NONCOMMISSIONED OFFICER ACADEMY	1,850	0	0	0
		ADD-ALTER VEHICLE MAINTENANCE SHOPS	6,000	0	0	0
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,900	0	0	0
		F16-ADD/ALTER AEROSPACE SUPPORT EQUIP COMP	1,600	1,600	1,600	1,600
		F16-AIRCRAFT MAINTENANCE FACILITY	1,200	1,200	1,200	1,200
		F16-CENTRAL SECURITY CONTROL FACILITY	2,050	2,050	2,050	2,050
		F16-MUNITIONS LOAD CREW TRAINING FACILITY	2,350	2,350	2,350	2,350
		F16-WAREHOUSE	2,200	2,200	2,200	2,200
		OUTDOOR PROCESSING-PALLET STORAGE AREA	1,350	1,350	1,350	1,350
		PROTECTED COMBAT TARGETING CENTER	36,000	0	13,000	0
		SECURITY LIGHTING	420	420	420	420
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,000	3,000	3,000	3,000
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	6,300	6,300	6,300	6,300
		VISITING OFFICER QUARTERS	3,000	0	0	0
		WATER STORAGE TANK	2,600	2,600	2,600	2,600
		WEAPONS STORAGE AND SECURITY SYSTEM	800	0	0	0
		RHEIN-MAIN AB				
		FIRE PROTECTION SYSTEM	1,300	1,300	1,300	1,300
		SEMBACH AB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,900	4,900	4,900	4,900
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	1,450	1,450	1,450	1,450
		VEHICLE MAINTENANCE FACILITY	1,050	1,050	1,050	1,050
		C130-CENTRAL SECURITY CONTROL	2,200	2,200	2,200	2,200
		C130-SENSITIVE COMPARTMENTED INFO FAC	1,500	1,500	1,500	1,500
		C130-ADD/ALTER FIRE STATION	770	770	770	770
		SPANGDAHLEM AB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,700	3,700	3,700	3,700
		CHEM WARFARE-SQUADRON OPERATIONS FACILITY	1,700	1,700	1,700	1,700
		GROUND DEFENSE MUNITION STORAGE IGLOOS	560	560	560	560
		POST OFFICE	1,050	0	1,050	0
		VEHICLE MAINTENANCE FACILITY	2,350	2,350	2,350	2,350
		WUSCHHEIM				
		GLCM-BASE CIVIL ENG PAVEMENTS/GROUND SHOP	310	310	310	310
		ZWEIBRUCKEN AB				
		ALTERNATE LAUNCH/RECOVERY SURFACE (ALRS)	3,550	0	0	0
		CHEM WARFARE-AIR PHOTO INTERP FACILITY	950	950	950	950
		CHEM WARFARE-SQUADRON OPERATIONS FACILITY	1,940	1,940	1,940	1,940
		EDS-FORWARD STORAGE WAREHOUSE	1,100	1,100	1,100	1,100
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	2,750	2,750	2,750	2,750

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	DEFENSE LEVEL ACTIVITIES					
		ASCHAFFENBERG				
		ELEMENTARY/JUNIOR HIGH SCHOOL ADDITION	6,600	6,600	6,600	6,600
		BAD KISSINGEN				
		ELEMENTARY SCHOOL ADDITION	1,330	1,330	1,330	1,330
		BAUMHOLDER				
		ELEMENTARY SCHOOL ADDITION	1,600	1,600	1,600	1,600
		BOEBLINGEN				
		DISPENSARY AND DENTAL CLINIC	3,650	3,650	3,650	3,650
		DEXHEIM				
		ELEMENTARY SCHOOL ADDITION	2,430	2,430	2,430	2,430
		ERLANGEN				
		ELEMENTARY SCHOOL ADDITION	3,220	3,220	3,220	3,220
		GELNHAUSEN				
		ELEMENTARY SCHOOL ADDITION	1,130	1,130	1,130	1,130
		GRAFENWOEHR				
		DISPENSARY AND DENTAL CLINIC	3,950	3,950	3,950	3,950
		ELEMENTARY SCHOOL ADDITION	2,500	2,500	2,500	2,500
		HAHN AIR BASE				
		HIGH SCHOOL ADDITION	3,470	3,470	3,470	3,470
		HEIDELBERG				
		ELEMENTARY AND HIGH SCHOOL	3,190	3,190	3,190	3,190
		HESSISCH-OLDENDORF				
		ELEMENTARY SCHOOL	2,310	2,310	2,310	2,310
		HOHENFELS				
		ELEMENTARY SCHOOL ADDITION	1,190	1,190	1,190	1,190
		KAISERLAUTERN AIR BASE				
		ELEMENTARY AND HIGH SCHOOL ADDITION	7,880	7,880	7,880	7,880
		KARLSRUHE				
		DISPENSARY AND DENTAL CLINIC	6,800	6,800	6,800	6,800
		NUERNBERG				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ELEMENTARY SCHOOL	8,580	8,580	8,580	8,580
		SCHWAEBISCH GMUEND				
		ELEMENTARY SCHOOL ADDITION	1,640	1,640	1,640	1,640
		STUTTGART				
		ELEMENTARY AND JUNIOR HIGH SCHOOL ADDITION	4,530	4,530	4,530	4,530
		VILSECK				
		DISPENSARY AND DENTAL CLINIC	5,600	5,600	5,600	5,600
		WUERZBURG				
		MIDDLE SCHOOL	7,760	7,760	7,760	7,760
	DEFENSE LOGISTICS AGENCY					
		DEF REUTILIZATION & MARKETING OFC BITBURG				
		COVERED STORAGE	650	0	650	0
TOTAL: GERMANY			697,825	502,435	569,195	475,885
GREECE						
	ARMY					
		GREECE				
		OPERATIONS BUILDING	560	560	560	560
		OPERATIONS BUILDING MODERNIZATION	730	0	0	0
	AIR FORCE					
		IRAKLION AS				
		2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	320	320	320	320
TOTAL: GREECE			1,610	880	880	880
GREENLAND						
	AIR FORCE					
		SONDRESTROM AB				
		UNACCOMPANIED PERSONNEL HOUSING	5,860	5,860	5,860	5,860
		THULE AB				
		ALTER SATCOM GROUND TERMINAL	1,540	1,540	1,540	1,540
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,200	2,200	2,200	2,200
		FIRE STATION	3,900	3,900	3,900	3,900
		SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,150	2,150	2,150	2,150
TOTAL: GREENLAND			15,650	15,650	15,650	15,650
GUAM						
	NAVY					
		MOBILE CONSTR BATTALION CAMP COVINGTON				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		BACHELOR HOUSING	15,500	15,500	15,500	15,500
		NAVAL COMM AREA MASTER STA WESTPAC GUAM				
		FIRE PROTECTION SYSTEM	480	480	480	480
		NAVAL FACILITY				
		SECURITY IMPROVEMENTS	820	820	820	820
		NAVAL SECURITY GROUP DETACHMENT GUAM				
		OCEAM SURVEILLANCE BUILDING ADDITION	2,150	2,150	0	2,150
		NAVAL SUPPLY DEPOT GUAM				
		FLEET SUPPORT WAREHOUSE MODIFICATIONS	400	400	400	400
		NAVY PUBLIC WORKS CENTER GUAM				
		POWER PLANT MODIFICATIONS	1,080	1,080	1,080	1,080
		VEHICLE SERVICE CENTER	490	490	490	490
	AIR FORCE					
		ANDERSON AFB				
		ALTER JET FUEL STORAGE FACILITIES	7,600	7,600	0	7,600
	ARMY RESERVE					
		APRA HEIGHTS				
		EQUIPMENT CONCENTRATION SITE/MAINT FAC	888	888	888	888
TOTAL: GUAM			29,408	29,408	19,658	29,408
HONDURAS						
	ARMY					
		PALMEROLA AB				
		CONTINGENCY FACILITIES	0	0	0	4,300 1/
TOTAL: HONDURAS			0	0	0	4,300
ICELAND						
	NAVY					
		NAVAL AIR STATION KEFLAVIK				
		AIRFIELD PAVEMENTS	13,490	13,490	13,490	13,490
		FUEL FACILITIES	13,300	0	0	0
		MAINTENANCE HANGAR ALTERATIONS	350	350	350	350
		FAMILY HOUSING NEW CONSTRUCTION (250)	48,642	28,642	48,642	28,642 2/
		NAVAL FACILITY KEFLAVIK				
		STANDBY GENERATOR PLANT	1,570	1,570	1,570	1,570
	AIR FORCE					
		KEFLAVIK				

1/ authorized for appropriations in lieu of extending authorization without an appropriation

2/ authorized at $48,642,000 and authorized for appropriations at $28,642,000 in fiscal year 1987

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ACCOUNTING AND FINANCE FACILITY	1,600	1,600	1,600	1,600
TOTAL: ICELAND			78,952	45,652	65,652	45,652
ITALY						
	ARMY					
		CAMP DARBY				
		BARRACKS	610	610	610	610
		LIVORNO				
		FAMILY HOUSING NEW CONSTRUCTION (90)	7,700	0	0	0
	NAVY					
		NAV COM AREA MASTER STATION MED NAPLES				
		SIGONELLA TRANSMITTER FACILITY	8,250	8,250	8,250	8,250
		NAVAL AIR STATION SIGONELLA				
		CHAPEL FACILITIES	1,370	0	1,370	0
		NAVAL SUPPORT ACTIVITY NAPLES				
		AIR CARGO TERMINAL	5,500	0	5,500	0
		CMD CONTROL COMMS & INTELLIGENCE COMPLEX	18,000	0	0	0
		SUBMARINE MOORING FACILITY	1,570	1,570	1,570	1,570
	AIR FORCE					
		AVIANO AB				
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,200	0	4,200	0
		CAMP DARBY				
		SEGREGATED MAGAZINE	270	270	270	270
		COMISO AB				
		CHEM WARFARE-CENTRAL SECURITY CONTROL FAC	1,500	1,500	1,500	1,500
		CHEM WARFARE-WING COMMAND POST FACILITY	1,500	1,500	1,500	1,500
		GLCM-ARTS AND CRAFTS SHOP	370	0	0	0
		GLCM-AUTOMOTIVE HOBBY SHOP	410	0	0	0
		GLCM-RECREATION LIBRARY	230	0	230	0
		SAN VITO AS				
		2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	490	490	490	490
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,300	3,300	3,300	3,300
		VISITING OFFICER QUARTERS	2,450	0	0	0
	DEFENSE LEVEL ACTIVITIES					
		NAPLES				
		ELEMENTARY AND HIGH SCHOOL	19,590	0	0	0
		REPLACEMENT HOSPITAL	29,300	0	0	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
TOTAL: ITALY			106,610	17,490	28,790	17,490
JAPAN						
	ARMY					
		KAWAKAMI				
		MEDICAL SUPPLY WAREHOUSE	1,200	1,200	1,200	1,200
	NAVY					
		MARINE CORPS AIR STATION FUTENMA OKINAWA				
		ENGINE MAINTENANCE SHOP	3,440	3,440	3,440	3,440
		PASSENGER TERMINAL	830	830	830	830
		MARINE CORPS BASE CAMP BUTLER OKINAWA				
		BUILDING ENVIRONMENTAL IMPROVEMENTS	6,200	6,200	6,200	6,200
		ELECTRONICS & COMMUNICATIONS MAINT SHOP	2,750	2,750	2,750	2,750
		NAVAL AIR FACILITY ATSUGI				
		FIRE PROTECTION	0	0	5,300	0
	AIR FORCE					
		KADENA AB				
		ADD-ALTER HYDRANT REFUELING SYS-PHASE II	7,100	7,100	7,100	7,100
		VEHICLE CORROSION CONTROL SUPPORT FACILITY	265	265	265	265
		MISAWA AB				
		COMMANDO PORT-IV-CONCRETE ARCH IGLOO MAG	3,050	3,050	3,050	3,050
		COMMANDO PORT-IV-MUNITIONS PRELOAD COMP	7,250	7,250	7,250	7,250
		TOTSUKA				
		ADD TO TELECOMMUNICATIONS FACILITY	700	700	700	700
		YOKOSUKA				
		ADD TO TELECOMMUNICATIONS FACILITY	600	600	600	600
		YOKOTA AB				
		JET FUEL STORAGE	4,900	4,900	0	0
	DEFENSE LOGISTICS AGENCY					
		DEF FUEL SUPPORT POINT CHIMU WAN OKINAWA				
		FUEL TANKAGE	6,640	6,640	6,640	6,640
		DEF FUEL SUPPORT POINT TSURUMI				
		FUEL TANKAGE	3,520	3,520	3,520	3,520
TOTAL: JAPAN			48,445	48,445	48,845	43,545

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
KOREA						
	ARMY					
		CAMP CARROLL				
		STORAGE WAREHOUSE	920	920	920	920
		TACTICAL EQUIPMENT SHOP	820	820	820	820
		CAMP CASEY				
		AUTOMATED FIELD FIRE RANGE	3,600	3,600	3,600	3,600
		BARRACKS	15,500	15,500	15,500	15,500
		COMMUNICATION/ELECTRONICS MAINTENANCE FACS	490	490	490	490
		TACTICAL EQUIPMENT SHOP MOD/ADDN	3,400	3,400	3,400	3,400
		TANK RANGE	1,950	1,950	1,950	1,950
		CAMP CASTLE				
		BARRACKS	1,950	1,950	1,950	1,950
		FLAMMABLE MATERIAL STORAGE	2,850	2,850	2,850	2,850
		CAMP ESSAYONS				
		BARRACKS	1,850	1,850	1,850	1,850
		PHYSICAL FITNESS TRAINING CENTER	1,150	1,150	1,150	1,150
		CAMP GREAVES				
		BARRACKS	2,350	2,350	2,350	2,350
		PHYSICAL FITNESS TRAINING CENTER	1,300	1,300	1,300	1,300
		TACTICAL EQUIPMENT SHOP	340	0	0	0
		CAMP HOVEY				
		BARRACKS	4,650	4,650	4,650	4,650
		DINING FACILITY	4,350	4,350	4,350	4,350
		CAMP HOWZE				
		BARRACKS	4,050	4,050	4,050	4,050
		TACTICAL EQUIPMENT SHOP	1,800	1,800	1,800	1,800
		CAMP HUMPHREYS				
		AIRCRAFT MAINTENANCE HANGAR	1,500	1,500	1,500	1,500
		BARRACKS	5,700	5,700	5,700	5,700
		TACTICAL EQUIPMENT SHOP	5,900	5,200	5,900	5,200
		UNIT MAINTENANCE HANGAR	3,700	3,700	3,700	3,700
		CAMP JACKSON				
		BARRACKS	1,800	1,800	1,800	1,800
		CAMP LAGUARDIA				
		AIRFIELD FIRE STATION	320	320	320	320
		BARRACKS	2,650	2,650	2,650	2,650
		CAMP LIBBY				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		TACTICAL EQUIPMENT SHOP	1,100	1,100	1,100	1,100
		CAMP LIBERTY BELL				
		BARRACKS	780	780	780	780
		CAMP LONG				
		BARRACKS MODERNIZATION	5,600	5,600	5,600	5,600
		CAMP MARKET				
		UNACCOMPANIED OFFICER HOUSING	540	540	540	540
		CAMP NIMBLE				
		BARRACKS	1,950	1,950	1,950	1,950
		CAMP PAGE				
		UNACCOMPANIED OFFICER HOUSING	1,400	1,400	1,400	1,400
		CAMP PELHAM				
		BARRACKS	980	980	980	980
		TACTICAL EQUIPMENT SHOP	1,300	1,300	1,300	1,300
		CAMP RED CLOUD				
		DINING FACILITY	2,250	2,250	2,250	2,250
		TACTICAL EQUIPMENT SHOP	2,300	2,300	2,300	2,300
		CAMP STANLEY				
		BARRACKS	2,450	2,450	2,450	2,450
		DINING FACILITY	2,250	2,250	2,250	2,250
		H220				
		BARRACKS	2,750	2,750	2,750	2,750
		K-16 ARMY AIRFIELD				
		FLIGHT SIMULATOR BUILDING	1,600	1,600	1,600	1,600
		TACTICAL EQUIPMENT SHOP	920	920	920	920
		LOC 177				
		POWER UPGRADE	1,950	1,950	1,950	1,950
		PUSAN				
		BARRACKS	1,500	1,500	1,500	1,500
		BARRACKS	5,900	5,900	5,900	5,900
		FIRE STATION	340	340	340	340
		GENERAL PURPOSE WAREHOUSE	3,800	3,800	3,800	3,800
		PHYSICAL FITNESS TRAINING CENTER	1,400	1,400	1,400	1,400
		SECOND INFANTRY				
		BARRACKS	2,800	2,800	2,800	2,800

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ORGANIZATION MAINTENANCE SHOP	2,350	2,350	2,350	2,350
		TAEGU				
		UNDERGROUND COMMAND AND CONTROL FACILITY	4,900	4,900	4,900	4,900
		YONGSON				
		BARRACKS	2,500	2,500	2,500	2,500
		BATTALION HEADQUARTERS	760	760	760	760
		TACTICAL EQUIPMENT SHOP	2,500	2,500	2,500	2,500
		TACTICAL EQUIPMENT SHOP	1,000	1,000	1,000	1,000
		UPGRADE TACTICAL EQUIPMENT SHOP	1,000	1,000	1,000	1,000
		WIDEN ROAD	1,000	1,000	1,000	1,000
	AIR FORCE					
		CAMP HUMPHREYS				
		OPERATIONS/MAINT/STORAGE FACILITIES	8,300	8,300	0	0
		CAMP RED CLOUD				
		MAINTENANCE-STORAGE-VEHICLE/EQ PARKING	1,450	1,450	1,450	1,450
		KIMHAE AB				
		PORTOMOD WAREHOUSE	570	570	570	570
		UNACCOMPANIED PERSONNEL HOUSING	3,050	3,050	3,050	3,050
		KUNSAN AB				
		ADD TO AIRCRAFT APRON	1,050	0	1,050	0
		AIRCRAFT MAINTENANCE MANAGEMENT FACILITY	2,050	2,050	2,050	2,050
		AIRCRAFT MAINTENANCE UNIT FACILITY	1,800	0	1,800	0
		ALTER ELECTRICAL DISTRIBUTION SYS-PH II	2,600	2,600	2,600	2,600
		BASE CIVIL ENGINEER FACILITY	840	840	840	840
		PORTOMOD WAREHOUSE	600	600	600	600
		SECURITY LIGHTING SYSTEM	1,650	1,650	1,650	1,650
		UPGRADE WATER DISTRIBUTION	430	430	430	430
		KWANG-JU AB				
		PORTOMOD WAREHOUSE	600	600	600	600
		OSAN AB				
		ADD-ALTER PRIMARY ELECTRICAL DIST SYSTEM	5,400	5,400	5,400	5,400
		AIRCRAFT MAINTENANCE FACILITIES	3,000	0	3,000	0
		ALTER AIRMEN DINING HALL	1,150	0	1,150	0
		CHAPEL CENTER	2,300	0	0	0
		MUNITIONS MAINT-STORAGE FACS-PHASE II	5,950	5,950	5,950	5,950
		FAMILY HOUSING NEW CONSTRUCTION (1)	160	0	160	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		SUWON				
		MUNITIONS MAINTENANCE AND STORAGE FACS	3,250	3,250	3,250	3,250
		PORTOMOD WAREHOUSE	600	600	600	600
		TAEGU AB				
		AIRMEN DINING HALL	2,350	2,350	2,350	2,350
		PORTOMOD WAREHOUSE	1,070	1,070	1,070	1,070
		UNACCOMPANIED OFFICER PERSONNEL HOUSING	1,750	1,750	1,750	1,750
		GENERAL REDUCTION	0	0	(4,000)	(4,000)
	DEFENSE LEVEL ACTIVITIES					
		CAMP EDWARDS				
		HEALTH/DENTAL CLINIC	1,800	1,800	1,800	1,800
		CAMP LONG				
		DISPENSARY/DENTAL CLINIC	1,850	1,850	1,850	1,850
		CAMP PELHAM				
		TROOP AID STATION	720	720	720	720
		SEOUL				
		HIGH SCHOOL UPGRADING	510	510	510	510
	DEFENSE LOGISTICS AGENCY					
		DEF FUEL SUPPORT POINT TOEGYEWON				
		FUEL TANKAGE	1,010	1,010	1,010	1,010
		DEF REUTILIZATION & MARKETING OFC BUPYONG				
		COVERED STORAGE	1,290	1,290	1,290	1,290
TOTAL: KOREA			195,910	185,410	180,970	173,110
KWAJALEIN						
	ARMY					
		KWAJALEIN				
		HARBOR/CHANNEL DREDGING	2,100	2,100	2,100	2,100
		MISSION CONTROL CENTER MODIFICATION	5,100	5,100	5,100	5,100
		MULTIPLE OBJECT TRACKING FACILITY	2,400	2,400	2,400	2,400
		UNACCOMPANIED OFFICER HOUSING	11,000	11,000	11,000	11,000
		FAMILY HOUSING NEW CONSTRUCTION (136)	23,000	23,000	23,000	23,000
	STRATEGIC DEFENSE INITIATIVE ORGANIZATION					
		MISSILE RANGE				
		TARGET LAUNCH COMPLEX	1,340	0	1,340	1,340
TOTAL: KWAJALEIN			44,940	43,600	44,940	44,940

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
MARIANA ISLANDS						
	AIR FORCE					
		SAIPAN				
		PACBAR RADAR BARRIER III	5,200	5,200	5,200	5,200
TOTAL: MARIANA ISLANDS			5,200	5,200	5,200	5,200
MOROCCO						
	AIR FORCE					
		VARIOUS LOCATIONS-MOROCCO				
		PETROLEUM RESUPPLY SYSTEM	25,400	0	25,400	25,400
TOTAL: MOROCCO			25,400	0	25,400	25,400
NETHERLANDS						
	AIR FORCE					
		CAMP NEW AMSTERDAM				
		ADD TO BASE SUPPLY COMPLEX	2,450	0	0	0
		ADD-ALTER CHAPEL	1,300	0	1,300	0
		CHEM WARFARE-SQUADRON OPERATIONS FACILITY	930	930	930	930
		COMMUNICATIONS MAINTENANCE FACILITY	570	570	570	570
		WOENSDRECHT AB				
		GLCM-BASE CIVIL ENGINEER COMPLEX	3,500	3,500	3,500	3,500
		GLCM-BASE SUPPLY COMPLEX	2,350	2,350	2,350	2,350
		GLCM-DINING HALL	1,600	0	0	0
		GLCM-FIRE STATION	1,000	1,000	1,000	1,000
		GLCM-HIGH FREQUENCY FACILITY	1,600	1,600	1,600	1,600
		GLCM-OPERATIONS/MAIN TRAINING FACS	1,700	1,700	1,700	1,700
		GLCM-SUBSISTENCE STORAGE FACILITY	1,050	1,050	1,050	1,050
		GLCM-TELECOMMUNICATIONS CENTER	1,000	1,000	1,000	1,000
		GLCM-TOWER SUPPORT	350	350	350	350
		GLCM-UNACCOMP ENLISTED PERSONNEL HOUSING	7,300	5,380	5,380	5,380
		GLCM-UNACCOMP OFFICER PERSONNEL HOUSING	3,000	3,000	3,000	3,000
		GLCM-UTILITIES, PAVEMENTS AND ROADS	8,600	8,600	8,600	8,600
		GLCM-VEHICLE CORROSION CONTROL FACILITY	700	700	700	700
		GLCM-VEHICLE OPERATIONS COMPLEX	550	550	550	550
	DEFENSE LEVEL ACTIVITIES					
		CAMP NEW AMSTERDAM				
		CLINIC/DENTAL CLINIC	6,000	6,000	6,000	6,000
		WOENDRECHT				
		ELEMENTARY AND HIGH SCHOOL ADDITION	7,420	7,420	7,420	7,420
TOTAL: NETHERLANDS			52,970	45,700	47,000	45,700

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
OMAN						
	AIR FORCE					
		MASIRAH AB				
		SW ASIA-CARETAKER CONTRACTOR SPT FACS	3,500	3,500	3,500	3,500
		THUMRAIT AB				
		SW ASIA-CARETAKER CONTRACTOR SPT FACS	3,400	3,400	3,400	3,400
TOTAL: OMAN			6,900	6,900	6,900	6,900
PANAMA						
	ARMY					
		FORT KOBBE				
		AIRCRAFT PARKING APRON EXTENSION	420	0	0	0
TOTAL: PANAMA			420	0	0	0
PHILIPPINES						
	NAVY					
		NAVAL AIR STATION CUBI POINT				
		BACHELOR OFFICER QUARTERS	5,300	0	5,300	0
		NAVAL COMMUNICATION STATION SAN MIGUEL				
		FIRE PROTECTION SYSTEM	470	0	470	470
		NAVAL SHIP REPAIR FACILITY SUBIC BAY				
		ABRASIVE BLAST FACILITY	1,770	0	1,770	1,770
		NAVAL STATION SUBIC BAY				
		CONSTRUCTION BATTALION CAMP	1,710	0	1,710	1,710
		NAVAL SUPPLY DEPOT SUBIC BAY				
		DATA PROCESSING CENTER ADDITION	290	0	290	290
		NAVY PUBLIC WORKS CENTER SUBIC BAY				
		FACILITY ENERGY IMPROVEMENTS	2,100	0	0	0
	AIR FORCE					
		CLARK AFB				
		AEROSPACE SYS BRANCH/ENGINE DISPATCH FAC	1,050	0	1,050	0
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	1,850	0	1,850	0
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,150	0	3,150	0
		CHILD CARE CENTER	2,000	0	2,000	0
		COPE THUNDER OPERATIONS FACILITY	4,650	0	4,650	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		ESSENTIAL MAINTENANCE FACILITIES-PHASE II	4,600	0	4,600	0
		FIRE STATION	760	0	760	0
		PARALLEL RUNWAY	32,500	0	32,500	32,500
		PETROLEUM OPERATIONS FACILITY	1,650	0	1,650	0
		PORTOMOD WAREHOUSE	460	0	460	0
		UPGRADE POWER PLANT-PHASE IV	8,600	0	8,600	8,600
TOTAL: PHILIPPINES			72,910	0	70,810	45,340
PORTUGAL						
	AIR FORCE					
		LAJES FIELD				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,750	4,750	4,750	4,750
		HYDRANT REFUELING SYSTEM	8,300	0	8,300	0
		UNACCOMPANIED OFFICER PERSONNEL HOUSING	2,700	2,700	2,700	2,700
TOTAL: PORTUGAL			15,750	7,450	15,750	7,450
PUERTO RICO						
	NAVY					
		LANT FLT WPNS TRAINING FAC ROOSEVELT ROADS				
		LAND ACQUISITION	195	0	195	0
		RANGE OPERATIONS CENTER ADDITION	4,220	4,220	4,220	4,220
		NAVAL SECURITY GROUP ACTIVITY SABANA SECA				
		BACHELOR ENLISTED QUARTERS IMPROVEMENTS	790	790	790	790
		NAVAL STATION ROOSEVELT ROADS				
		CONSTRUCTION BATTALION EQUIPMENT MAIN FAC	3,930	3,930	3,930	3,930
		SECURITY FACILITIES	2,360	2,360	2,360	2,360
		UNDERWATER DEMOLITION TEAM FACILITIES	790	790	790	790
	ARMY NATIONAL GUARD					
		CAMP SANTIAGO (SALINAS)				
		BRIDGE, HIGHWAY	148	148	148	148
		RANGE, COMBAT PISTOL	156	156	156	156
		RANGE, TANK TABLE VI	190	190	190	190
	ARMY RESERVE					
		FORT ALLEN				
		ARMY RESERVE CENTER MAINT/STORAGE	7,784	7,784	7,784	7,784
TOTAL: PUERTO RICO			20,563	20,368	20,563	20,368
SCOTLAND						
	NAVY					
		NAVAL SECURITY GROUP ACTIVITY EDZELL				

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		OCEAN SURVEILLANCE BUILDING ADDITIONS	2,250	2,250	2,250	2,250
TOTAL: SCOTLAND			2,250	2,250	2,250	2,250
SPAIN						
	NAVY					
		NAVAL STATION ROTA				
		POL PIPELINE IMPROVEMENTS	4,600	4,600	4,600	4,600
	AIR FORCE					
		TORREJON AB				
		SATELLITE COMMUNICATIONS GROUND TERMINAL	1,450	0	1,450	0
		ZARAGOZA AB				
		2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	540	0	540	0
TOTAL: SPAIN			6,590	4,600	6,590	4,600
TURKEY						
	ARMY					
		LOCATION 276				
		BARRACKS MODERNIZATION	3,700	3,700	3,700	3,700
	AIR FORCE					
		ANKARA				
		CHAPEL CENTER	1,550	0	1,550	0
		CONSOLIDATED SUPPORT CENTER	3,050	3,050	3,050	3,050
		DINING HALL	1,250	1,250	1,250	1,250
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	930	930	930	930
		INCIRLIK AB				
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,250	2,250	2,250	2,250
		BASE SUPPLY ADMINISTRATION FACILITY	1,200	1,200	1,200	1,200
		DINING HALL	2,350	2,350	2,350	2,350
		POST OFFICE	510	0	0	0
		VEHICLE MAINTENANCE COMPLEX	4,800	4,800	4,800	4,800
		VISITING OFFICER QUARTERS	3,400	0	0	0
		WAREHOUSE	1,650	1,650	1,650	1,650
		PIRINCLIK				
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,000	3,000	3,000	3,000
TOTAL: TURKEY			29,640	24,180	25,730	24,180
UNITED KINGDOM						
	NAVY					

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		NAVAL ACTIVITIES LONDON				
		CONSOLIDATED PERSONNEL SUPPORT FACILITIES	1,180	0	1,180	1,180
		NAVAL COMMUNICATION STATION THURSO				
		PERIMETER SECURITY FENCE	350	350	350	350
	AIR FORCE					
		MOLESWORTH				
		CHEM WARFARE-CENTRAL SECURITY CONTROL FAC	1,050	1,050	1,050	1,050
		CHEM WARFARE-WING COMMAND POST FACILITY	1,050	1,050	1,050	1,050
		GLCM-BASE CIVIL ENGINEER COMPLEX	330	330	330	330
		RAF ALCONBURY				
		AIRCRAFT MAINTENANCE FACILITY	640	640	640	640
		ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,450	2,450	2,450	2,450
		DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
		GLCM-ADD/ALTER PHYSICAL TRAINING FACILITY	2,100	0	2,100	0
		GLCM-BASE THEATER	1,300	0	1,300	0
		GLCM-CONSOLIDATED SUPPORT CENTER	8,800	8,800	8,800	8,800
		TR1-AIRCRAFT MAINTENANCE FACILITY	680	680	680	680
		TR1-LIBRARY	1,050	0	0	0
		TR1-VISITING AIRMAN QUARTERS	1,300	0	1,300	0
		RAF BENTWATERS				
		2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	1,250	1,250	1,250	1,250
		ALTER UNACCOMP ENLISTED PERS HOUSING	3,700	0	3,700	0
		CENTRAL POST OFFICE	650	0	650	0
		DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
		RECREATION CENTER	2,250	0	0	0
		WATER STORAGE AND DISTRIBUTION SYSTEM	1,400	1,400	1,400	1,400
		RAF CHICKSANDS				
		ADD-ALTER WATER DISTRIBUTION SYSTEM	950	950	950	950
		RAF CROUGHTON				
		TELECOMMUNICATIONS FACILITY	630	630	630	630
		RAF FAIRFORD				
		ADD-ALTER VEHICLE MAINTENANCE FACILITY	1,700	1,700	1,700	1,700
		ORG MAINT AND SUPPORT EQUIP COMPLEX	2,750	2,750	2,750	2,750
		RAF GREENHAM COMMON				
		GLCM-TEMPORARY LIVING FACILITY	2,100	0	0	0
		RAF LAKENHEATH				
		BASE SUPPLY STORAGE SHED	500	500	500	500
		POST OFFICE	1,200	0	0	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
		RAF MARTLESHAM				
		DIGITAL EUROPEAN BACKBONE FACILITY	1,650	1,650	1,650	1,650
		RAF MILDENHALL				
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,700	4,700	4,700	4,700
		RAF UPPER HEYFORD				
		ADD-ALTER VEHICLE MAINTENANCE SHOP	2,300	0	2,300	0
		DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
		UNACCOMP ENLISTED PERS HSG ALTERATION	4,500	4,500	4,500	4,500
		UNACCOMPANIED ENLISTED PERSONNEL HOUSING	6,000	0	6,000	0
		RAF WELFORD				
		GROUND DEFENSE MUNITIONS STORAGE IGLOOS	830	830	830	830
		MUNITION SURVEILLANCE AND INSPECTION SHOP	760	760	760	760
		RAF WETHERSFIELD				
		2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	650	650	650	650
		RAF WOODBRIDGE				
		CORROSION CONTROL FACILITY	3,400	0	0	0
		SUPPLY WAREHOUSE	1,650	0	0	0
TOTAL: UNITED KINGDOM		----------	71,400	41,220	59,750	42,400
OVERSEAS CLASSIFIED						
	ARMY					
		OVERSEAS CLASSIFIED				
		CLASSIFIED PROJECT	4,000	4,000	4,000	4,000
	NAVY					
		OVERSEAS CLASSIFIED				
		MAGAZINES	15,700	15,700	15,700	15,700
	AIR FORCE					
		BASE THIRTY				
		TR1-UNACCOMP ENLISTED PERSONNEL HOUSING	2,950	2,950	2,950	2,950
		US AIR FORCES IN EUROPE				
		CLASSIFIED PROJECT	11,500	11,500	11,500	11,500
	NATIONAL SECURITY AGENCY					
		OVERSEAS CLASSIFIES				
		FAMILY HOUSING-CLASSIFIED PROJECT	270	270	270	270
TOTAL: OVERSEAS CLASS.		----------	34,420	34,420	34,420	34,420

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
OVERSEAS VARIOUS						
	ARMY					
		VARIOUS LOCATIONS				
		PRE-POSITIONED WAR MATERIAL FACILITIES	4,900	0	4,900	0
	AIR FORCE					
		US AIR FORCES IN EUROPE				
		AUXILIARY SEISMIC NETWORK	3,953	3,953	3,953	3,953
TOTAL: OVERSEAS VARIOUS			8,853	3,953	8,853	3,953
WORLDWIDE UNSPECIFIED						
	DEFENSE LEVEL ACTIVITIES					
		NATO INFRASTRUCTURE	247,000	247,000	239,000	247,000
		CONTINGENCY CONSTRUCTION	5,000	5,000	5,000	5,000
	UNSPECIFIED MINOR CONSTRUCTION					
		ARMY	20,000	20,000	0	20,000
		NAVY	15,000	15,000	0	15,000
		AIRFORCE	16,000	16,000	0	16,000
		DEFENSE LEVEL ACTIVITIES	4,000	4,000	1,000	4,000
		ARMY NATIONAL GUARD	4,647	4,647	4,647	4,647
		AIR NATIONAL GUARD	2,130	2,130	2,130	2,130
		ARMY RESERVE	1,100	1,100	1,100	1,100
		NAVY RESERVE	1,500	1,500	1,500	1,500
		AIR FORCE RESERVE	2,580	2,580	2,580	2,580
	PLANNING AND DESIGN					
		ARMY	131,640	131,640	130,580	131,640
		NAVY	143,770	143,770	143,770	143,770
		AIR FORCE	127,260	127,260	117,260	117,260
		DEFENSE LEVEL ACTIVITIES	110,700	88,200	100,700	88,200
		ARMY NATIONAL GUARD	19,000	19,000	19,000	19,000
		AIR NATIONAL GUARD	15,420	15,420	15,420	15,420
		ARMY RESERVE	11,300	11,300	11,300	11,300
		NAVY RESERVE	5,300	5,300	5,300	5,300
		AIR FORCE RESERVE	6,560	6,560	6,560	6,560
TOTAL: WORLDWIDE UNSPEC.			889,907	867,407	806,847	857,407
WORLDWIDE VARIOUS						
	NAVY					
		VARIOUS LOCATIONS-WORLDWIDE				
		HOST NATION INFRASTRUCTURE SUPPORT	300	0	300	0

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS
OUTSIDE THE UNITED STATES

(AMOUNTS IN THOUSANDS OF DOLLARS)

STATE	SERVICE	INSTALLATION AND PROJECT	BUDGET REQUEST	HOUSE RECOMM	SENATE RECOMM	CONF. AGREEMT
	DEFENSE LOGISTICS AGENCY					
		VARIOUS LOCATIONS-WORLDWIDE				
		CONFORMING STORAGE FACILITIES	21,400	0	21,400	10,000
TOTAL: WORLDWIDE VARIOUS			21,700	0	21,700	10,000

SUMMARY
FAMILY HOUSING

ITEM	ARMY ($000)	NAVY ($000)	AIR FORCE ($000)	DEFENSE AGENCIES ($000)	TOTAL SUMMARY ($000)
NEW CONSTRUCTION	250,830	130,712	43,196 1/	270	425,008
NUMBER OF UNITS	(3,032)	(1,368)	(522)	(3)	(4,925)
NUMBER OF MOBILE HOME SPACES	(108)	(300)	(24)	0	(432)
IMPROVEMENTS	79,500	26,580	58,644	0	164,724
PLANNING AND DESIGN	24,000	2,000	7,000	0	33,000
OPERATIONS	495,466	260,515	344,615	2,794	1,103,390
MAINTENAINCE	569,852	265,846	307,684	509	1,143,891
NUMBER OF UNITS	(158,009)	(90,688)	(138,498)	(652)	(387,847)
LEASING	173,885	22,459	72,745	14,027	283,116
NUMBER OF DOMESTIC UNITS 2/	(4,825)	(1,665)	(1,463)	0	(7,953)
NUMBER OF FOREIGN UNITS	(22,581)	(1,923)	(9,200)	(916)	(34,620)
DEBT PAYMENT	8,063	9,071	7,365	0	24,499
TOTAL REQUEST.....	1,601,596	717,183	841,249	17,600	3,177,628

1/ includes $.9 million for housing managament offices and $.2 million for a maintenance shop

2/ includes authorization for 7,063 lease points for the section 801 housing program

FISCAL YEAR 1987 MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS

(AMOUNTS IN THOUSANDS OF DOLLARS)

MILITARY DEPARTMENT	BUDGET REQUEST	HOUSE RECOMMEND	SENATE RECOMMEND	CONFERENCE AGREEMENT
RECAPITULATION				
ARMY	3,445,216	2,913,930	2,949,746	2,870,396
NAVY	2,588,293	2,110,333	2,161,343	2,147,438
AIR FORCE	2,563,229	2,108,710	2,149,749	2,143,729
DEFENSE AGENCIES	692,200	516,403	568,500	532,030
NATO INFRASTRUCTURE	247,000	247,000	239,000	247,000
ARMY NATIONAL GUARD	121,100	121,100	118,700	133,271
AIR FORCE NATIONAL GUARD	140,000	140,000	137,000	145,325
ARMY RESERVE	86,700	86,700	83,200	86,700
NAVY AND MARINE CORPS RESERVE	44,500	44,500	43,800	44,500
AIR FORCE RESERVE	58,900	58,900	55,400	58,900
BASE CLOSURE COMMISSION	0	0	1,000	0
TOTAL MILITARY CONSTRUCTION AUTHORIZATION OF APPROPRIATIONS	9,987,138	8,347,576	8,507,438	8,409,289

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

The Senate bill, Division C, Title I, would authorize appropriations in the total amount of $7,425.225 million. The House amendment (Division C, Title I, Part A) would authorize appropriations of $7,450.99 million. The conferees agreed to an authorization of $7,450.99 million.

The budget request, the authorizations contained in the Senate bill, the authorizations contained in the House amendment, and the conference agreement are detailed in the following table.

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Total DOE Operating Expenses.....	6523.694	6080.394	6321.519	241.125	6099.819	-423.875
(Appropriation Request)	(6523.694)					
Total DOE Plant Construction Expenses....	1027.241	894.701	899.391	4.690	863.266	-163.975
(Appropriation Request)	(1158.841)					
Total DOE Capital Equipment.....	547.465	484.395	512.465	28.070	487.905	-59.560
(Appropriation Request)	(547.465)					
Less, Adjustments.....						
General Reduction, Plant and Capital Equipment.....		-11.000		11.000	0.000	0.000
Undistributed Reduction.....			-300.000	-300.000	0.000	0.000
Prior Year Program Savings.....			-8.150	-8.150	0.000	0.000
Title IV--Nuclear Winter Research.....	0.000	2.500	0.000	-2.500	0.000	0.000
TOTAL, DOE DEFENSE ACTIVITIES.....	8098.400	7450.990	7425.225	-25.765	7450.990	-647.410
(Appropriation Request)	(8230.000)					
Operating Expenses						
WEAPONS ACTIVITIES						
Research and Development.....	980.700 1	854.200	899.400 1	45.200	866.000	-114.700
Materials Research-PSP.....		(17.000)	(0.000)	(-17.000)	(13.000)	(13.000)
Testing.....	633.800	517.800	564.800	47.000	517.800	-116.000
Production and Surveillance.....	1968.504	1815.604	1968.504	152.900	1859.700	-108.804
Program Direction.....	60.550	58.850	60.550	1.700	57.379	-3.171
Weapons Program.....	(52.450)	(50.750)	(52.450)		(49.279)	(-5.171)
Community Assistance.....	(8.100)	(8.100)	(8.100)		(8.100)	(0.000)
Total, Weapons Activities.....	3643.554	3246.454	3493.254	246.800	3300.879	-342.675
(Appropriation Request)	(3643.554)					
INERTIAL CONFINEMENT FUSION						
Livermore National Laboratory.....	36.000 2	61.000	36.000 2	-25.000		-36.000
Los Alamos National Laboratory.....	21.500 2	33.000	21.500 2	-11.500		-21.500
Sandia National Laboratories.....	29.000 2	29.000	29.000 2	0.000		-29.000
Supporting Services.....	22.500	25.200	23.625	-1.575		-22.500
Total, Inertial Confinement Fusion....	109.000	148.200 3	110.125	-38.075	145.000	36.000
(Appropriation Request)	(109.000)					
MATERIALS PRODUCTION						
Reactor Operations.....	616.660	616.660	616.660		586.320	-30.340
Processing of Nuclear Materials.....	499.830	489.830	499.830	10.000	489.000	-10.830
Special Isotope Separation.....	(74.900)	(70.900)			(70.900)	(-4.000)
Supporting Services.....	252.500	242.100	252.500	10.400	234.200	-18.300
Enriched Material.....	204.500	184.500	171.500	-13.000	184.500	-20.000
Naval Reactors Uranium Enrichment.....		(170.000)			(170.000)	
Other Uranium Enrichment.....		(14.500)			(14.500)	
Program Direction.....	22.900	22.900	22.900		22.328	-0.573
Total, Materials Production.....	1596.390	1555.990	1563.390	7.400	1516.348	-80.042
(Appropriation Request)	(1596.390)					
DEFENSE WASTE AND BYPRODUCT MANAGEMENT						
Interim Waste Management.....	324.730	308.345	324.730	16.385	309.945	-14.785
Long-term Waste Management Technology...	88.820	72.205	88.820	16.615	80.605	-8.215
Terminal Storage.....	39.100	39.100	39.100		39.100	0.000
Program Direction.....	2.400	2.400	2.400		2.340	-0.060
Total, Defense Nuclear Waste.....	455.050	422.050	455.050	33.000	431.990	-23.060
(Appropriation Request)	(455.050)					
VERIFICATION AND CONTROL TECHNOLOGY						
Verification and Control Technology.....	91.100	86.100	91.100	5.000	91.100	0.000
Program Direction.....	4.400	4.400	4.400		4.290	-0.110
Total, Verification & Control Tech....	95.500	90.500	95.500	5.000	95.390	-0.110
(Appropriation Request)	(95.500)					

1 Excludes $86.5 M for ICF.
2 Included in Weapons R & D.
3 Transfer $86.5 M from Weapons R & D.

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Operating Expenses (continued)						
NUCLEAR SAFEGUARDS AND SECURITY						
Nuclear Safeguards and Security	53.417	52.417	61.100	8.683	52.917	-0.500
Program Direction	7.683	7.683	0.000	-7.683	7.491	-0.192
Total, Nuclear Materials Security and Safeguards Development	61.100	60.100	61.100	1.000	60.408	-0.692
(Appropriation Request)	(61.100)					
SECURITY INVESTIGATIONS	33.300	33.300	33.300		33.300	0.000
(Appropriation Request)	(33.300)					
NAVAL REACTORS DEVELOPMENT						
Plant Development	71.000	71.000	71.000		71.000	0.000
Reactor Development	274.000	271.000	274.000	3.000	271.000	-3.000
Reactor Operation and Evaluation	173.000	170.000	173.000	3.000	170.000	-3.000
Program Direction	11.800	11.800	11.800		11.505	-0.295
Undistributed Reduction			-20.000	-20.000	-7.000	-7.000
Total, Naval Reactors Development	529.800	523.800	509.800	-14.000	516.505	-13.295
(Appropriation Request)	(529.800)					
TOTAL, DOE DEFENSE ACTIVITIES OPERATING EXPENSES	6523.694	6080.394	6321.519	241.125	6099.819	-423.875
(Appropriation Request)	(6523.694)					
Plant and Capital Equipment						
WEAPONS ACTIVITIES						
87-D-101, general plant projects, various locations	29.000	29.000	29.000		29.000	0.000
87-D-121, general plant projects, various locations	32.000	32.000	32.000		30.000	-2.000
87-D-102, environmental compliance and cleanup, Lawrence Livermore National Laboratory, Livermore, CA, and Site 300, CA	7.000	0.000	0.000		0.000	-7.000
87-D-104, safeguards and security enhancements II, Lawrence Livermore National Laboratory, CA	4.300	0.000	2.000	2.000	2.000	-2.300
87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations	5.000	5.000	0.000	-5.000	0.000	-5.000
87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado	0.500	0.500	0.500		0.500	0.000
87-D-127, environmental, safety, and health upgrade, Mound Plant, Miamisburg, Ohio	2.400	0.000	0.000		2.400	0.000
87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida	0.300	0.000	0.300	0.300	0.300	0.000
86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, CA	5.300 (5.400)	5.300	0.000	-5.300	5.300	0.000
86-D-104, strategic defense facility, Sandia National Laboratories, Albuquerque, New Mexico	13.000 (15.000)	7.000	13.000	6.000	13.000	0.000
86-D-105 instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico	5.800 (8.900)	5.800	5.800		5.800	0.000
86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico	12.000 (14.000)	10.000	12.000	2.000	12.000	0.000
86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado	2.420 (2.600)	2.420	0.000	-2.420	2.420	0.000
86-D-123, environmental hazards elimination, various locations	16.840 (18.300)	16.840	0.000	-16.840	15.000	-1.840

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Plant and Capital Equipment (continued)						
WEAPONS ACTIVITIES (continued)						
86-D-124, safeguards and site security upgrading, Phase II, Mound Plant, Miamisburg, Ohio	1.880 (3.000)	1.880	1.880		1.880	0.000
86-D-125, safeguards and site security upgrading, Phase II, Pantex Plant, Amarillo, Texas	8.410 (8.500)	8.410	8.410		8.410	0.000
86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina	29.700 (30.000)	29.700	29.700		29.700	0.000
85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations	29.950 (57.600)	29.950	29.950		14.085	-15.865
85-D-103, safeguards and security enhancements, Lawrence Livermore and Sandia National Labs, Livermore, CA	6.500 (6.900)	6.500	6.500		6.500	0.000
85-D-105, combined device assembly facility, Nevada Test Site, Nevada	9.400 (14.000)	5.400	9.400	4.000	7.400	-2.000
85-D-106, hardened engineering test Building, Lawrence Livermore National Laboratory, Livermore, California	0.330 (.430)	0.330	0.330		0.330	0.000
85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, TN	19.000 (21.800)	19.000	19.000		19.000	0.000
85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas	1.790 (7.600)	1.790	1.790		1.790	0.000
85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado	13.440 (14.500)	13.440	13.440		13.440	0.000
85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee	9.160 (10.000)	9.160	0.000	-9.160	9.160	0.000
85-D-125,tactical bomb production facilities, various locations	12.800 (14.800)	12.800	12.800		12.800	0.000
85-D-123, Safeguards and site security upgrade Pantex Plant, Amarillo, Texas	(1.000)					
84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, N.M.	3.000	3.000	3.000		3.000	0.000
84-D-107, nuclear testing facilities revitalization, various locations	13.300 (15.300)	13.300	13.300		13.300	0.000
84-D-112, Trident II warhead production facilities, various locations	14.500	14.500	14.500		14.500	0.000
84-D-113, antisubmarine warfare/standoff weapon warhead production facilties, various locations	42.000 (47.000)	0.000	0.000		0.000	-42.000
84-D-113, antisubmarine warfare/standoff weapon warhead production facilties, various locations (FY 86 authorization)	(0.000)	(0.000)	(-5.000)	(-5.000)	(-5.000)	(-5.000)
84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, TN	9.280 (10.000)	9.280	0.000	-9.280	9.280	0.000
84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, TN	27.220 (30.000)	17.220	27.220	10.000	27.220	0.000
84-D-212, Safeguards and site security upgrade Pinellas Plant, FL	(1.000)					

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Plant and Capital Equipment (continued)						
WEAPONS ACTIVITIES (continued)						
82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations	97.904 (116.900)	97.904	97.904		97.904	0.000
82-D-109, 155mm artillery fired atomic projectile (AFAP) prod facs, var locations.	(10.000)					
82-D-144, simulation technology laboratory, Sandia National Laboratories Albuquerque, New Mexico	6.000	6.000	6.000		6.000	0.000
Total, Weapons Activities (Appropriation Request)	491.424 (588.530)	413.424	389.724	-23.700	413.419	-78.005
MATERIALS PRODUCTION						
87-D-146, general plant projects, various locations	35.980	32.100	35.980	3.880	31.980	-4.000
87-D-149, reduced chemical discharges to process sewers, Richland, Washington	3.150	3.150	3.150		3.150	0.000
87-D-150, radioactive liquid effluent treatment facility, partial design only, Richland, Washington	4.000	4.000	0.000	-4.000	4.000	0.000
87-D-152, environmental protection plantwide, Savannah River, South Carolina	1.500	1.500	0.000	-1.500	1.500	0.000
87-D-156, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina	5.000	0.000	0.000		0.000	-5.000
87-D-159, environmental, health, and safety improvements, Phase I, Feed Materials Production Center, Fernald, Ohio	10.000	10.000	10.000		10.000	0.000
86-D-146, general chemical discharges, various locations	(0.000)	(0.000)	(-3.150)	(-3.150)	(0.000)	(0.000)
86-D-149, productivity retention program, Phase I, various locations	71.625 (76.225)	65.625	71.625	6.000	42.625	-29.000
86-D-150, in-core neutron monitoring system, N reactor, Richland, Washington	2.760 (2.090)	2.760	2.760		2.760	0.000
86-D-151, PUREX electrical system upgrade, Richland, Washington	3.780 (3.900)	2.480	3.780	1.300	2.480	-1.300
86-D-152, reactor electrical distribution system, Savannah River, SC	8.410 (7.700)	8.410	8.410		5.410	-3.000
86-D-153, additional line III furnace, Savannah, River, South Carolina	7.605 (7.300)	7.605	7.605		7.605	0.000
86-D-154, effluent treatment facility, Savannah River, South Carolina	15.650	15.650	0.000	-15.650	15.650	0.000
86-D-156, plantwide safeguards systems, Savannah River, South Carolina	13.610 (13.900)	13.610	13.610		8.550	-5.060
86-D-157, hydrofluorination system - FB-line, Savannah River, South Carolina	2.310 (2.510)	0.000	2.310	2.310	0.000	-2.310
85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho	36.530 (35.000)	32.430	36.530	4.100	32.430	-4.100
85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio	23.500	23.500	23.500		21.000	-2.500
85-D-145, fuel production facility, Savannah River, SC	33.500 (35.500)	27.500	33.500	6.000	27.500	-6.000
84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina	7.515 (14.650)	5.765	7.515	1.750	7.515	0.000

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Plant and Capital Equipment (continued)						
MATERIALS PRODUCTION, continued						
84-D-135, process facility modifications Purex, Richland, Washington	34.475 (35.000)	24.475	34.475	10.000	24.475	-10.000
84-D-137, Facility security systems upgrade, IFPF, INEL, ID	(.300)					
84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee	1.000 (3.000)	0.500	1.000	0.500	1.000	0.000
82-D-124, restoration of production capabilities, Phases II, III, IV and V, various locations	3.511 (7.811)	3.511	3.511		3.511	0.000
Total, Materials Production (Appropriation Request)	325.411 (343.666)	284.571	299.261	14.690	253.141	-72.270
DEFENSE WASTE AND BYPRODUCTS MANAGEMENT						
87-D-171, General plant projects, interim waste operations and long-term waste management technology, various locations	26.535	24.535	26.535	2.000	24.535	-2.000
87-D-172, WESF K-3 filter upgrade, Richland Washington	0.500	0.500	0.500		0.500	0.000
87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington	2.800	2.800	2.800		2.800	0.000
87-D-174, 241-AQ tank farm, Richland, Washington	2.100	2.100	2.100		2.100	0.000
87-D-175, steam system rehabilitation, Phase I, Richland, Washington	0.900	0.900	0.900		0.900	0.000
87-D-177, test reactor area liquid radioactive waste cleanup system, phase III, Idaho National Engineering Laboratory (INEL), Idaho	0.700	0.700	0.700		0.700	0.000
87-D-180, burial ground expansion, Savannah River, South Carolina	6.300	2.000	6.300	4.300	2.000	-4.300
87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina	1.360	0.960	1.360	0.400	0.960	-0.400
86-D-172, B-plant F-filter, Richland, WA	2.949 (3.000)	2.949	2.949		2.949	0.000
86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio	9.872 (10.000)	8.072	9.872	1.800	8.072	-1.800
86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory (INEL), Idaho	7.258 (7.300)	5.258	7.258	2.000	5.258	-2.000
85-D-157, Seventh calcined solids storage fac, INEL, ID	(.800)					
85-D-158, central warehouse upgrade, Richland, Washington	1.044 (1.300)	1.044	1.044		1.044	0.000
85-D-159, new waste transfer facilities H-area, Savannah River, S.C	7.318 (8.200)	4.118	7.318	3.200	4.118	-3.200
85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory (INEL), Idaho	2.703 (2.750)	2.703	2.703		2.703	0.000
82-N-103, Waste handling and isolation facs, Richland, WA	(2.000)					
81-T-105, defense waste processing facility, Savannah River, S.C	123.967 (135.000)	123.967	123.967		123.967	0.000
Total, Defense Waste & Byproduct Mgmt. (Appropriation Request)	196.306 (213.845)	182.606	196.306	13.700	182.606	-13.700

Fiscal Year 1987 Department of Energy National Security Programs
[Amounts in millions of dollars]

Program	FY 1987 Authorization Request	House Passed S. 2623	Senate Passed S. 2623	Difference (Senate Minus House)	Conference Agreement	Conference Change from Request
Plant and Capital Equipment (continued)						
VERIFICATION AND CONTROL TECHNOLOGY						
85-D-171, space science laboratory, Los Alamos, New Mexico	2.000	2.000	2.000		2.000	0.000
(Appropriation Request)	(2.000)					
NUCLEAR SAFEGUARDS AND SECURITY	0.000	0.000			0.000	0.000
(Appropriation Request)						
86-D-186, Nuclear safeguards technology lab, LANL, NM	(1.000)					
NAVAL REACTORS DEVELOPMENT						
87-N-101, General plant projects, various locations	4.800	4.800	4.800		4.800	0.000
87-N-102, kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York	5.000	5.000	5.000		5.000	0.000
87-N-103, computation laboratory addition, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania	2.300	2.300	2.300		2.300	0.000
Total, Naval Reactors Development	12.100	12.100	12.100		12.100	0.000
(Appropriation Request)	(12.100)					
TOTAL, DOE DEFENSE ACTIVITIES PLANT CONSTRUCTION	1027.241	894.701	899.391	4.690	863.266	-163.975
(Appropriation Request)	(1158.841)					
CAPITAL EQUIPMENT						
Weapons Activities	313.370	273.570	287.870	14.300	278.000	-35.370
Inertial Confinement Fusion	9.500	9.500		-9.500	9.000	-0.500
Materials Production	126.090	110.120	126.090	15.970	107.200	-18.890
Defense Waste & Byproducts Management	37.805	35.505	37.805	2.300	35.505	-2.300
Verification and Control Technology	4.200	4.200	4.200		4.200	0.000
Nuclear Safeguards and Security	4.800	4.800	4.800		4.800	0.000
Naval Reactors Development	51.700	46.700	51.700	5.000	49.200	-2.500
TOTAL, DOE DEFENSE ACTIVITIES CAPITAL EQUIPMENT	547.465	484.395	512.465	28.070	487.905	-59.560
(Appropriation Request)	(547.465)					
Subtotal, Operating Expenses	6523.694	6080.394	6321.519	241.125	6099.819	-423.875
(Appropriation Request)	(6523.694)					
Subtotal, Plant Construction	1027.241	894.701	899.391	4.690	863.266	-163.975
(Appropriation Request)	(1158.841)					
Subtotal, Capital Equipment	547.465	484.395	512.465	28.070	487.905	-59.560
(Appropriation Request)	(547.465)					
Less, Adjustments						
General Reduction, Plant and Capital Equipment		-11.000		11.000	0.000	0.000
Undistributed Reduction			-300.000	-300.000	0.000	0.000
Prior Year Program Savings			-8.150	-8.150	0.000	0.000
Title IV--Nuclear Winter Research	0.000	2.500	0.000	-2.500	0.000	0.000
TOTAL, DOE DEFENSE ACTIVITIES	8098.400	7450.990	7425.225	-25.765	7450.990	-647.410
(Appropriation Request)	(8230.000)					

The reports by the respective Houses on the bills containing the National Defense Programs of the Department of Energy for fiscal year 1987 contained details on the budget request and policy guidance and requirements with regard to many aspects of the programs. Unless modifying language is included in this statement of managers, the report language, to include guidance, recommendations and requirements, included in both the report of the House of Representatives (H. Rept. 99-718) and of the Senate (S. Rept. 99-331) is concurred in by the conferees.

Operating expenses (section 3111)

The Senate bill would authorize $6,321.519 million for operating expenses. The House amendment would authorize $6,080.394 million for operating expenses. The conferees agreed to an authorization of $6,099.819 million for operating expenses.

Plasma separation process (PSP)

The Administration requested no funds for the Plasma Separation Process. The House amendment would authorize $17 million for the continued development and operation of the Plasma Separation Process during fiscal year 1987. The Senate bill contained no funding for PSP.

The conferees note that if funding were not provided for the continued operation of the PSP facility, substantial costs, estimated to range between $10 and $13 million, would be incurred to close out all PSP activity. The conferees also note the lack of identified requirements for the isotopes produced by the PSP.

The conferees agreed that development and operations associated with PSP should continue until the Secretary of Energy submits a report to the Committees on Armed Services of the Senate and House of Representatives that includes an analysis of future requirements for special isotopes, the means for meeting those requirements, and the Department's decision with respect to the continued operation or close out of PSP activities. In view of budgetary constraints, the conferees agreed to authorize $13 million either for continued development and operation or for close out of Plasma Separation Process activities.

Plant and capital equipment (sec. 3112)

The Senate bill would authorize $899.391 million for plant construction and $512.465 million for capital equipment. The House amendment would authorize $894.701 million for plant construction and $484.395 million for capital equipment. The conferees agreed to an authorization of $863.266 million for plant construction and $487.905 million for capital equipment.

Project 86-D-104, strategic defense facility, Sandia National Laboratory

The conferees agree to authorize $13 million for this project for fiscal year 1987 for a total project authorization of $17 million. The conferees reiterate the direction contained in the statement of managers last year that the total cost of the facility is to be shared equitably between the Department of Energy and the SDIO.

Authorization for Strategic Defense Initiative (sec. 3113)

The House amendment contained a provision (sec. 3013) that would provide that $279 million of funds authorized for operating expenses and plant and capital equipment could be used for the Strategic Defense Initiative.

The Senate bill contained a provision (sec. 3114(a)) that would provide that not more than $356 million shall be available for the Strategic Defense Initiative.

The conferees agreed to a provision that would provide that $317 million of funds authorized for operating expenses and plant and capital equipment could be used for the Strategic Defense Initiative.

Reprogramming (sec. 3121)

The House amendment contained a provision (sec. 3021) that would define and limit the authority of the Department of Energy to use funds appropriated pursuant to the various authorizations in the bill for programs in excess of certain stated amounts or for programs not previously considered by the Congress.

The Senate bill contained a similar provision (sec. 3121).

The Senate recedes.

Limits on general plant projects (sec. 3122)

The Senate bill contained a provision (sec. 3122) that would require a report to the appropriate committees of Congress if the Secretary of Energy finds that the estimated cost of a project will exceed $1.2 million.

The House amendment contained a similar provision (sec. 3022).

The House recedes.

Limits on construction projects (sec. 3123)

The House amendment contained a provision (sec. 3023) that would permit any construction project authorized by section 3012 and with a cost in excess of $5 million to be inititated and continued only so long as the estimated cost for the project does not exceed 125 percent of the higher of (1) the amount authorized for the project or (2) the most recent total estimated cost presented to the Congress as justification for such project. To exceed such limits, the Secretary of Energy must report in detail to the appropriate committees of Congress and the report must be before the appropriate committees for 30 legislative days unless before that time each such committee advises the Secretary that it has no objection to the proposed action.

The Senate bill contained a similar provision (sec. 3123).

The Senate recedes.

Fund transfer authority (sec. 3124)

The Senate bill contained a provision (sec. 3124) that would permit, subject to provisions of appropriations Acts, funds authorized to the appropriated by the bill to be transferred to other agencies of the government for performance of work for which the appropriation is made and would permit the merger of such funds with the appropriations of the agency to which they are transferred.

The House amendment contained a similar provision (sec. 3.024).

The House recedes.

Authority for construction design (sec. 3125)

The House amendment contained a provision (sec. 3025) that would permit the Secretary of Energy to use plant engineering and design funds authorized by the bill not to exceed $2 million for each project, to carry out construction design services for any construction project. Where the design cost for such planning and design project is estimated to exceed $300,000, the Secretary would be required to notify the appropriate committees of Congress at least 30 days before funds are obligated for design services.

The Senate bill contained no similar provision.

The Senate recedes.

Adjustments for pay increases (sec. 3128)

The House amendment contained a provision (sec. 3028) that would authorize such additional or supplemental appropriations as may be necessary to fund increases authorized by law for salary, pay, retirement, or other benefits for Federal employees.

The Senate bill contained no similar provision.

The Senate recedes.

Availability of funds (sec. 3129)

The House amendment contained a provision (sec. 3029) that would authorize, subject to a provision of an appropriation Act, amounts appropriated for "operating expenses" or for "plant and capital equipment" to remain available until expended.

The Senate bill contained no similar provision (sec. 3127).

The Senate recedes.

Protection of sensitive technical information (sec. 3131)

The House amendment contained a provision (sec. 3031) that would require the Secretary of Energy to consider national security, the possible release of sensitive technical information to unauthorized persons, the creation of organizational conflicts of interest, and possible adverse affects on the operation of Department of Energy military activities when deciding to assign to a contractor property rights in an invention or discovery.

The Senate bill contained no similar provision.

The conferees concluded that inventions and discoveries originating in the military activities of the Department of Energy must be carefully reviewed to ensure that assignment of property rights in such inventions and discoveries to contractors does not violate the public interest. At the same time the conferees believe that careful consideration of the matters as set out in the House amendment should not give rise to long delays in decisions by the Department of Energy regarding the assignment of property rights to contractors. The conferees agree that the Department of Energy review process should not be, nor should it be perceived to be, a disincentive to commercialization of government funded research where such commericalization meets the criteria set forth. Moreover, the conferees agree that a reasonable time for such decision should be no more than six months from the date of the request by the contractor for the assignment of such rights.

The conferees direct that the Secretary of Energy submit a report at the end of each quarter of fiscal year 1987 indicating the reasons for any decision not to assign property rights requested by the contractor and the reasons for any failure to make a decision regardng the assignment of property rights within six months.

The Senate recedes with technical amendments.

Restriction on use of funds to pay penalties under environmental laws (sec. 3132)

The Senate bill contained a provision (sec. 3131) that would prohibit the use of funds to pay a fine, forfeiture, penalty or settlement or to perform any work or services requested by another department or agency of the Federal, State or Local government for any failure by the Department of Energy to comply with an environmental requirement in its defense activities.

The House amendment contained a provision (sec. 3032) that would prohibit the use of fiscal year 1987 funds to pay a fine, for-

feiture, penalty or settlement for failure by the Department of Energy to comply with an environmental requirement in its defense activities if the Congress had denied funding for such compliance.

The conferees agreed to a provision that would prohibit use of funds to pay a fine, forfeiture, or penalty for failure by the Department of Energy to comply with an environmental requirement in its defense activities if the Congress had denied funding for such compliance.

The Senate recedes with an amendment.

Community Assistance Payments (sec. 3133)

The House amendment contained a provision (sec. 3034) that would amend section 1532 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (Public Law 99-145). The amendment would make clear that authority to make a final financial settlement with Anderson County and Roane County, Tennessee and the City of Oak Ridge, Tennessee, and to terminate all annual assistance payments made to those entities pursuant to section 71 of the Atomic Energy Community Act of 1955 does not affect any other right, function, or duty of the Secretary with respect to such Act. The amendment would further provide that the Secretary shall consider the purposes of the Atomic Energy Community Act of 1955 in continuing atomic energy defense functions of the Department of Energy.

The Senate bill contained no similar provision.

The Senate recedes.

Authority for Department of Energy contractor employees to carry firearms beyond boundaries of a DOE facility (sec. 3134)

The House amendment contained a provision (sec. 3035) that would provide authority for a contractor protective force officer to engage in hot pursuit of a suspect who may have stolen a nuclear weapon, nuclear explosive device, or special nuclear material and flees beyond the boundaries of the government facility. The section would also require the Secretary of Energy, with the approval of the Attorney General, to issue guidelines to implement the subsection.

The Senate bill contained no similar provision.

The Senate recedes.

Report on containment facilities (sec. 3135)

The Senate bill contained a provision (sec. 3133) that would require the Secretary of Energy to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the costs and effect on safety that would obtain from the construction of containment facilities for nuclear reactors of the Department of Energy as compared with the cost and effect on safety involved in the construction of a new production reactor.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Report of production reactor safety (sec. 3136)

The House amendment contained a provision (sec. 3033) that would require an independent assessment by the National Academy of Sciences of the safety of the "N" production reactor at Hanford, Washington.

The Senate bill contained no similar provision.

The Senate recedes.

Establishment of Nuclear Weapons Council (sec. 3137)

The Senate bill contained a provision (sec. 3132), titled "Implementation of the Recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management", that would establish a Joint Nuclear Weapons Council with membership drawn from the Department of Defense and the Department of Energy. The Senate provision would also abolish the Military Liaison Committee.

The House amendment contained no similar provision.

The House recedes.

Extension of date for certain contract authority (sec. 3138)

The Senate bill contained a provision (sec. 3134) that would extend the authority, from June 30, 1986 to June 30, 1996 and subject to provisions in appropriations acts, for the Department of Energy to enter into contracts with the Los Alamos School District.

The House bill contained no similar provision.

The conferees agreed to include the Senate provision and to include an extension of authority, from June 30, 1987 to June 30, 1996, for the Department of Energy to enter into contracts with Los Alamos County. The contract authority provided by the conference agreement would be subject to provisions in appropriations acts.

The House recedes with an amendment.

Undistributed reductions

The Senate bill contained a provision (sec. 3113) that would limit total authorizations for appropriations for Department of Energy national security programs to $7,425.225 million and require that necessary reductions be made in individual authorizations so that the total is not exceeded.

The House amendment contained no similar provision.

The Senate recedes.

Balanced technology initiative

The Senate bill contained a provision (sec. 3114(b)) that would provide that $34 million of funds authorized to be appropriated for operating expenses be available for research on conventional munitions at DOE laboratories.

The House amendment contained no similar provision.

The Senate recedes.

Contractor liability for claims arising out of atomic weapons testing programs

The House bill contained a provision (sec. 3037) that would provide that suits brought by veterans in connection with injuries resulting from nuclear tests be brought against the United States and that the United States be limited to the defenses normally available to a contractor. The provision would also repeal section 1631 of the fiscal year 1985 Defense Authorization Act. The Senate bill contained no similar provisions.

The conferees are most anxious that veterans with legitimate claims against the government arising from nuclear testing receive swift and fair compensation. However, the conferees were not convinced that the approach contained in section 3037 was, on balance, the appropriate remedy in view of several factors. First, the conferees were advised that the House provision would jeopardize the structure of the Federal Tort Claims Act and could threaten the viability of the *Feres* doctrine, with adverse implications for our national security. Second, it has been suggested that administrative remedies may be more appropriate and provide the opportunity for fair compensation to all injured veterans. Such remedies are in the jurisdiction of the Veterans Affairs Committees and the conferees believe that legislation dealing with veterans matters should be dealt with by the committees of jurisdiction. Third, legal remedies are primarily matters within the jurisdiction of the Committees on the Judiciary, and the conferees believe that legislation dealing with legal remedies against the government should properly be dealt with by those committees. For these reasons, the conferees agreed that section 3037 would not be included in the conference agreement.

The conferees strongly endorse the prompt consideration of legislation relating to veterans claims arising out of nuclear testing by the Committee on Veterans Affairs and/or the Judiciary.

The House recedes.

TITLE II—NATIONAL DEFENSE STOCKPILE

Legislative Provisions

Legislative provisions adopted

Extension of prohibition on reductions in stockpile goals (sec. 3201)

The Senate bill contained a provision (sec. 1101) that would prohibit the President before April 1, 1987, from reducing stockpile goals for strategic and critical materials below those in effect on October 1, 1984.

The House amendment contained no similar provision.

The conferees agreed that the National Security Council study, which recommended a dramatic reduction in stockpile goals, is inadequate for stockpile and other mobilization planning. The conferees agreed to prohibit reductions in stockpile goals until October 1, 1987 to provide sufficient time for the administration to develop and present new information in support of stockpile goals and to provide sufficient time for Congress to hold hearings on the subject.

The House recedes with an amendment.

Designation of National Defense Stockpile Manager (sec. 3203)

The House amendment contained a provision (sec. 3103) that would transfer the management and operation of the stockpile to the Secretary of Defense.

The Senate bill contained no similar provisions.

The conferees expressed frustration concerning the fragmented management of the stockpile and the absence of a single Federal official who has responsibility for stockpile matters and who is available to testisfy before Congress about the entire spectrum of the stockpile program. However the Senate conferees were not convinced that the Secretary of Defense is the most appropriate official.

The conferees agreed to a provision that would require the President to designate, not later than February 15, 1987, a single Federal official appointed by the President, with the advice and consent of the Senate, to be responsible for the management and operation of the National Defense Stockpile, including the National Defense Stockpile Transaction Fund. The conferees included the requirement that the official be a presidential appointee so that the individual could be available to testify before the Congress.

The Senate recedes with an amendment.

Extension of uses of stockpile transaction fund and codification of revolving fund provisions (sec. 3203)

The Senate bill contained a provision (sec. 1104) that would expand the use of the National Defense Stockpile Transaction Fund to allow use for transportation, storage, upgrading and studies.

The House amendment contained a similar provision (sec. 3106).

The House recedes.

Authorized disposals from National Defense Stockpile (sec. 3204)

The Senate bill contained a provision (sec. 1102) that would authorize disposals notwithstanding Section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act. The Senate bill would also authorize the disposal of quantities of 26 strategic and critical materials from the stockpile.

The House amendment had no similar provision.

The House recedes with an amendment that would authorize the disposal of quantities of 13 stockpile materials which are excess to the 1984 stockpile goals, as follows:

Antimony, 1,500 short tons; Diamonds, Industrial Stone, 1,125,000 carats; Iodine, 800,000 pounds; Mercury, 3,700 flasks; Mica, Muscovite Film, 3,000 pounds; Mica, Muscovite Splittings, 362,000 pounds; Silicon Carbide, 7,600 short tons; Silver (Coinage Program Only), 3,000,000 troy ounces; Tannin, Chestnut, 1,000 long tons; Tannin, Quebracho, 4,000 long tons; Thorium Nitrate, 10,000 pounds; Tin, 4,000 metric tons; Tungsten, 1,900,000 pounds of tungesten metal equivalent.

This authority provided is in addition to any other authority provided by law to dispose of materials from the National Defense Stockpile.

The amendment would further provide that disposal authority would be provided for fiscal year 1987, notwithstanding section 5(b)(2), to the extent that funds are obligated from the stockpile transaction fund during fiscal year 1987.

Conversion of chromium and manganese ore to high carbon ferrochromium and high carbon ferromanganese (sec. 3205)

The Senate bill contained a provision (sec. 1106) that would provide for the conversion of chromium and manganese ores currently in the stockpile to 374,000 short tons of high carbon ferrochromium and 472,000 short tons of high carbon ferromanganese over a period of seven years beginning in fiscal year 1987.

The House amendment contained no similar provision.

The House recedes.

Report on war emergency situations and mobilization requirements (sec. 3206)

The House amendment contained a provision (sec. 3104) directing the Secretary of Defense to submit an annual report detailing requirements (goals) for the national defense stockpile and national emergency planning assumptions used to determine such requirements.

The Senate bill contained no similar provision.

The conferees agreed to a provision that would require the Secretary of Defense to submit to Congress a report, by February 15, 1987, which would: describe war scenarios for total mobilization of the economy for a conventional global war of not less than three years; describe the length and intensity of each scenario; describe the military force structure to be mobilized under the scenarios; estimate the defense expenditures required for each scenario; and contain the Secretary's recommendation as to which scenario or scenarios are most appropriate for National Defense Stockpile planning.

The Senate recedes with an amendment.

Miscellaneous technical amendments (sec. 3207)

The House amendment contained a provision (sec. 3107) that would make miscellaneous technical amendments to the Strategic and Critical Materials Stock Piling Act.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authorization of appropriations

The Senate bill contained a provision (sec. 1103) that would authorize the appropriation of $120 million for the acquisition of materials for the stockpile. The provision would also direct the Administrator of the General Services to acquire not less than 30,000 kilograms of germanium during fiscal year 1987.

The House amendment contained no similar provision.

The conferees strongly support the prompt acquisition of needed materials for the stockpile, including germanium. However, the conferees agreed that existing law provided adequate authority for the acquisition of germanium and that additional legislation was unnecessary.

The Senate recedes.

Definition

The Senate bill contained a provision (sec. 1105) that would define the term "National Defense Stockpile".

The House amendment contained no similar provision.

The conferees agreed that a definition was unnecessary in the context of other conference agreements.

The Senate recedes.

Stockpile management

The House amendment contained a provision (sec. 1305) that would provide that appropriations for the operation of the stockpile be made to the Department of Defense. The provision would also grant authority for interagency agreements and provide for reimbursement of services performed by other agencies.

The Senate bill contained no similar provision.

The House recedes.

TITLE III—CIVIL DEFENSE

The President's budget request contained $126.565 for civil defense for fiscal year 1987.

The Senate bill would authorize $111.565 million for fiscal year 1987 to carry out the provisions of the Federal Civil Defense Act of 1950. The House amendment would authorize $126.565 million for this purpose. The conferees agree to authorize $120.565 million.

The conferees are extremely disappointed that the review of future civil defense policy mandated by the fiscal year 1986 Department of Defense authorization Act was not submitted to the Congress in time for the congressional review of the fiscal year 1987 budget request. Moreover, a statement of the Administration, still has not been received. The conferees expect to receive a statement of Administration policy regarding civil defense before the fiscal year 1988 budget request is considered by the Congress.

DIVISION D—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

1. AUTHORIZATION OF APPROPRIATIONS UNDER THE CHILD NUTRITION ACT OF 1966

(a) Special supplemental food program for women, infants, and children (WIC)

The Senate Bill, but not the House amendment, extends the authorization of appropriations for the Special Supplemental Food Program for Women, Infants, and Children (WIC program through fiscal year 1989 at a level of $1.57 billion for fiscal year 1986, such sums as may be necessary for fiscal years 1987 and 1988, and $1.782 billion for fiscal year 1989. [Sec. 4104.]

The House recedes.

(b) State administrative expenses (SAE)

The Senate Bill, but not the House amendment, extends the authorization of appropriations for the State Administrative Expenses (SAE) provision through fiscal year 1989. [Sec. 4103.]

The House recedes.

(c) Nutrition education and training (NET)

The Senate Bill, but not the House Amendment, extends the authorization of appropriations for the NET program (at $5 million annually) through fiscal year 1989. [Sec. 4105.]

The House recedes.

2. AUTHORIZATION OF APPROPRIATIONS UNDER THE NATIONAL SCHOOL LUNCH ACT

(a) Summer food service program

The Senate Bill, not the House amendment, extends the authorization of appropriations for the summer food service program through fiscal year 1989. [Sec. 4101.]

The House recedes.

(b) Commodity distribution program

The Senate Bill, but not the House amendment, extends authority for the commodity distribution program *through* fiscal year 1989. [Sec. 4102.]

The House recedes.

3. BASIS FOR COMMODITY ASSISTANCE

The Senate Bill, but not the House amendment, changes the dates specified in current law by which the Secretary is to make an estimate of the value of agricultural commodities to be delivered to schools and by which the Secretary must provide cash payments for any difference between the estimates of available commodities and the amount of commodity support mandate by law. Specifically, the Senate Bill requires that the Secretary make estimates for the amount of commodity support available by June 1, instead of May 15; and requires the Secretary to make cash payments for the difference between these estimates and the mandated commodity level by July 1, instead of June 15, of each school year. [Sec. 4201.]

The House recedes.

4. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS

The Senate Bill, but not the House amendment, requires that a child who is a member of a household receiving food stamps, or who is a member of an AFDC assistance unit in a State where the income standard of eligibility does not exeeed 130 percent of poverty, be served a free lunch and breakfast without further application or eligibility determinations. [Sec. 4203.]

The House recedes.

Under this amendment, a parent or guardian is still required to complete an application, the local school authorities are still required to determine the applicant's eligibil-

ity, and the Secretary, States, and local school food authorities may continue to verify the data contained in the application. However, it is the conferee's intent that the application procedure under section 109(b)(2)(B) and the eligibility determination and verification procedures under section 109(b)(2)(C) be simplified by substantially reducing the number and types of inquiries made by the applicable agency.

More specifically, indication on the application of receipt of food stamps or AFDC (under the circumstances in the amendment) shall be sufficient to satisfy the eligibility determination requirement and proof of receipt of food stamps or AFDC shall be sufficient to satisfy the verification requirement.

5. LIMITATION ON MEAL CONTRACTING

The Senate Bill, but not the House amendemnt, prohibits a school or school food authority participating in the school lunch program from contracting with food service company to provide a la carte meal service unless such company offers free, reduced-price, and full price reimbursable meals to eligible children. [Sec. 4204.]

The House recedes.

6. ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT

The Senate bill, but not the House amendment, revises the current requirement for the Secretary of Agriculture to administer directly child nutrition programs in certain schools, institutions, and service institutions by allowing the Secretary to meet this requirement by contracting with an organization to administer such programs. The direct administration of such programs by either the Secretary, or through a contract between the Secretary and an organization, is applicable to cases where such programs have been directly administered by the Secretary continuously since October 1, 1980, or where a State educational agency is prohibited by law from doing so. The Senate bill maintains current law authority for States to assume direct administration of programs. It also expands current law provisions regarding the appropriate withholding, disbursal and use of program and administrative funds in cases where the Secretary directly administers programs to include situations where the program is administered by a contracting organization. [Sec. 4207.]

The Senate bill further authorizes the Secretary of Agriculture to carry out pilot projects in three States where the Secretary is currently administering programs, to test the concept of contracting with private nonprofit and profit organizations to administer the child nutrition programs that are currently administered by the Secretary.

The House recedes.

The conferees intend that the Comptroller General monitor the making and implementation of contracts under the pilot projects and make a report to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Education and Labor concerning the pilot projects. The conferees express concern with the continued reluctance of some States to operate various child nutrition programs. The conferees believe that States should assume operation of these programs and urge States to do so.

(NOTE.—The Department of Agriculture has reported that 19 States do not directly administer one or more of the child nutrition programs, thus requiring the Secretary to operate such programs in those States. According to the Department, those States are: Alaska, California, Colorado, Delaware, Georgia, Hawaii, Kansas, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Oregon, South Carolina, Tennessee, Virginia, Washington, and Wyoming.)

7. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

The Senate bill, but not the House amendment, raises from $1,500 to $2,000 the maximum tuition that a private school may charge and be eligible to participate in federally-assisted school lunch and child nutrition programs—effective October 1, 1986. The Senate bill also indexes this limit to inflation by requiring an annual adjustment each July 1, beginning July 1, 1988, to reflect changes in the Consumer Price Index for All Urban Consumers for the most recent 12-month period for which data are available. [Sec. 4205.]

The House recedes.

8. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

The Senate Bill, but not the House amendment, deletes the authorization of appropriations for the higher Federal payment required for free and reduced-price meals served in Department of Defense Overseas Dependents' Schools when the cost of such meals is higher than the amount provided by the regular free and reduced-price meal reimbursement rates. The Senate Bill retains the authorization of appropriations for payment of the administrative costs of providing school lunches and breakfasts in such schools. [Sec. 4208.]

The House recedes.

9. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM

The Senate Bill, but not the House amendment, extends eligibility for the special milk program to kindergarten children in schools which are currently ineligible to participate in the program because the schools participate in the school lunch or breakfast program. [Sec. 4209.]

The House recedes.

NOTE.—The Senate Bill adopts an amendment to extend eligibility for the special milk program to kindergarten children who do not have access to either the school breakfast or school lunch program—effective October 1, 1986 [Sec. 4209.]

(The conferees intend that children attending partial day kindergartens (so-called "split sessions") and not having access to either the school breakfast or school lunch programs currently operating in schools they attend be permitted to participate in the special milk program. Full day kindergartens and other programs where children receive either breakfast or lunch would continue to be ineligible to participate in the special milk program.)

10. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN

(a) Additional breakfast reimbursement

The Senate Bill, but not the House amendment, provides an additional 3 cents in cash reimbursement for each breakfast served in schools, child care centers, and family day care homes. Additionally, the Senate Bill provides that, subject to availability, the Secretary shall make available at least 3 cents per breakfast in commodities acquired by the Secretary or the Commodity Credit Corporation. These provisions are effective October 1, 1986. [Sec. 4210.]

The conferees emphasize that commodities to be made available under this provision are to include only those that the Secretary has acquired for price support and surplus removal reasons, and that are not necessary for other domestic and foreign support programs or activities. This commodity support provision does not require the Secretary to make purchases for the specific purposes of meeting the needs of breakfast programs.

The House recedes.

The conferees intend that both the cash and commodity assistance be used to supplement existing levels of Federal, State, and local assistance. The conferees expect the Secretary to ensure a maintenance of effort by State and local sources so that the additional Federal reimbursements are not used to displace existing levels of support.

The conferees further intend that eligible institutions would not be required to accept any or all of the full value of commodities. In order to minimize reporting and record-keeping burdens, the Department would not require a separate accounting of commodities ordered for use in breakfasts.

(b) Nutrition requirements for breakfasts

The Senate Bill, but not the House amendment, requires the Secretary of Agriculture to review and revise the nutritional requirements for breakfasts to improve their nutritional quality and to promulgate regulations implementing such revisions within 180 days after enactment of the bill. In reviewing the program requirements, the Secretary is to take into consideration the findings of the National Evaluation of School Nutrition Programs, the amount of additional cash and commodity support provided, and the need to provide increased flexibility in meal planning to local school food authorities. [Sec. 4210.]

The House recedes.

11. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM

The Senate Bill, but not the House amendment, permits local school food authorities to allow students to refuse up to one item in each school breakfast. Any such refusal may not affect the charge to students, or the amount of Federal reimbursement for the breakfast. [Sec. 4211.]

The House recedes.

12. STATE ADMINISTRATIVE EXPENSE STAFFING STANDARDS

The Senate Bill, but not the House amendment, deletes the requirement that the Secretary of Agriculture develop State staffing standards for the administration of the school lunch, school breakfast, child care food, and special milk programs. [Sec. 4212.]

The House recedes.

13. CHILD CARE FOOD PROGRAM

The Senate Bill, but not the House amendment, specifies that States are not required to provide a hearing to a child care food program institution when State action is taken on the basis of a Federal audit determination. [Sec. 4401.]

The House recedes.

The Senate Bill permits a hearing at the Federal level in cases where the State does not provide such a hearing. [Sec. 4401.]

14. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(a) Costs for nutrition services and administration

The Senate Bill, but not the House amendment, maintains the current law definition of the types of costs for which WIC administrative funds are to be used, but

changes the term "administrative costs" to "costs for nutrition services and administration" in this definition. [Sec. 4301.]

The Senate Bill, but not the House amendment, also deletes the costs of warehouse facilities from the list of items defining the types of costs for which WIC administrative funds are to be used. [Sec. 4301.]

The House recedes.

(b) State eligibility for WIC funds

The Senate Bill, but not the House amendment, makes a State ineligible to participate in the WIC program if State or local sales taxes are collected on food purchased under the WIC program.

The Senate Bill also makes the State sales tax provision applicable to a State beginning with the fiscal year commencing after the end of the first regular session of the State legislature after enactment of the bill. [Sec. 4302.]

The House recedes.

In order that States may have adequate time to take appropriate legislative action, the Conferees intend that this provision will become effective the first fiscal year beginning after the end of the first regular session of the State legislature following enactment. [Sec. 4302.]

(c) Participation report

The Senate Bill, but not the House amendment, requires the Secretary of Agriculture to report biennially to Congress on the income and nutritional risk characteristics of participants; migrant participation in the program; and such other matters relating to participation in the program as the Secretary deems appropriate. The Senate Bill also authorizes the Secretary to use WIC evaluation funds to pay for the costs of preparing this report. [Sec. 4303.]

The House recedes.

(d) Improving State agency administrative systems

The Senate Bill, but not the House amendment, adds the provision of technical assistance to improve State agency administrative systems to the types of activities the Secretary of Agriculture may conduct with WIC evaluation funds. [Sec. 4309.]

The House recedes.

(e) Plan of operation and administration

The Senate Bill, but not the House amendment, deletes from the current list of State plan requirements the following: (1) a description of how administrative funds are distributed and budgeted; (2) a description of methods for determining nutritional risk; (3) staffing patterns; (4) nutrition education goals; (5) plans for informing persons of eligibility; (6) a copy of the State procedure manual; (7) a list of all areas and special populations in need; and (8) plans to initiate or expand operations in areas most in need.

The Senate Bill, also adds new requirements that the State plan include a plan to provide program benefits to underserved areas if sufficient funds are available, to provide program benefits to those most in need, and to enroll eligible women in the early months of pregnancy.

The Senate Bill, also adds new requirements that a State plan describe how both the Aid to Families with Dependent Children (AFDC) and maternal and child health care programs are coordinated with WIC program operations. The Senate Bill also allows States to submit only those portions of their State plans which differ from previous years. [Sec. 4304.]

The House recedes.

(f) Public comment

The Senate Bill, but not the House amendment, deletes specific State requirements for public hearings on the State plan one month prior to submission to the Governor, and replaces this with a general requirement that State agencies establish procedures to assure that the public has an opportunity to comment on the development of the State plan. [Sec. 4305.]

The House recedes.

(g) Availability of program benefits

The Senate Bill, but not the House amendment, maintains the requirement for State agencies to publicize the WIC program and distribute information to agencies and offices that deal with potentially eligible persons on an annual basis. It also adds a requirement that State and local agencies distribute information in a manner designed to provide such information to potentially eligible persons most in need of benefit. [Sec. 4306.]

The House recedes.

The conferees, in providing for a multiyear reauthorization of the Special Supplemental Food Program for Women, Infants, and Children (WIC), reaffirm their commitment and support for this important health and intervention and nutrition program.

The Department of Agriculture has established through regulations nutritional risk criteria for participation in the WIC program. These regulations require that, when vacancies occur after a local agency has reached its maximum participation level, first priority be assigned to providing WIC benefits to pregnant women, breastfeeding women, and infants at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented related medical conditions that demonstrate need for supplemental foods. These are the recipients for whom the WIC program is the most effective and who should be given greatest priority.

(h) Repayment of benefits by recipients

The Senate Bill, but not the House amendment, requires a State agency to recover the cash value of program benefits overissued to a family as a result of misrepresentation by a member of such family, unless the State agency determines, in accordance with standards developed by the Secretary of Agriculture, that the recovery of such benefits would not be cost effective. The Senate Bill also requires that a State agency recover from a person making an intentional misrepresentation the amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective. [Sec. 4307.]

The House recedes.

The conferees intend that this provision impose no new requirement on the States, and that State agencies would be expected to provide a hearing for the recipient where necessary, and also to provide procedural protections, including proper notice and the opportunity for the recipient to be heard.

(i) Priority funds for WIC migrant programs

The Senate Bill, but not the House amendment, requires that not less than nine-tenths of 1 percent of the funds appropriated for the WIC program be first made available for services to eligible migrant populations and that migrant services be provided in a manner consistent with a State's priority system for participation. Additionally, the Senate Bill provides that to the extent possible, accountability for migrant services be conducted under regulations in effect on the date of enactment of the bill. [Sec. 4308.]

The House recedes.

(j) Paperwork reduction

The Senate Bill, but not the House amendment, requires the Secretary of Agriculture to keep to a minimum the documentation that States provide to be exempted from the requirement that not less than one-sixth of their WIC administrative funds be used for nutrition education activities. [Sec. 4310.]

The House recedes.

(k) Allocation standards

The Senate Bill, but not the House amendment, deletes the requirement that a State agency satisfy allocation guidelines established by the Secretary of Agriculture when distributing administrative funds to local agencies under allocation standards developed by the State agency in cooperation with local agencies. The Senate Bill also deletes the requirement that the State allocation standards be included in the required State plan of operation and administration. [Sec. 4311.]

The House recedes.

(l) Advance payments

The Senate Bill, but not the House amendment, allows instead of requires, State agencies to forward advance administrative funds to local agencies initiating WIC program operations. [Sec. 4312.]

The House recedes.

(m) Expenditure of funds for the special supplemental food program

The Senate Bill, but not the House amendment, allows a State to use up to 1 percent of the amount of funds allocated to the State for supplemental foods in a fiscal year to cover expenses incurred for supplemental foods in the preceding fiscal year, and specifies that this provision is not to apply to appropriations made before enactment of the bill. The Senate Bill further allows a State agency to keep up to 1 percent of the amount of the funds allocated to the agency in a fiscal year for use during the subsequent fiscal year, and specifies that use of such funds in a subsequent year may not affect the amount of funds allocated to the State agency for that year. [Sec. 4313.]

The House recedes.

The conferees do not intend that States overspend or underspend their allocations year after year. Rather, it is the intent of the provision that States should use the provision as a tool to enable the States to spend as close to 100 percent of their respective allocation as possible. Funds available for carryover to the next fiscal year are available for food and administrative expenses, while funds used to cover expenses for previous year costs are only applicable for food costs.

15. NUTRITION EDUCATION AND TRAINING PROGRAMS

The Senate Bill, but not the House amendment, lowers from $75,000 to $50,000 the minimum grant provided to States for the nutrition education and training programs. [Sec. 4402.]

The House recedes.

(NOTE.—The Senate Bill provision reflects language included in the fiscal year 1982 appropriations law (P.L. 97-370) that perma-

nently lowered the minimum grant amount a State could receive from $75,000 to $50,000. This change followed the enactment of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, which reduced the authorization for annual NET grants from $15 million to $5 million, but did not lower the $75,000 minimum grant States could receive if their allocation did not provide that amount. State grant allocations are based on student enrollment. Had the fiscal year 1982 appropriations law not reduced the minimum grant amount, States with small student enrollments which were receiving the minimum $75,000 grants would have continued to receive that amount while other States with larger student enrollments would have had to bear the full loss of funding resulting from P.L. 97-35).

16. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE

(a) Pilot projects

The Senate Bill, but not the House amendment, references section 1581 of Pubic Law 99-198, the Food Security Act of 1985, with respect to the ability of school districts that participated in the pilot project on cash or commodity letters of credit in lieu of commodities to continue to receive entitlement commodity support in this alternative form through the school year ending June 30, 1987. [Sec. 4403].

The House recedes.

(NOTE. Section 1581 also provides that such school districts can receive bonus commodities to the same extent as other school districts, but only in the form of commodities (no cash or letter of credit).)

(b) Compensation to pilot projects

The Senate Bill, but not the House amendment, requires the Secretary of Agriculture to provide cash compensation, subject to availability of funds, to school lunch pilot project school districts for losses they incurred as a result of a change in the methodology used to conduct the study on cash or commodity letters of credit in lieu of commodities during the school year ending June 30, 1983. The Comptroller General is to be consulted with respect to the accounting procedures used to determine such losses. The total authorization of appropriations for this provision is limited to $50,000. [Sec. 4403.]

The House recedes.

(NOTE.—The change in methodology was related to a change in the form of bonus commodity assistance offered to the schools participating in the pilot project during the 1982-83 school year.)

17. NATIONAL COMMODITY PROCESSING SYSTEM

(a) Extension

The Senate Bill, but not the House amendment, references section 1114(a)(2) of the Agriculture and Food Act of 1981, as amended by Public Law 99-198, with respect to processing agreements. (Sec. 4404.)

The House recedes.

(NOTE.—Public Law 99-198, the Food Security Act of 1985, contains the same provision except that it is effective through June 30, 1987.)

(b) Annual settlement of accounts

The Senate Bill, but not the House amendment, references section 1114(a)(2) of the Agriculture and Food Act of 1981, as amended by Public Law 99-198, with respect to annual settlement of accounts. [Sec. 4404.]

The House recedes.

(NOTE.—Public Law 99-198 contains the same provision except that it requires that private companies annually settle accounts in order to be eligible to enter into and continue agreements with the Secretary. Section 1114(a)(2) of the Agriculture and Food Act of 1981, as amended by Public Law 98-198, requires private companies participating in processing agreements to annually settle all accounts with the Secretary and appropriate State agencies regarding commodities processed under such agreements in order to enter into and continue agreements with the Secretary.)

18. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE

The Senate Bill, but not the House amendment, requires that schools participating in the school lunch program offer whole milk as a beverage, along with such other forms of milk as the Secretary might require to meet the nutritional requirements of the program. [Sec. 4202.]

The House recedes.

19. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS

The Senate Bill, but not the House amendment, contains provisions for local education agencies to use school lunch program facilities, equipment, and personnel to support a nonprofit nutrition program for the elderly. [Sec. 4206.]

The House recedes.

20. The Senate Bill, but not the House amendment, intends that the provisions of the bill take effect as follows:

Section No. and provision	Effective date
4101—Summer food service program for children.	Enactment.
4102—Commodity distribution program	Enactment.
4103—State administrative expenses	Enactment.
4104—Special supplemental food program for women, infants, & children.	Enactment.
4105—Nutrition education and training program	Enactment.
4201—Basis for commodity assistance	Enactment.
4202—Inclusion of whole milk as a school lunch beverage.	July 1, 1986.
4203—Automatic eligibility for certain programs	July 1, 1986.
4204—Limitation on meal contracting	July 1, 1986.
4205—Change in tuition limitation for private schools.	October 1, 1986.
4206—Use of school lunch facilities for elderly programs.	Enactment.
4207—Pilot projects for administration of child nutrition programs by contract or direct disbursement.	Enactment.
4208—Department of Defense overseas dependent's schools.	Enactment.
4209—Restoration of certain kindergartens to the special milk program.	October 1, 1986.
4210—Improvement of breakfast program meal pattern.	October 1, 1986.
4211—Extension of offer versus serve provision to the school breakfast program.	Enactment.
4212—Staffing standards	Enactment.
4301—Costs for nutrition services and administration.	Enactment.
4302—State eligibility for WIC funds	The first fiscal year beginning after the end of the first regular session of the State legislature following the date of enactment of this Act.
4303—Participation report	Enactment.
4304—Plan of operation and administration	Enactment.
4305—Public comment	Enactment.
4306—Availability of program benefits	Enactment.
4307—Repayment of certain benefits by recipients.	October 1, 1986.
4308—Priority funds for WIC migrant programs	October 1, 1986.
4309—Improving State agency administrative systems.	Enactment.
4310—Paperwork reduction	Enactment.
4311—Allocation standards	Enactment.
4312—Advance payments	October 1, 1986.
4313—Availability of funds (WIC)	Enactment.
4401—Hearings on Federal audit actions under the child care food program.	Enactment.
4402—Basis for nutrition education grants	Enactment.
4403—Extension of alternative means of assistance.	Enactment.
4404—National donated commodity processing programs.	Enactment.
4501—Obsolete provisions	Enactment.
4502—Obsolete references to Health, Education, and Welfare.	Enactment.
4503—Conforming amendments	Enactment.

The House recedes.

21. TECHNICAL AND CONFORMING AMENDMENTS

(a) The Senate Bill, but not the House amendment, repeals the misdesignated section 22 in the National School Lunch Act (Study of Menu Choice) as an obsolete provision. [Sec. 4501.]

The House recedes.

(b) The Senate Bill, but not the House amendment, strikes out "Health, Education, and Welfare" each place it appears in sections 4(a), 17(e)(2), 17(k)(L) and (2), and 19(d)(2) and (3) of the Child Nutrition Act of 1966, and inserts in lieu thereof "Health and Human Services". [Sec. 30(b).]. The Senate Bill also makes the same change to sections 17(b)(6) and 17(b)(13) of the Child Nutrition Act of 1966 and to section 17(a) of the National School Lunch Act. [Sec. 4502.].

(c) The Senate Bill, but not the House amendment, strikes out "Office of Education of the Department of Health, Education, and Welfare, and inserts in lieu thereof "Department of Education" in section 19(j)(3) of the Child Nutrition Act of 1966. [Sec. 4502.]

The House recedes.

(d) The Senate Bill, but not the House amendment, redesignates section 19(j) of the Child Nutrition Act of 1966 is proper alphabetical sequence as section 19(i). [Sec. 4503.]

The House recedes.

(e) The Senate Bill, but not the House amendment, defines the Secretary to mean the "Secretary of Agriculture". [Sec. 4503.]

The House recedes.

22. OBSOLETE PROVISIONS AND REFERENCES

(a) The Senate Bill, but not the House amendment, repeals sections 18 (Nutrition Program Staff Study) and 19 (Appropriations for the Trust Territory of the Pacific Islands) of the National School Lunch Act and deletes the reference to section 19 in section 3 of such Act. [Sec. 4501.]

The House recedes.

(b) The Senate Bill, but not the House amendment, redesignates sections 20, 12, and 22 of the National School Lunch Act as sections 18, 19, and 20, respectively, to conform to the Senate amendment's repeal of sections 18 and 19, and conforms references to section 20 in current law as section 19 accordingly. [Sec. 4501.]

The House recedes.

(c) The Senate Bill, but not the House amendment, deletes the provision and reference in section 20 of the National School Lunch Act relating to the authorization for the Secretary of Agriculture to conduct pilot projects during the 1979-80 school year to determine the feasibility, cost, and consequences of providing lunches free to all children. [Sec. 4501.]

The House recedes.

From the Committee on Armed Services for consideration of the entire Senate bill and House amendments (unless otherwise restricted):

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
SAMUAL S. STRATTON,
BILL NICHOLS,
DAN DANIEL,
G.V. MONTGOMERY,

PAT SCHROEDER,
BEVERLY BYRON,
NICK MAVROULES,
EARL HUTTO,
IKE SKELTON,
DAVE MCCURDY,
RICHARD RAY,
JOHN SPRATT,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
MARJORIE S. HOLT,
ELWOOD HILLIS,
ROBERT E. BADHAM,
BOB STUMP,
JIM COURTER,
LARRY J. HOPKINS,
BOB DAVIS,

From the Permanent Select Committee on Intelligence, solely when differences regarding intelligence-related activities are under consideration:

LEE H. HAMILTON,
LOUIS STOKES,
DICK CHENEY,

From the Committee of Foreign Affairs, solely for the consideration of sections 205(f), 952, 1205-1209, 1214-1217, 1228, 1231, and 1233 of the Senate bill and section 1024 and 1041 of the House amendments:

DANTE B. FASCELL,
LEE H. HAMILTON,
GUS YATRON,
STEPHEN J. SOLARZ,
BENJAMIN A GILMAN,

Solely for the consideration of section 1032 of the House amendments and modifications committed to conference:

GUS SAVAGE,

Solely for the consideration of sections 109, 203, 205(a)(1), 1210, 1230, and 3114(a) of the Senate bill and sections 123, 128, 208, 215, 1061, 3013, and 3036 of the House amendments:

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
PAT SCHROEDER,
BEVERLY BYRON,
NICK MAVROULES,
DAVE MCCURDY,
JOHN SPRATT,
GEORGE E. BROWN, JR.,
RICHARD A GEPHARDT,
VIC FAZIO,
THOMAS J. DOWNEY,
EDWARD MARKEY,
WM L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
MARJORIE S. HOLT,
ROBERT E. BADHAM,
JIM COURTER,
ROBERT J. LAGOMARSINO,
HENRY J. HYDE,

Solely for the consideration of title IX of division A of the Senate bill and sections 213, 1025, 1026, 1048, and title IX of division A of the House amendments:

GERALD SOLOMON,
NICHOLAS MAVROULES,
CHARLES E. BENNETT,
DAVE MCCURDY,
DENNIS M. HERTEL,
NORMAN SISISKY,
JOHN SPRATT,
PAT SCHROEDER,
BARBARA BOXER,
RON WYDEN,
MEL LEVINE,
GERRY SIKORSKI,
JOHN BRYANT,
JIM COURTER,
WM L. DICKINSON,
BOB DAVIS,
JOHN R. KASICH,
BOB STUMP,

Solely for the consideration of section 1002 of the Senate bill and section 2715 of the House amendments:

MELVIN PRICE,
RONALD V. DELLUMS,

From the Committee on Education and labor, solely for the consideration of section 1002 of the Senate bill and section 2715 of the House amendments:

GUS HAWKINS,
AUSTIN J. MURPHY,
WILLIAM CLAY,
PAT WILLIAMS,
ALTON R. WALDON,

From the Committee on Education and Labor solely for the consideration of division F of the Senate bill and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
RICK BOUCHER,
CARL C. PERKINS,
JIM JEFFORDS,
BILL GOODLING,
ROD CHANDLER,
JOHN R. MCKERNAN, JR.,
HARRIS W. FAWELL,

Solely for the consideration of division B of the Senate bill and division B of the House amendments:

RONALD V. DELLUMS,
G.V. MONTGOMERY,
EARL HUTTO,
MARVIN LEATH,
DENNIS M. HERTEL,
KEN KRAMER,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,

Solely for the consideration of division D of the House amendments and modifications committed conference:

LES ASPIN,
BILL NICHOLS,
IKE SKELTON,
NICHOLAS MAVROULES,
WM. L. DICKINSON,
LARRY J. HOPKINS,
JOHN R. KASICK,

Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
DAN QUAYLE,
PETE WILSON,
JEREMIAH DENTON,
JAMES T. BROYHILL,
SAM NUNN,
GARY HART,
JIM EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,

Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHAEFER) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today and October 15.

Mr. WALKER, for 60 minutes, today and October 15.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mr. MOORHEAD, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, today.

Mr. LEACH of Iowa, for 5 minutes, today.

Mrs. BENTLEY, for 30 minutes, on October 16 and 17.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. MONTGOMERY, for 10 minutes, today.

Mr. FRANK, for 60 minutes, today.

Mr. HOYER, for 60 minutes, today.

Mr. WISE, for 30 minutes, today.

Mr. SCHUMER, for 60 minutes, today.

Mr. BERMAN, for 60 minutes, today.

Mr. BRYANT, for 60 minutes, today.

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. MOORHEAD, for 60 minutes, on October 15.

Mr. DREIER of California, for 60 minutes, on October 15.

(The following Member (at the request of Mr. WALKER) to revise and extend his remarks and to include extraneous material:)

Mr. WISE, for 60 minutes, on October 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDWARDS, on H.R. 5540, in the House today.

(The following Members (at the request of Mr. SCHAEFER) and to include extraneous matter:)

Ms. SNOWE.

Mr. GILMAN in three instances.

Mr. SCHUETTE.

Mr. MILLER of Ohio, in three instances.

Mr. SHUMWAY.

Mr. CLINGER.

Mr. KEMP.

Mr. SMITH of New Jersey.

Mr. FRENZEL in five instances.

Mr. LUNGREN.

Mr. GEKAS.

Mr. LOTT.

Mr. BATEMAN.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. BRYANT.
Mr. VENTO in two instances.
Mr. MONTGOMERY.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. DOWNEY of New York in three instances.
Mr. KANJORSKI in three instances.
Mr. COLEMAN of Texas.
Mr. SKELTON.
Mr. BENNETT.
Mr. LEHMAN of California.
Mr. LEVINE of California.
Mr. MILLER of California.
Mr. WYDEN in two instances.
Mr. FEIGHAN.
Mr. DINGELL.
Mr. FASCELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2534. An act to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and for other purposes, to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1593. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, AZ.

H.R. 2092. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes.

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, MT.

H.R. 3168. An act to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available date on the geographic distribution of Federal funds, and for other purposes.

H.R. 4492. An act to permit the transfer of certain airport property to Algona, IA.

H.R. 4712. An act to provide for the restoration of the fishery resources in the Klamath River basin, and for other purposes.

H.R. 4759. An act to authorize appropriations for fiscal year 1987 for intelligence and intelligence related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes.

H.R. 5316. An act to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of U.S. trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of U.S. trustees in such cases, and for other purposes.

H.J. Res: 735. Joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day".

H.J. Res: 751. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following title:

S. 593. An act for the relief of the Merchants National Bank of Mobile, AL.

S. 1124. An act to amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes.

S. 1917. An act to promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the child survival fund and for international narcotics control assistance, and for other purposes.

S.J. Res: 395. Joint resolution to designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year".

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, bills and joint resolutions of the House of the following title:

On October 10, 1986

H.J. Res. 751. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

H.J. Res. 517. Joint resolution providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

H.J. Res. 678. Joint resolution to designate October 1986 as "Crack/Cocaine Awareness Month".

H.R. 1598. An act for the relief of Steven McKenna.

H.R. 2224. An act to amend the Immigration and Nationality Act to permit nonimmigrant alien crewmen on fishing vessels to stop temporarily at ports in Guam.

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona.

H.R. 4021. An act to extend and improve the Rehabilitation Act of 1973.

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng Il Jang.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 15, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4330. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the proposed issuance of an export license for the sale to Japan of two satellites and associated services, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4331. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4332. A letter from the Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State, transmitting copies of travel advisories recently issued by the Department for Somalia and Bolivia which have security implications for Americans traveling or residing in those countries, pursuant to section 505, title V, Omnibus Diplomatic Security and Antiterrorism Act of 1986; to the Committee on Foreign Affairs.

4333. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a report of the Commission's activities during calendar year 1985 in administering the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4334. A letter from the Adjutant General, Veterans of Foreign Wars of the United States, transmitting a report and financial audit, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4335. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Fox River and tributaries, Illinois and Wisconsin; to the Committee on Public Works and Transportation.

4336. A letter from the Acting Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting the initial commodity and country allocation table showing current programing plans for food assistance for fiscal year 1987, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Conference. Conference report on H.R. 3113 (Rept. 99-991). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5492. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; with an amendment (Rept. 99-992). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 114. A bill to amend the Rules of the House of Representatives with respect to papers of the House (Rept. 99-993). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. Activities under rule XXXVI with respect to papers of the House (Rept. 99-994). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee of Conference. Conference report on H.R. 4613 (Rept. 99-995). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 590. Resolution waiving certain points of order against the conference report on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act, and against the consideration of such conference report (Rept. 99-996). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 591. Resolution waiving certain points of order against the conference report on the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, and against the consideration of such conference report (Rept. 99-997). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 592. Resolution waiving certain points of order against the conference report on the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, and against the consideration of such conference report (Rept. 99-998). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 593. Resolution waiving certain points of order against the conference report on the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes, and against the consideration of such conference report (Rept. 99-999). Referred to the House Calendar.

Mr. RODINO: Committee of Conference. Conference report on S. 1200 (Rept. 99-1000). Ordered to be printed.

Mr. ASPIN: Committee of Conference. Conference report on S. 2638 (Rept. 99-1001). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 5540: Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 5696. A bill to direct the President to support a professorship on constitutional democracy established at the Santo Tomas University in the Republic of the Philippines; and to provide for financial support for such professorship from contributions by veterans of World War II in the Pacific and veterans of the Korean and Vietnam wars; to the Committee on Foreign Affairs.

By Mr. DE LA GARZA:

H.R. 5697. A bill to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture.

By Mr. DOWNEY of New York (for himself, Mr. BENNETT, Mr. CHANDLER, Mr. FRENZEL, Mr. HORTON, Mr. LOWRY of Washington, Mr. RANGEL, and Mr. SABO):

H.R. 5698. A bill to establish more uniform eligibility and benefit levels under the Aid to Families with Dependent Children Program and the Medicaid Program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of aid families with dependent children, to provide for a reduced Federal rule with respect to certain activities, to provide fiscal capacity grants to State and localities, and for other purposes; jointly to the Committees on Ways and Means, Energy and Commerce, and Government Operations.

By Mr. LOTT:

H.R. 5699. A bill to establish a Commission on Budget Process Review, require congressional consideration of the Commission's recommendations, and to sunset the budget process if no action is taken to extend or modify it; jointly, to the Committees on Government Operations and Rules.

By Mr. MONTGOMERY (for himself, Mr. HAMMERSCHMIDT, and Mr. Nichols):

H.R. 5700. A bill to exempt retired members of the Armed Forces called to active duty and assigned to full-time duty with the American Battle Monuments Commission from grade limitations of officers of the Armed Forces; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. SENSENBRENNER:

H.R. 5701. A bill to alleviate water damage along the shoreline of the Great Lakes caused by abnormally high water levels; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

By Mr. LOWERY of California:

H. Con. Res. 410. Concurrent resolution saluting the tuna man for his contributions to the city of San Diego, the Nation, and the world; to the Committee on Post Office and Civil Service.

By Mr. JONES of North Carolina:

H. Res. 589. Resolution to provide for the concurrence of the House to the amendment of the Senate to the bill (H.R. 4531) with amendments; considered under suspension of the rules and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

482. The SPEAKER presented a memorial of the Congress of the Federated States of Micronesia, relative to the funding for the Community College of Micronesia in Pohnpei State; jointly, to the Committees on Appropriations and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. Carper:

H.R. 5702. A bill for the relief of the Knights of Pythias Hall Company of Wilmington, DE; to the Committee on the Judiciary.

By Mr. Downey of New York:

H.R. 5703. A bill for the relief of Bela Karolyi; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3521: Mr. STAGGERS and Mr. MOLLOHAN.

H.R. 4523: Mr. SWEENEY.

H.R. 4723: Mr. WEISS and Mr. KRAMER.

H.R. 4738: Mr. GEJDENSON.

H.R. 4762: Mrs. KENNELLY and Mr. FLORIO.

H.R. 4820: Mr. KOSTMAYER.

H.R. 4871: Mr. GEJDENSON.

H.R. 5091: Mr. MRAZEK, Mr. LAGOMARSINO, Mr. LIPINSKI, and Mr. CONYERS.

H.R. 5196: Mr. SHUMWAY and Mr. ECKART of Ohio.

H.R. 5499: Mr. PENNY and Mr. BREAUX.

H.R. 5530: Mr. FAZIO, Mr. TOWNS, Mr. SWIFT, Mr. ATKINS, Mr. TRAFICANT, and Mr. MORRISON of Connecticut.

H.R. 5531: Mrs. BOXER, Mr. VENTO, and Mr. CROCKETT.

H.R. 5553: Mr. DAUB, Mr. PURSELL, Mr. FEIGHAN, Ms. MIKULSKI, Mr. LIGHTFOOT, Mr. MARTINEZ, Mr. HAYES, and Mr. BOEHLERT.

H.R. 5587: Mr. SCHEUER and Mr. TOWNS.

H.R. 5599: Ms. OAKAR.

H.R. 5608: Mr. FRANK, Mr. CHANDLER, Mr. KILDEE, Mr. RIDGE, Mr. ATKINS, Mr. JEFFORDS, Mr. ACKERMAN, Mr. ECKART of Ohio, Mr. HORTON, and Mr. VOLKMER.

H.R. 5627: Mr. STRATTON, Mr. MRAZEK, Mr. MORRISON of Connecticut, and Mr. SCHEUER.

H.R. 5668: Mr. BOLAND, Mr. LEVIN of Michigan, and Mr. SEIBERLING.

H.J. Res. 244: Mr. SWINDALL.

H. Con. Res. 129: Mr. GRADISON, Mr. WALDON, and Mr. WEAVER.

H. Con. Res. 344: Mr. STENHOLM, Ms. KAPTUR, Mr. FAWELL, Mr. FAUNTROY, Mr.

LEACH of Iowa, Ms. SNOWE, Mr. MCKERNAN, and Mr. AKAKA.

H. Con. Res. 408: Mr. WALDON, Mr. MANTON, Mr. MATSUI, Mr. PEPPER, Mr. FAUNTROY, Mr. HOWARD, Mr. MRAZEK, Mr. NEAL, Mr. MINETA, Mr. SCHEUER, Mr. ACKERMAN, Mr. FISH, Mr. BOUCHER, Mrs. BURTON of California, Ms. KAPTUR, and Mr. DYMALLY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

493. By the SPEAKER: Petition of the city council of Berea, OH, relative to the U.S. Bankruptcy Act; to the Committee on the Judiciary.

494. Also, petition of Mr. Peter J. Cojanis, Washington, DC, relative to the House remaining in session until the conclusion of the summit meetings; to the Committee on Rules.

EXTENSIONS OF REMARKS

CHRIS LAPP DAY IN MONAHANS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. COLEMAN of Texas. Mr. Speaker, I am honored to announce that today has been officially proclaimed as "Chris Lapp Day" in the west Texas community of Monahans, TX. Chris Lapp is the only Texan to be selected as 1 of 10 outstanding young astronauts from the United States to participate in the Young Astronaut Exchange Program with the Soviet Union, and I am proud to bring his accomplishments to the attention of my colleagues in the U.S. House of Representatives:

MONAHANS, TX PROCLAMATION

Whereas, Chris Lapp has been selected as one of ten outstanding young astronauts from the United States, and the only Texan to be selected to participate in the Young Astronaut Exchange Program with Russia, and

Whereas, The City of Monahans is justly proud of the recent recognition bestowed upon our fine young citizen for his outstanding achievements and wish to recognize these accomplishments.

Now, Therefore, I, Richard J. Hoyer, Mayor of the City of Monahans do hereby proclaim October 14, 1986 as Chris Lapp Day in Monahans, Texas.

[From the Monahans (TX) News, Oct. 9, 1986]

TUESDAY IS CHRIS LAPP DAY, AND DEPARTURE TIME FOR RUSSIA

(By Johnie Kemp)

Tuesday, Oct. 14 is Chris Lapp Day in Monahans, according to a proclamation signed by Mayor Richard Hoyer Monday, Oct. 6. But Chris will not be here to enjoy the honor. At 7 a.m. that Tuesday he will board an American Airlines flight headed for Washington, D.C. where he will undergo two days of "protocol briefing." Two days later the fifteen-year old sophomore at Monahans High School will leave the United States for a two-week stay in the Soviet Union.

Lapp is one of ten students, the only Texan, selected from approximately 250,000 Young Astronauts across the nation who applied for the Young Astronaut Exchange Program to the U.S.S.R. In May of 1986, chapter leaders of the Young Astronaut Program received letters requesting nominations of members for the exchange program. Nominees had to be in grades 7-9, ages 13-16.

Fran Pevey, leader of Young Astronauts chapter 2594 here, took the application to Chris who filled in his achievement test scores and wrote an essay telling why he wanted to go to the Soviet Union. These were sent, along with a nomination letter from Pevey, to the Young Astronauts' headquarters in Washington.

To the surprise and delight of everyone involved. He and his mother, Anna Lapp, made a trip to New York for an appearance on "Good Morning, America." Chris says he didn't say too much on the program—he was suffering from "stage fright."

He has since overcome his shyness and has a lot to say about his upcoming trip and the Young Astronauts' program. "People tell me what I have done is amazing," Chris relates. "But I'm just doing what I love to do. The Young Astronauts' program will cause our next generation to be more orientated toward high-technology careers. It will help them to be better educated as they grow."

What Chris loves is space. He sees it as a frontier to be utilized by humans both for developing technologies and for settlements. "As long as we don't pollute it," he says.

He mentions the need of a "garbage" shuttle to collect the debris already floating around in space and to eliminate future waste material.

He wants to be an aerospace engineer and "some kind of space pilot." He sees space in such a concept that "by the time I'm retired, the planet earth will be just like the town of Monahans in the Universe."

Right now, back on the planet earth and in Monahans, Chris' main worry about his trip to the Soviet Union is losing his luggage on the 17-hour flight.

He says they have been warned to expect "below zero temperatures" and to take warm clothing. He and the other nine Young Astronauts selected for the trip, will stay in hotels in Russia.

"We have been told not to be surprised if men dressed in black suits follow us around in black Mercedes," Chris said. The entourage of Americans, including Linda Long, trip coordinator and T. Wendell Butler, executive director of the program; and an astronaut, will be kept together as a group. 'We probably won't have a chance to talk to Soviet citizens," Chris says.

The young people have been warned what to say, what not to say. "I'm not sure how they (the Russians) will act until we get over there," Chris noted. "The Young Cosmonauts' group will be coming over here in December. They're told the same things about us."

He hopes to meet the Young Cosmonaut group at Johnson Space Center when they come to the United States. He feels the exchange program is an important part of international relationships. "If young kids can get along with each other, grown people can too," he pointed out.

Chris will be taking pictures on his Russian trip with cameras and film provided by the Kodak company.

He will be taking spending money given him by the Optimist Club, the Rotary Club, friends and his grandfather. The Rotary Club has also given him a Rotary Club International bannner to take with him on the trip.

Mayor Moyer is considering sending along a supply of Monahans' water tower lapel pins. The Chamber of Commerce is donating a supply of Monahans' America t-shirts for distribution in Russia; one of them designed to fit Soviet Premier Gorbachev.

No wonder Chris is worried about losing his luggage. Good luck, Chris Lapp, and have an enjoyable and educational trip in the Soviet Union.

By the way, Anna, you and Chris can pick up the t-shirts at Anthony's anytime between now and Tuesday.

FALLEN FIREFIGHTERS HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. KANJORSKI. Mr. Speaker, few of us ever risk our lives in the course of a day's work, yet our Nation's firefighters are called upon to do just this every day of their careers. I would like to take this opportunity to draw attention to those brave men and women who have died in service to their communities.

On Sunday, October 12, the fifth annual observance to honor the career and volunteer firefighters who died while in service was held at the National Fallen Firefighters Memorial in Emmitsburg, MD. Established on October 4, 1981, this memorial was formally dedicated to the memory of the Nation's firefighters who have died in the line of duty. Among those honored this year for their brave service were Pennsylvanians John C. Edwards of the Hunlock Creek Volunteer Fire Co. and Phillip R. Eicke of the Kingston Fire Department.

To give one's life in the effort to save the lives of others is the most precious gift any of us have to give, and no memorial can ever express adequate gratitude. To the families of those who lost their lives while performing their duty as firefighters, we who have benefited from their services can bestow honor upon their names and remember their deeds. This small tribute is the least we can do.

Mr. Speaker, we too often fail to recognize the everyday bravery our Nation's firefighters exhibit in their efforts to save lives from fires. It is an honor for me to bring to our attention the deeds of the fire companies which serve communities across our Nation.

FOR THE RELIEF OF BELA KAROLYI

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. DOWNEY of New York. Mr. Speaker, today I have introduced a private bill for the relief of Mr. Bela Karolyi, the distinguished gymnastics coach who, among many other accomplishments, was Mary Lou Retton's coach.

Mr. Karolyi defected to the United States from his native Romania in April 1981, with his

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

wife Marta. Their daughter Andrea followed them to the United States later that year. Mr. Karolyi and his wife initially took positions at the University of Oklahoma and then moved on to a private gymnastics club in Houston.

Bela Karolyi has coached a whole new generation of young gymnasts and is widely credited with contributing to the United States success at the Los Angeles Olympics.

I have introduced this bill, Mr. Speaker, in order to make it possible for Mr. Karolyi to become an American citizen in time to serve as the coach for the gymnastics team which will represent the United States at the 1988 Olympics in Seoul. Mr. Karolyi is, at the present time, a resident alien in the United States, a status he has enjoyed since October 1983. Under normal circumstances, he would be eligible for citizenship 1 month after the 1988 Olympics.

Mr. Karolyi is unsurpassed in his chosen field. He has contributed a great deal to the United States already—as a coach and a teacher, and as a businessman. Passage of this bill would allow him to contribute his extensive talents to the U.S. Olympic team.

H.R. —

A bill for the relief of Bela Karolyi

Be it enacted by the Senate and House of Representatives, of the United States of America in Congress assembled, That Bela Karolyi—

(1) shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States, and

(2) notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act,

if he is otherwise eligible for naturalization under the Immigration and Nationality Act and files an application for naturalization under that Act within two years after the date of the enactment of this Act.

DRUG ABUSE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. WYDEN. Mr. Speaker, we are all concerned about drug abuse and its effects on our children. We must teach our children about the dangers of drug abuse and how to say "no" to drugs. And, by encouraging youngsters to say no to drug use, we also encourage them to say "yes" to becoming good citizens. I would like to share the following essays, written by school children in my Oregon district. The essays are a response to the questions "What would you do if offered drugs" and "As a good citizen, how can you help your community."

DRUG ESSAY CONTEST

(By Rob Carmichael, Lake Grove Elementary School, Lake Oswego, OR)

What I would do if offered drugs: What would you do if offered drugs? Would you boldly say no? Reluctantly say yes? Or answer maybe later, with a fervent hope that you won't have to decide that again? Speak out and say no. I would. A friend that offers you drugs isn't really a friend at all.

(By Tiffany Core, Lake Grove Elementary School, Lake Oswego, OR)

As a good citizen, how I can help my community: In this community a lot of things are going on that I don't particularly like. People aren't very nice to each other. They are always putting people down, swearing, talking behind someone's back, or getting someone into drugs. All of this is very inconsiderate, and I think that I can help by being a good example.

(By Lincoln Grimes, McCarthy Middle School, Gresham, OR)

What I would do if offered drugs: If I were offered drugs, I would flatly refuse. I feel that misused drugs are extemely harmful. I feel so strongly that even if people constantly asked me, tried to bribe me, trick me, or threaten me, I would still refuse. Drugs can affect your mind and your body.

As a good citizen, how I can help my community: I think that I could help my community in many ways. Cleaning up my neighborhood would definitely help. Trying to help stop pollution in nearby rivers, streams, etc., would also help. Visiting a retirement home would help the community and doing yardwork for elderly people would help extremely.

(By Allison Jamieson, River Grove Elementary School, Lake Oswego, OR)

What I would do if offered drugs: If I were offered drugs, I would definitely say "no!" If the drug dealer kept bothering me I would walk away from them. After that happened, I would tell a responsible adult, like my mom, and have them go and tell the police. Drugs don't make anything better—just worse.

As a good citizen, how I can help my community: As a good citizen, I would take classes about drugs and spread the news to my friends. I care about my friends and I think drugs are a waste of time, money, and life. A big waste of life.

(By Leslie McKay, Concord Elementary School, Milwaukie, OR)

What I would do if offered drugs: I would say, "No!" I've got good friends, a loving family, and a great life. Drugs turn winners into losers. They kill brain cells that can't be replaced. Why waste all that money for so-called satisfaction when people could be helped who need food, medical care, and homes.

As a good citizen, how I can help my community: As a good citizen I can help by reporting any suspicious actions I see. I can make sure I'm not involved with people on drugs. I can participate and assist in anti-drug programs.

COTRAVELERS DESCRIBE FLORIO SOVIET TRIP

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FLORIO. Mr. Speaker, my recent trip to the Soviet Union not only provided me with an excellent opportunity to explore issues of mutual concern between the two countries but also left a lasting impression on the six individuals who accompanied me on my trip. I was pleased to have the special insight offered by my six cotravelers: Michael Varbalow and Dr. Eugene Bass, the president and vice president of the Jewish Federation; Marcy Sanders, the president of the Federation's Women's Division; Morton Jacobs, a past president of the Jewish Community Relations Council, and his wife Claire, a professor of mathematics at Rutgers University, and Alan Respler, the executive director of the Jewish Community Relations Council.

Soon after our trip, the Jewish Community Voice published an article describing the trip and the information we were able to gain relating to the condition of Soviet Jewish refuseniks and the prospects for progress on this very important issue. I wanted to share with my colleagues this very insightful article:

[From the Jewish Community Voice, July 30, 1986]

COMMUNITY MEMBERS REAFFIRM ISRAELI, SOVIET JEWISH TIES—LEADERS, FLORIO VISIT JEWS OF HOPE

(By Harriet Kessler)

Six Jewish community leaders arrived in Leningrad on the evening of July 4, for a 10-day visit to Leningrad and Moscow. Congressman James Florio joined the group on July 7.

The Mission was sponsored by the Jewish Federation of Southen New Jersey to give its leaders the chance to meet with prominent Jewish refusenik leaders, hear their stories first-hand, and offer moral support; and to give the congressman personal insight, through meeting refusenik leaders, into the importance of linking human rights issues with U.S.-Soviet trade agreements.

Participants were attorney Michael Varbalow, Federation president; Dr. Eugene Bass, Federation vice president; Marcy Sanders, president of Federation's Women's Division; attorney Morton Jacobs, a past president of the Jewish Community Relations Council; Claire Jacobs, professor of Mathematics at Rutgers Unversity, Camden, and Alan Respler, executive director of the Jewish Community Relations Council.

They met with some 35 refusenik families, speaking with individuals ranging from the early teens well into the 60s.

A report on the group's reactions follows. Congessman Florio's story, in his own words, appears elsewhere on this page.

They were an informed and dedicated group. Why else go to Russia, particularly in the wake of Chernobyl.

Their dedication has increased immeasurably because of their visit. The Soviet experience confirmed all that each read prior to the trip; all that each heard from former refuseniks touring this country. But the experience proved more intense than any expected.

"Everything was more," said Claire Jacobs. "The refuseniks were sadder than I imagined, and more inspiring as individuals. Their plight was more desperate than I imagined. But they had a greater sense of purpose and far more hope than I anticipated."

A fashionably dressed and coiffed vibrant woman, in refusal for more than 10 years, made a special impression. "This woman fought to join her mother in Israel for nine years. Recently, her mother died. Despite her loss and grief, she displays a happy face and tremendous composure. Her determination to leave the Soviet Union and her hope are now survival tools," Jacobs said.

The warmth of her reception also exceeded Claire's expectations. She felt instant rapport during every visit, as if she was meeting family. "These are wonderful and deserving people. A 40-ish woman pulled me towards her to tell me not to minimize the importance of my visit. I almost cried," said Jacobs.

Only by seeing it, can you understand that being a refusenik means being a slave, according to Jacobs. "When the government dictates if you work and what work you can do, how much you can move about in your own country and where you can live, that is slavery. We cannot have slaves in the 20th Century. We who are free must get the message through to our government that getting the refuseniks out is imperative," she said.

ACTIVISTS FEEL FREE

There are 400,000 refuseniks; 400,000 Jews who have been denied permission to live in Israel. All are in trouble. "When you apply for an exit visa, you label yourself a traitor. A high official told that to my husband," said Anna Lifschitz, in refusal since 1981.

The irony here is that the vast majority of those 400,000 cannot know what it means to be Jewish, thus live in quite desperation, victimized by institutionalized anti-Semitism masquerading as anti-Zionism, according to Eugene Bass. The anti-Semitism that drove our parents and grandparents from Russia did not, as hoped, end with the Russian Revolution. But the pogroms were replaced with something more insidious—Russification. Individuals may choose to be Russians or Jews. No-one can be both. Those who choose to be Jews are in trouble.

The refusenik activists and leaders unlike most of the 400,000 who will not relinquish Jewish identity, feel liberated by declaring their intentions to live as Jews while in the Soviet Union and their determination to obtain their exit visas, according to Bass. "Being refuseniks, bucking the system to preserve Judaism has increased their strength," he said.

These activists and leaders are the Soviet Jews who study Hebrew, Jewish cutlure, history and a religion clandestinely and at great peril. Indeed, Anna Lifschitz' husband is a Prisoner of Conscience, imprisoned in the remotest area of Siberia. And Anna spends eight-months salary to make the two yearly visits to him permitted by the government. Recently, her son was drafted despite an illness that disqualifed him for military service. "Anna attributes her courage and strength to the freedom she feels in aserting her Jewish identity," Bass said.

The United States has a moral responsibility to aid all 400,000, for they all live as third-class citizens, according to Bass. His trip convinced him that the U.S. government has considerable bargaining power. He said that Soviet technology is so backward that the water in Leningrad is not safe to drink and 40 percent of the nation's tomato corp dies in the fields.

Ronald Reagan is truly supportive of Soviet Jewry, according to Bass. And if individual Jews, Jewish organization and other concerned citizens tell their elected officials that human rights is top priority, and lobby on behalf of Soviet Jewry, the U.S. government will find a way to pressure the Soviets until they move on the issue, Bass believes.

The synagogues in Leningrad and Moscow, both under government control, were sadder than Marcie Sanders imagined. "In Leningrad, even though the service felt Jewish and familiar, it was eerie. I knew that everyone was being watched, and the building was in bad shape physically. The Moscow synagogue seemed in better condition, and the service was more structured, more formal. But I saw only old people, and I wondered if anyone would be left in a few years," she said.

ENORMOUS COURAGE

The courage of the refusnik leaders impressed her as greater than she thought possible. She cited prominent refusenik Leonid Kelbert who trained as physicist, then changed careers and became an award-winning film director. "His career ended when he applied for his exit visa. Now, he works as a menial, lives in poverty, and is completely frustrated because he cannot express himself. But his primary concern is for the safety of his friend Vladamir Lefshitz, the Prisoner of Conscience," Sanders said.

American Jews must become more involved with the human rights issue, according to Sanders. She is convinced that the more American Jews do, the less Soviet Jews will suffer.

Alan Respler found the extent of Soviet "Catch Twenty-Two's," capriciousness and lies bordering on the incredible. "I saw for myself that the reunification of families, which the Soviet government promises, often does not happen," Respler said. Currently, there are some 20 divided spouses in the U.S.S.R. And although the majority of those who marry do eventually leave, Jewish emigration has all but come to a halt.

"Also, the Soviet posture that no one is detained for more than 10 years is not true. We visited men and women who have lived in refusal for more than 15 years," said Respler.

Citing the experience of 56-year-old refusenik Lev Blitshtein, Respler revealed the kinds of "state secrets" for which Jews were detained. Blithstein never held a classified job, but has been told that his access to state secrets will keep him in Russia. Formerly an engineer for a meat and poultry processing plant, he says that the only secret he knows is "how the Soviets make sausage without meat."

Lev now works in a small office as a laborer. He divorced his wife offically nine years ago so that she and their children could leave the Soviet Union. According to Respler, Lev is proof of all three Soviet lies: he is separated from his family, he is waiting for an exit visa after 12 years, and he is accused of knowing mythical state secrets.

FLORIO EFFECTIVE

Michael Varbalow summarized the group's conviction that Congressman Florio represented more hope to the refusnik community than anyone anticipated.

"We know that Jim would be interested, sensitive and supportive," Varbalow said. "After all, he has adopted a refusenik family, and works actively on their behalf."

The special impact came from Florio's travelling with a Federation group. "Seeing Jim as an integral part of the Jewish community, not just another politician dropping in to make speeches on an official junket, gave the refuseniks special hope. It was like we were travelling with our own 'righteous gentile'. That an elected official, someone with clout, with the ability to help them, had true commitment to the Jewish community impressed the refusenik leaders beyond words," Varbalow said.

He would like to see Federation sponsor a similar Soviet Mission with another area legislator in the near future. "And if other communities have sensitive, dedicated representatives, they'd do well to follow our lead," Varbalow said.

Although not surprised by the Soviet government's "paranoia," Varbalow was taken aback by the average Russian's disdain for Western society. "The Russian people have a tremendous thirst for Western material goods, but they don't want our ideologies," he said.

According to Varbalow, the average Russian is convinced that the average American citizen has traded off physical safety for consumer goods. Every street in America is viewed as crime-ridden.

"Refusenik leaders and activists are better informed, because they meet with people like us, and they read the U.S. publications that we bring them. Also, they meet with many embassy and consulate personnel," he said.

American officials in Leningrad and Moscow are supportive. Varbalow said that 30 refusenk leaders attended a party at the consulate in Leningrad on July 4th, and that Ambassador Hartman hosted a seder specifically for refusenik leaders on Passover the past two years.

"Refusenik leaders value social contact with Americans more than gifts. They also value books and periodicals. To them, Western ideas are treasures. They jumped at the copies of 'Scientific American' that Gene Bass brought in," Varbalow said.

He noted, too, that younger refusenik activists are increasingly interested in Jewishness. "Circumcision of male children is not customary in Moscow. But young refuseniks want their children circumcized," he pointed out. "Circumcision itself is not illegal. But there is only one authorized mohel in Moscow. A very old, 'official' Jew who names names, so it isn't very popular,' Varbalow said. American surgical kits are somehow being smuggled in for circumcisions. Whoever performs the circumcision is guilty of a crime.

Varbalow pointed out that the Soviet Jewish community is the third largest in the world, representing some 15-20% of the world Jewish population. "If nothing is done for Soviet Jewery, we will witness a Holocaust by assimilation," he said.

Refusenik Askaddi Leonov, described by his peers as one of the best brains among them, said that the Soviet Union will not give in to Jewish demands for emigration because it is concerned with loss of face and a chain reaction among other disgruntled groups.

Varbalow agrees. "Loss of face is the real issue. That is why if the U.S. tries to overt trade-off for human rights, the bargaining stops," he said.

"Still, through private, skillful diplomacy that bargaining is possible. And now, with Reagan in the White House we have a chance. We can set the stage so that Gorbachev makes the first move prior to his visit to the United States so that he is not embarassed by the mass demonstrations bound to take place upon his arrival.

Morton Jacobs, too, sees a potential second Holocaust, but takes hope in that today's Jews are in a position to do what Jews could not do some 40 years ago. Much of this hope comes from the refusenik leaders themselves.

"They are courageous people. They have taken on the Soviet state and are sticking their necks out with their families. It is not easy. Expressions of hatred permeate their lives. Seeing them in their hurts was unbelievably inspiring, and I gained at least as

much emotional strength from them as I gave them," he said.

Especially impressive to Jacobs were two physicists in their 40s who applied for exit visas, knowing that they would be stripped of their degrees and their jobs, some five years ago with emigration at its lowest.

"These are special people. They are willing to give up not only their livelihood but valued careers rather than be Russified. This is not just a Russian issue, not just a Jewish issue, it's a human issue, it's a struggle for every free man and woman to pursue because it represents a threat to all of us," he said.

The entire Southern New Jersey contingent will long remember the position of a Moscow couple, both well into their 60s and living in refusal for almost 20 years. "Remember, when the Soviets bargain they want to get a lot but give as little as possible," husband and wife concurred.

The group will remember, too, the words of a young woman: "The Soviets see us, the refuseniks, as hostages. They hate us but know that we are bargaining tools. So treat us like goods. Trade refuseniks for what you have to offer them. Make it a business deal and don't be easy."

Twenty-eight year old refusenik Yuri Blank put it most succinctly. "The Soviets would trade computers for Jews," he said.

"Thinking of Jews as chattle again makes one cringe," said Jacobs. "I remember when Eichmann negotiated the Jews of Hungary for trucks."

THE NEVE SHALOM MASSACRE IN ISTANBUL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. GILMAN. Mr. Speaker, the world was shocked by the massacre on September 6 in the Neve Shalom Synagogue in Istanbul, Turkey. Aside from the Turkish Jewish community and the Turkish nation, no one was more shocked than the many Americans of the Jewish faith. We have become, over the years, interested in the history and culture of the Jewish community of Turkey.

Jews have lived in peace in Turkey from times of antiquity; their population was bolstered nearly 500 years ago when the Ottoman Sultan sent ships to rescue members of the Spanish Jewish community, which was expelled in 1492, and brought them to safety in his empire.

The American Jewish Congress has been in the forefront of contracts between the American and Turkish Jewish communities, and it was therefore appropriate that the president of the congress, Mr. Henry Seigman, attended the funeral of the victims of the massacre in Istanbul.

The moving remarks of Mr. Seigman, which were made at a meeting with leaders of the Jewish community of Turkey after the funeral, express the feelings of Americans—feelings of anger at the inhuman killings of worshipers, killings which give lie to the allegation that the violence of the Middle East is a violence borne out of nationalist frustration, aimed not at the Jewish people but at "Zionism." In the words of Mr. Seigman:

It is classic anti-Semitism, hatred of Jews fueled not only by nationalism run rampant but by primitive religious sensibilities, that led these terrorists to seek out a synagogue. * * * Similarly, it was anti-Semitism that led their compatriots before them to murder Jews in synagogues in Rome, in Paris, in Antwerp, and in Vienna.

Mr. Speaker, I feel that Mr. Seigman's remarks deserve the attention of my colleagues. Accordingly, I ask that they be reprinted in full at this point in the RECORD.

Only two months ago, the Chief Rabbi and the leaders of your community welcomed me and a delegation of the American Jewish Congress into your midst. It was an historic encounter between Turkish and American Jewries, the first of its kind, and we celebrated that encounter with the joy and warmth that marks a family reunion.

I am back in your midst only two months later, far sooner than I expected to be. Sadly, what brought me back is the grief that marks a family tragedy.

I am here to express to the families of the victims of a brutal slaughter, and to your entire community, the profound sympathy and the solidarity of American Jews. I do so not only on behalf of the American Jewish Congress but also on behalf of the Conference of Presidents of Major American Jewish Organizations.

It is difficult not to succumb to anger standing before these 21 coffins. How often have we heard from Arab countries, including those that are the hosts of the terrorist organizations that claim credit for last Saturday's slaughter in this synagogue, how often have we heard from them that their war is not with Jews or Judaism, but with Zionism and the State of Israel. Their war, they say, is not motivated by anti-Semitism but by frustrated nationalism.

The bodies that are before us give the lie to that claim. It is classic anti-Semitism, hatred of Jews fueled not only by nationalism run rampant but by primitive religious sensibilities, that led these terrorists to seek out a synagogue and to massacre innocent Jews at prayer. Similarly, it was anti-Semitism that led their compatriots before them to murder Jews in synagogues in Rome, in Paris, in Antwerp and in Vienna.

The blood that still stains the pews on which we sit and the ground on which we stand demands that we speak the truth to the Arab world. We say to them: Speak out, and act finally to stop this hatred and this madness in your midst; rid yourself of this deadly bigotry. For if you do not, if you continued to finance and to provide havens for these murderers, you will be judged by decent men and women everywhere—indeed, by history itself—to be murderers like them.

We will not succumb to anger or despair. Resolve in the midst of tragedy, confidence in a better future even as we mourn our dead, is a Jewish imperative. It is a sensibility captured so beautifully in the traditional Jewish belief that on the day the Temple in Jerusalem was destroyed the Messiah was born.

American Jews and Jews everywhere stand with you. We pray that the Almighty will comfort the bereaved.

MINNESOTA'S AWARD-WINNING PUBLIC PROJECTS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. VENTO. Mr. Speaker, I would like to take this opportunity to commend two Minnesota good-government projects which received the prestigious Ford Foundation Innovations in State and Local Government Awards.

The Ford Foundation awards were established in 1985 to recognize exemplary new programs and policies that address important social and economic issues. Of 1,347 programs submitted by State, county, and local governments across the country, 10 were honored by the foundation. Two of the ten honored projects are in Minnesota; both are based in the city of St. Paul, which I represent.

The purpose of the Ford Foundation competition is to award projects that successfully aid State and local governments fulfill their expanding responsibilities in meeting public needs. The State of Minnesota provides a wonderful environment for innovative approaches to meet public needs and has taken a lead in this area as is demonstrated by the awards the State's projects received in the competition.

The recent contaction of the Federal domestic role has posed new challenges for State and local governments and I am proud that Minnesotans have responded with imaginative new programs.

One of the honored projects is the Block Nurse Program which helps elderly neighborhood residents remain in their own homes for as long as possible before moving to nursing homes. According to the General Accounting Office, from 20 percent to 40 percent of nursing home residents are not so disabled that they need to be in institutions. Many nursing home residents feel they have no alternative as Medicare only provides limited reimbursement for home health care. As a member of the Select Committee on Aging, I am well aware of the struggle to solve this dilemma at the Federal level. So far, Congress has been unable to successfully address this issue but two nurses from St. Paul have been extremely successful in meeting the needs of the elderly on a local level.

Two registered nurses, Ida Martinson and Marjorie Jamieson, organized the Block Nurse Program in the St. Anthony Park neighborhood of St. Paul. The program tries to avoid premature nursing home confinement by coordinating health and social services that make it possible for the elderly to stay at home. The nursing staff and volunteers provide personal care, companionship, and help with household chores. More than 80 elderly men and women have been served since the program's inception in 1982. Without the program, it is estimated that most of them would have had to enter a nursing home. The program costs about $350 a month per client, compared to about $1,000 per month for nursing home care.

The program has been so successful that there are not enough trained aides to meet the demand. The Ford Foundation has granted the city of St. Paul $80,000 to recruit new aides and provide training and continuing education courses for the program's current staff. The grant will also support an evaluation of the program's cost effectiveness and its potential for wide-scale replication. The fame of this program is spreading and I understand that inquiries have come from all over the country and as far away as Japan.

The second Minnesota project honored by the Ford Foundation is a unique partnership between the State government's mid-level managers and their counterparts in the private sector. Through the STEP [Strive Toward Excellence in Performance] Program, career government employees are encouraged to submit innovative proposals to improve productivity, enhance service, or reduce cost. Employees whose proposals are accepted receive training and assistance in finding the resources to complete the project. Good ideas are approved with a minimum of the redtape that often smothers creative ideas.

The Minnesota Department of Administration directs the program and it is overseen by a steering committee that includes members from business, labor, nonprofit organizations, and leaders of several State agencies. Minnesota has a number of successful private-public partnerships so it is not unusual that a program of this type would emerge in the State. What is unusual is the rate of success this program has achieved.

Three hundred innovations have been proposed, and of those, 40 have been developed into pilot projects. The innovations include an advertising program that increased sales of State park permits by more than 300 percent. As chairman of the House Subcommittee on National Parks and Recreation, I find that accomplishment of particular interest. Other innovations completed under the project include: A work and training program for welfare recipients, an improved system of cash management that has increased the State's interest earnings, and the opening of the State's low-cost telecommunications system to local governments. The $90,000 grant from the Ford Foundation will allow Minnesota to introduce STEP to county and local governments and to officials from other States.

I applaud the people of Minnesota for creating innovative projects to address public needs and I commend the Ford Foundation for stimulating the expansion of these innovations.

At this time, I would like to call my colleagues' attention to an editorial on the Minnesota projects which appeared in the Minneapolis Star and Tribune on September 27.

[From the Minneapolis Star and Tribune, Sept. 27, 1986]

DESERVED APPLAUSE FOR PUBLIC SERVICE

Minnesotans are probably more interested in the fuss over state park managers who hire their wives than in the national tribute paid two Minnesota good-government projects Thursday. The disparity is especially regrettable in this circumstance because Minnesotans should be proud of the awards.

In 1985, the Ford Foundation established the Innovations in State and Local Government Awards Program "to recognize exemplary new programs and policies that address important social and economic issues." The first awards were presented Thursday. Of 1,347 programs submitted by state, county and local governments for evaluation, 10 were honored. Two of the 10 were from Minnesota.

One was the Striving for Excellence in Performance (STEP) program directed by the state Department of Administration. As befits Minnesota, STEP is a public-private partnership. The program is overseen by a steering committee that includes members from business, labor, the nonprofit sector and state government. STEP invites career state employees to propose innovations that promise to improve productivity, enhance service or reduce cost. From more than 300 proposals, 40 have been selected. Employees who submit accepted proposals receive training and help in finding the resources their project needs and in cutting the red tape that often smothers new ideas. Some projects also are assigned private-sector partners who provide special expertise.

The second Minnesota winner is the Block Nurse Program in the St. Anthony Park neighborhood of St. Paul. The brainchild of two St. Anthony Park nurses, the project seeks to help elderly neighborhood residents remain in their own homes for as long as possible. The nursing and volunteer staffs help the elderly with personal and health-care needs, provide companionship and help with chores. In four years, the program has helped more than 80 elderly neighborhood residents. Each month that one elderly person is able to remain at home saves more than $1,000 in nursing-home fees.

Along with its award, STEP will receive $90,000 to help prepare manuals and conferences to introduce the STEP process to county and local governments. St. Paul will receive $80,000 to recruit new aides for the St. Anthony Park program and to provide education and training for the current staff.

The 10 award winners, in the Ford Foundation's words, capture "a spirit of innovation, displaying the qualities of leadership, creativity and dedication that exist in many places within state and local governments." Well said. We salute Minnesota's deserving award winners and all unhearalded state and local-government employees who seek with equal dedication to serve the public good.

NEW NATIONAL COUNCIL TO ADDRESS WARTIME INDUSTRIAL BASE PROBLEMS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. BENNETT. Mr. Speaker, a significant problem facing the reliability of our defense industrial base to meet the production demands associated with a major military conflict is the ever-increasing dependence on other countries for critical raw materials and component parts. In peacetime it makes good economic sense to depend on foreign sources which can produce products more cheaply than U.S. producers. However, should the Nation become embroiled in another major conflict, this policy of relying on foreign materials and components could prove disastrous. Why? Because the United States could not depend on foreign sources during wartime for materials and components necessary to meet the vast quantities of military equipment that would be needed to sustain our fighting forces.

As every sound military historian will tell you, victory in World War II was not only due to superior firepower and military leadership, but also because of unsurpassed defense production by U.S. industry and labor. We were able to produce warplanes, ships, tanks, and other weapons for ourselves and our Allies faster than the enemy could destroy them. The Axis Powers could not.

We must face the fact that the United States would be hard-pressed to duplicate the defense production record which led to our victory in World War II. This is true despite the billions of dollars we are pouring into efforts to strenghten our military defenses.

In any event, I don't believe we can feel comfortable about having to depend on foreign production facilities located nearer to the Soviet Union than our own, and therefore, more subject to Soviet interdiction.

As chairman of the Subcommittee on Seapower and Strategic and Critical Materials, I am concerned that under current circumstances, we are becoming increasingly dependent upon foreign sources for the very parts and components which are absolutely essential to the sophisticated weapons systems now used by our Armed Forces.

That's why I am pleased that a new national nonprofit, nonpartisan organization has been formed to focus greater public attention on the complex problems of our defense industrial base. That organization is the National Council to Preserve the U.S. Defense Industrial Base, with headquarters in Washington, DC. The Council was recently organized by a group of former governmental officials, retired military officers, business and labor executives, and other citizens concerned about the erosion of our defense industrial base. The purpose of the Council is to direct public attention to the need to strengthen the U.S. industrial capability, particularly as it relates to our national security requirements.

Mr. Speaker, I want to wish success to the new National Council to Preserve the U.S. Defense Industrial Base in its efforts to implement an effective public awareness campaign to help educate the public, and inform the news media and policymakers about the need to strengthen the U.S. defense industrial base to respond quickly to a military crisis.

IN TRIBUTE TO THE PORT OF STOCKTON—NATIONAL PORT WEEK

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. LEHMAN of California. Mr. Speaker, during the first week in October, virtually every American port city celebrates the importance of our Nation's ports. In special tribute to the Port of Stockton, located in my California district, I have joined in cosponsoring House Joint Resolution 714. This resolution authorizes President Reagan to officially recognize,

during the first week of October, the importance of our Nation's ports.

The coastal, Great Lakes, and inland river ports are expressways through which goods worth billions of dollars pass each year. Since most goods in international trade are transported by ship and pass through ports, they are the single most important aspects of international trade and ocean transportation. Additionally, the commitment of our ports to building and maintaining modern and efficient shoreside facilities is an important contribution to the movement of international cargo. Our modern and efficient system of ports helps U.S. farmers and manufacturers to compete in the international marketplace.

For 55 years, the inland port in Stockton, CA, has been an important facilitator of trade and ocean transportation between American markets and many nations abroad. The Port of Stockton's deepwater facilities and operations link truck, flight, and rail systems with ocean carriers, shippers, and receivers on regional, national, and international levels.

Originally, the port district was created and developed to provide waterborne transportation for the abundance of products harvested from the fertile soil of the San Joaquin Valley. Through the years, the very existence of the port has had a profound effect upon the local economy and industry, with nearly 1 million tons of agricultural and related products currently moving across its docks each year for shipment to or from California and elsewhere aboard the world's bulk fleet.

Agriculture still plays an important and integral part of the port's presentday operations; however, the Port of Stockton's influence now extends far beyond that historical origin. Under the stewardship of Port Director Alexander Krygsman, the operation of Stockton's seaport has expanded to encompass the administration of vast capital resources and the operation and maintenance of a comprehensive physical plant capable of handling a wide variety of cargoes ranging from molasses and fertilizer to jet fuel and other petroleum products, clay, coal, sulfur, cement, cartons, finished steel, steel scrap, paper products, bagged grain, and more.

The Port of Stockton generates over 1,000 jobs directly, with an annual payroll of approximately $15 million. Another 3,000 to 4,000 jobs are generated indirectly for a total payroll impact of over $50 million.

The capricious nature of supply and demand, inherent to international trade, requires a flexible approach to business, both technologically and philosophically. In response to the constantly changing needs of shippers who must respond quickly to the whims of world commerce and a fluctuating economy, the Port of Stockton has innovatively designed, constructed, and installed multipurpose equipment which provides highly productive, cost-effective services to port customers.

This week, I join many of my colleagues in the House of Representatives to pay tribute to all of the ports of our Nation, especially to the Port of Stockton. In declaring the first week of October as National Port Week, it is my hope that the citizens of our Nation will grow more aware of the vital link that the port system plays in our Nation's economy.

TRIBUTE TO HON. JOHN F. SEIBERLING

SPEECH OF

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. RODINO. Mr. Speaker, I rise to join my colleagues in tribute to a dear friend and one of the finest Members of this great body who will retire at the end of this session—the Honorable JOHN F. SEIBERLING of the 14th District of Ohio.

JOHN SEIBERLING was born into a world of privilege. He is the grandson of the founder of the Goodyear Tire & Rubber Co. But despite his great wealth and prominent ties, he has never forgotten those in our society who are not so blessed. If JOHN'S work in Congress could be summarized in one word, it would be compassion. He has consistently championed the needs of the least protected members of our society—the poor, the elderly, the handicapped, minorities, children. For this work, JOHN will be remembered by the thousands of Americans, in his district and throughout the Nation, whose lives he touched. They will remember him as a man of rare decency.

JOHN was first elected to the House of Representatives in 1970. During his 16-year career in the House, he has successfully led efforts to win millions of dollars in Federal funds for businesses, housing, health care, and the arts in the 14th District.

An ardent conservationist, JOHN authored the American Conservation Corps Act to establish a program for hiring America's youth to work to preserve public lands. To give you an idea of JOHN'S commitment to preserving the beauty of the Nation's parks and wilderness areas, consider that a computer printout of wilderness protection bills he has managed is at least 9 feet long!

JOHN was one of the first Members of this body to condemn the insanity of the Vietnam war, and he has continued to be a staunch advocate for peace.

Since 1971, JOHN has been one of the most dedicated members of the House Judiciary Committee, which I chair. His sensitivity and judgment were indispensable during one of our Nation's darkest hours—the impeachment proceedings against President Richard Nixon.

The Judiciary Committee has also benefited from JOHN'S antitrust expertise. Before his election to Congress, JOHN was a successful antitrust lawyer for over 20 years. He has fought to ensure that the Nation's laws governing the merger of big businesses reflect a sensitivity to consumers, employees, and the communities in which firms operate. JOHN has played a key role in the passage of every antitrust law during the last 16 years. The most important antitrust initiative of this era, the Hart-Scott-Rodino Act of 1976, bears the imprint of JOHN SEIBERLING'S counsel and leadership.

He also was a key member of the National Commission for Review of Antitrust Laws and Procedures during the late 1970's, which spawned five crucial antitrust reform measures that passed the House and became law in 1980. More recently, he has helped to shape the National Cooperative Research Act of 1984, the Municipal Antitrust Act of 1984, and the House Vertical Restraints Resolution of 1985.

Throughout this period, JOHN SEIBERLING has steadfastly resisted the cries of special interests for exemptions from antitrust laws. He is, in short, a man with a vision for free enterprise at its noblest and best.

Although I join my colleagues in expressing sadness at the news of JOHN'S retirement, I wish him well in the coming years. His unique compassion, wisdom and commitment will be missed by those of us in the House and in the Judiciary Committee, but his legacy will live on for many years as all Americans continue to benefit from his legislative skill.

LUZERNE COUNTY FOLK FESTIVAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today to draw to your attention the annual Luzerne County Folk Festival which takes place this week in Kingston, PA. Sponsored by the Cultural Heritage Council of Northeastern Pennsylvania, the folk festival began as a part of the national Bicentennial activities and has endured as a popular celebration of the rich culture of Luzerne County.

This year is an especially memorable one for Luzerne County. As the Nation joins in the celebration of the centennial of the Statue of Liberty, Luzerne County marks its own 200th anniversary. The folk festival commemorates both of these occasions in a special tribute to the significant contribution immigrants have provided to our unique American culture. In honor of the Statue of Liberty, a special display will feature prints, drawings, and news clippings outlining the progress of its restoration, which was engineered by GSGS&B, a Clarks Summit architectural firm.

As the melting pot of the world, America has always been distinguished by its rich cultural diversity. Old World traditions endure in Luzerne County, where Americans with roots from all corners of the Earth have met and shared their own cultural heritage. The Luzerne County Folk Festival is a celebration of this heritage, and here one can enjoy ethnic food specialties, traditional folk dances, and crafts created with skills passed along for generations.

Mr. Speaker, I am pleased to join my neighbors in celebrating our rich cultural heritage with the 11th Annual Luzerne County Folk Festival.

JOHN BUGLER SELECTED AS ENGINEER OF THE YEAR

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. DOWNEY of New York. Mr. Speaker, it is with great pride that I rise today in recognition of Mr. John W. Bugler's outstanding record of achievement that has earned him selection by the Federal Highway Administration as Engineer of the Year.

Maintaining our Nation's highways requires innovative and technical expertise. We all recognize the need for improved roads, yet become frustrated when only one lane is left open on a superhighway during rush hour. Mr. Bugler, with remarkable enthusiasm and creativity, has committed himself to addressing the problems that plague our infrastructure. His innovations range from specially designed concrete mixers and hydraulic drills to a concrete mix that dries in 3 hours, thereby eliminating delays on road repairs without compromising quality. In addition, Mr. Bugler has unselfishly devoted his time and personal resources to a variety of civic activities, demonstrating his concern for the community.

This award, richly deserved, not only recognizes the significant contributions John Bugler has made in safeguarding travelers from the disruptive jolt of the unavoidable pothole, but more importantly, recognizes his unceasing devotion to his profession and his fellow citizen. To John Bugler, I say, keep up the good work!

ELIE WIESEL'S NOBEL PEACE PRIZE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. GILMAN. Mr. Speaker, I was delighted to learn this morning that the Nobel Committee had awarded its Peace Prize to the distinguished and learned author, professor, and human rights activist, Elie Wiesel. This worldwide recognition is most deserving, and, may I add, long overdue. For over four decades Elie Wiesel has shouldered the enormous burden of bearing witness to the Holocaust which brutally took the lives of over 6 million innocent Jewish men, women, and children during Hitler's reign of terror in Europe. He has chronicled his thoughts in many volumes, and as a young survivor, his compelling and moving accounts have provided the world with a particular perspective that is rarely available.

Currently, Professor Wiesel serves with distinction as the chairman of the Holocaust Memorial Council, which is presently overseeing the creation and construction of the Holocaust Memorial Museum. Yet, Elie Wiesel has not limited his activism solely to remembrance of the holocaust. He has worked to increase awareness of the plight of Soviet Jews, Ethiopian Jewry, and the Miskito Indians in Nicaragua. His humanity knows no bounds, as his message is indeed universal. Those of us who know him are privileged indeed. Elie Wiesel is a very rare and special man.

In Jewish lore lies the belief that there exist on this Earth 36 "righteous individuals" on whose goodness the world survives. We can only speculate as to who these 36 men and women really are, but I do believe that Elie Wiesel is one of these. His message bespeaks our need to solemnly address the many human rights issues of our time, so that future generations can live in peace and harmony.

By awarding the Nobel Peace Prize to Elie Wiesel, the Nobel Committee has acknowledged what many of us knew long ago: Elie Wiesel is a man of peace and humanity, and a shining example in an all too often dark world.

A STATE OF FEAR IN CHILE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. MILLER of California. Mr. Speaker, for 10 years the world has watched the brutal regime of Gen. Augusto Pinochet Ugarte torture and murder its own citizens.

The tragic toll that this rein of terror has taken on the entire country is dramatic and serious.

This month's Psychology Today outlines what it means to live in a state of fear.

The article by Amado Padilla and Lillian Comas-Diaz follows:

A STATE OF FEAR

(By Amado Padilla and Lillian Comas-Diaz)

Brutal dictatorships crush minds as well as bodies, as the people of Chile would tell you if they were free to speak.

Torture is a brutal fact of life in many countries throughout the world. According to the latest figures from Amnesty International, more than one-third of the world's nations use some form of torture. Chile is one of them.

Last year we traveled to Santiago, Chile, as part of a human-rights fact-finding mission sponsored by the American Psychological and American Psychiatric Associations, in cooperation with the American Committee for Human Rights. We wanted to find out what psychological effects torture and other forms of repression were having on the Chilean people. The government, struggling to maintain a facade of democracy, allowed us to probe this sensitive subject. We met with members of international human-rights groups, Chilean psychologists and physicians, relatives of people who have disappeared, local activist organizations, and the torture victims themselves.

There is no doubt about the widespread and vicious use of torture that exists today under General Augusto Pinochet Ugarte, who has been Chile's president since the army overthrew the government of Salvador Allende Gossens in 1973. Torture has been documented by Amnesty International, the Americas Watch Committee, the United Nations and various church groups working in Chile. We interviewed many people who had been kidnapped and detained by the police, the military or security agents of the Central Nacional de Informaciones (National Information Center), commonly called CNI. Most of these people reported they were tortured.

The torture methods used in Chile are, unfortunately, common in many other countries. Both men and women are beaten, submerged in water or suffocated and given electric shocks to their gums, nipples, genitals and anus. Victims are threatened with attack by police dogs and intimidated by mock executions. Often they are bound in extremely painful positions. Women are frequently sexually abused by their captors.

Psychological torture has increased in recent years, probably because it doesn't leave the dead bodies and physical scars that have caused problems for the Pinochet government with human-rights groups. Victims are deprived of sleep and placed in solitary confinment. Their clothing and personal privileges are taken away from them. Their senses are disoriented by the continuous wearing of a blindfold and overloaded by the constant, loud playing of a radio. They are given false information about confessions of close friends and family members; often they are forced to listen to these loved ones scream in pain as they too are tortured or sexually abused.

Another psychological tactic has been added in recent years: Victims are taunted with detailed information about the daily work habits and whereabouts of family and friends. This demonstration of the long reach of the secret police, along with the other tactics, heightens the victims' sense of helplessness and despair and makes them vulnerable to the torturer's demand for information or a confession.

Often it is impossible for family members to obtain information about the whereabouts of someone detained by the police or CNI, or to find out why someone was taken away or how their health is. People are held in secret as long as 20 days before the security police acknowledge their detention, and not only are family members concerned about their relative's safety, but they are fearful for their own. They worry that the police or CNI will return during the night, a common practice, and take someone else.

Multiply these experiences by the number of Chileans who have encountered the security forces, and one can begin to get an idea of the climate of fear that exists in Chile today. By mid 1975, just two years into the Pinochet regime, 1 in every 125 adult Chileans had been detained for more than one day. The Chilean Commission on Human Rights, an independent human-rights group supported by the Catholic church, reported 2 political killings, 4 kidnappings, 114 arrests, 24 complaints of torture and 22 complaints of cruel or degrading treatment during January of this year, by no means an unusual month. There is 1 Chilean in political exile today for every 55 still in the country, the highest proportion of exiles in the world.

The government sows seeds of distrust and uncertainty among the people by complete control of information. There are no opposition newspapers or television or radio programming; the press only covers what the government wants the people to know, only the way the government wants people to know it. The government also censors any books, magazines or mail entering the country.

Chileans are constantly reminded of the government's strength, even if they have not felt it directly. In downtown Santiago, for instance, heavily armed police with trained dogs and riot vans are very evident wherever people might gather, such as parks or public squares. Soldiers in combat dress, armed with automatic weapons, are

seen every day in subway and bus stations, on major routes in and out of Santiago and in trucks on after-dark patrols around the city. This massive show of force inhibits any kind of spontaneous protest or demonstration against the government.

In addition to this open display of power, the Pinochet regime has an elaborate system of secret and not-so-secret surveillance. No one is sure how big the secret police force really is, or how many informers it has, but most Chileans do not trust anyone beyond their families and intimate friends.

Informants sabotage any activity that might generate some communal feeling. If a grass-roots organization is formed to protest the lack of medical care in a community, a well-placed informant can provide the government with the details needed to defuse a planned demonstration. Informants can also mislead the community with false information about the group—usually that it is a communist front—and turn people against it.

Leaders of these organizations are often arrested, imprisoned or exiled. Members are terrorized with random arrests, beatings and forced entry into organization offices. We met Angelina (a pseudonym) shortly after she had been stopped just a few blocks from her house, forced into a car by several unknown men, blindfolded and taken to a house of torture. She was beaten on her back, burned on her face with a lit cigarette and questioned about her father, who had died in exile several years before. As a final insult, her glasses were broken and she was robbed of money belonging to the school where she worked.

When we met her, Angelina was terrified that she would be stopped again. She was also afraid of reporting the attack to anyone at the school, because she felt the government-appointed school authorities would undermine her story and she would lose her job. She told us that anyone who makes a complaint or even talks about these things is branded a communist or a terrorist and then fired.

Everyone in Chile is a victim, not just those whose scars and losses are easy to see. "The dictatorship . . . is present day after day, year after year, saturating everything," writes Patricia Politzer in *Fear in Chile (Miedo en Chile)*, a candid book published last year in Santiago with the help of the Catholic church. "Its victims are not only those who suffer directly from its cruelty and censorship, but also those who are indifferent and includes those who support and justify it, because they are surrounded by a system that determines what we can and cannot do, what we think, what we believe, what we dream and what we are silent about."

Not only is the government repressive, but the economic situation is so bad that many Chileans are living almost entirely on tea and bread. *Ollas comunes* (soup kitchens) can be found in some communities, through the efforts of local activist groups and the Catholic church. But the very act of feeding the less fortunate is viewed as subversive by the government, and these groups are harassed and attacked.

In this situation, many people find that the best thing to do is not to complain or seek answers. "De eso no se habla" (we don't talk about that) was a common response when we asked people about human-rights abuses. Nearly everyone appears to deny what is going on around them, and many explain the government's actions with a "just world" theory: Those who suffer abuse must have brought it on themselves, and it will not happen to anyone who avoids trouble.

Some relief from this passivity is offered by black humor, common in Chile today. "Why do most murders occur after dark?" asks a popular joke. "Because the police are busy directing traffic during the day." By such means the tragic tension of Chilean life is relieved for an instant.

Chile is home to an entire generation that has known nothing but the brutality and repression of the current government. We were frequently told that "children have no future." Parents worry about the impressions their children form of armed guards in public places, of bombings and stories of terrorism and violence. Many children suffer from extreme forms of anxiety, depression, sleep disturbances and aggression. Child psychologists told us that learning disabilities and other school-related problems are also on the increase.

Children echoed their parents' fears and mistrust and told us that saying little was sometimes best. A 15-year-old girl told us that her teacher claimed democracy simply did not exist anywhere, so the repression in Chile was not unusual. The girl, who grew up in West Germany, hotly disputed this outrageous statement, but she was the only student to do so. The rest of the class remained silent.

Young women told us that they could not see bringing children into a world that holds so little promise. Stories of torture and sexual abuse by the security forces were widespread among these women. "Who could think of bringing another generation into the world?" we were asked.

In a healthy environment, both young and old have dreams and hopes for the future. In Chile we heard more about people's nightmares and fears than about their fantasies and hopes for their children. Instead, people told us of the growing problems among the young, such as drug abuse, prostitution, a high rate of school dropouts and other forms of delinquency. Hopes for the future center on emigrating and starting again in Australia, the United States or Sweden.

There is social protest in Chile, within limits. The government seems to understand that a certain amount of protest is necessary to avoid a mass uprising. It allows some moderate demonstrations to occur but only under controlled conditions. In recent years the government has also permitted professional associations such as the Chilean Psychological Association to hold a number of meetings about human rights and the treatment of torture victims.

Social action and protest give people a sense to purpose and a feeling of control, and it is an outlet for anger and frustration. But social action carries risks. The police and military commonly step in with beatings, arrests and torture. Sharing these risks gives protesters a certain camaraderie that helps them cope. One woman, aged 69, explained that, "Since 1973 I have lost my husband, sons, sister, brother-in-law and nephew to this regime. I have no family. I only have the other members of this organization of families of the disappeared. Each person here is a member of my family. Together we demand to know what has become of our loved ones."

The women protest by dancing the cueca, a traditional public dance normally performed by a man and a woman. But these women dance alone, stepping and circling around the absent partner, in a cueca sola. By doing something to protect repression, even a small act, they are drawn together in a supportive group that helps them cope with their losses and with official intimidation.

We need to learn much more about how a society copes with a repressive and dictatorial government. We had the opportunity to speak to many psychologists in Chile who were counseling torture victims and their families. Their work is demanding and risky and generally carried out under difficult conditions. One treatment approach they have taken is to help the victims reconstruct the details of their torture, to help them to understand that it was not their fault, and that the blame lies solely with the Chilean government.

More than anything else, we need to bring these violations of human rights to the attention of the broadest possible audience, wherever and whenever these violations occur. We cannot allow these practices to continue, either in Chile or anywhere else. We cannot say, "De eso no se habla." These are real people and real pain. It is time this torture is brought to a real end.

NAACP FREEDOM FUND DINNER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. RODINO. Mr. Speaker, it will be my great honor to be a guest at the 72d Annual NAACP Freedom Fund Dinner in Newark on October 24. The dinner will take place at the Quality Inn and will feature the Honorable Sharpe James, mayor of Newark, as guest speaker.

This dinner will be a special occasion for me and for the many Newark residents who care deeply about justice and equality. It will be a time to reflect on the gains we have made—the landmark Civil Rights Acts, the Voting Rights Act and extension, designation of Martin Luther King, Jr.'s birthday as a national holiday, passage of sanctions against the South African Government. It will be a time to recall the difficult struggles—marches, arrests, sit-ins—necessary to bring about these gains. We will celebrate the warm friendships forged in those difficult days and recommit ourselves to meeting the challenges that lie ahead—challenges posed by those in the Reagan administration who seek to turn back the clock on civil rights and return to the constitutional "dark ages."

Mr. Speaker, I salute civil rights champions like Ezella Johnson and Sally Carroll, chairpersons of the Freedom Fund Dinner; Keith Jones, president, Newark NAACP; John Woods, first vice president; Delores Carter, second vice president, Daisy Stokes, secretary; Denise McCoy, assistant secretary; Mamie Hale, treasurer—all of the Newark branch of the NAACP.

Mr. Speaker, it is a great privilege and pleasure to take this opportunity to pay tribute to the NAACP, of which I am proudly a lifetime member, and to its many activists, in Newark, and throughout our great land.

Thanks to their hard work and devotion to justice and equality, this Nation will remain a

place where all of its citizens are free to pursue and realize their dreams.

CH2M HILL RECEIVES THIRD AWARD FOR HELPING SMALL BUSINESS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. WYDEN. Mr. Speaker, it is with pride that I call attention to a special award received by some of my constitutents. For the third year in a row, the Oregon-based employee-owned consulting engineering firm of CH2M Hill has been awarded the Environmental Protection Agency Administrator's Award for "Outstanding Prime Contractor achievement."

Created by former Administrator William Ruckelshaus, this award is given annually to the company that most successfully employs small, woman-, and minority-owned businesses in its work for EPA. CH2M Hill's third consecutive award recognizes its commitment to working with all manner and sizes of businesses to solve our nation's problems.

CH2M Hill, the Nation's fifth largest consulting engineering company, has contracted with EPA for several years as its program manager for zone II of the Superfund Rem-Fit hazardous waste cleanup program in 29 States and territories comprising EPA regions V through X. Because of its technical qualifications and proven track record, the company recently was awarded a 5-year Rem-IV contract for program management of additional engineering investigations, studies, and design work under Superfund.

As the Superfund program expands under the reauthorization that we recently enacted, EPA will rely heavily on contractors to take on the enormous job of cleaning up our Nation's leaking waste sites. CH2M Hill's team approach—combining its own talents with those of a variety of specialized subcontractors of all sizes—should serve as a model for contractor efforts.

I hope that my colleagues will join with me in extending congratulations to CH2M Hill and its owner-employees for their achievements.

FLORIO DENOUNCES BARRINGTON PLANT CLOSING

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FLORIO. Mr. Speaker, I rise to voice my shock and dismay at the decision announced last week by Owens-Corning Fiberglas Corp. to stop production at its Barrington, NJ, plant.

This decision will result in the wholesale layoff of most of the 800 employees working at the plant and thus is a serious blow to the economy of Barrington and my congressional district. If initial accounts are accurate, and this profitable operation is being closed to reduce Owens-Corning's debt incurred while successfully fighting a hostile takeover, the human impact is all the more tragic.

Over the past several years, our economy has witnessed a plethora of hostile takeover attempts by arbitragers, corporate raiders, and investment bankers whose major goal is to make millions of dollars during a short period of time. According to one account, the company which tried to acquire Owens-Corning earned profits of $30 million as a result of the attempted takeover even though the effort failed!

While hostile takeovers can result in a few individuals earning millions of dollars, they also can result in the loss of jobs for thousands of hard-working, dedicated employees of the company many of whom will have great difficulty in finding other work.

I have requested a meeting with officials of Owens-Corning to urge them to reconsider their decision to close the plant. In addition, I intend to find out what efforts were made to find a buyer who would continue the plant's operations, what termination benefits and assistance Owens-Corning plans to give the employees who are being laid off, and whether Owens-Corning plans to seek a reassessment of taxes owed to Barrington Borough as a result of the shutdown.

I hope very much that the decision to close the plant can be reversed. If not, and this massive loss of jobs will occur, I stand ready to assist the workers and their families in any way I can.

I would like to share with my colleagues a copy of the newspaper article appearing in the Courier-Post of October 11 announcing and describing the plant closing. The article follows:

OWENS-CORNING TO SHUT PLANT—800 WILL LOSE JOBS AT BARRINGTON FACILITY

(By James A. Walsh)

Owens-Corning Fiberglas Corp. yesterday said it will stop production at its Barrington plant, ending most of the 800 jobs there.

The local plant, although profitable, is a casualty of Owens-Corning's recent fight against a hostile takeover bid, the company said.

Owens-Corning, in resisting a takeover attempt by California-based Wickes Cos. Inc. last month, took on a debt of $2.6 billion. The Barrington plant will close as part of an extensive effort to reduce that debt, the company said.

The 30-year-old plant, which makes fiberglass insulation, will release about 500 workers by year-end, Owens-Corning said.

"All remaining manufacturing operations will be discontinued by mid-1987 and the equipment mothballed," the company said.

An unknown number of workers will remain at a warehouse on the site, said Thomas Jadlos, the plant's personnel directory. Owens-Corning has not yet decided on the future of the 20-acre complex, he said.

Owens-Corning has announced no plans for change at another South Jersey facility, an insulation plant with 160 workers in Berlin Borough.

Yesterday's announcement stunned many workers at the Barrington plant.

"We're all walking around in a sort of trance," said one 30-year employee, speaking anonymously. "This was a shock. It hurts quite a bit, especially after all those years of loyalty to the company."

In its statement, Owens-Corning expressed regret at the plant shutdown. Were it not for the takeover battle and resulting debt, Jadlos said, "We would be continuing to manufacture products here."

Wickes, a retailing conglomerate, had sought to buy Owens-Corning's outstanding common stock for $2.1 billion, or $74 per share. Owens-Corning rejected the hostile bid as inadequate.

Owens-Corning then outbid Wickes, offering its shareholders $82 in cash and a $35 debenture for each common share. In turn, stockholders, who are to vote on the offer next month, would receive new shares in a recapitalized Owens-Corning.

However, to meet the cost of its offer, Owens-Corning has had to restructure its business. In a cost-cutting effort, it is dropping or selling operations considered non-essential or incapable of producing short-term cash.

"The Barrington plant * * * does not fit in with the focus on high-efficiency manufacturing of core business products," the company said.

Owens-Corning did not say why the Barrington plant was not offered for sale.

The planned shutdown will have only a limited impact on Barrington, said Robert Sullivan, the borough's mayor.

"The major impact it will have is on the local people who work there," he said. "I feel bad for them. But Owens-Corning will continue to pay their taxes here."

H.R. 4783, THE ANTIKICKBACK ENFORCEMENT ACT OF 1986

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. BRYANT. Mr. Speaker, the changes made in H.R. 4783 since it was reported by the Government Operations Committee, incorporated into the bill as passed by the House on October 7, are not discussed in the committee report or elsewhere. As the sponsor of the bill, who took part in negotiations with the House Government Operations and Judiciary Committees and the Senate Governmental Affairs Committee which led to those changes, I am including an explanation of the changes here.

In section 2, the definitions section, the word "acknowledging" in the definition of kickback has been replaced with the word "rewarding," which more accurately describes the motive for providing an after-the-fact kickback in exchange for favorable treatment.

In section 3, specifying the prohibited conduct, the word "pay" has been changed to "provide." This conforms the wording of the prohibitions to the definition of kickback and makes clear that the prohibitions apply to kickbacks whether or not they involve payment of money.

Subsection 3(b), which established a conclusive presumption that the amount of any kickback paid or accepted in connection with a prime contract or subcontract was included in the price of the contract and ultimately borne by the United States, has been deleted. This conclusive presumption was used under the Antikickback Act of 1946, and under the bill in its earlier versions, as a mechanism to establish liability in the prime contractor for

violations committed by subcontractors without the prime contractor's knowledge and to clarify that the theory of recovery was remedial in nature. Because conclusive presumptions have been criticized in recent years by legal commentators as an inept way of reaching a desired substantive standard, the bill was redrafted in order to establish the same scope of liability without using the conclusive presumption.

Section 4, establishing criminal penalties, has been changed in two respects. First, "willfully" has been changed to "knowingly and willfully," the standard of consciousness for criminal liability which applies to conduct whether engaged in by corporations or individuals. Second, the fines for both corporations and individuals have been changed to conform with the uniform fine statute in title 18 of the United States Code, which applies whenever a different fine structure is not otherwise specified by statute. Because a reference to the number of the specific section of title 18 is not needed for clarity, and because the number of the section of the code establishing the uniform standard, currently 18 U.S.C. 3571, will be changed in the near future, no reference to the section number is included.

Section 5, establishing civil penalties, has been rewritten in conjunction with the elimination of the conclusive presumption in section 3. Section 5(a)(1) establishes the civil penalties for knowing violations of the act, which are unchanged from those in section 5(a)(2)(A) of the version reported by the Government Operations Committee. Section 5(a)(2) imposes liability on the prime contractor or higher tier subcontractor for violations of the act by a lower tier subcontractor; proof of a knowing violation on the part of the contractor or higher tier subcontractor is not required, and liability is limited to the amount of the kickback proved to have been actually paid, accepted, or charged by the lower tier subcontractor. Section 5(a)(2) as rewritten is intended to achieve largely the same result as section 5(a)(2)(B) of the earlier version of the bill would have in these circumstances, but without using the mechanism of a conclusive presumption.

In section 5(b), providing for a statute of limitations for civil actions under the act, "became aware or should reasonably have become aware" has been changed to "knew or should reasonably have known," to conform to the language used in 28 U.S.C. 2416.

Section 6, providing for administrative offsets, has been substantially revised in form. Some of the changes are made in conjunction with the elimination of the conclusive presumption, which interacted with the earlier section 6. Section 6(a) allows a Government contracting officer to offset the amount of a kickback paid, accepted, or charged against moneys owed the prime contractor under the contract to which the kickback relates, even if the kickback occurred in the lower tier subcontract without the prime contractor's knowledge. Section 6(b) allows the contracting officer to direct the prime contractor to withhold from a subcontractor the amount of a kickback which has been or may be offset against the prime contractor. Section 6(b) allows the Government to reach beyond the prime contractor in cases in which a subcontractor has committed the violation, and also allows a prime contractor who has not been involved in committing the violation to recover from its subcontractor. Section 6(c) makes clear that administrative offsets and contracting officer directives and orders under the act are subject to the Contract Disputes Act of 1978, 41 U.S.C. 601, et seq. Under the Contract Disputes Act, a prime contractor or subcontractor from whom moneys owned under a government contract are withheld may appeal the decision to withhold such moneys to the Court of Claims for de novo review. Although the Contract Disputes Act also provides for appeal to an agency board of contract appeals, with further appeal to the U.S. Court of Appeals for the Federal circuit, cases have held that an agency board of contract appeals is an inappropriate forum in which to decide questions of fraud. For example, Comada Corp. (1983, AS BCA) 832 CCH BCA, paragraph 16681. Therefore, appeal of administrative offsets and contracting officer directives and orders under this section must be to the Court of Claims.

In section 7(c)(1)(A), the word "potential" was changed to "possible" in order to make clear that the reference was to kickbacks that may have occurred rather than to kickbacks which may occur in the future.

THE JUNIOR OLYMPICS PROGRAM

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. LUNGREN. Mr. Speaker, I would like to congratulate Sears, Roebuck & Co. on its 10th anniversary as sole national sponsor of the AAU/USA Junior Olympic Program. There are over 2 million young people from ages 8 to the teen years who participate in Junior Olympics each year. In addition, there are approximately 200,000 other people who volunteer their services to help train and support these athletes. This makes Junior Olympics the largest amateur sports program in the United States.

The Junior Olympics Program was inaugurated in 1948 by the Amateur Athletic Union through permission of the U.S. Olympic Committee. It was the Nation's first blue ribbon grassroots development effort designed to interest the Nation's youth in Olympic sports and to give them an opportunity to compete against young people of their own age on the local level.

Now in its 38th year, the Junior Olympic Program constantly seeks to further develop out Nation's youth sports programs by offering competition to young athletes annually. All competitions are geared in accordance with the Olympic motto: "In the Olympics, it is not the winning but the taking part that counts."

The AAU/USA Junior Olympics Program has long been noted as the premiere discovery program for future U.S. Olympic athletes. Eighty-three members—18 percent—of the 470-member 1976 United States Olympic team at Montreal were former Junior Olympians. Yet, that 18 percent won an amazing 74 percent of America's gold and silver medals.

The 1984 Olympic games in Los Angeles once again brought honor and credence to the AAU/USA Junior Olympic Program. Former Junior Olympians made up a modest 11 percent of the 529 member U.S. Olympic team. They won, however, 29 percent of the individual gold medals and 22 percent of the individual silver medals.

Each year, the AAU/USA Junior Olympics conducts activities in 21 sports. Competition begins at the local level and winners then progress to State, regional, and national championships. Hundreds of thousands of medals, ribbons, and certificates of participation are awarded to AAU/USA Junior Olympic athletes. All are provided without cost by Sears, Roebuck & Co.

But the Sears sponsorship involves more than ribbons and medals. It includes administratives costs of conducting what is probably the world's largest sports program. A Junior Olympic handbook and rule book for each individual Junior Olympic sport are distributed yearly to thousands of volunteers across the United States. Display materials are given to meet directors. T-shirts, pathes, and bags are given to all athletes at national championships. Promotional and public relations materials are sent to meet directors. There is no charge for any of the support materials.

Sears also sponsors national television telecasts of Special Olympics which greatly contribute to their exposure. Additionally, a national radio sports network provides coverage for regional and national AAU/USA Junior Olympic championships. It too is sponsored by Sears.

We wish to honor those athletes who recently competed in the games this last August as well as Sears for its continuing efforts on their behalf. It is an example to the rest of the world how athletics and the free exterprise system can combine to form a partnership of excellence.

ALMA COLLEGE CELEBRATES 100TH ANNIVERSARY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. SCHUETTE. Mr. Speaker, I want to today recognize the 100th anniversary of Alma College in Alma, MI, which was founded by action of the Presbyterian Synod of Michigan at Westminster Presbyterian Church in Grand Rapids on October 14, 1886.

Through its 100-year history, Alma College has joined the heritage of Judeo-Christian traditions with the continually relevant aims of liberal arts learning, doing so in accordance with its founding motto: "To the glory of God and the dignity of all people." Alma also is committed to creating in each student an intellectual curiosity about the wholeness of knowledge and a concern for value judgments which are critical to wise decisionmaking; helping each student to achieve their potential and to maintain a lifestyle based on integrity, self-respect, and purpose; and focusing on re-

lationships which promote the development of human potentiality while undergirding the values of individuals and the welfare of society.

The mission of the college is the liberation of people from ignorance, prejudice, and parochialism; the preservation and perpetuation of knowledge, skills, and values appropriate for free men and women; and the preparation of students for useful vocations in changing society. The curricular and extracurricular programs to achieve these goals are centered on the liberal arts and are designed to prepare graduates for entry into the traditional professional fields—law, medicine, teaching, and church vocations—as well as the "new professions" of management, business, government, and science and high technology fields.

The desire for a Presbyterian College in Michigan was as old as the synod of Michigan. At its first session in 1834, it was resolved, "that arrangements ought to be made immediately, in the territory, to secure a thorough literary and evangelical educational program."

In Detroit in 1885, a committee of nine was organized to see if any means could be realized for the establishment of an institution of higher learning in the State.

Persons who were instrumental in the founding of the college were: August F. Bruske, who proposed the resolution at the 1885 synod meeting in Detroit that a committee be appointed "to see if any means could be realized for the establishment of such an institution." Later he was to serve Alma College as its second president. J. Ambrose Wight, chairman of the committee appointed by the synod at Detroit in 1885; Alexander Folsom, a lumberman and member of Dr. Wight's church in Bay City who responded to a sermon given by Reverend Wight offering $50,000 to begin an endowment fund so that the college could be established. Ammi W. Wright, an Alma lumberman and businessman who offered a campus and two buildings to the synod if they would locate the proposed college in Alma. His continuing generosity helped to sustain the college during its early years. Theodore Nelson, who served as Alma College's first professor of English.

The following have provided leadership as presidents of the college: George F. Hunting, 1887–91; August F. Bruske, 1891–1912; Thomas C. Blaisdell, 1912–15; Harry M. Crooks, 1915–37; John W. Dunning, 1938–42, the only alumnus to serve as president; Roy W. Hamilton, 1943–46; Dale D. Welch, 1946–51; John S. Harker, 1951–56; Robert D. Swanson, 1956–80; and since 1980; Oscar E. Remick.

The original campus consisted of approximately 30 acres and two buildings, one recitation hall and a dormitory for women. Today Alma's campus of 80 acres has 20 major buildings, as well as a nearby 170-acre site used as an outdoor laboratory for work in biology and ecology.

Alma College has earned recognition as an outstanding liberal arts college. Please join me in congratulating this fine institution on the occasion of its 100th anniversary.

NEW GI BILL A TOP PRIORITY

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. MONTGOMERY. Mr. Speaker, the continuation of the new GI bill on a permanent basis beyond its June 30, 1988, expiration is one of the Army's top priorities. In addition to serving as a potent and effective incentive for recruiting a high quality Active and Reserve Force, this successful education program is benefiting the Nation as a whole.

Over 90 percent of Army recruits today are high school graduates. This impressive figure compares extremely favorably with the recruitment in 1980 of 54 percent graduates. As predicted by many studies, increased recruitment of high school graduates has significantly reduced the attrition rate, saving the Army about 13,000 personnel annually. Significant improvement has also been shown in recruit scores on the Armed Forces qualification test [AFQT]. In 1980, only 26 percent of those recruited scored in the upper half of this test. Today, 62 percent are scoring in the upper bracket. Without question, the availability of the new GI bill has contributed to this improved recruiting success.

Since the implementation of the new GI bill on July 1, 1985, the ability of the Army to attract high quality graduates has improved. The average monthly percentage of high quality graduate contracts written increased to 57.9 percent during the first 12 months of the new program compared to 50.8 percent for the final 12 months under VEAP.

The Army National Guard and Army Reserve have also benefited from the availability of the new GI bill. During the first 6 months of the educational assistance program for the reserve components, chapter 106 of title 10, high quality recruits in the Army Reserve increased by more than 30 percent as compared with the same period the year before.

An impressive 80 percent of new soldiers are presently participating in the new GI bill—double the rate under VEAP. Because the new program is such an attractive enlistment incentive, it is far more effective in attracting the high quality individuals the Army needs. Given the extremely competitive recruiting market, the result of an improving economy and declining youth population, the new GI bill is absolutely essential if the Army is to continue to recruit America's quality young men and women.

The Army's commitment to the new GI bill reflects this service's commitment to America's youth and has helped advance the Army to the highest level of public acceptance in recent years. Additionally, the Army recognizes the benefits to the Nation that will derive from this Educational Assistance Program. Those young people who further their education under the new GI bill will return $3 to $6 in increased local, State and Federal taxes paid for every $1 in GI bill benefits expended.

The new GI bill is proving to be a winner—for the soldier, the Army and the Nation. Without question, the loss of the program will have a negative effect on the personnel readiness of the Army.

KULPMONT VFW CELEBRATES 40TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today in recognition of the 40th anniversary of the Wanzie-Miriello Post No. 8354 of the Veterans of Foreign Wars. Located in Kulpmont, PA, the Wanzie-Miriello Post was established after World War II by service-minded veterans and will be celebrating its anniversary at a banquet on October 25.

Kulpmont area veterans of World War I and World War II realized the need for a local chapter of the VFW and began to recruit members in September 1946. On October 10, approximately 30 members received their national charter. They named the post after two Kulpmont soldiers who lost their lives in service to their country; Cpl. Daniel Wanzie, who was killed in World War I, and S1c. Bernard J. Mlriello, a Navy serviceman killed during World War II.

Once the chapter received its charter, more than 145 veterans joined the organization and began to put together the community service activities which have become a hallmark for VFW chapters across the Nation. The group bought the building which formerly housed the Kulpmont Water Co. and has used the building as its headquarters ever since, allowing other local civic organizations to use its meeting rooms. The Wanzie-Miriello Post has given food baskets to less fortunate families at Christmas, provided wheelchairs and crutches to the needy, and has performed a number of services to remember their fallen fellow soldiers.

I have visited the Wanzie-Miriello Post in Kulpmont on a number of occasions and was impressed by the acute awareness the members have of national as well as local issues which affect veterans. Members have long served to share their knowledge with their neighbors in Kulpmont. The strength of any national organization depends upon the strength of each individual chapter, and the well-respected Veterans of Foreign Wars is fortunate to count among its member chapters the Wanzie-Miriello Post.

Mr. Speaker, those patriotic Americans who have risked their lives to defend our Nation continue to serve their country and their communities through organizations such as the VFW. I am pleased to share with my colleagues in the House of Representatives my congratulations to the Wanzie-Miriello Post of the Veterans of Foreign Wars on the occasion of their 40th anniversary.

REPRESENTATIVE BOB EDGAR HONORED BY GREEK-AMERICAN COMMUNITY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues an event hosted by the Greek-American community of the Delaware Valley area in honor of my colleague, Congressman BOB EDGAR, who is seeking to represent the State of Pennsylvania in the U.S. Senate.

The event, which was hosted by the president of the Federation of Hellenic American Societies of Philadelphia and the Hellenic Flame, Dr. Nick Tsirakoglou, was geared toward emphasizing the many steps BOB EDGAR has taken to address the concerns of the Greek-American community. I wanted to share with my colleagues the following article and express my support for BOB EDGAR's continued efforts to call attention to the continuing conflict on Cyprus and to strengthen relations between Greece and the United States. The article follows:

HELLENIC LEADERS HAIL EDGAR AS "FRIEND OF GREEK ISSUES"

(By Mary Anne Janco)

Calling Bob Edgar a "friend of Greek issues," members of the Greek community showed their support for the senatorial candidate at a fundraiser in Havertown Sunday night.

"Edgar has been supportive of Greek causes in Washington," said John Kamb, of Upper Darby, president of Apollo Tours. "As members of the Greek community, we feel we should support him in his effort to get elected as U.S. senator."

Edgar, the Democratic Congressman from the Seventh District, is running against incumbent Republican Sen. Arlen Specter.

"As many of you know parts of Greece are suffering greatly," Edgar said, referring to a recent earthquake in Kalamata and problems in Cyprus.

"Some of the relations between the United States and Greece have been strained," Edgar said. "We need to build stronger relationships. We need a Senator who will stand up and speak out on tough issues."

Guests at the fundraiser asked Edgar to oppose military aid to the government of Turkey and to continue to support human rights in Cyprus.

Paul Kotrotsios, of Havertown, general manager of the Greek Radio Network of America, said the Greek community is also asking for the withdrawal of all Turkish military forces from Cyprus. Cyprus was invaded by the Turkish Army in 1974, he said.

"We're asking for human rights in Cyprus," said Panos Lambrias, president of the Cyprus Brotherhood of Delaware Valley. "In Cyprus, 230,000 people are refugees in their own country."

Military aid has to be cut until there's a fair solution, Kotrotsios said.

The fundraiser, which was attended by approximately 40 people, was hosted by Dr. Nick Tsirakoglou and his wife, Depina. Tsirakoglou is president of the Federation of Hellenic American Societies of Philadelphia and the Hellenic Flame.

THE ICELAND SUMMIT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. SHUMWAY. Mr. Speaker, I am very pleased that the President stood firm at the Iceland summit, demonstrating commendable tenacity as well as reason and fairness. He has made it clear that he is a strong negotiator who will not be taken in by the transparent tactics utilized by the Soviets, who seemed to believe victory would be theirs by leaving the strategic defense initiative until the end of the summit agenda. Hopefully, Mr. Reagan's steadfast refusal to sacrifice the SDI Program will draw needed attention to its many benefits here at home. Contrary to the contentions of detractors, SDI is a reasonable, "do-able," nonnuclear defense, able to protect us from the unpredictable threats of nuclear madmen throughout the world. My hope now is that the President will not find it necessary to "negotiate" further here at home, and that the American people will realize he has their best interests, strong national security, and the ultimate goal of realistic and verifiable arms reduction foremost in his mind.

IN HONOR OF JOEY AND MILLIE BAKER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. LEVINE of California. Mr. Speaker, the Ketubah B'nai B'rith has presented its Distinguished Service Award to Joey and Millie Baker, two loving human beings who, in their service to others, further better relationships among people.

As the Ketubah award states:

Joey was selected in 1942 as "The Ideal AZA Boy" when he was honored at the International Convention of AZA (Aleph Zadik Aleph of B'nai B'rith) with the Sam Beber Award, named after the founder of AZA. A native Californian, Joey began his lifetime of service in Pasadena AZA, and held the high office of District Aleph Godol (President). He continues to support the B'nai B'rith youth program and has served as its District Advisory Board Chairperson. In addition to his leadership in B'nai B'rith, Joey, known as 'The Broker of Venice,' has been President of the Venice Reality Board, President of the Venice Chamber of Commerce, and was honored by the Santa Monica Chapter of the National Conference of Christians and Jews. He is a Rotarian, a member of the Masonic Order, and with Millie, active in the Del Rey Yacht Club and members of Sinai Temple.

Millie, born in Memphis Tennessee, came to Santa Monica in her teen years, and became a member of the Santa Monica BBG (B'nai B'rith Girls) where she met Joey through their active involvement in the B'nai B'rith Young Adult Organization. Both served as presidents in the higher ranks of the organization at the regional, district and national levels. Their marriage has been blessed with three children and a grandchild. The Baker home has been open to family and friends, and various charitable dinner functions. Millie is a member of the Rotary-Anne, serves on the advisory board of the Daniel Freeman Marina Hospital, the TGI of Northridge Rehabilitation Hospital, ADL's Women's Committee and is Vice President of the Del Rey Yacht Club Women's Auxiliary.

TRIBUTE TO ED MURPHY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. SKELTON. Mr. Speaker, recently, I learned of the death of a friend and colleague from my days as a practicing attorney in Missouri.

Ed Murphy was a truly outstanding jurist and a trusted friend. The esteem in which he was held is exemplified in the record of the circuit court in the session following his death. Judge William J. Roberts offered the following tribute:

This court is informed that attorney Edward J. Murphy died on August 18, 1986. Mr. Murphy established his law practice in Butler in 1955.

He was a past president of the Missouri Trial Lawyers Association and a member of the American Trial Lawyers Association.

Mr. Murphy was a tenacious advocate for his clients, and a recognized champion of the rights and causes of the injured and oppressed. In those capacities he will not easily be replaced, if ever.

He freely and willingly gave of himself to aid and encourage the betterment of the members of his profession, both young and old. Though sometimes controversial, his wise counsel was often sought by the bar, bench, legislators and private citizens. He will be sadly missed by all.

He loved his profession. When at his best, Ed exemplified the highest qualities of a trial lawyer. As a young practitioner I often thought I'd never met a lawyer until I met Ed Murphy. The same thought holds true today.

The court pauses this day to honor this man and his memory.

It is ordered that these proceedings be spread upon the record of the court.

It is an honor to pay tribute to this outstanding representative of the legal profession before my colleagues in the U.S. House of Representatives.

TRIBUTE TO CONGRESSMEN JOHN McCAIN AND ELDON RUDD

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. MARTINEZ. Mr. Speaker, I rise today to honor two friends and colleagues, JOHN MCCAIN and ELDON RUDD, who will be leaving the House of Representatives at the end of this year. As a Representative from a neighboring State, California, I know that the Arizona delegation, the California delegation, and the rest of the House deeply appreciate their

service, and will miss both JOHN and ELDON when we begin the 100th Congress next year.

There can be no doubt that both JOHN and ELDON have been in the forefront in the fight to ensure that this country's criminal statutes serve as effective deterrents to crime. ELDON, as a former FBI agent, has introduced legislation to impose the death penalty for those who are seriously involved in illicit drug dealing. This certainly has helped to provide impetus for this year's drug bill and the increase in penalties for illegal drug dealers. Without ELDON'S work and leadership on this issue, the drug bill would certainly not be where it is today. JOHN, on the other hand, has worked to impose severe penalties for those convicted of child kidnaping offenses. Certainly, this crime is extremely serious, and must be punished severely. I also wish to thank JOHN for his support of improved English proficiency in this country.

I know that the Congress will miss both JOHN and ELDON and their dedication to their work. I wish both of them good luck in future endeavors.

TRIBUTE TO JOHN SEIBERLING

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1986

Mr. BOUCHER. Mr. Speaker, I rise to honor Representative JOHN SEIBERLING, who is retiring from the Congress after 16 years of service. I have had the privilege of working with JOHN through his chairmanship of the Public Lands Subcommittee as well as his membership on the Judiciary Committee.

I will always be grateful to JOHN for his hard work and strong support in obtaining the passage of my Virginia Wilderness Act in 1984. The effort to set aside these pristine lands had been ongoing for a number of years, and JOHN'S assistance was invaluable in finally achieving this wilderness designation. In addition to the Virginia Wilderness Act, JOHN successfully guided 19 other wilderness bills to enactment during the 98th Congress.

I will also remember JOHN for his willingness to address the complex and vital issue of the high rail rates charged by railroads that enjoy a monopoly over transportation lines. JOHN introduced the Railroad Antimonopoly Act to address this concern for shippers of bulk products, and I enjoyed working with him to advance the bill through our mutual membership on the Judiciary Committee. The Railroad Antimonopoly Act made impressive progress this year, and those of us committed to injecting competition into the rail industry to reduce high railroad rates will miss JOHN'S able leadership in the 100th Congress.

I wish JOHN well in his deserved retirement, and I thank him for his years of service to the Congress and the American people.

RADIO WNWK-FM

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. SCHEUER. Mr. Speaker, I would like to bring to the attention of my colleagues a unique, not-for-profit radio station that broadcasts to my district and to the Metropolitan New York/New Jersey/Connecticut area. WNWK-FM is a multilingual, multiethnic station that programs in 41 languages, 24 hours a day, 7 days a week. The station has approximately 4 million listeners, many of whom find WNWK's community service orientation to be their only source of information, instruction, job opportunities, and news concerning their ethnic community and homeland.

Since 1983, WNWK has been operated by Global Broadcasting, Inc., under an interim license. Since that time, the station has operated within the guidelines, expectations, and operating procedures of the FCC.

WNWK and Global Broadcasting have donated 100 percent of the station's profits to charitable causes throughout the 3 years of its operations. This has amounted to more than $200,000 each year. Included in these charitable causes are groups like the Fresh Air Fund, Newark Youth, Community College scholarships, the Boy Scouts, and drug rehabilitation centers.

In 1985, WNWK was awarded the Associated Press "Outstanding Community Service Award" for its region. On September 22, 1986, the Associated Press announced that WNWK, for the second year in a row, had won this prestigious award.

As the interim licensee, Global is prohibited by the FCC from competing for the permanent license. My interest and concern is for the station and for the continuation of a community service, multilingual, multiethnic broadcast service that will serve "the public interest" as the FCC is charged to do.

I hope the FCC will study and review the adequacy and availability of multilingual and multiethnic broadcast service to the Metropolitan New York area. The FCC should properly seek participation in the study from the appropriate committees of Congress and from individuals with considerable experience in the programming and broadcasting of multilingual, multiethnic programming and community service.

BUDGET PROCESS SUNSET REVIEW ACT

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. LOTT. Mr. Speaker, today I am introducing the "Budget Process Sunset Review Act of 1986." The bill would establish a bipartisan commission to study the impact of the budget process on the two branches, and recommend whether the process should be continued, modified or terminated. The bill would further require Congress to consider and act on the Commission's recommendations, and, unless Congress enacts legislation to continue or modify the budget process, it would expire on March 15, 1988.

Mr. Speaker, I think I've been as strong a supporter of the budget process over the years as anyone around here. I voted for it in 1974, and I've vigorously upheld its provisions through the years as a member of the leadership and the Rules Committee. But, like many of my colleagues, I've begun to wonder just how effective it has been and how much it may be distorting and disrupting the regular authorization and appropriations processes. I've formed no final opinions on those questions, but I do think they are legitimate enough to warrant a full-scale review of the budget process by a distinguished Commission comprised of Members of Congress, the public, the executive branch, and the Comptroller General. The Commission would report back to us by next September 30. Our committees would than have until the end of the year to report legislation either continuing the budget process in its present or modified form, or recommend its termination.

If Congress does not enact legislation specifically extending or modifying the budget process by March 15, 1988, the acts would expire. The bill would apply to both the Congressional Budget and Impoundment Control Act of 1974, and the Balanced Budget and Emergency Deficit Control Act of 1985, the so-called Gramm-Rudman-Hollings Act.

Mr. Speaker, I appreciate that there are those who will argue that this should be strictly an internal review by the House and Senate since we are dealing primarily with the congressional budget process. But I would disagree for two reasons. First, the 1974, Budget Act provides for not only a congressional budget process, but the Presidential impoundment and deferral authority as well. And the 1985 Balanced Budget and Emergency Deficit Control Act not only amends the Congressional Budget Act, but requires the President to submit budgets which conform with the maximum deficit amount each year, and to issue the Executive order sequestering funds if we don't meet that deficit target through the regular budget process. So, it is important that executive branch officers and employees be represented on this review Commission.

Second, we must never lose sight of the fact that the way we budget in both branches ultimately affects the people and the allocation of their tax dollars for public purposes. The budget process is much bigger than the internal mechanics of the Congress and the executive branch. It is the determining force in how the people's money will be spent. As such, there should be public representatives on this Commission.

Mr. Speaker, I am not suggesting that we should delegate to the Commission the ultimate power to decide the future of the congressional and executive budget processes. I have not provided in my bill for an up-or-down vote on the final recommendations of the Commission. Instead, I have simply required that the appropriate committees consider those recommendations and report to their respective Houses their own recommendation

as to whether the budget process should be continued, modified or terminated.

The action-forcing mechanism in all this, of course, is the sunset date which will fall some 5½ months after the Commission report is submitted. If legislation is not enacted by that March 15, 1988, date, then the two Budget Acts covered would expire.

I know there will be those who will argue that this is an invitation to inaction by those in Congress who, for a variety of reasons, oppose one aspect or another of the current budget laws. But, I do not agree that either House will let these acts expire without taking a vote on the alternatives. The very fact of a report by a distinguished commission should provide sufficient impetus for us to consider and vote on its recommendations or any options that might be proposed by our committees. I do not think the American people would forgive us for killing the budget process by inaction.

On the other hand, if we do not put in place a sunset date as an action forcing mechanism, I fear we will continue to putter along with the present system without taking the time or trouble to seriously consider the work of the Commission. I want this Commission's report to be something more than a dust-collector on a shelf, for a change. The sunset review process provided in my bill is the best way to ensure that result, in my opinion.

Mr. Speaker, I urge my colleagues on both sides of the aisle to join me in this sincere attempt to examine in-depth the current operation of our budget process and determine whether or how it should be continued. I think it's obvious to everyone that things are terribly out of kilter in Congress, and that the overpowering presence of the budget process is a major factor in that equation. I am hopeful this budget process sunset review proposal will point the way out of this morass.

At this point in the RECORD, Mr. Speaker, I include a brief summary of my bill. The summary follows:

H.R. 5699

BRIEF SUMMARY OF PROPOSED BUDGET PROCESS SUNSET REVIEW ACT

[Introduced by Representative Lott, Oct. 14, 1986]

Title: The "Budget Process Sunset Review Act of 1986".

Purpose: To establish a Commission on Budget Process Review, require congressional consideration of the Commission's recommendations, and to sunset the budget process if no action is taken to extend or modify it by March 15, 1988.

Establishment of Commission: There is established, not later than 60-days after enactment, a Commission on Budget Process Review. The Commission would cease to exist on Dec. 31, 1987.

Purpose of Commission: The purpose of the Commission is to study and review the operation and effectiveness of the Congressional Budget and Impoundment Control Act of 1974, and the Balanced Budget and Emergency Deficit Control Act of 1985, and their impact on congressional and executive operations with a view to determining whether such Acts should be continued, modified, or terminated.

Membership: The Commission shall be composed of 19 members including six each appointed by the President, President pro tempore of the Senate and Speaker of the House. Two public members shall be appointed by each, and not more than four executive branch officers or employees, four Senators, four Representatives. Not more than three members for each category of six shall be of the same political party. In addition, the Comptroller General shall serve as a member. A chairman and vice chairman shall be elected by the members.

Miscellaneous: Provisions are made for staff, per diem for non-Federal members ($150), travel, hearings, and consultants. To the maximum extent possible, the Commission would draw on existing executive and congressional staff having budgetary expertise.

Report. The Commission shall submit its final report to Congress not later than Sept. 30, 1987.

Congressional Review & Action: The report shall be referred to the appropriate committees of the House and Senate which shall conduct hearings and report their recommendations to their respective Houses no later than Dec. 31. 1987.

Sunset: Following such committee reports, unless legislation is enacted by March 15, 1988, specifically continuing or modifying the budget acts referred to above, such acts shall cease to be effective on that date.

CONGRATULATIONS TO NOBEL LAUREATE ELIE WIESEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FEIGHAN. Mr. Speaker, I rise to extend a word of thanks to the Nobel Committee for its selection of this year's winner of the Nobel Peace Prize, as well as a word of congratulations to the winner, Boston University Prof. Elie Wiesel.

Elie Wiesel's selection for the Nobel Peace Prize is a heartening recognition of his profound vision, dedication, courage, integrity, and remarkable ability to communicate the horrors of the Nazi Holocaust to the world community. The Nobel Committee's citation for the award clearly expresses why Elie Wiesel has earned this extraordinary honor:

Elie Wiesel has emerged as one of the most important spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world. Wiesel is a messenger to mankind; his message is one of peace, atonement and human dignity. His belief that the forces fighting evil in the world can be victorious is a hard won idea.

That idea is one that is shared by all who care about the cause of human freedom and dignity, a cause for which Elie Wiesel has devoted so much of his life and his work.

As a child, he was deported from the small town of Sighet in present day Romania, and sent to the concentration camps at Auschwitz and Buchenwald. At Auschwitz, his mother and his younger sister died; at Buchenwald, his father. Wiesel was separated from two older sisters, and did not learn that they had survived until the war has been won and the concentration camp survivors were liberated.

In the years since that liberation, Elie Wiesel has devoted his life to ensuring that the millions who lost their lives in the holocaust are not forgotten, that they have not died in vain. In over a score of books and essays, he has reminded us of the horrors of which man is capable, and of the responsibility that we all bear to head the Scriptural call and "undo the heavy burden and let the oppressed go free."

His selection today as a Nobel Peace laureate places him in the company of such previous winners as Andrei Sakharov, Mother Teresa, Lech Walesa, and Archbishop Desmond Tutu. Like them, Elie Wiesel possesses those rare gifts of strength, courage, and grace that enable him to "speak truth to power." He has been a conscience and a catalyst, a man of honesty and of compassion.

I know every Member of the House joins me in extending our heartfelt words of congratulations to Elie Wiesel on his selection for this great honor. The Nobel Committee reflects honor upon itself for having made such a magnanimous and fitting selection.

PUBLIC SUPPORT FOR SUPERFUND

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. DINGELL. Mr. Speaker, Congress has spoken on the vital issue of reauthorizing a strong Superfund bill by overwhelming passage of the Superfund conference report by both the House and Senate. It is a strong bill. It is a reasonable compromise. It is legislation vitally needed by our Nation, and particularly needed by States like Michigan which has 66 toxic dumpsites on EPA's national priority list.

This places the ball in the President's court. He can make a wise decision and sign the bill. On the other hand, he can make a very foolish and ill-advised decision and veto the legislation. Should the President take the foolish and ill-advised course of action, the Congress will certainly override his veto. The question now is one of timing.

I believe the vast majority of American citizens want a Superfund program, and will not stand for one man to stand in its way. Editorials published in newspapers throughout the entire country reflect this public attitude. For this reason, I urge my colleagues to read the following editorial entitled, "Superfund: Congress Steps Up To An Environmental Problem," which was published in the October 9 edition of the Detroit Free Press.

SUPERFUND: CONGRESS STEPS UP TO AN ENVIRONMENTAL PROBLEM

Congress clearly decided it had enough with the backing and filling over Superfund—one of the more useful and effective federal environmental programs—and both the Senate and the House have now voted overwhelmingly to fund the program at $8.5 billion for fiscal 1987. The money will come from taxes on industries whose pollutants made Superfund necessary in the first place.

President Reagan has threatened to veto the bill. Mr. Reagan takes a dim view of the revenue side of the measure because he opposes the imposition of any new taxes.

Well, hurrah for the Senate. By a vote of 88 to 8—a crushing majority—it sent Mr. Reagan a message the (1) the government has a health-and-welfare responsibility to the citizenry to spur the cleanup of toxic wastes by holding industries responsible for their own messes, and (2) it is not possible for the government to do its work without adequate revenue, which means taxes.

Environmentalists had almost despaired, thinking that perhaps Congress would let Superfund die. Some of the more zealous got a kick out of industry-bashing, which contributed to the crisis over Superfund's retention. But once apprised of the facts of the matter, the Republican-majority Senate did the right thing. Now, so has the House. Mr. Reagan ought to put down his "Manual of Absolutely Doctrinaire Economic Thought" long enough to see what many of his partisans in the Senate have seen about the necessity of Superfund.

In any event, a presidential veto of the appropriation would almost surely be overridden, and how, on the heels of the override of his South African sanctions, can that help the president's broader political cause?

TRIBUTE TO DOMINIC DI FRANCESCO

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. GEKAS. Mr. Speaker, the Pennsylvania American Legion could not have made a better choice when it elected Dominic DiFrancesco to serve as its 1986–87 State commander. In fact, Dominic is so well thought of and respected in Legion circles that he was elected to the coveted post without opposition. That, in my opinion, is quite an honor and a high achievement.

Having personally known Dominic DiFrancesco for many years, I find it especially satisfying to pay tribute today to a man who has dedicated his entire lifetime to serving his country and community. Dominic, or Donnie Di as his friends call him, was elected American Legion State commander on July 12, 1986. Prior to his election, he served successfully at every level of leadership in the Legion and continues his active involvement in his hometown post 594, Middletown.

Highlights of his American Legion service include 19th district commander and State vice commander from the central section as well as positions on various national committees and commissions. Dominic, who was a Navy communication technician during the Korean war, is currently employed as a planning and resource specialist at the New Cumberland Army Depot.

Dominic has chosen as his theme for the year, "Success is a journey and not a destination." This theme is most appropriate in that it accurately reflects a man who has never rested on his laurels but has always strived to go one better.

Mr. Speaker, I wish to extend my congratulations to Dominic DiFrancesco with the backing of the entire Congress for his many jobs well done.

KILDEE HONORS REV. JOSEPH R. ROBB OF MICHIGAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the long and distinguished career of Rev. Joseph R. Robb. Reverend Robb will be celebrating the 40th anniversary of his ordainment on October 26, 1986, at the Knights of Columbus Hall in Davison, MI.

Reverend Robb went to Fowlerville High School from where he graduated in 1937. He then chose to attend Sacred Heart Seminary. He graduated in 1943 and 3 years later on October 26, 1945, at the Diocese of Lansing, Reverend Robb was ordained into priesthood. He started his vocation in Flint that same year at St. Michael's as an associate pastor. Over the following 10 years Reverend Robb took on three more positions as associate pastor, first at St. Mary's in Jackson, then at St. Mary's in Kalamazoo, and finally at St. Mary's in Three Oaks. From 1957 to 1962, he served as pastor at St. Mary's in Swartz Creek and then from 1962 to 1968 as pastor at St. Mary's in Paw Paw. Then in 1968 he came back to Flint to preside at the Holy Rosary Church, where he serves as pastor yet today. Currently, Reverend Robb is also the chaplain at the Bishop Joseph H. Albers Knights of Columbus Council No. 4090 in Davison.

Mr. Speaker, during his 40 years of service, Reverend Robb has succeeded in far surpassing his expected duties as pastor. Our communities and the congregations that he has led have greatly benefited by the dedicated and unselfish services of Reverend Robb. It is indeed an honor and a privilege to pay tribute to this highly regarded man on his 40th anniversary of ordainment.

NEW JERSEY AGENT ORANGE COMMISSION WORK YIELDS NEW TEST FOR DIOXIN EXPOSURE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FLORIO. Mr. Speaker, I have several times in the past drawn the attention of my colleagues to the work of the New Jersey Agent Orange Commission. The commission has been at the forefront of scientific research relating to tracing the levels of dioxin still present in Vietnam veterans who were exposed to agent orange during the Vietnam war.

As my colleagues will learn from the following article there has been substantial progress made in the means of discovering the exact levels of dioxin still in Vietnam veterans.

I commend the article to my colleague's attention.

The article follows:

[From the New York Times, Oct. 14, 1986]

HIGHLY SENSITIVE TEST CAN DETECT DIOXIN YEARS AFTER EXPOSURE

(By Erik Eckholm)

Using tools of breathtaking sensitivity, scientists have learned that they can discern traces of dioxin that have persisted in a person for years, even decades after exposure. The advance should help resolve the painfully inclusive debate over the dangers of the notorious chemical.

The proof that exposure leaves lasting remnants is a breakthrough, scientist say, because efforts to study the long-term health effects of dioxin and related chemicals have been subverted by uncertainty about who was really contaminated and who was not.

The steadily improving technology indicates only the presence of the chemicals, and says nothing about their impact on health. But with a method finally available for knowing who to compare with whom, "it will be possible to study health effects for more precisely than in the past," said Dr. Peter C. Kahn of Rutgers University. Dr. Kahn, a biochemist, was co-leader of a study of dioxin levels in Vietnam veterans conducted for the New Jersey Agent Orange Commission.

With techniques that can identify mere parts per quadrillion of chemicals in human fat—a quadrillion is a 1 followed by 15 zeros—scientists have discovered that dioxin persists in the body far longer than previously assumed. Recent studies of victims of industrial accidents, vietnam veterans who handled dioxintainted herbicides and residents of a contaminated area of Missouri have all found telltale traces of high past exposure.

In test animals, dioxin is one of the most poisonous substances known; minute amounts are deadly, and extended exposure to lower levels causes cancer and birth defects. In humans, high doses of the chemical are known to cause skin eruptions and liver and neurological ailments. Lower, repeated exposures have caused damage to the immune system, but efforts to show an ironclad link to subsequent cancers or other illness are mirped in controversy.

The main object of study so far has been the form of dioxin believed to be most dangerous, 2,3,7,8-TCDD. This chemical as well as dozens of other dioxins and more than 300 related chlorine-containing chemicals known as furans and PCB's resist breakdown and accumulate in the food chain.

In the coming years, as the detection method is standardized and its meaning is better understood, it could help identify those who actually have dangerous amounts of dioxin and need special medical attention. Equally crucial, it may also bring peace of mind to many veterans and others who find that, contrary to their fears, they were not seriously contaminated. Test results will probably also be introduced as evidence in lawsuits involving charges of dioxin damage. But scientists caution that not enough is known about the meaning of the technology to justify widespread screening.

For now, among other benefits, the technique appears likely to break the seven-year logjam that has blocked a Federal epidemiological study of whether some Vietnam veterans were harmed by dioxin. The chemical was a contaminant of Agent Orange, an herbicide sprayed during the Vietnam War. Despite veterans' pleas to answers, Federal scientists have so far been reluctant to undertake the study, which was mandated by

Congress in 1979. Officials have argued that the military records of herbicide spraying and troop movements are insufficient to identify those exposed with the precision necessary for a scientifically valid comparison of health. Until recently, senior Federal officials resisted the assertion of outside scientists that analysis of fat tissue could clarify the matter.

But just last month, at a conference in Japan on dioxins and related compounds, scientists from the Federal Centers for Disease Control announced that residents from an area of Missouri exposed to contaminated soils did indeed have markedly higher dioxin levels in fats from blood and body tissue than a control group. And last month, the C.D.C., which is managing several major health studies of Vietnam veterans, drew up plans to study fats in the blood of 450 veterans to validate the accuracy of estimates of Agent Orange exposure drawn from military records. This could eliminate the chief scientific objection to the proposed large-scale epidemiological comparison of veterans exposed to Agent Orange and those who were not.

The planned study of blood fats, which must first be approved by the Congressional Office of Technology Assessment, will take about six months, according to Dr. Vernon Houk, director of the Center for Environmental Health at the CDC. If results show that exposures can be reliably estimated from records, then the larger health survey will finally get under way, he said.

Exposure estimates used in the Air Force's continuing "Ranch Hand" study of men involved in spraying herbicides will also be tested against the detection method, Dr. Houk said. He said that it would not be feasible to apply the detection procedure itself, which costs $1,000 a sample, on the large scale required for the broader health surveys.

The Federal agency also plans to study people suffering five uncommon types of cancer that dioxin is suspected of causing, to see if victims have had unusual dioxin exposures.

At last month's conference in Japan, Dr. Kahn presented the results of the New Jersey study, which found that ten veterans who handled Agent Orange in the late 1960's had an average of 48 parts per trillion of dioxin in their fats, ten times the level in a control group of veterans. According to Wayne Wilson, executive director of the New Jersey Agent Orange Commission, the study was undertaken because of frustration with what he called the "footdragging of the Federal Government" on the matter. In the coming months the health status of the exposed and control groups will be compared, although in this study the number of subjects is too small to yield conclusive evidence of dioxin's dangers.

In the detection method, chemical residues in fat are analyzed with gas chromatography and mass spectrometry. Elements of fat likely to contain the target chemicals are separated from the rest, vaporized and their molecules given an electric charge. As they pass through magnetic fields, the charged molecules land at different points on a detector according to their weights, producing a pattern on a graph for analysis. The technology is advancing to ever more exquisite levels of sensitivity, but it is reliable only with extraordinary quality-control measures that have been mastered by a handful of laboratories so far, scientists said.

SWEDISH DETECTIVE WORK

Use of this method for detecting exposure to dioxin and related compounds was pioneered by Dr. Christoffer Rappe of the University of Umea in Sweden, who in the late 1970's began studying tissue from factory workers and later worked with Japanese scientists studying victims of a 1968 incident in which cooking oil was contaminated with PCB's and furans.

Over the last few years several American scientists began using the technique on veterans, industrial accident victims and others. Dr. Arnold Schecter of the State University of New York at Binghamton, for example, showed that the general population of industrialized countries was contaminated with a "background level" of dioxins and furans, apparently because the chemicals appear in many pollutants including industrial and incinerator emissions and exhausts from cars burning leaded gasoline, and have also been present in widely used herbicides.

Dr. Schecter and colleagues have also studied dioxin in the tissues of people in Vietnam and most recently showed that workers doused with dioxin in a West German factory in 1953 still carried an average of 25 times more of the chemical than their countrymen.

While outside scientists have welcomed the change of heart by the Federal Government regarding the utility of the detection method, the C.D.C.'s plans have not escaped controversy. Everyone agrees that obtaining blood samples is less intrusive and simpler than obtaining fat tissue. But Dr. Schecter said that many scientists think it is premature to rely on blood samples alone, as the C.D.C. plans to do. He has argued that fat tissue samples, with which scientists have far more experience, were still necessary for confidence in results. But Dr. Houk asserted that blood specimens could produce equally reliable results.

DISPUTE OVER TECHNOLOGY

Like nearly everything about dioxin, the relevance of the new technology to the controversial court settlement between Vietnam veterans and the makers of Agent Orange is also disputed. The judge who devised the settlement, which is now under appeal, concluded that it was impossible to prove who was damaged by Agent Orange, and that a fund should be shared among any veterans and their families suffering ills possibly related to the chemical.

Some who already opposed the settlement, such as Mr. Wilson of the New Jersey commission, himself a veteran, and Dr. Schecter, said that rather than ignoring the question of who actually suffered health damages, as they say the settlement does, they want to pursue answers. And studies using the detection method should make this possible. But others observe that the settlement involves legal as much as medical issues, that it will be impossible to prove that an ill person was not damaged by Agent Orange and that it will be years more before any medical answers are likely.

Even with the new technology, scientists say, major questions about dioxin's dangers will remain unanswered. Current trace levels of the chemical do not, for example, necessarily tell how great the initial exposure was, because scientists do not know how much the gradual process of chemical breakdown varies among individuals.

One European scientist recently astonished his colleagues by swallowing some dioxin to follow its passage through his body. But no one expects to see many more volunteers for this.

Many scientists said that for the time being there was no point in individuals, outside of formal studies, having their fat analyzed for dioxin contamination. Dr. Houk said he feared that "fly-by-night labs" would produce "meaningless results."

Even at the best laboratories, "we can get a number, but how do you interpret it clinically?" asked Dr. Kahn. "Why should a physician get a number if he doesn't know what treatment to give?" But maybe, he said, things will be different four or five years from now.

IGLWU OPPOSES HOMEWORK DECISION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FRANK. Mr. Speaker, the people who oppose the recent decision by this administration to undo the restrictions on industrial work being done at home are not motivated by opposition to the desire of people to earn a living, but rather by concern that those working at home have historically been exploited by employers.

People working at home are far less likely than those working in shops or factories to be given the benefit of protections embodied in a variety of laws. The point is well illustrated by a recent article in the AFL–CIO Federationist, written by Jay Mazur, president of the International Ladies Garment Workers Union. ILGWU was a pioneer in protecting vulnerable workers from exploitation, and it continues to be one of the staunchest defenders of workers rights in American society. I ask that Mr. Mazur's article be printed so that people can understand exactly what motivates ILGWU in its principled and thoughtful opposition to the homework decision.

HOMEWORK

The Reagan Administration has decided to legalize industrial homework in the industries in which the Labor Dept. banned it almost half century ago. The Administration would have us believe that restrictions on homework are a relic of the past, when in fact the conditions these regulations were intended to prevent have returned with a vengeance. The sweatshop has risen again on our cities reviving the scenes of crowded factories and sewing in tenements, child labor and starvation wages which were the shape of this country at the turn of the century. To legalize homework under these conditions is a return to the industrial Dark Ages.

50-YEAR "EXPERIMENT"

When the Administration of the Wage & Hour Division of the Labor Dept. moved in 1942 to outlaw homework in seven industries—jewelry, gloves and mittens, knitted outerwear, women's apparel, buttons and buckles, handkerchiefs and embroidery—he had good reasons to do so. He knew that the Fair Labor Standards Act, which prescribes minimum wages, maximum hours and other labor standards, could not be enforced unless homework was abolished in these industries. He knew it from his own experience; he knew it from the experience of

state governments over more than a half century.

Sweatshops and homework have always gone hand in hand. In a factory, no matter how exploitative, workers still have some recourse. They may join together in collective action, they may look for the union organizer, they may call in the government inspector. But send the work home—to a worker who has had to pay for her own machine and her own electricity—and it is impossible for workers to join together in their own defense and it is impossible for the government to inspect for minimum wage, child labor, or health and safety violations.

The Dept. of Labor itself in 1967 (The Growth of Labor Law in the United States) said it very clearly:

"While there were distinct advantages to the employer who used homeworkers, all other persons involved suffered.

"Industrial homework means:

"To the homeworker—long hours and low pay.

"To the children of the homeworker—child labor, with its attendant evils.

"To the fair-minded employer—unfair competition, because he has to compete with the employer who pays lower wages and who passes on part of his overhead cost.

"To the factory worker—a constant threat to standards of hours, wages, safety and other established working conditions.

"To the consumer—the risk that many products he uses have not been subject to the protective sanitary regulations of the factory."

The problem is an old one. The first attempt to regulate industrial homework was in 1871 by the state of Massachusetts.

For nearly half a century before 1942, state after state and then the federal government tried to "regulate" industrial homework while licensing it and they failed. The long experiment in the laboratory of reality proved that unless industrial homework was banned, it could not be controlled.

It became abundantly clear that industrial homework was a way, the simplest way, to break laws intended to protect workers, children, other producers and consumers. When the state passed a law regulating child labor in factories—where inspection is relatively easy—the number of children in homework rose. When a law was passed regulating the hours of work for women in factories, workers were given bundles of piece goods to sew at home.

In the early New Deal days, the federal government moved to license and regulate industrial homework—just as the states had tried to do.

The United States Children's Bureau concluded of the New Deal experiments under the National Industrial Recovery Administration: "Great gains were made where the codes prohibited the giving out of homework. But in the industries in which homework was still permitted, even though limited by certain regulations, the ancient evils continued to exist and to constitute a menace to the higher labor standards that had been achieved for factory workers."

GOVERNMENT FAILED

The inability of government agencies to enforce minimum labor standards as long as homework was permitted finally compelled the Dept. of Labor to ban industrial homework in seven industries in 1942.

The testimony is there. But even in the absence of the long historical record, simple common sense tells why it is impossible to "regulate" homework once it is licensed.

The Fair Labor Standards Act calls for a minimum wage, based on earnings per hour. Unless there is a government inspector in every home where industrial work is carried on, how is it possible to know how many hours were worked? There are no time clocks, and if there were, who would supervise them? The law forbids child labor under a certain age. How many eyes would Uncle Sam need to peer into all those homes to see when a child is watching TV or handling pins or doing both?

The law calls for employer and employee payments to government programs such as unemployment insurance, social security, workers' compensation. How would Washington ever know how many cousins, sisters, aunts or neighbors are paid to lend a hand with the work—without any contributions to government funds? The law also requires that a certain percentage of the pay will be deducted for income taxes. But payment to homeworkers is notoriously a cash operation, a vigorous part of the underground economy, with under-reporting or non-reporting of income.

DECADES OF FAIRNESS

From 1942 until Ronald Reagan was elected President, the ban on industrial homework was unchallenged. Like the minimum wage and the ban on child labor, they were part of the industrial decency which the New Deal has brought to this country.

Even the arch-conservative ideologues of the Reagan Administration would not dare to repeal the minimum wage or the ban on child labor or the basic protections of worker safety which the labor movement has gained over so many decades. Yet, by legalizing homework in these industries—industries chosen because they were historically most prone to exploitation and sweatshop conditions—the Reagan Administration effectively proposes to repeal these basic labor standards for our most vulnerable workers.

Moreover, by the late '70s, the sweatshop had reappeared in an industry which had barely changed in structure and technology in 50 years. A combination of factors including a large influx of immigrants, many of them undocumented, growing competition from low-wage imports and cuts in labor standards enforcement due to government budget cutting contributed to the rise of the sweatshop. Labor Departments across the country were finding illegal industrial homework, for wages commonly as low as $1 to $1.50 an hour. Clearly, there could not not have been a less auspicious time to repeal the ban on industrial homework.

The Reagan Administration, allied with right-wing and anti-labor forces throughout the country began the attack on industrial homework early in Ronald Reagan's first term—on May 5, 1981, when they first proposed legalizing all industrial homework.

From the start, the Administration portrayed their assault on our basic rights and protections as a defense of individual liberty. Their efforts, they claimed, were in defense of the freedom to work of a group of Vermont women who made knitted ski caps in their homes. These workers were a far cry from the typical homeworker—they were rural, middle-class women who worked in pleasant and spacious homes. Yet even in this ideal setting, frequent violations of the minimum wage were found by the Labor Dept.

The International Laides' Garment Workers' Union, joined by other unions, legitimate apparel employers, community organizations, the Depts. of Labor of various states and five previous U.S. Secretaries of Labor, fought the Administration's attempt to legalize homework. Finally, after protracted legal battles, the Dept. of Labor went ahead in 1984 with a much more limited proposal—lifting the ban on homework in the knitted outerwear industry only and creating a system or registration. This was a return to the failed efforts by many government agencies in the decades before 1942 to "regulate" industrial homework.

FAILED REGULATION

The Dept. of Loabor's efforts to regulate industrial homework in this one industry—one that is relatively small and not typical of other apparel industries—have been no more successful than earlier attempts. This failure is hardly surprising, since there is little evidence that the Dept. of Labor under Reagan even made a good-faith effort to enforce the new regulation.

Few employers in the knitted outerwear industry have registered with the Department of Labor, and in most of these cases the employer has been found in violation of the Fair Labor Standards Act. Record-keeping, the key to any effort to regulate homework, has been deficient in nearly all cases. Little effort has been made to crack down on homework operations which fail to register. The government investigates homework primarily on a complaint-only basis, despite the clear evidence that homeworkers—out of fear and desperation—rarely complain.

In the face of all this—in the face of almost a century of hands-on proof that licensed homework cannot be regulated, in the face of a rising tide of industrial homework to violate the industrial code and the tax law, in the face of the most recent experience in the knitted outerwear industry—the Dept. of Labor now proposes to lift the ban in the remaining six sectors covered since 1942.

This new effort to "get government off the backs of people" will effectively end federal labor standards in the industries where sweatshops have flourished on the backs of those workers who most need protection. Some are recent immigrants, often undocumented, with limited knowledge of English or awareness of their rights, but others are American citizens, who are poor and desperate for work.

In reporting on the findings of John Horn, New Jersey's Labor & Industry Commissioner, the Atlantic City Press in 1981 noted the particular vulnerability of immigrant workers: "In illegal operations, the homeworkers are poorly paid and the working conditions are not checked. Many employers pay the foreign homeworkers in cash, not only evading state and federal income tax, but also cheating the workers out of ligitimate social security and unemployment comnpensation benefits."

Frank Mercurio, Regional Administrator, Employment Standards Administration of the U.S. Dept. of Labor, at a 1981 hearing held by the New York State Dept. of Labor, added: "Homeworking is a perfect vehicle for utilizing and taking advantage of undocumented workers."

Yet precisely at this moment when the most unscrupulous employers are turning to homework, the Labor Department decides to make homework legal. Why?

The answer lies not in policy or in fact, but in ideology. This Adminstration has felt compelled to pursue its ideological convictions regardless of the real suffering inflicted—on the growing numbers of the poor, the unemployed, the homeless, the exploit-

ed. They believe that the body of social protection built up over decades is merely a restraint on personal freedom, and that sooner or later, everyone will flourish if only we release the free market to do its magic.

We will continue to resist this Administration's ideological fantasies, because we in the ILGWU know that to license homework is to license industrial hell. We cannot stand by while the Administration turns back the clock to the industrial Dark Ages.

STATEMENT BY DANTE FASCELL ON THE SAN SALVADOR EARTHQUAKE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FASCELL. Mr. Speaker, on October 10, 1986, an earthquake measuring 7.5 on the Richter scale hit the city of San Salvador, El Salvador. The effect was devastating—an estimated 900 dead, 150,000 homeless and $600 million of damage.

It was with great sorrow and sympathy that we here in the United States learned of this disaster. The Salvadoran people have spent the past decade struggling courageously against war, terrorism, and other man-made disasters. It is most unfortunate that they find the tremendous progress which they have made over the past several years so badly damaged by this natural disaster.

In response to this tragedy, the United States has shipped supplies of relief assistance—tents, blankets, water bladders, folding litters. It has also dispatched rescue and disaster technicians—a 5 member assessment team, a 15 member medical unit, a 4-dog and handler team, and a 5 member rescue team from Dade County. To date, the U.S. Government has provided approximately $1.5 million in assistance, and it has transported $1.5 million in donated medical supplies. Over the coming days and weeks we will be providing additional assistance. At the present time, existing authority and funds under the Foreign Assistance Act are adequate in order for the United States to provide whatever emergency and relief assistance may be needed.

President Duarte has said the earthquake has caused more damage than that caused by 7 years of guerrilla war. It will be several months before a full assessment of the damage can be evaluated and reconstruction plans drafted. When those assessments and plans are completed, I, for one, will stand ready to do what I can to help the Salvadorans in the massive rehabilitation and reconstruction job that lies ahead.

The Salvadoran people have demonstrated great fortitude in the travails they have confronted and begun to overcome during the past decade, and they deserve our help and prayers.